Archuleta County Land Use Regulations

Adopted May 2006

Updated May 2022

Archuleta County Land Use Regulations

Amended through May 2022

ARCHULETA COUNTY LAND USE REGULATIONS, Adopted May 2006
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SECTION 1 - GENERAL ADMINISTRATION

1.1 GENERAL PROVISIONS

1.1.1 Title and Applicability:

These Regulations shall be officially known and referred to as the "Archuleta County Land Use Regulations," or "these Regulations". The provisions of these Regulations shall apply to all development of buildings, structures and uses of land throughout unincorporated Archuleta County, whether such development is undertaken by a public, quasi-public or private entity, to the extent allowed by law. It does not apply to land within the territorial limits of any incorporated municipality.

1.1.2 Authority:

The County is required and enabled to control land use within the county by virtue of, among other authorities, Colorado Revised Statutes, as amended, Sections 24-65.1-101 *et seq*. (Areas and Activities of State Interest), 24-67-101 *et seq*. (PUD Act), 29-20-101 *et seq*. (Local Government Land Use Control Enabling Act), 30-28-101 *et seq*. (County Planning and Building Codes), 30-28-133 *et seq*. (Subdivision Regulations), and these Regulations are hereby declared to be in accordance with all applicable statutes.[1]

1.1.3 Jurisdiction:

These Regulations shall apply to the entire area of Archuleta County, Colorado, except within incorporated municipalities.

1.1.4 Purpose:

These Regulations are for the purpose of protecting the health, safety and general welfare of present and future inhabitants of Archuleta County, including:

1.1.4.1 To promote coordinated and sound development and to encourage innovation in agricultural land preservation and residential development or renewal so that housing demands may be met by a greater variety of types and design of housing units.

1.1.4.2 To provide for higher quality in site and land planning, to conserve open space and to provide more efficient and attractive open space.

1.1.4.3 To encourage use of land for purposes that shall best meet present and future needs of the County, while preserving as much as possible of the rural/small town character.

1.1.4.4 To minimize conflicts between the land uses with the interpretation of these Regulations.

1.1.4.5 To ensure that proposed developments adequately mitigate potential hazards to protect the rights, health, safety and well-being of citizens of Archuleta County in conformance with these Regulations.

[1] Amended June 2018 (Res. 2018-18)

1.1.4.6 To recognize the rights of the applicant, the citizens and the community and to ensure that any proposed development does not create excessive burdens on County resources.

1.1.4.7 To provide for the proper arrangement, width and design of roads, in order to minimize traffic hazards and to provide for safe and convenient vehicular, bicyclist and pedestrian movement.

1.1.4.8 To ensure the provision of adequate and convenient: open spaces and recreation; rights-of-way and easements for roads, drainage and utilities; access for firefighting apparatus; sites for schools and educational facilities; and related structures, light and air.

1.1.4.9 To avoid congested use by ensuring that land is subdivided into lots which are of adequate size and configuration for the purpose for which they are intended to be used.

1.1.4.10 To protect soil, water, aesthetics and other natural resources of the County from waste or degradation.

1.1.4.11 To regulate such other matters as the Planning Commission and Board of County Commissioners may deem necessary in order to protect the best interests of the public and of private property ownership.

1.1.5 Interpretation[2]:

The Director of County Development, or designee, shall be responsible for interpreting these Regulations, unless otherwise specifically stated. In the interpretation and application of these Regulations, the following criteria shall govern:

1.1.5.1 Whenever both a provision of these Regulations and any provision in any other law, ordinance, resolution, rule or regulation of any kind contain any restrictions covering any of the same subject matter, whichever regulations are more restrictive or impose higher standards or requirements shall govern.

1.1.5.2 The word “shall” is mandatory. The word “may” is permissive. Words used in the present tense include the future, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

1.1.5.3 These Regulations shall not abrogate, abolish, repeal or annul any plat, easement, covenant, or agreement placed of record prior to the effective date of these Regulations.

1.1.6 Relationship to Community Plan:

1.1.6.1 It is the intention of Archuleta County that these Regulations implement the planning policies adopted in the Community Plan for the County and the Town of Pagosa Springs.

[2] Amended October 2021 (Res. 2021-76)

While this relationship is reaffirmed, it is the intent of the County that neither these Regulations nor any amendment to them may be challenged on the basis of any alleged nonconformity with the Community Plan.

1.1.6.2 Where a development proposal would be in substantial conflict with the Community Plan, an amendment to the Community Plan shall be required prior to any zoning or subdivision approvals for such proposal. A substantial conflict shall exist when a development proposal would result in changes from the designations of the Future Land Use Map in the Community Plan.

1.1.7 Effective Date:

These Regulations became effective **September 5, 2000 (Resolution 2000-88)**, as adopted by the Board of County Commissioners, **with a comprehensive revision effective May 23, 2006 (Resolution 2006-13)**, and as subsequently amended. The *Archuleta County Road & Bridge Design Standards and Construction Specifications*, adopted by Resolution 2005-40 and as revised, are incorporated by reference. [3] Development approved under previous regulations that received vested property rights shall be valid for the duration of that vested property right provided that all terms and conditions of the review procedures are followed. Existing legal uses that may become nonconforming by adoption of these Regulations shall become legal nonconforming uses subject to the provisions of Section 1.3.

*See also definition of **Legal Lot**: A Lot, Parcel or tract of land created prior to **September 1, 1972**; or after that date by Subdivision Review or exempted from Subdivision Review by the Board of County Commissioners.*

1.1.8 Application to Developments in Process:

1.1.8.1 All land use applications shall be reviewed pursuant to the review process and standards set forth in these Regulations, effective on that date the application is accepted as complete. [3]

1.1.8.2 This entitlement to review all land use applications under prior regulations is limited to review of the then-presently pending stage of the application only; for example, a pending sketch plan application is reviewed under the prior regulations, but once that application is approved, the subsequent preliminary plan application is reviewed under the requirements of these Regulations. Such prior regulations are continued for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed repealed. In no event shall resubmission of an application after its rejection or any application filed after the effective date of these Regulations be reviewed under any such prior regulations.

1.1.9 Amendment:

The Board of County Commissioners may amend, add to or delete from these Regulations, as has been proposed by or is first submitted for the approval, disapproval, or suggestions of the

[3] Amended June 2018 (Res. 2018-18)

Planning Commission; after giving public notice of any such proposed changes and after holding a public hearing thereon, as provided by CRS §30-28-116. [4]

1.1.10 Severability:

It is hereby declared to be the legislative intent that the provisions of these Regulations shall be severable as set forth below:

1.1.10.1 If any provision of these Regulations is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid. Such decision shall not affect, impair or nullify these Regulations as a whole or any part thereof, but the rest of these Regulations shall continue in full force and effect.

1.1.10.2 If the application of any provision of these Regulations to any parcel of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that parcel of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered, and such decision shall not affect, impair or nullify these Regulations as a whole or the application of any provision thereof to any other parcel of land.

1.2 DECISION-MAKING BODIES

In order to carry out these Regulations, the following duties are delegated to the Archuleta County Planning Department, Board of County Commissioners, Planning Commission and the Board of Adjustment.

1.2.1 Planning Department:

All departments, officials and public employees of Archuleta County, vested with the authority to issue permits, shall conform to these Regulations and shall not issue permits, certificates or licenses for uses, buildings or premises in conflict with these Regulations. Any such permit, certificate or license issued in conflict with these Regulations shall be null and void. It shall be the duty of the Planning Department to enforce these Regulations.

1.2.2 Board of County Commissioners:

The Board of County Commissioners, in addition to all other powers and duties, has responsibility to hold meetings and hearings in a timely manner, and to render final decisions on all matters assigned to them by these Regulations.

1.2.3 Planning Commission:

In general, the Planning Commission shall be the land use planning group for the County. The Planning Commission will serve as an investigative and advisory group to the Board of County Commissioners in the administration of these Regulations, including preparation of needed amendments and additions to these Regulations. It may also advise the Board of County

[4] Amended June 2018 (Res. 2018-18)

Commissioners on any other land use decisions when requested to do so by the Board. In addition, the following specific duties are assigned to the Planning Commission:

1.2.3.1 It shall be the duty of the Planning Commission to review applications for Conditional Use Permits, based on criteria and in accordance with procedures contained in Section 3.2.3 of these Regulations. After review, the Planning Commission shall make a decision or recommendation to the Board for approval, with or without conditions, or for disapproval with reasons for recommending disapproval, as provided in Section 3.2.3. [5]

1.2.3.2 It shall be the duty of the Planning Commission to study each proposed subdivision plat in connection with the Community Plan and the general character of the area, and to take into consideration the general requirements of the County, and the highest and best use of the land to be subdivided. Particular attention will be given to the specific requirements for parks, open space, school sites, public building sites, roads, utility and pedestrian easements, the adequacy of road connections, and the suitability of the land for development.

1.2.3.3 It shall be the duty of the Planning Commission to discourage the subdividing of lands that are far in advance of the need of the County; or that by their location cannot be efficiently served by public utilities, fire protection, police protection, roads maintained or other public services; or that are located in areas subject to flooding, or that are topographically unsuitable for development; or that for any reason are being unwisely or prematurely subdivided.

1.2.3.4 It shall be the duty of the Planning Commission to encourage the replatting of lands deemed to be unsatisfactorily subdivided, are tax delinquent, and/or are under-developed, and therefore represent an obstacle to the orderly and efficient growth of the County.

1.2.3.5 It shall be the duty of the Planning Commission to encourage the coordinated platting of adjacent small parcels of land, and to this end the Planning Commission may require sketch plans for such coordinated platting, or shall arrange meetings of the several owners of such small parcels of land, or shall carry out the intent of this directive and the Community Plan by other means which are lawful and appropriate.

1.2.3.6 It shall be the duty of the Planning Commission to prepare, review, hold hearings upon, and amend the Community Plan for the County pursuant to C.R.S. 30-28-106, 107 and 108.

1.2.4 Board of Adjustment:

1.2.4.1 Establishment:

A Board of Adjustment (hereinafter referred to in this Section as "BOA") is hereby established.

1.2.4.2 Membership:

[5] Amended June 2018 (Res. 2018-18)

The Board of County Commissioners shall appoint the members of the Board of Adjustment, which shall consist of five (5) voting members. Each of the members of the BOA shall be a resident of the County. Until otherwise provided, the members of the BOA shall serve without compensation, except for reimbursement of actual expenses, and each member shall serve for five (5) years.

Until the Board of County Commissioners appoints the members of the BOA, the Board shall sit as the BOA. In that event, the membership of the BOA shall be three (3) members.

1.2.4.3 Powers and Duties:

The Board of Adjustment shall have the powers and duties granted by C.R.S. §30-28-117 and 118, including:

(1) To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of these Regulations, including the refusal to issue a building permit (see Section 2.2.2 Table 1: Review Process).

(2) To grant, upon an appeal relating to appellant's property, a variance from the strict application of any regulations regarding dimensional requirements including minimum setbacks, minimum lot width, minimum lot area, minimum floor area, maximum allowable building height or maximum separation permitted between an accessory structure and a principal structure if, by reason of exceptional narrowness, shallowness, or shape of the specific piece of property at the time of the enactment of these Regulations, or by reason of exceptional topographic conditions, or other extraordinary and exceptional situation or condition of such piece of property, the strict application of these Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the said property and provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these Regulations.

(3) Variance from Floodplain Development Standards as provided in Section 10. [6]

(4) No appeal to the BOA shall be allowed for denial of rezoning, Conditional Use Permit, subdivision, PUD or for building use violations that may be prosecuted pursuant to C.R.S. §30-28-124 (1) (b).

1.2.4.4 Standards for the Grant or Denial of Appeals: Requests of appeal alleging error shall be reviewed as to the preponderance of evidence. Requests of appeal for a dimensional variance from these Regulations shall be reviewed as provided in Section 2.4. [6]

(1) Planning Staff may grant an administrative variance as a waiver of setbacks according to the review criteria in Section 2.4.[7]

[6] Amended June 2018 (Res. 2018-18)
[7] Amended July 2010 (Res. 2010-32)

1.2.4.5 Procedure:

(1) Appeals to the BOA must be made within thirty (30) days after the occurrence of the grievance or decision that is the subject of the appeal.

(2) All appeals shall be in writing and in such form as shall be prescribed by the BOA. Every appeal shall indicate what provision of these Regulations is involved, what relief from these provisions are being sought, the ground upon which such appeal is being sought, and a site plan illustrating the manner in which the appeal or variance, if granted, would affect the subject property and adjacent uses. The applicant shall have the burden of demonstrating that the applicable standards of Section 2.4 have been met.

(3) If the Board of County Commissioners acts as the BOA, decisions shall require a concurring vote of all three members. [8] If the Board of County Commissioners has appointed a separate BOA, the concurring vote of four out of five of the seated members of the BOA shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency or to decide in favor of the appellant.

1.2.4.6 Appeal from BOA Decisions:

Appeals from decisions of the BOA may be made to the District Court, as provided by law, with the BOA as defendant and with the full right and authority to appeal subsequent adverse rulings and decisions.

1.3 NON-CONFORMING LAND USE

See also special consideration for Non-Conforming Land Uses:

- *Section 5.4.4 Outdoor Lighting*
- *Section 5.5.5.1 Non-Conforming Recreational Vehicle Parks and Campgrounds*
- *Section 5.5.6.2 Vacation Rentals Application*
- *Section 7.2 Non-Conforming Signs*
- *Section 10 Floodplain Regulations*

1.3.1 Non-Conforming Lots:

1.3.1.1 In any district where permitted, a single family dwelling and customary accessory structures may be erected and/or maintained on any single lot of record which exists as such at the time of adoption of these Regulations. This provision shall apply even though such lot fails to meet the requirements of the zoning or overlay district in which it is located for area, or width, or both, provided, however, that the requirements of the zoning or overlay district for minimum setback dimensions shall be met unless a variance to said requirements has been granted as provided in Section 2.4. [9]

[8] Amended June 2018 (Res. 2018-18)
[9] Amended October 2006 (Res. 2006-29); June 2018 (Res. 2018-18)

1.3.2 Non-Conforming Sites and Structures:

1.3.2.1 Sites and structures lawfully existing prior to the effective date of these Regulations may be maintained in reasonable repair and subject to minor alterations and shall be exempt from these Regulations.

1.3.2.2 A structure conforming as to use but nonconforming as to height, setback, or lot coverage may be altered or extended providing the alteration or extension does not result in further violation of these Regulations or increase the nonconformity.

1.3.2.3 If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, flood, wind, explosion or act of God to an extent exceeding fifty (50) percent of the cost of replacement of the structure using new materials, a future structure or use on the property shall conform to the provisions of these Regulations. If destruction is determined to be less than fifty (50) percent, restoration shall be started within twelve (12) months of such calamity and completed within eighteen (18) months of initiating restoration.

1.3.2.4 Utility distribution lines (together with poles, transformers and other structures appurtenant to such lines, including those installed above ground in any zone) constructed prior to the effective date of these Regulations, are considered Conforming structures. These utility lines may be repaired, maintained or upgraded so long as such alterations do not substantially change the location or purpose of the facilities.[10]

(1) Within a Special Flood Hazard Area, any development including substantial improvement of existing facilities (as defined) requires conformance with Section 10 Floodplain Regulations.

1.3.2.5 Nothing in these Regulations shall require any change in the plans, construction, alteration, or designated use of a building for which construction work has commenced prior to the adoption or revision of these Regulations.[10]

1.3.3 Non-Conforming Uses:

1.3.3.1 A nonconforming use lawfully in existence prior to the adoption of these Regulations shall be allowed to continue as a nonconforming use despite transfer of ownership.

1.3.3.2 When a nonconforming use is discontinued for a period of one (1) year, such use of the area shall be discontinued, and further use of the property shall be for a conforming use.

1.3.3.3 Any existing use, including a salvage junk yard, which is nonconforming with respect to provisions for screening shall be discontinued if such screening is not provided within such time as is prescribed, or later adjusted, by the Board of County Commissioners.

[10] Amended April 2017 (Res. 2017-13)

1.3.3.4 A nonconforming use may not be changed to another nonconforming use.

1.3.3.5 A nonconforming use may not be enlarged.

1.3.3.6 Any nonconforming use in existence at the time of the effective date of these Regulations that has an assessed value of all improvements of one thousand dollars ($1,000.00) or less shall be discontinued within two (2) years from the effective date of nonconformance.

1.4 ENFORCEMENT

1.4.1 Responsibility for Enforcement:

The Director of County Development, or designee, shall be responsible for enforcing these Regulations, unless otherwise specifically stated.

1.4.2 Violations:

1.4.2.1 Types of Violations:

Any of the following shall be a violation of these Regulations and shall be subject to the remedies and penalties provided for in these Regulations:

(1) Use or Structure Without Permit or Approval: To allow any use, or place any structure upon land that is subject to these Regulations without all of the approvals required by these Regulations;

(2) Activities Inconsistent with Land Use Regulations: To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, a structure, or to engage in development or subdivision of any land in contravention of any regulation contained in these Regulations;

(3) Activities Without Permit or Approval: To engage in any subdividing, development, construction, remodeling or other activity of any nature upon land that is subject to these Regulations without all of the approvals required by these Regulations;

(4) Activities Inconsistent with Permit: To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required in order to engage in such activity;

(5) Activities Inconsistent with Conditions: To violate, by act or omission, any term, condition, or qualification placed by a Decision-Making Body, upon any permit or other form of authorization;

(6) Increasing Intensity of Use: To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of these Regulations;

(7) Failure to Remove Improvements: To fail to remove any improvement installed, created, erected, or maintained in violation of these Regulations, or for which the permit has lapsed.

1.4.2.2 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the County shall constitute a separate violation of these Regulations.

1.4.3 Remedies and Enforcement Powers

The County shall have the following remedies and enforcement powers:

1.4.3.1 Withhold Permits:

(1) The County may deny or withhold all approvals, certificates, or other forms of authorization on any land, structure, or improvements thereon, upon which there is an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the County, until the violation is corrected. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

(2) The County may deny or withhold all approvals, certificates, or other forms of authorization on any land, structure, or improvements owned, operated, or being developed by a person who owns, operates, has developed, or has otherwise caused an uncorrected violation of these Regulations until the violation is corrected. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation.[11]

1.4.3.2 Permits Approved with Conditions:

Instead of withholding or denying a permit, or other authorization, as described in Section 1.4.3.1(2), the County may grant such authorization subject to the condition that the violation is corrected.

1.4.3.3 Revoke Approval:

Any development approval or other form of authorization required under these Regulations may be revoked when the Director of County Development, or designee, determines: (1) that there is a departure from the plans, specifications, or conditions as required under terms of the approval, (2) that the development approval was procured by false representation or was issued by mistake, or (3) that any of the provisions of these Regulations are being violated.

Written notice of such revocation shall be served upon the owner, the owner's agent, or contractor, or upon any person employed on the building or structure for which such approval was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed.

[11] Amended October 2021 (Res. 2021-76)

1.4.3.4 Stop Work/Suspend Use:

With or without revoking any approval or authorization, the County may issue a stop work on any land (including, but not limited to, road construction or site grading) on any structure or building, any unpermitted use, or permitted use on which there is an uncorrected violation of a provision of these Regulations or of a permit, or other form of authorization issued hereunder, in accordance with its power to stop work under its building codes and its authority to regulate land use within the area of Archuleta County.[12]

1.4.3.5 Revoke Plan or Other Approval:

Where a violation of these Regulations involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Board of County Commissioners may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on (1) strict compliance with these Regulations; (2) the provision of security to ensure that construction is completed in compliance with approved plans, or (3) such other conditions as the Board may reasonably impose.

1.4.3.6 Injunctive or Other Equitable Relief:

The County may seek an injunction or other equitable relief in court, to stop any violation of these Regulations or of a permit, certificate or other form of authorization granted hereunder.

1.4.3.7 Abatement:

The County may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding, to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

1.4.3.8 Penalties: The County may:[13]

(1) Levy daily fines as allowed by the Archuleta County Fee Schedule;

(2) Record letters outlining un-remedied building code violations to cloud further title searches on a property;

(3) Seek such criminal or civil penalties as are provided by Colorado law.

1.4.3.9 Other Remedies:

The County shall have such other remedies as are, and as may be from time to time, provided by Colorado law for the violation of land use, zoning, subdivision, sign or related land use standards and provisions.

1.4.3.10 Other Powers:

In addition to the enforcement powers specified in this Section, the County may exercise any and all enforcement powers granted by Colorado law.

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[12] Amended May 2021 (Res. 2021-35)
[13] Amended May 2022 (Res. 2022-32)

1.4.3.11 Continuation:

Nothing in these Regulations shall prohibit the continuation of previous enforcement actions, undertaken by the County, pursuant to previous and valid ordinances and laws.

1.4.3.12 Remedies Cumulative:

The remedies and enforcement powers established in this Section shall be cumulative, and the County may exercise them in any order.

1.4.4 Enforcement Procedures:

1.4.4.1 Non-Emergency Matters:[14]

In the case of violations of these Regulations that do not constitute an emergency or require immediate attention, the Director of County Development or designee, shall give notice of the nature of the violation to the property owner, the permit holder or to any other interested party, after which the persons receiving notice shall have thirty (30) days from the date of the notice, to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by email to a previously validated email address, by United States Mail to the address provided by the owner on its application or to the address of the owner of record in the Archuleta County Assessor's Office, or by posting a notice in a visible location at the property. If the violation appears to endanger the public health or safety, the Director of County Development or designee may also post a notice in a visible location at the property location. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

1.4.4.2 Emergency Matters:[14]

In case of violations of these Regulations that constitute an emergency situation, as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the County may use the enforcement powers available under this Section without prior notice. However, the Director of County Development or designee shall attempt to give notice, simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other interested party, and to applicants for any relevant permit. Notice may be attempted to be given in person, or by United States Mail, to the address provided by the owner on its application, or to the address of the owner of record in the Archuleta County Assessor's Office, or by posting a notice in a visible location at the property location. Notices of violation shall state the nature of the violation and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

[14] Amended May 2021 (Res. 2021-35)

SECTION 2 – LAND USE REVIEW

2.1 GENERAL

2.1.1 Land Use Permit Required: [1]

2.1.1.1 Any development, re-development or change in land use shall be completed in conformance with these Regulations, *Archuleta County Road & Bridge Design Standards and Construction Specifications*, Archuleta County Ordinances,-building and construction permits pursuant to the uniform codes adopted by the County, and must comply with all other applicable County requirements.

(1) **"**Development" and "Land Use Change," as used in these Regulations, are general and inclusive terms defined in Section 11 of these Regulations.

(2) As provided in Section 1.1.5, should there be any conflict between these regulations, the Road & Bridge Design Standards, adopted County Ordinances, or any other regulations, the more restrictive shall apply.

2.1.1.2 **A Land Use Permit is required for any Land Use Change** inclusive of any action listed as an "approval requested" in Table 1: Review Process Chart, Section 2.2.2.

(1) A Land Use Permit is not required when expressly exempt by Section 2.1.2.

(2) For any Use by Right, the use of property may be changed with a **Change of Use Review** (Section 3.2.1), rather than a Site Plan Review (Section 3.2.2), when:
a. The Change of Use does not require a Building Permit, and
b. Off-street parking requirements can be met within existing parking areas, and
c. There is no increase in impervious surface area (no increase in storm water runoff), and
d. The change is otherwise in complete conformance with these Regulations.

(3) A Land Use Permit may be required for any Development, as defined, in a Special Flood Hazard Area (floodplain), with or without a building permit, including Substantial Improvement of existing structures.

*See also definition of **Development:** The division of a parcel of land into two or more lots; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or use; any mining, excavation, land fill or land disturbance; any new use or extension of a permitted use; or the extension or alteration of the scope of a use, as well as the storage of equipment or materials.*

*See also definition of **Land Use Change**: Zoning or rezoning of property, subdivision of land, substantial clearing, grading, filling or excavation, construction, alteration or moving of buildings or roads, or any action listed as an "approval requested" in the Review Process Chart, Section 2.2.2.*

[1] Amended June 2018 (Res. 2018-18)

2.1.2 Exemptions from Land Use Permit Requirement:
The following uses and activities are exempt from the requirement to obtain a Land Use Permit:[2]

2.1.2.1 Agricultural Uses proposed for areas of the County that are zoned Agricultural/Forestry (AF) or Agricultural/Ranching (AR) that do not require a Land Use Permit include: [3]

(1) Production, cultivation, growing, and harvesting of crops and plants, excluding marijuana for commercial use.

(2) Sustainable and/or restoration forest practices on non-industrial private land in accordance with a plan approved by the Colorado State Forest Service, CSU Extension office, NRCS, or other third-party nationally recognized sustainable certification program that is designated to maintain and enhance ecological processes.

(3) Raising and breeding livestock, but not including confined animal feedlot operations.

(4) Harvesting, storage, grading, packaging, distribution, and sale of agricultural commodities occurring at the point of production.

2.1.2.2 Uses associated with Conservation Easements. [4]

2.1.2.3 Accessory uses and structures associated with agricultural and residential uses that do not require a Land Use Permit.[2]

(1) Multiple dwelling units in conjunction with an active Farm and Ranch Use require an agricultural Land Use Permit**.**

(2) Approval of a Land Use Permit shall be required prior to commencing a Marijuana Caregiver use.

2.1.2.4 In any Agricultural or Residential district where permitted as a Use by Right (Agricultural/Ranching - AR, Agricultural Estate - AE, Rural Residential - RR, Residential – R, or Planned Unit Development – PUD) one (1) single family detached dwelling or Manufactured Home is allowed and exempt from a land use permit. [5]

2.1.2.5 In any Agricultural or Residential district where permitted as a Use by Right (Agricultural/Ranching - AR, Agricultural Estate - AE, Rural Residential – RR, or Planned Unit Development – PUD) a **second** single family detached dwelling or Manufactured Home is allowed and exempt from a land use permit as long as the lot is three (3) acres or more[6].

[2] Amended October 2016 (Res 2016-62)
[3] Amended March 2015; October 2016 (Res 2016-62)
[4] Amended October 2006 (Res. 2006-29); October 2016 (Res 2016-62)
[5] Amended June 2018 (Res. 2018-18)
[6] Amended October 2006 (Res. 2006-29); June 2018 (Res. 2018-18)

2.1.2.6 In the Residential (R) Zoning District or in a Planned Unit Development (PUD), where permitted as a Use by Right, a single **Duplex** is exempt from a Land Use Permit within Maximum Density limits in Table 4 or in the PUD Development Plan. [7]

2.2 REVIEW PROCEDURE

2.2.1 General:

2.2.1.1 All land use changes must be reviewed and approved in accordance with the review process and standards set forth in this Section. Table 1, the Review Process Chart in Section 2.2.2, establishes the required review steps applicable to different forms of approval which may be requested by the applicant. Applicants should refer to the chart to determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of the chart applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of these Regulations under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.

2.2.1.2 In the event the Planning Commission or other County board or department with authority under this Section recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event the review stage is before the Board of County Commissioners, the application may not be further processed following a denial. If, in the opinion of the Director of County Development, a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until deemed complete.

2.2.1.3 At any stage of review of any land use change the Planning Commission, Board of County Commissioners, Board of Adjustment or Director of County Development may require at the applicant's expense the submission of any plan, study, survey or other information, in addition to that specified in these Regulations, as such body or individual may determine necessary to enable it to review and act upon the application or in order to determine whether the application complies with the requirements of these Regulations.

2.2.2 Review Process Chart:

[7] Amended June 2018 (Res. 2018-18)

TABLE 1: REVIEW PROCESS[8]

	Pre-App	Sketch			Preliminary			Final				
Approval Requested		**Staff**	**PC**	**BCC**	**Staff**	**PC**	**BCC**	**Staff**	**PC**	**BCC**	**BOA**	**Notes**
Floodplain Development Permit	**M**							**A[3]**			**APP**	**[3]Sec 10.2.2**
Minor O&G Permit	**M[1]**							**M**	**H[3]**		**APP**	**[1]Sec 9.2.4.1 [3]Sec 9.2.6.9**
Minor S&G Permit	**M**							**A[3]**			**APP**	**[3]Sec 9.1.4**
Major O&G Permit	**M[1]**							**M**	**P**	**H[3]**		**[1]Sec 9.2.4.1 [3]Sec9.2.6.10**
Major S&G Permit	**M**							**M**	**H**	**H[3]**		**[3]Sec 9.1.5**
Geothermal Exploration Activity Notice	**M**							**A[3]**		**APP**		**[3]Sec 2.5.6.3**
Geothermal Resources Permit	**M**	**M[1]**						**A[3]**	**H[3]**	**H[3]**		**[1]Sec 2.5.6.4 [3]Sec 2.5.6.4 Sec 2.5.6.5 Sec 2.5.6.7**
Temporary Use Permit								**A[3]**			**APP**	**[3]Sec 3.2.4**
Change of Use	**M**							**A[3]**			**APP**	**[3]Sec 3.2.1**
Use by Right Site Plan	**M**							**A[3]**			**APP**	**[3]Sec 3.2.2**
Conditional Use Permit	**M**							**M[3]**	**H**	**APP**		**[3]Sec 3.2.3**
Board CUP	**M**							**M[3]**	**H**	**H**		**[3]Sec 3.2.3**
Vacation Rental Permit	**M**							**A[4]**	**APP**	**APP**		**[4]Sec 3.2.7**
Concept Review	**M**	**M**		**H[1]**				**M**	**H**	**H**		**[1]Sec 2.2.12**
General Development Plan	**M**	**M**				**H[2]**		**M**	**H**	**H**		**[2]Sec 2.2.13**
PUD	**M**	**M**	**P[1]**		**M**	**H**	**APP**	**M**	**H**	**H**		**[1]Sec 3.1.6.2**
Rezoning	**M**							**M**	**H**	**H[3]**		**[3]Sec 3.1.7.3**

[8] Amended October 2016 (Res 2016-62); June 2018 (Res. 2018-18); May 2019 (Res 2019-39); May 2021 (Res. 2021-35); October 2021 (Res. 2021-76)

	Pre-App	Sketch			Preliminary			Final				
Approval Requested		**Staff**	**PC**	**BCC**	**Staff**	**PC**	**BCC**	**Staff**	**PC**	**BCC**	**BOA**	**Notes**
Major Subdivision	**M**	**M**	**P[1]**		**M**	**H[2]**	**APP**	**M**	**P**	**H[3]**		**[1] Sec 4.2.3.2 [2] Sec 4.3.3 [3] Sec 4.4.3**
Minor Subdivision	**M**	**M**	**A/ P[1]**					**M**	**P**	**H[3]**		**[1] Sec 4.2.3.2 [3] Sec 4.4.3**
Rural Land Use Process	**M**	**M**	**P[1]**		**M**	**H**	**APP**	**M**	**P**	**H**		**[1] Sec 4.5**
Site Specific Development Plan	**M**									**H[3]**		**[3] Sec 2.3.1**
Amended Plat -Major	**M**	**M**	**P[1]**		**M**	**H[2]**	**APP**	**M**	**P**	**H[3]**		**[1] Sec 4.2.3.2 [2] Sec 4.3.3 [3] Sec 4.6.4**
Amended Plat-Minor	**M**	**M**	**A/ P[1]**					**M**	**P**	**H[3]**		**[1] Sec 4.2.3.2 [3] Sec 4.6.4**
Minor Lot Line Adjustment	**M**							**M**	**P**	**P[3]**		**[3] Sec 4.6.4.3**
Lot Consolidation	**M**							**M**		**P[3]**		**[3] Sec 4.9.5, Sec 4.10.4**
Vacation of Recorded Subdivision	**M**							**M**	**P**	**H[3]**		**[3] Sec 4.8.3**
Subdivision Exemption	**M**							**M**		**H[3]**		**[3] Sec 4.9.3**
Legal Lot Certificate	**M**							**A[4]**	**APP**			**[4] Sec 4.10.4**
Access Plan	**M**							**M**	**P**	**P[3]**		**[3] Sec 5.3.2**
Sign Permit	**M**							**A[3]**			**APP**	**[3] Sec 7.1.3**
Variances-Administrative	**M**							**A[3]**			**APP**	**[3] Sec 2.4.3**
Variances-General	**M**							**M**			**H[3]**	**[3] Sec 2.4.3**

Key:

PC	Planning Commission	**A**	Administrative Approval
BCC	Board of County Commissioners	**PUD**	Planned Unit Development
BOA	Board of Adjustment	**O&G**	Oil and Gas
M	Staff Meeting Required	**S&G**	Sand & Gravel
P	Public Meeting Required	**APP**	Appeal Permitted
H	Public Hearing Required (*Noticed*)		

Amended 10/2006, 12/2010, 5/2014, 3/2015
10/2016, 6/2018, 5/2019, 5/2021, 10/2021

2.2.3 Public Notice Requirements:

The requirements of this Section apply only to public hearings required by these Regulations and as shown on Table 1: Review Process Chart and Table 2: Public Notice Requirements. Where Table 1 indicates that a public meeting (in contrast to a public hearing) is required, this Section does not apply, and notice of such meeting is subject only to the requirements of the Colorado Open Meetings law, C.R.S. §24-6-401, *et seq*. [9]

2.2.3.1 Published Notice. At least two (2) notices in a twenty-one (21) day period prior to any public hearing for a land use change which requires published notice, the Director of County Development shall cause to be published in the legal section of a newspaper of general circulation within the County a notice of such public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration, by both address and legal description.

2.2.3.2 Posted Notice. At least twenty-one (21) days prior to any public hearing which requires posted notice, the Director of County Development shall cause to be prepared, and the applicant shall post signs upon the parcel under consideration which provide notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by both address and legal description. The signs shall be of a size and form prescribed by the County and shall consist of at least one sign facing, and reasonably visible and legible from, each adjacent public right-of-way. The fact that a parcel was not continuously posted the full period shall not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.

2.2.3.3 Mailed Notice. At least twenty-one (21) days prior to any public hearing which requires notification by letter in Table 2 below, the Planning Department shall cause to be sent, by Certificate of Mailing, a letter to: Owners of property whose land abuts the subject property, is within five hundred (500) feet of the subject property, or is separated from the subject property only by a right-of-way or water course, and

(1) Owners of property included within the application.

(2) The letter shall include a vicinity map, a short narrative describing the application and an announcement of the date, time and location of the scheduled hearing. The letters shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.

(3) For Major Oil and Gas Permit applications, the notice shall also be sent to the owners of any land adjacent to or located within one (1) mile of any portion of the subject site.

[9] Amended October 2006 (Res. 2006-29); May 2019 (Res. 2019-39)

2.2.3.4 Notice to Mineral Estate Owners and Lessees. For applications requiring a public hearing in Table 1 above—including but not limited to preliminary or final subdivision plats, exemption plats, Conditional Use Permits, Sand and Gravel Permits, and Oil & Gas Permits—the Applicant shall provide notice in accordance with CRS §24-65.5-101 *et seq.* to all owners and lessees of any mineral rights that have been severed from the subject property. [10]

(1) Such notification shall be made not less than 30 days before the initial public hearing on the application for development, and shall, at a minimum, meet the requirements of CRS §24-65.5-103.

(2) Prior to the initial public hearing, the Applicant shall certify to the Planning Department that the required notice has been provided to the owners and lessees of any mineral rights in accordance with CRS §24-65.5-103.

2.2.3.5 Public Notice Time Requirements. Unless otherwise provided in these Regulations, public notice time requirements include the day the notice is posted, appears in the newspaper, is mailed, and is received by a recipient, and shall also include the day of the public hearing.

2.2.3.6 Public Notice Requirements Chart. Public notice shall be given of all Public Hearings. Table 2 identifies for which requested approvals public notice is required, either by publishing, posting, or mailing.

TABLE 2: PUBLIC NOTICE REQUIREMENT[11]

	NOTICE REQUIRED		
Approval Requested	**Publish**	**Post**	**Mail**
Appeal Hearing Request	X		
Minor O&G Permit	X	X	X
Major O&G Permit	X	X	X
Major S&G Permit	X	X	X
Access Plan	X	X	
Vacation Rental Permit			X
Conditional Use Permit	X	X	X
Preliminary PUD	X	X	X
Final PUD	X	X	
Rezoning	X	X	X

[10] Amended May 2019 (Res. 2019-39)
[11] Amended June 2018 (Res. 2018-18); May 2019 (Res. 2019-39); May 2021 (Res. 2021-35); October 2021 (Res. 2021-76)

	NOTICE REQUIRED		
Approval Requested	**Publish**	**Post**	**Mail**
Subdivision Preliminary Plan	X	X	X
Subdivision Final Plat	X	X	
Site Specific Development Plan	X	X	
Subdivision Vacation	X		
Subdivision Exemption	X	X	
Variance	X	X	X

2.2.4 Application Procedure:

2.2.4.1 Pre-application Conference:

All applicants shall schedule and attend a pre-application meeting with a member of the Planning Department before submitting an application. The purpose of the pre-application meeting is to inform the applicant of the applicable procedures, submittal requirements, development standards, and other pertinent matter before the applicant finalizes the proposal. If a formal permit application is not submitted within six months of the pre-application meeting, a new pre-application meeting must be scheduled before the formal application will be accepted. [12]

(1) The Director may schedule Pre-Application Conferences by telephone or webcast for relatively routine applications, especially for those that can be completed electronically.

2.2.4.2 Required Forms:

All requests for a land use change shall be submitted utilizing forms provided by the Planning Department.

2.2.4.3 Determination of Completeness:

An application will only be considered complete if it is submitted in the required form and number, including all required information and the applicable fee. If an application is determined to be incomplete, the Planning Department shall provide written notice to the applicant along with an explanation of the application's deficiencies. The Planning Commission review date will not be set until application submittal is deemed complete by the director or his/her designee.[13] No further processing of the application shall occur until the deficiencies are corrected. If the applicant does not correct the deficiencies within thirty (30) days from receipt of the notice, the application shall be considered withdrawn, and the application shall be returned to the applicant.

[12] Amended June 2018 (Res. 2018-18)
[13] Amended October 2006 (Res. 2006-29)

2.2.4.4 Fees:

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters will be charged to applicants for Land Use Permits. [14]

(1) The fee schedule will be adopted periodically by the Board of County Commissioners and is available from the Planning Department. Fees shall not be required for projects on property owned by Archuleta County.

(2) In addition to the application fee, outside consulting fees for expert review may be required. When the Planning Department determines that they are in need of additional technical expertise, in order to conduct a competent analysis of the application, the Planning Department shall be authorized to engage the services of a qualified consultant. These services shall be provided at the applicant's expense. It is anticipated that a determination on whether to use outside consulting services, for the review of an application, will be made during the pre-application meeting.

2.2.5 Review by Referral Agency:

Based upon the specific nature of the application, the Planning Department shall distribute a copy of a completed application to other reviewers, such as other Archuleta County departments and outside review agencies. **The applicable reviewing agencies will have up to twenty-one (21) days to respond for Subdivision Review, or up to fourteen (14) days for other Land Use Permits.** The express purpose of this distribution is to solicit review comments and to ensure the proposal complies with all applicable development standards and requirements.[14]

Each review agency shall return its recommendations to the Planning Department in accordance with State Statutes; unless a necessary extension of not more than thirty (30) days has been consented to by the applicant and the Board of County Commissioners. The failure of any agency to respond within the allocated time or within the period of an extension shall, for the purpose of the hearing on the plan, be deemed approval of such application**;** except that where such application involves twenty (20) or more dwelling units, a school district shall be required to submit within said time limit specific recommendations with respect to the adequacy of school sites and facilities.

Final submission application materials shall, unless the Director of County Planning deems otherwise, be submitted for review only to those referral agencies expressing concerns or making negative recommendations at the general submission stage of review. Any improvements, such as roads or upgrading of existing roads, utilities, etc., or improvements required by the reviewing agencies shall be the responsibility of the applicant.

Outside review agencies can include, but are not limited to, the following:

2.2.5.1 Each county and/or municipality within a two (2) mile radius of any portion of the proposed development.

2.2.5.2 The appropriate school district(s).

[14] Amended June 2018 (Res. 2018-18)

2.2.5.3 Any utility (such as, but not limited to, electric, gas and telephone companies), local improvement and service district, or ditch authority.

2.2.5.4 The Colorado State Forest Service, when applicable, for identification of specific wildfire hazards and recommendations for control and/or mitigation applicable to the proposed development.

2.2.5.5 The local Natural Resource Conservation Service board within the County for explicit review and recommendations regarding soil suitability, flooding problems and watershed protection.

2.2.5.6 The Colorado Department of Public Health and Environment and the local health authority, when applicable, for their review of any on-lot sewage disposal adequacy and for review of the adequacy of existing or proposed sewage treatment works to handle the estimated volume of sewage.

2.2.5.7 The State Engineer, Colorado Division of Water Resources, for an opinion regarding material injury to decreed water rights and historic use of estimated water yield to supply the proposed development. The State Engineer shall consider the cumulative effect of on-lot wells or water rights and existing wells.

2.2.5.8 The Colorado Geological Survey or a qualified Colorado Geologist for an evaluation of those geologic factors which would have a significant impact on the proposed use of the land.

2.2.5.9 Other County offices as appropriate.

2.2.5.10 Other referral agencies and potentially affected parties as the Director of County Planning may, in the exercise of reasonable discretion determine to be reasonable and appropriate in order to provide the Planning Commission and the Board of County Commissioners with adequate information, including but not limited to the Colorado Department of Transportation, the Colorado Division of Wildlife, the Bureau of Land Management, the Bureau of Indian Affairs, and the U.S. Forest Service.

2.2.6 Review by Staff:

The Planning Department shall review each application pursuant to established review criteria. Based upon the Planning Department's review and based upon the comments received from the review agencies, the Planning Department shall provide a report, with a recommendation for action, to the appropriate decision-making body. If requested by either the applicant or the Planning Department, submittals shall proceed to a work session(s) with the Planning Commission. Following the work session(s), and the submittal of any additional information or materials that may be required, the Planning Department shall schedule either a formal public meeting or hearing as detailed in Section 2.2.2.

2.2.7 Review by Planning Commission:

The Planning Commission shall conduct either a public meeting or public hearing on an application, as appropriate. The Planning Commission shall consider the application, the relevant support materials, the recommendation of the Planning Department, the recommendations of the outside review agencies, and public input. The Planning Commission, by a majority vote of the quorum present, shall make a decision, or recommend to the Board of County Commissioners to approve, approve with conditions, or deny the application. The Planning Commission can also table the request to a future meeting date. [15]

2.2.8 Review by Board of County Commissioners:

The Board of County Commissioners shall conduct either a public meeting or public hearing on an application, as appropriate. After receipt of the recommendations from the Planning Department and the Planning Commission, the Board of County Commissioners shall consider the application, the relevant support materials, the recommendations of the outside review agencies, and the public testimony. The Board of County Commissioners, by a majority vote of the quorum present, shall either approve, approve with conditions, table to a future meeting date, or deny the application.

2.2.9 Review by Board of Adjustment:

The Board of Adjustment shall hear all applications for variances to these Regulations and appeals presented to it for review. The Board of Adjustment shall hold a public hearing and grant or deny variances from the provisions of these Regulations based on the powers set forth in these Regulations.

2.2.10 Computation of Time:

In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

2.2.11 Expiration of Approval:

2.2.11.1 Unless otherwise specifically provided in these Regulations, any preliminary or final approval as listed in Table 1 shall expire and become null and void if: [15]

(1) Sketch plan or preliminary approvals shall expire when an application for final approval is not filed within one (1) year of such approval, or a one-time, one (1) year extension of such original approval has not been approved by the Board of County Commissioners; or

(2) Final Plat approvals shall expire if not recorded with the Archuleta County Clerk & Recorder within one (1) year, or as more specifically provided in Section 4.

[15] Amended June 2018 (Res. 2018-18)

(3) All other final approvals shall expire when a building permit is not issued for the work authorized (or work is not substantially begun on a project not requiring a building permit) within one (1) year from the date of final approval, if work is ceased for a period of one hundred eighty (180) days or more at any time after work is commenced.

a. Applicant may apply for a one-time, one (1) year extension of such original approval, to be approved by the Board of County Commissioners.

2.2.11.2 Should a final approval expire (for a project other than Final Plat approval) for which final approval has been granted according to Sec. 2.2.11.1 above, the Planning Commission or Board of County Commissioners, as appropriate in the manner required for final review, shall hold a public hearing to confirm whether the zoning and/or permitted use of the property shall revert to that in place prior to the (expired) approval, or whether a one-time, one (1) year extension of such original approval may be granted.

2.2.11.3 After approval has expired, no work shall be commenced until the developer has received new approval pursuant to the procedures set forth in these Regulations.

2.2.11.4 Any issued Land Use permit shall expire if the work authorized is not commenced within one year from the date of issuance.

2.2.12 Appeal Hearings.[16] Where it is alleged by an applicant that there is error in any order, requirement, condition, decision, or refusal made by a Decision-Making Body in the enforcement of these Regulations, and if allowed in "Table 1: Review Process," an Appeal Hearing may be requested.

2.2.12.1 The request for an Appeal Hearing must be made within thirty (30) days after the occurrence of the grievance or decision that is the subject of the appeal.

2.2.12.2 All Appeal Hearings must be requested in writing to the Planning Department. An Appeal Hearing Request is not considered complete until full payment of all appeal fees is received. Every Appeal Hearing Request must include:

(1) The details of the decision being appealed;
(2) Regulation(s) (and relevant sections) impacting the appeal;
(3) Grounds upon which the appeal is being sought;
(4) Evidence supporting the claim; and
(5) Relief requested.

2.2.12.3 Due to the requirement for published public notice (per Sec 2.2.3.1), Appeal Hearings will be added to the first available agenda that is at least thirty (30) days after the Appeal Hearing Request is deemed complete.

2.2.12.4 Standards for the Granting or Denial of all appeals will be reviewed as to the preponderance of the evidence presented and in consideration of the applicable criteria

[16] Amended October 2021 (Res. 2021-76)

and standards for approval from the Type of Approval originally requested.

2.2.12.5 Members of the Decision-Making Body hearing an appeal must recuse themselves from the hearing if they have participated in prior ex-parte conversations on the matter with any involved party.

2.2.13 Concept Review[17]

Concept or Conceptual Development Plan review is a very preliminary review of a conceptual proposal which may have potential for major impacts to the community. Such impacts may result from a major subdivision or PUD and such proposals may be referred for Concept Review. Requests for Concept Review may originate from the Applicant, the Planning Department or the Board of County Commissioners with the Planning Department as the final decision making authority on the appropriateness of Concept Review process for such application. Concept Review shall be utilized when Applicant is seeking *Vested Rights*; however, the Concept Review is in addition to and will not substitute for the minimum Statutory requirements for achieving Vested Rights.

By participating in Concept Review, Applicants, their agents and assigns waive any and all claims against Archuleta County arising out of, touching upon, or concerning the Concept Review including but not limited to claims based in promissory estoppel or detrimental reliance.

2.2.13.1 Application contents:

A complete application for a Concept Review shall contain a draft Development Agreement; a map depicting the general layout of the property; adequate detail regarding number of units, non-residential square footage, open space, access, amenities, and any other pertinent details that the Board may need to consider the Concept.

2.2.13.2 Concept Review process:

The process for Concept Review shall follow the proper notice requirements under Section 2.2.3. A properly noticed Concept Review shall be heard by the Board of County Commissioners at a Special Meeting where public comment may or may not be taken. A final vote shall only indicate the Board's general guidance for the project and shall not grant any rights, implied or otherwise, for the proposal.

The Board, after hearing a Concept Review, may refer it to the Planning Department and/or the Planning Commission as a General Development Plan review or may refuse to endorse the concept with or without comments or additional guidance.

2.2.14 General Development Plan:[17]

A General Development Plan is a plan for which the Board seeks additional detailed input and feedback from the Planning Commission prior to hearing the Applicant's request to obtain any land use rights such as Vested Rights for the property. A General Development Plan review shall provide more detail than in Concept review so that a more thorough evaluation may occur to provide informed advice to the Board of County Commissioners.

[17] Amended December 2008 (Res. 2009-58)

2.2.14.1 General Development Plan shall apply to those applications which have been referred by the Board to the Planning Department and the Planning Commission for additional evaluation and advice.

2.2.14.2 Application Contents. The General Development Plan shall include at a minimum the Concept Plan plus additional details including but not limited to:

(1) Land Use application
(2) Narrative
(3) Clearly defined development tracts or parcels
(4) Open space designations and descriptions of public and private open space and protection of resources
(5) Non-residential square footages
(6) Access and roadways
(7) Planned provision of infrastructure (water and sewer)
(8) Critical resources inventory (rivers, slopes, viewsheds, wildlife, scenery, etc.)

2.2.14.3 General Development Plan review process shall include a properly noticed proposal which will be presented to the Planning Commission at a regularly scheduled meeting and at which there will be public comment taken for consideration and discussion among the Commissioners regarding the project before providing Staff with feedback on the proposal to be forwarded to the Board of County Commissioners.

The Planning Commission will vote on the item providing comments and/or feedback to the Developer which will also be forwarded to the Board of County Commissioners for their consideration along with their subsequent hearing of the item.

2.3 VESTED PROPERTY RIGHTS

2.3.1 Generally:

For those developments for which the landowner wishes the creation of vested rights, under CRS §24-68-101 *et. seq.*, Applicant shall complete a Land Use Permit for review and approval by the board of County Commissioners at a public hearing, as provided in Table 1 in Section 2.2.3, after all other required stages of the development review process. [18]

2.3.1.1 Failure of the landowner to apply for such a hearing at least thirty days prior to such approval renders the approval not a "site specific development plan", and no vested rights shall be deemed to have been created. The provisions of this Section shall apply only to a PUD, Major or Minor Subdivision final approval, and only to the extent the landowner requests a hearing to create vested rights as provided herein. The Board of County Commissioners may by agreement with the developer designate an approval other than or in addition to those described above to serve as the site specific development plan approval for a specific project.

2.3.2 Notice and Hearing:

[18]Amended May 2019 (Res. 2019-39)

No Site-Specific Development Plan shall be approved until after a public hearing before the Board of County Commissioners, preceded by written notice as provided in Table 2 in Section 2.2.3. Such notice may, at the County's option, be combined with the notice required by CRS §30-28-116 for amending regulations, or with any other required notice. At such hearing, interested persons shall have an opportunity to be heard. [19]

2.3.3 Approval-Effective Date-Amendments and Conditions:

A site-specific development plan shall be deemed approved upon the effective date of the Board of County Commissioners' approval action relating thereto, as set forth above. In the event amendments to a site specific development are proposed and approved, the effective date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board of County Commissioners specifically finds to the contrary and incorporates such finding in its approval of the amendment. The approval may include such terms and conditions as may be reasonably necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions may, at the option of the County, and after public hearing, result in the forfeiture of vested property rights.

2.3.4 Notice Of Approval:

Each map, plat, or site plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.

2.3.4.1 In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the County. The applicant shall be responsible for publication of the notice. [19]

2.3.5 Payment Of Costs:

The applicant seeking approval of a site specific development plan as provided herein shall pay all applicable fees and costs as may be required by these Regulations. The applicant shall also be responsible for the publication costs of any required public notice and shall present the original paid statement from the newspaper prior to the hearing date.

2.3.6 Other Provisions Unaffected:

Approval of a site-specific development plan shall not constitute an exemption from or waiver of any other provisions of this code pertaining to the development and use of property.

2.3.7 Revocation:

The Board of County Commissioners may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the Board of County Commissioners shall provide a hearing to the affected landowner and shall provide at least fourteen (14) days prior written notice mailed to the property owner's address of record of the County Assessor's office as well as provide notice in

[19]Amended May 2019 (Res. 2019-39)

the same manner as the posting or publishing of ordinances and resolutions. The mailed notice to the landowner shall specifically identify the terms and conditions which are not in compliance with the site specific development plan approval. During the period of determining compliance with the terms and conditions of site specific development plan approval, the County may administratively withhold any building, utility, excavation, road cut or other County permit, and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site specific development plan.

2.3.8 Governing Law:

A pending site specific development plan application will be governed by the duly adopted laws and regulations in effect at the time the application is submitted, with the exception that the County reserves the right pursuant to Section 24-68-102.5(2), C.R.S., to enforce new or amended laws or regulations to pending applications when such law or regulations necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by resolution of the Board of County Commissioners for the purposes of preparing planning studies and considering land use regulations related to public health and safety or for the purpose of promoting concurrency of essential public infrastructure, equipment or services with increased demand.

2.3.9 Limitations:

Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Section 24-68-101, *et seq*., C.R.S. In the event of the repeal of said statute, or a judicial determination that it is invalid or unconstitutional, this Section 2.3 shall be deemed to be repealed and the provisions hereof no longer effective.

2.4 VARIANCES

2.4.1 Variances may be granted from portions of these Regulations where the applicant can clearly demonstrate that because of peculiar conditions, the literal enforcement of one or more of these regulations is impractical or will exact undue hardship.

2.4.1.1 Such variances shall be heard by the Board of Adjustment (BOA) as provided in Section 1.2.4.

2.4.1.2 An Administrative Variance can be reviewed and approved by Staff to vary from a required setback in Table 4 or PUD Development Plan, when the request does not encroach on any easement.[20]

(1) The property owner or designated agent shall obtain and furnish to the Planning Department written verifications of consent from:

a. Any affected property owner adjacent to the side(s) of the property where the setback encroachment is proposed.

(2) Where the property owner owns both sides of a lot line or easement, they may provide their own written verification of consent for variance of a setback from a lot line or access easement (but not to encroach on any easement).

2.4.2 Submittal Requirements:

The applicant shall submit to the Planning Department a completed application for a variance, payment of the non-refundable application fee, and all required data which at the sole discretion of Planning Staff may include but not be limited to: photographs, surveys showing all easements or other plan drawings by a licensed surveyor, narrative detailing why the variance is needed, ownership records, tax receipts and anything that may be needed to make an informed determination.

2.4.3 Review Procedure:

2.4.3.1 The Planning Director shall prepare a written report and present it to the Board of Adjustment for decisions on Variances. [21]

(1) Planning Staff may seek the advice of any affected utility companies and/or property/home owners' associations and/or contiguous, affected property owner(s).

(2) For an Administrative Variance, the written notice and request for verification of consent should include but not be limited to: property location by block and lot if applicable and by address if available; a map showing property highlighted, and a copy of proposed plans. If the applicant cannot obtain written consent from required respondents, the Variance request shall be processed through the Board of Adjustment.

[20] Amended Jul 2010 (Res. 2010-32); Jun 2018 (Res. 2018-18); May 2019 (Res. 2019-39); Oct 2021 (Res. 2021-76)
[21] Amended July 2010 (Res. 2010-32); June 2018 (Res. 2018-18)

2.4.3.2 Standards for the Grant or Denial of Variances: [22]

(1) The BOA may grant a variance from dimensional standards of this Regulation, or Planning Staff may grant an administrative variance, if all of the following are found to exist:

- **a.** Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of these Regulations are strictly enforced.
- **b.** Circumstances creating the hardship were created subsequently through no fault of the appellant.
- **c.** That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same zoning or overlay district.
- **d.** That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.
- **e.** The variance, if granted, will not be directly contrary to the intent and purpose of these Regulations or the *Community Plan*.

(2) Variance from Floodplain Development Standards may be granted as provided in Section 10—Floodplain Regulations.

(3) Under no circumstances shall a variance be granted on the sole basis of personal convenience, profit or special privilege to the applicant.

(4) Under no circumstance shall the BOA grant a variance to allow a use not permissible under the terms of these Regulations in the appropriate zone district.

(5) Variances shall be granted only with respect to specific plans. Unless otherwise specified by the BOA, a variance may be transferred to successive owners prior to construction if no changes are made to the approved plan and shall run with the land after the construction of any authorized structure or structures and only for the life of such structures.

(6) In order to insure that the protection of the public good and the intent and purpose of these Regulations is preserved, the BOA may impose any condition upon the grant of a variance, including those categories of conditions which may be placed upon Conditional Use Permits under Section 3 of these Regulations.

- **a.** The BOA may condition the granting of a variance on the issuance of a building permit within a specific time period and may require the applicant to pursue completion of the construction with due diligence. If such conditions are not satisfied, the variance shall become null and void.

[22] Amended June 2018 (Res. 2018-18)

2.5 AREAS AND ACTIVITIES OF STATE INTEREST

2.5.1 General Provisions:

2.5.1.1 Purpose and Findings:

The purpose and intent of these Regulations is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101, *et seq*., C.R.S. The Board of County Commissioners, Archuleta County, State of Colorado, finds that:

(1) The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been followed;

(2) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within this County; and

(3) These Regulations were adopted after taking into consideration applicable guidelines adopted and issued by the Colorado Land Use Commission;

2.5.1.2 Authority:

These Regulations are authorized by, inter alia, Section 24-65.1-101, *et seq*., C.R.S.; Section 30-28-101, *et seq*., C.R.S.; Section 30-28-201, *et seq*., C.R.S.; Section 29-20-101, *et seq*., C.R.S.; and Section 24-32-111, C.R.S. These Regulations are necessary for the preservation of the public health, safety and welfare.

2.5.1.3 Applicability:

These Regulations shall apply to all proceedings concerning identification and designation of any developments in any area of state interest or any activity of state interest which has been or may hereafter be designated by the Board of County Commissioners of the Archuleta County. Except as otherwise provided herein, these Regulations apply to the entire unincorporated territory of Archuleta County. These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Board of County Commissioners of Archuleta County.

2.5.1.4 Exemptions:

The portions of these Regulations authorized exclusively under Section 24-65.1-101, *et seq*., C.R.S., shall not apply to any development in an area of state interest or any activity of state interest if, on the effective date of their adoption:

(1) The specific development or activity is covered by a current building permit issued by Archuleta County;

(2) The specific development or activity has been approved by the electorate of Archuleta County;

(3) The specific development or activity is to be on land which has been finally approved for Planned Unit Development or for a use substantially the same as

Planned Unit Development;

(4) The specific development or activity is to be on land which has been zoned in response to an application which specifically contemplated said specific development or activity; or

(5) The specific development or activity is to be on land with respect to which a plan for that development or activity has been conditionally or finally approved by Archuleta County.

2.5.1.5 Relationship of Regulations to County, State and Federal Requirements:

(1) Whenever these Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of Archuleta County, the enactment imposing the more restrictive standards or requirements shall control.

(2) In the event these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.

(3) In the event these Regulations are found to be more stringent than the statutory criteria for administration of matter of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these regulations shall control pursuant to the authority of Section 24- 65.1-402(3), C.R.S.

(4) These Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of Archuleta County.

(5) Permit requirements included in these Regulations shall be in addition to all applicable state and federal water quality laws, rules and regulations, including but not limited to the following:

- **a.** Section 28-8-702, C.R.S., sewage treatment plant site approval;
- **b.** Section 25-8-501, C.R.S., point source pollutant discharge permit;
- **c.** Section 208 (33 U.S.C. Section 1288) area-wide wastewater treatment management planning;
- **d.** Section 303 (33 U.S.C. Section 1313) river basin water quality management planning;
- **e.** Disposal of sewage sludge (33 U.S.C. Section 1345);
- **f.** Section 32-1-201, C.R.S., Special District Control Act;
- **g.** 16 U.S.C. Section 661-666(c) (1970), the Fish and Wildlife Coordination Act;
- **h.** Section 102(c) 42 U.S.C. Section 4321, et seq., the National Environmental Policy Act; and
- **i.** Section 404 of the Federal Clean Water Act.

Nothing in these Regulations shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.

2.5.1.6 Maps:
The following maps are fully incorporated herein by this reference:

2.5.1.7 Duties of the Board of County Commissioners:
Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners of Archuleta County to perform all functions pertaining to matters of state interest.

2.5.1.8 Definitions:
For the purposes of this Section 2.5, the words and terms herein shall have the meanings set forth below unless the context requires otherwise:

(1) Designation: That legal procedure specified by Section 24-65.1- 401, *et seq*., C.R.S., carried out by the Board of County Commissioners.

(2) Development: Any construction, activity, or change in activity which changes the basic character or the use of the land on which the construction activity or change occurs.

(3) Legal description: Any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

(4) Matter of state interest: An area of state interest or an activity of state interest or both

(5) Permit Authority: The Board of County Commissioners.

(6) Person: Any private individual, partnership, corporation, association, company, or any public or corporate body, including the state and federal government, and includes any political subdivision, agency, instrumentality, or corporation thereof.

(7) Receipt of Application: The time at which the completed application is accepted by the Permit Authority.

2.5.2 Designation of Matter of State Interest:

2.5.2.1 Designations and amendments of designations may be initiated in two ways:

(1) The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.

(2) The Archuleta County Planning Commission may on its own motion or upon request by the Board of County Commissioners recommend the designation of matters of state interest. The Board of County Commissioners shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest.

2.5.2.2 Public Hearing Required:

The Board of County Commissioners shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.

2.5.2.2 Notice of Public Hearing, Mailing List, Publication:

The Board of County Commissioners shall prepare a notice of the designation hearing which shall include:

(1) The time and place of the hearing;

(2) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined;

(3) The telephone number where inquiries may be answered;

(4) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included.

2.5.2.4 The Board of County Commissioners shall maintain a mailing list of those persons requesting they be placed on the list and paying to the Clerk an annual fee of twenty-five dollars ($25.00) to cover the costs of production, handling and mailing of notices of all hearings pursuant to Sections 24-65.1-404 (2)(b) and 24-65.1-501(2)(c), C.R.S. In order to have a name and address retained on the list, the person shall resubmit their name and address and pay said annual fee before January 31 of each year.

2.5.2.5 At least thirty (30) days but no more than sixty (60) days before the public hearing, the Board of County Commissioners shall publish the notice in a newspaper of general circulation in the County and shall mail the notice by first class mail to each of the following:

(1) State and federal agencies, as deemed appropriate in the discretion of the Board of County Commissioners;

(2) Persons on the mailing list (subsequent to the initial adoption of guidelines and regulations);

(3) In the discretion of the Board of County Commissioners, members of the news media and any other person considered likely to be affected by the proposed designation; and

(4) If any other local governmental jurisdiction would be directly or indirectly affected, the proposed designation similarly may be mailed to such government in the sole discretion of the Board of County Commissioners.

2.5.2.6 Matters to be Considered at Designation Hearing:

At the public hearing, the Board of County Commissioners shall receive into the public record:

(1) Testimony and evidence from all persons or organizations desiring to appear and be heard, including County staff;

(2) Any documents that may be offered; and

(3) The recommendations of the Archuleta County Planning Commission, if any.

2.5.2.7 Record of Designation Proceeding:

The Board of County Commissioners shall collect and preserve the following record of the public hearing:

(1) A copy of the notice of the hearing;

(2) The certificate of publication of the notice of the hearing and a listing of all persons to whom the notice was mailed;

(3) The names and addresses of persons who presented written or oral statements or offered documentary evidence;

(4) Any written statements or documents presented in support of or in opposition to the proposed designation of the matter of state interest;

(5) Any recording or transcript of the hearing which has been prepared pursuant to Section 2.5.2.11;

(6) The order of designation of the area or activity of state interest; and

(7) A map or maps depicting each area of state interest designated.

Any person may, at his or her own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

2.5.2.8 Adoption of Designation and Regulations:

(1) At the conclusion of the hearing, or within thirty (30) days thereafter, the Board of County Commissioners may adopt, adopt with modification, or reject the proposed designation which was the subject of public hearing.

(2) In making any such designation, the Board shall take into consideration:

(3) All testimony, evidence and documents taken and admitted at the public hearing;

(4) The intensity of current and foreseeable development pressures in the Archuleta County; and

(5) Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

2.5.2.9 In the event the Board of County Commissioners finally determines that any matter is a matter of state interest, it shall be the Board's duty, acting by resolution, to designate such matter and adopt regulations for the administration thereof.

2.5.2.10 Each designation order adopted by the Board of County Commissioners shall:

(1) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated;

(2) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

2.5.2.11 Recording of Notice of Designation:
A notice of the designation shall be certified by the Board of County Commissioners to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

2.5.2.12 Effect of Designation - Moratorium Until Final Determination:
After a matter of state interest is designated pursuant to this Section 2.5.2, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by Section 24-65.1-404(4), C.R.S.

2.5.3 Permit Authority:

2.5.3.1 Permit Authority Established:
The Archuleta County Permit Authority is hereby established, the members of which shall be the Board of County Commissioners. The Permit Authority shall exercise all powers and duties granted herein.

2.5.3.2 Permits Required After Designation; Receipt of Application Form:

(1) Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest must apply for and obtain a permit from the Permit Authority, and maintained in the office of the County Clerk. In the event a development or activity is proposed as an integral part of a subdivision or Planned Unit Development, it shall be the responsibility of the service provider and/or developer to comply with the requirements of these Regulations.

(2) An application shall not be accepted unless it is complete. A request for waiver of submission requirements shall not render the application incomplete. If the application is considered incomplete by the Permit Authority, the Permit Authority shall specify what additional information is required. An application need not meet the submission requirements for other than the particular development alternative for which a permit is being sought in order to be considered complete. When a submitted application is considered to be complete by the Permit Authority, the Permit Authority shall note upon the application the date and hour of its receipt.

(3) When an applicant seeks a permit to engage in development in more than one area of state interest and/or to conduct more than one activity of state interest and/or to engage in development in one area of state interest and to conduct one activity of state interest, a single application may be completed for all such activities or developments and may be reviewed by the Permit Authority in one consolidated hearing.

2.5.3.3 Waiver of Submission Requirements:

(1) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome and that the submission requirements so waived would not address or disclose a substantial impact on the County or its residents. When an applicant is applying for permits under separate section of these Regulations, submission requirements, where identical, may be combined. A waiver of submission requirements may be granted by the Permit Authority upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations.

(2) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in substantial compliance with the provisions of Section 2.5.4.1.

(3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before ten (10) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application and require complete reapplication, or may continue the hearing in accordance with Section 2.5.4.4(1).

2.5.3.4 Intergovernmental Agreements:

Upon the request of the State of Colorado or a political subdivision of the state, as defined by Section 29-1-202(1), C.R.S., proposing to engage in an activity of state interest, the requirements of these Regulations may be met by the approval of an intergovernmental agreement between the County and the state or political subdivision applicant. The County may, but shall be under no obligation to, approve such an intergovernmental agreement in lieu of a permit application and review as provided

herein. In the event such an agreement is approved by the County, no permit application to conduct the activity of state interest shall be required, provided that all of the following conditions are met:

(1) The state or political subdivision applicant and the County must both be authorized by Article XIV, Section 18(2) of the Colorado Constitution and Sections 29-1-201 *et seq*., 29-20-105 and 29- 20-107, C.R.S., to enter into the agreement.

(2) The purpose and intent of these Regulations must be satisfied by the terms of the agreement.

(3) A public hearing must be conducted by the Permit Authority in conformance with Section 2.5.4 [with the exception that the references to "permit application" in shall be deemed replaced with "proposed intergovernmental agreement"]. Prior to the hearing, the Board of County Commissioners shall approve the form of any proposed intergovernmental agreement, provided, however, that the final approval of the agreement shall take place at the conclusion of or subsequent to the public hearing. The public hearing shall be for the purpose of taking comment upon the proposed intergovernmental agreement, the provisions of which have been determined to be acceptable to the applicant and to the County.

(4) Both the Permit Authority and the governing body of the state or political subdivision applicant must approve the agreement in the manner required of each of them by the Colorado Constitution, statutes and any applicable charter, ordinance or resolution.

(5) Exercise of the provisions of this Section 2.5.3.4 by the state or political subdivision applicant will not prevent that entity from electing at any time to proceed under the permit provisions of these Regulations. Additionally, any entity which has previously proceeded under the permit provisions of these Regulations may at any time elect to proceed instead under this Section.

2.5.4 Permit Hearing:

2.5.4.1 Notice of Permit Hearing:

Not later than thirty (30) days after receipt of a completed application for a permit, the Permit Authority shall set and publish notice(s) of the date, time and place for hearing(s) on said application and any required separate hearing on any requested waiver of submission requirements. The notice of the public hearing shall be published once in a newspaper of general circulation in Archuleta County, not less than thirty (30) nor more than sixty (60) days before the date set for hearing and shall also be given to other persons and entities in the same manner as set forth for the notice of a designation hearing in Section 2.5.2.3.

2.5.4.2 Conduct of Permit Hearing:

(1) The Permit Authority shall conduct the public hearing in a manner affording procedural due process to the applicant, supporters of the project and any person who opposes issuance of the permit.

(2) The Permit Authority shall hear testimony and receive evidence, including:
- **a.** The recommendations of the Archuleta County Planning Commission, if any;
- **b.** Testimony and evidence from any and all persons or organizations desiring to appear and be heard, including County staff; and
- **c.** Any documents that may be offered.

(3) Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons appearing at the hearing, in person or by counsel, shall be afforded the right of cross-examination as well as reasonable opportunity to offer evidence in rebuttal.

(4) Any person may, at his or her own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Permit Authority and shall become part of the record.

(5) The Permit Authority shall collect and preserve the following record of the public hearing:
- **a.** The permit application;
- **b.** A copy of the notice of the hearing, the certificate of publication of the notice of hearing, and a listing of all persons to whom the notice was mailed;
- **c.** Any written statements or documents presented in support of or in opposition to the permit application;
- **d.** The names and addresses of all persons who presented oral or written statements, appeared as witnesses, or offered documentary evidence;
- **e.** Any recording or transcript of the hearing.
- **f.** Written minutes of the Permit Authority relating to the public hearing;
- **g.** The resolution of the Permit Authority granting or denying the permit application; and
- **h.** A copy of the permit, if issued.

2.5.4.3 In cases in which the development or activity must also comply with other provisions of the County land use regulations, the permit hearing required by these Regulations may be held at the same time as the final hearing required for such other approvals.

2.5.4.4 Action on Permit Application:

(1) If the Permit Authority finds that there is not sufficient information concerning any material feature of a proposed development or activity, it may deny the application or it may continue the hearing until the additional information has been received. However, no such continuance may exceed sixty (60) days unless agreed to by the applicant.

(2) The Permit Authority shall approve an application for a permit to engage in development in an area of state interest or for the conduct of an activity of state interest if the proposed development or activity complies with the provisions of the guidelines and regulations governing such area or activity. The Permit Authority

may attach reasonable conditions to its approval. If the proposed development does not comply with the guidelines and regulations governing the area or activity, the permit shall be denied.

(3) The burden of proof shall be upon the applicant to show compliance with the provisions of these Regulations governing the area or activity of state interest involved.

(4) The Permit Authority shall state, in writing, reasons for its decision on a permit application, and its findings and conclusions.

(5) The Permit Authority shall reach a decision on a permit application within one hundred twenty (120) days after the completion of the permit hearing, or the permit shall be deemed approved.

2.5.4.5 Issuance, Revocation or Suspension of Permits:

(1) Issuance of Permits:

a. The permit shall be issued on the form adopted by the Board of County Commissioners.

b. The permit may be issued for an indefinite term, or for a specific period of years.

2.5.4.6 Revocation or Suspension of Permits

(1) In the event the Permit Authority has reason to believe that the provision of any permit or the terms of any regulation for administration have been violated by the holder of the permit, the Permit Authority may temporarily suspend the permit for a period of thirty (30) days. Before imposing such a temporary suspension, the Permit Authority shall give the permit holder written notice of the specific violation and shall allow the permit holder a period of at least fifteen (15) days to correct the violations. If the permit holder does not concur that there is a violation, he shall, within fifteen (15) days of his receipt of such notice, show cause to the Permit Authority why temporary suspension should not be ordered. A hearing shall be held within said thirty (30) day period.

(2) Prior to or subsequent to a temporary suspension, the Permit Authority may permanently revoke or suspend the permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for permit hearings, and if it finds:

a. A violation of any provision or condition of approval of the permit or applicable regulation for administration of the matter of state interest concerned; or

b. The applicant has failed to take substantial steps to initiate the permitted development or activity within twelve (12) months from the date of the permit, or, if such steps have been taken, the applicant has failed to complete the development or activity or any condition of permit approval with reasonable diligence. "Substantial steps" do not require construction activity and may include, among other things, legal or administrative proceedings and activities

directly associated with the Applicant's project. An extension of the time within which substantial steps to initiate the permitted development or activity need be taken may be granted by the Permit Authority upon the request of the applicant and a showing of good cause therefore.

2.5.4.7 Upon good cause shown, any revoked or suspended permit may be reinstated, within twelve (12) months after revocation or suspension.

2.5.5 Annual Review:

2.5.5.1 Within thirty (30) days prior to each annual anniversary date of the granting of a permit, the permittee shall submit a report detailing all past activities conducted by the permittee pursuant to the permit including a satisfactory showing that the permittee has complied with all conditions of the permit and applicable regulations. The permittee need not inform the Permit Authority of activities, such as operational changes, which are not the subject of a permit condition.

2.5.5.2 The Permit Authority shall review the report within thirty (30) days from the date of submittal thereof. If the Permit Authority determines that the permittee is likely to have violated the provisions of the permit and/or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Permit Authority determines at the public hearing that the permittee has violated the provisions of the permit and/or applicable regulations, the Permit Authority may suspend and/or revoke the permit.

2.5.5.3 Upon notice to the Permit Authority of the fulfillment of all permit conditions, and the Permit Authority's concurrence therein, the Permit Authority shall terminate any annual review requirements.

2.5.5.4 The Permit Authority may waive or modify the annual review requirements upon petition of the permittee and a showing of good cause therefore.

2.5.6 Guidelines and Regulations for the Use of Geothermal Resources for Commercial Production of Electricity:[23]

2.5.6.1 General Provisions

(1) Title and Citation: These Regulations are entitled “Guidelines and Regulations for the Use of Geothermal Resources for Commercial Production of Electricity,” or “Regulations.”

(2) Applicability: These Regulations shall apply to the use and only to the use of geothermal resources for the commercial production of electricity (”Commercial Use of Geothermal Resources”) on public or private lands, located wholly or partially within the unincorporated areas of Archuleta County. The Commercial Use of Geothermal Resources may only be located in a zoning district where such use is

[23] Amended May 2014 (Res. 2014-23)

allowed, including where allowed by a conditional land use permit, or by another review process identified in the Land Use Code.

a. No person may engage in Commercial Use of Geothermal Resources without first obtaining either a Permit or a Statement of No Impact under these Regulations. No person may engage in exploration for geothermal resources for commercial use without filing an Activity Notice under these Regulations.

b. The County shall not issue any building permit or grant other approvals for Commercial Use of Geothermal Resources subject to these Regulations without the applicant having first obtained a Permit or a Statement of No Impact under these Regulations

c. Any permit or Statement of No Impact issued under these Regulations shall be deemed to satisfy all requirements and take the place of a Conditional Use Permit as may be required under Table 3 and Section 3.2.3 of the Land Use Regulations.

(3) Exemptions from These Regulations:

a. Statutory Exemptions: These Regulations shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of May 6, 2014:

1. The development or activity is covered by a current building permit issued by the appropriate local government; or
2. The development or activity has been approved by the electorate; or
3. The development or activity is to be on land:
    i. Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or
    ii. Which has been zoned by the appropriate local government for the use contemplated by such development or activity; or
    iii. With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority.

b. Other Exemptions: These Regulations shall not apply to Commercial Use of Geothermal Resources approved by the County as of the effective date of these Regulations.

(4) Relationship to Other Regulations:

a. Inconsistencies or Conflict with Other Regulations and Plans: If any provision of these Regulations is found to be inconsistent or in conflict with other County or state standards or requirements, or the statutory criteria for administration of matters of state interest set forth in C.R.S. §§ 24-65.1-202 and 204, the more stringent standards or requirements shall control.

b. Transmission Lines not Subject to These Regulations. The development of transmission lines associated with Commercial Use of Geothermal Resources is not subject to the requirements of these Regulations. The development of such transmission lines requires a County Land Use Change Permit which may be submitted and reviewed concurrently with any application submitted under these regulations.

c. Coordination of County Permit Process with Other Permit Processes:

1. **Coordinated Review:** The applicant may request that the County

application and review process be coordinated with that of other agencies. The County will attempt to eliminate redundant application submittal requirements and will coordinate its review of the application with other agencies, as appropriate.

2. **Coordinated Permit Conditions:** The County will coordinate its approval of the application, including the terms and conditions of such approval, with that of other agencies so that the applicant shall not be subjected to duplicative terms and conditions.
3. **No Intent to Conflict:** These Regulations shall not be applied to create an operational conflict with any state or federal laws or regulations.

(5) Intergovernmental Agreements: Upon the request of the State of Colorado ("state") or a political subdivision of the state, as defined by C.R.S. § 29-1-202(1), proposing Commercial Use of Geothermal Resources, the requirement for a permit for Commercial Use of Geothermal Resources pursuant to these Regulations may be met by the approval of an intergovernmental agreement between the County and the state or political subdivision applicant. The County may, but shall be under no obligation to, approve such an intergovernmental agreement. In the event such an intergovernmental agreement is approved by the County, a permit for Commercial Use of Geothermal Resources shall not be required if all of the following conditions are met:

a. The state or political subdivision applicant and the County must both be authorized by Article XIV, Section 18(2) of the Colorado Constitution and C.R.S. §§ 29-1-201 et seq., § 29-20-105 and § 29- 20- 107 to enter into the agreement.

b. The findings set forth in section 2.5.6.2(1) and reasons for designation set forth in Section 2.5.6.2(3) of these Regulations must be satisfied by the terms of the agreement.

c. The Board shall conduct a public hearing on the proposed intergovernmental agreement in conformance with Section 2.5.4. Prior to the hearing, the Board of County Commissioners may approve the form of any proposed intergovernmental agreement, provided, however, that the final approval of the intergovernmental agreement shall take place at the conclusion of or subsequent to the public hearing. The public hearing shall be for the purpose of taking comment upon the proposed intergovernmental agreement, the provisions of which have been determined to be acceptable to the applicant and to the County.

d. Both the Board and the governing body of the state or political subdivision applicant must approve the agreement in the manner required for each entity by the Colorado Constitution, statutes and any applicable charter, ordinance or resolution.

e. Exercise of the provisions of this Section 2.5.6.1(5) by the state or political subdivision applicant will not prevent that entity from electing at any time to pursue permit review under these Regulations. Additionally, any state or political subdivision applicant which has initiated permit review under these Regulations may at any time elect to proceed instead under this Section 2.5.6.1(5).

f. Notwithstanding anything to the contrary herein, no applications or approvals pursuant to these Guidelines and Regulations for the Use of Geothermal

Resources for Commercial Production of Electricity shall give rise to any vested property right.

(6) Severability: If any section, subsection, sentence, clause or phrase of these Regulations is held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these Regulations as a whole or any part other than the part declared invalid.

(7) Definition of Words and Terms:

a. **Adverse** means unfavorable, harmful.

b. **Board** means Board of County Commissioners of the County of Archuleta.

c. **Completed well** means a well that has been drilled to its total depth, has been cased, grouted, and pressure or flow tested as required, has been equipped with production equipment if needed, and is ready to be placed into service.

d. **Commercial Production of Electricity** means the sale of 1 megawatt to an electrical utility, including cooperative or to another entity(ies), for use by one other than the producer of the 1 megawatt. Provided, however, the Commercial Production of Electricity does not include a producer of a megawatt that consumes the electricity itself.

e. **Use of Geothermal Resources for the Commercial Production of Electricity or Commercial Use of Geothermal Resources** means the siting, drilling, deepening, reworking, closure or abandonment of a geothermal well; power production facilities and operations; and all construction, site preparation, reclamation and related activities associated with the development of geothermal resources for the commercial production of electricity. Transmission lines and related facilities are not included within this definition.

f. **Critical View Shed** means adverse effect on a visually sensitive natural environment that is visible from a public road, park or existing dwelling.

g. **Designation** means that legal procedure specified by C.R.S. §§ 24-65.1-401, 402 and 406 for designating Matters of State Interest. It also includes the revocation and amendment of such designations.

h. **Development** means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

i. **Development area** means those geographic areas within the County which will be developed or altered directly by construction or operation of the Project.

j. **Director** means Planning Manager of Development Services or designee.

k. **Exploration** means any activity relating to the search for evidence of geothermal resources. This activity requires physical presence on the land and may result in damage to surface lands or resources. Exploration includes, but is not limited to, surveying, and geophysical operations such as drilling shallow temperature gradient wells or holes used for explosive charges for seismic exploration and slim holes for flow and heat test. It also includes related construction of roads and trails, and cross-country transit by vehicles over surface land. Exploration operations do not include the production or beneficial use of geothermal resources.

l. **Geothermal well** means a well that is constructed for the use of a geothermal resource for the commercial production of electricity, or reinjection of a geothermal fluid from such well.

m. **Impact area** means those geographic areas, including the development area, in which any impacts are likely to be caused by the Project.

n. **Mitigation** means an action that will have one or more of the following effects:

1. Avoiding an impact by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action or its implementation.
3. Rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service.
4. Reducing or eliminating the impact over time by preservation and maintenance operations.
5. Compensating for the impact by replacing or providing suitable biological and physical conditions and by replacing or providing suitable services and facilities.

o. **Net effect** (relating to mitigation) means the impact of an action after mitigation.

p. **Permit** means a permit for use of geothermal resources for commercial production of electricity issued by the Permit Authority pursuant to this Section 2.5.6.

q. **Permit Authority** means the Board, or its designee.

r. **Production equipment** means any pump, fluid circulating system, or other device used or intended for extracting geothermal resources from a well. Production equipment includes well seals, well heads, control devices, and couplings appurtenant thereto.

s. **Production facilities** include, but are not limited to, power plants, extraction plants, and separators.

t. **Project** means the construction and operation of an activity proposed under these Geothermal Regulations throughout its life cycle including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the County.

u. **Reinjection** means reintroducing geothermal fluids through a well into the same reservoir from which they were produced, whether by pressure at the surface or by gravity flow.

v. **Significant** means deserving to be considered; important; notable.

w. **Significantly degrade** means to lower in grade or desirability to a significant degree

x. **Significantly deteriorate** means to make inferior in quality or value to a significant, as opposed to trivial, degree.

y. **Significant adverse impact** means an impact of an action, after mitigation, which is considerable or substantial, and unfavorable or harmful.

z. **Zero discharge system** means a system that accesses the heat from a geothermal resource through water or other fluids, and returns the fluids to the source through re-injection, without discharging to or coming in contact with surface waters or other groundwater aquifers.

2.5.6.2 Designation of Use of Geothermal Resource for Commercial Production of Electricity:

(1) Findings: The Board of County Commissioners hereby finds that:

a. Developing geothermal resources for commercial production of electricity in an uncontrolled manner could result in detrimental effects to water resources and water supplies and detrimental effects on people, property, and the environment.

b. The advantages of developing geothermal resources for commercial production of electricity in a controlled manner include:

1. To encourage the responsible production of electricity from the available geothermal resources in the County.
2. To ensure that development of geothermal resources for the commercial production of electricity does not have an unacceptable impact on private property rights.
3. To ensure that development of geothermal resources for commercial production of electricity does not prevent development of geothermal resources for other purposes.
4. To ensure that development of geothermal resources is undertaken in such a manner as to safeguard life, health, property, public welfare, and the environment.

(2) Designation of Activity of State Interest: Based upon the findings in Section 2.5.6.2(1), the Board of County Commissioners hereby designates the use of geothermal resources for commercial production of electricity to be an activity of state interest subject to the provisions of this Section 2.5.6.

(3) Reasons for Designation: The Commercial Use of Geothermal Resources is hereby designated as an activity of state interest for the reasons stated in Section 2.5.1.1, and in Section 2.5.6.2(1) of these Regulations.

2.5.6.3 Exploration Activity Notice

(1) Activity Notice Required. Drilling of exploration wells and related exploration activities for Commercial Use of Geothermal Resources is not subject to the permit application and review requirements of these Regulations provided the operator files and receive approval of an Activity Notice for exploration and reclamation activities with the Director. The exploration activities may be presented by the applicant and approved by the Director in an iterative manner or as a phased process as additional information is developed.

(2) Activity Notice Submittal Requirements. An operator seeking to file for an Activity Notice shall submit the following materials to the Director. The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the proposed exploration complies with the Activity Notice approval criteria in Section 2.5.6.3(4). Application materials submitted to other agencies may be submitted to satisfy one or more submittal requirements if the materials contain the information required under this section.

a. The name, address, and telephone number of the person proposing exploration activities.
b. The name, address, and telephone number of the person who will be present at and responsible for conducting the proposed exploration activities.
c. If the surface land comprising the proposed exploration area is owned by a person other than the person who intends to conduct exploration activities, the name and address of the owner of record of the surface land and a description of the basis upon which the person proposing exploration activities claims the right to enter the proposed exploration area.
d. A map, at a scale acceptable to the County, showing the proposed exploration area. The map shall specifically show:
    1. Location of all exploratory wells proposed to be drilled or altered;
    2. Location of existing and proposed roads and the existing and proposed access routes;
    3. Earth or debris storage and disposal areas;
    4. Topographic and drainage features;
    5. Historic and cultural features;
    6. Existing bodies of surface water;
    7. Wildlife habitats and habitats of any endangered or threatened species;
    8. Areas of developed geothermal resources;
    9. Recreation areas; and
    10. Location of occupied dwellings.
e. An Exploration and Reclamation Plan including:
    1. **Description of Exploration Area.** A narrative description of the proposed exploration area, cross-referenced to the map required in Section 2.5.6.3(2)d, that identifies surface topography, geology, drainage, surface water, and other physical features; vegetative cover; wildlife habitats and habitats of endangered or threatened species; and recreational, historical and archaeological resources located within the proposed exploration area.
    2. **Description of Proposed Exploration.** A narrative description of the proposed exploration, including maximum number and location of drill holes intended for the proposed exploration, cross referenced to the map required in Section 2.5.6.3(2)d, and their size and depth; a narrative description of the methods to be used to conduct exploration, including, but not limited to the type(s) of drilling, construction of access routes, and an estimated timetable for conducting and completing each phase of exploration and reclamation.
    3. **Description of Reclamation.** A narrative description of the methods to be used for reclamation of the exploration area upon completion of each phase of exploration activities including proposed method of financial guarantee to ensure reclamation occurs if appropriate.
    4. **Protection of Public Health and the Environment.** A narrative description of the practices proposed to be followed to ensure public health and safety and to protect the environment and wildlife habitats from adverse impacts as a result of the proposed exploration and reclamation activities. Include a discussion of potential adverse effects and possible methods of mitigation.
    5. **Permit(s) Issued by State Engineer.** A copy of the drilling permit(s) issued by the State Engineer for the proposed exploration if required.

(3) Confidential Information. Upon request of the applicant, information submitted to the County pursuant to Section 2.5.6.3(2) concerning trade secrets, or privileged commercial or financial information that relates to the competitive rights of the person or entity intending to explore the described area shall be kept confidential and not be available for public examination. Such information shall be clearly marked confidential by applicant and submitted in a separate packet.

(4) Approval Criteria for Activity Notice. The following criteria shall apply to evaluate all requests for approval of an Activity Notice for exploration activities associated with Commercial Use of Geothermal Resources.

a. Property Rights, Access Agreements, Permits and Approvals. Prior to site disturbance associated with the proposed exploration activities the operator can and will obtain all property rights, access agreements, permits, and approvals necessary for the proposed exploration. If the applicant has not obtained all necessary property rights, access agreements, permits and approvals, the County may, at its discretion, defer making a final decision on the Activity Notice until outstanding property rights, access agreements, permits and approvals necessary for exploration are obtained.

b. Soils, Geologic, and Natural Hazards. The proposed exploration activities are not subject to significant risk from soils, geologic, or natural hazards. Examples of factors the County may consider in determining risk include without limitation:

1. Faults and fissures.
2. Unstable slopes including landslides, rock slides and avalanche areas.
3. Expansive or collapsible soils and risk of subsidence.
4. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
5. Exacerbation of seismic concerns and subsidence.
6. Flood hazard.
7. Wildfire hazard.

c. Hazardous Materials and Drilling Byproducts or Waste. The proposed exploration activities shall not result in significant risk of releases of hazardous materials and drilling byproducts or waste. Each drilling site shall be reclaimed upon completion of exploratory drilling activities unless the site and associated facilities are proposed to be used as part of a permitted activity.

d. Disturbance to Surface Areas. The proposed exploration activities shall be conducted in a manner that will minimize disturbance to surface areas.

e. Recreation Opportunities and Experiences. The proposed exploration activities shall not cause a significant degradation in the quality or quantity of recreational activities in the County.

f. Areas of Paleontological, Historic, or Archaeological Importance. The proposed exploration activities shall be conducted in a manner that will be compatible with the preservation of the resource and minimize damage to the resource, if applicable.

g. No Significant Degradation of the Natural Environment.

1. **Air Quality.** The proposed exploration activities shall not significantly degrade air quality.

2. **Surface Water Quality.** The proposed exploration activities shall not significantly degrade surface water quality.
3. **Groundwater Quality.** The proposed exploration activities shall not significantly degrade groundwater quality.
4. **Wetlands and Riparian Areas.** The proposed exploration activities shall not significantly degrade wetlands and riparian areas.
5. **Wildlife and Wildlife Habitat.** The proposed exploration activities will not significantly degrade wildlife or sensitive wildlife habitat.

h. Exploration Activities Will Not Cause a Nuisance. The proposed exploration activities will not cause excessive noise and vibration levels, dust, fumes, glare, exterior artificial light, and odor to adjacent properties unless such impact is mitigated to the satisfaction of the Director.

(5) Decision on Activity Notice by Director

a. Director's Decision. Not more than thirty (30) working days after receipt of a complete Activity Notice, the Director shall approve, deny, or conditionally approve the exploration activity, based upon whether the proposed exploration satisfies the approval criteria in Section 2.5.6.3(4).

b. Written Notice of Director's Decision. Written notice of the Director's Decision shall be provided to the applicant, mailed to adjacent landowners and posted at the County Courthouse.

c. Consultant and Referral Agency Review. The Director may refer the Activity Notice to consultants and other state or federal agencies to assist with review of the Activity Notice.

d. Filing Fees. The Activity Notice shall be accompanied by appropriate fees. A schedule of fees adopted by the Board is available through the Planning Department.

1. **Applicant Responsible for Cost of Review.** The applicant is responsible for the costs of reviewing and processing the Activity Notice including costs of copying, labor and overhead.
2. **Applicant Responsible for Referral Agency and Consultant Fees.** The applicant is responsible for the costs of referral agency and consultant review of the Activity Notice provided that the applicant is first provided an estimate of consultants costs and the ability to request additional estimates from competing consultants acceptable to the Director.

e. Appeal or Call-up by Board of Commissioners. Either the applicant or an adjacent property owner affected by the decision may request reconsideration of the Director's decision by the Board of County Commissioners. The Board of County Commissioners also may, at its discretion, decide to reconsider the decision at the next regularly scheduled meeting of the Board for which proper notice of hearing can be accomplished in accordance with the County Land Use Code. The aggrieved party shall file a written request within seven (7) calendar days of the date of written notice of the decision.

f. Minor Revisions to Exploration Plan. As exploration proceeds under the approved Activity Notice the need for minor revisions may occur. The Director may approve minor revisions to the approved Activity Notice as long as it is determined that no additional impacts to adjacent properties or the public will

occur. Minor revisions may include: minor revisions to the number, location, size and depth of drill holes, well pads and/or access roads and timetable for conducting and completing phases.

2.5.6.4 Permit Application Process:

(1) Application Procedure: The following application and review procedures shall apply to an application proposing Commercial Use of Geothermal Resources.

a. Pre-Application Conference:

Any person proposing to engage in Commercial Use of Geothermal Resources shall first request a pre-application conference with the Director. The conference will be held within ten (10) working days of the request.

1. **Purpose:** The purposes of the pre-application conference include, without limitation:
   - i. To discuss the location and nature of the proposed Project and site specific considerations that bear on the proposed Project;
   - ii. To discuss whether the proposed Project is eligible for a Statement of No Impact or whether a Permit is required;
   - iii. To explain Permit application submittal requirements and the nature of materials that will be responsive to those requirements;
   - iv. To identify materials that may have been submitted to other state or federal agencies that the project proponent may propose to use in the County application process;
   - v. To discuss federal and state terms and conditions that may have been imposed on the proposed Project;
   - vi. To discuss projected impacts and potential mitigation;
   - vii. To discuss the standards that must be satisfied for permit approval; and
   - viii. To identify potential operational conflicts, or waivers of standards based on technical infeasibility or environmental protection that the applicant intends to raise.
2. **Materials:** At or before the pre-application conference, the project proponent shall submit the following materials:
   - i. The proponent's name, address and phone number. If the applicant is not the owner of the property where the proposed Project will occur, applicant shall also provide the name, address and phone number of the property owner and documentation that the property owner consents to the proposed Project.
   - ii. Map prepared at an easily readable scale showing:
     1) Boundary of the proposed Project.
     2) Relationship of the proposed Project to surrounding topographic and cultural features such as roads, streams and existing structures.
     3) Proposed building(s), improvements and infrastructure.
     4) Topographic information in intervals not less than forty (40) feet.
   - iii. Written summary of the Project.
   - iv. Why the Project is eligible for a Statement of No Impact under

Section 2.5.6.4(1)b.3 if the proponent is seeking a Statement of No Impact.

3. **Participation by County Staff and Consultants:** The Director may include staff from other departments and agencies, and outside consultants in the pre-application conference.
4. **Comments Are Preliminary:** Any comments made by County staff and consultants during the pre-application conference are preliminary in nature and not binding.

b. Application Submittal, Determination of Completeness, and Determination of Whether the Proposed Project Is Eligible for a Statement of No Impact:

1. **Application Submittal:** Following a pre-application conference with the Director, an applicant shall submit an application to the Director. See Section 2.5.6.6 of these Regulations for the content of the application.
2. **Determination of Completeness of Application:** Not more than ten (10) working days after receipt of the application materials, or twenty (20) working days if outside consultants or staff other than Director assist the County with completeness determination, the Director shall determine whether the application is complete.
    i. **Application Is Not Complete:** If the Director determines that the application is not complete, the Director shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) calendar days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.
    ii. **Application Is Complete:** If the Director determines that the application is complete, the Director shall date the application and notify the applicant in writing.
    iii. **Completeness Is Not a Determination of Compliance:** A determination that an application is complete shall not constitute a determination that it complies with the permit approval criteria of these Regulations.
3. **Determination of Whether the Proposed Project is Eligible for a Statement of No Impact:** As part of the completeness determination, the Director shall determine whether the proposed Project is eligible for a STATEMENT OF NO IMPACT or if the proposed Project requires a Permit.
    i. **STATEMENT OF NO IMPACT:** The Director may make a finding of no significant impact, and a Permit under these Regulations will not be necessary, if the proposed Project without mitigation in its proposed location is unlikely to have any significant adverse impact to the County. The Director's decision shall take into consideration the permit approval criteria set forth in Section 2.5.6.7 of these Regulations.
    ii. **Subject to Permit Review:** If the Director determines that the proposed Project is not eligible for a Statement of No Impact, then the proposed Project shall be subject to Permit Review set forth in Section 2.5.6.5 of these Regulations.

iii. **Notice of Statement of No Impact or Determination that the Proposed Project is Subject to Permit Review:** Within five (5) calendar days of the Statement of No Impact or the determination that the proposed Project is subject to permit review, the Director shall notify the applicant, the Board, and adjacent property owners in writing of its decision. The notice shall include a description of the proposed Project and the procedure for requesting reconsideration of the Statement of No Impact or determination that the proposed Project is subject to permit review.

iv. **Reconsideration of Planning Department's Statement of No Impact or Determination that the Proposed Project Is Subject to Permit Review:**

1) **Call-up by the Board:** The Board may, at its discretion, review and amend the Director's Statement of No Impact or determination that the proposed Project is subject to permit review at the next regularly scheduled meeting of the Board for which proper notice can be accomplished following the date of written notice of determination.

2) **Request for Reconsideration:** The applicant or adjacent property owners may request that the Board reconsider the Director's Statement of No Impact or determination that the proposed Project is subject to permit review at the next regularly scheduled meeting for which proper notice can be accomplished following the request. The request shall be in writing, within ten (10) calendar days following the date of written notice of determination.

2.5.6.5 Permit Review Process:

This permit review process shall apply to any proposed Project that was not issued a Statement of No Impact.

(1) Public Notice:

a. Notice by Publication: Not later than thirty (30) calendar days after determination that the application is complete under Section 2.5.6.4(1)b.2, the Director shall publish a notice of public hearing on the application. The notice shall be published in a newspaper of general circulation in the area where the proposed Project is located, not less than thirty (30) calendar days nor more than sixty (60) calendar days prior to the date of the public hearing. The applicant shall be responsible for the cost of publication.

b. Written Notice to Adjacent Property Owners: Not less than thirty (30) calendar days nor more than sixty (60) calendar days prior to the date of the public hearing, the applicant shall mail written notice of the public hearing to the owners of record of all adjacent property by certified mail, return receipt requested.

1. **List of Property Owners:** The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.
2. **Validity of Notice:** The applicant is responsible for the accuracy of lists of

property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

3. **Sign Posting:** Not less than thirty (30) calendar days nor more than sixty (60) calendar days prior to the date of the public hearing, the applicant shall post a sign, provided by the County at the site. The sign shall include information related to the application and the public hearing notice.

(2) Review by Planning Commission: The Director shall submit a copy of the complete application to and seek review comments from the Planning Commission. The Planning Commission shall conduct a public hearing to consider the application at a properly noticed regular meeting. The Planning Commission shall submit review comments to the Board no later than thirty (30) working days from the date that the application is determined to be complete.

(**3) Consultant Review:** The Director may submit the complete application for review and recommendation by consultants retained by the County with the necessary expertise to review the application. The costs of consultant review are the responsibility of the applicant as set forth in Section 2.5.6.6(2) of these Regulations provided that the applicant is first provided an estimate of consultants costs and the ability to request additional estimates from competing consultants acceptable to the Director.

(**4) Referral Agency Review:** The Director may submit the application for review and recommendation to other County departments, and municipal, state, or federal agencies having an interest in or authority over all or part of the proposed Project. The referral review and comment period shall be thirty (30) working days from the date that the application is determined to be complete. Comments not received from referral agencies within the comment period may, but need not be considered by the Director. The costs of referral agency review are the responsibility of the applicant as set forth in Section 2.5.6.6(2) of these Regulations.

(5) Application Review and Staff Report by Director: The Director shall review the application to determine if the proposed Project satisfies the permit approval criteria set forth in Section 2.5.6.7 of these Regulations. The Director shall prepare a report taking into account the application, Planning Commission review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state and federal agencies, and any other available information on the record.

a. Contents of Staff Report: The report shall:

1. Briefly describe the proposed Project and highlight issues raised by the Planning Commission, consultants, and referral agencies.
2. Discuss state or federal requirements that may have been imposed on the proposed Project and the extent to which any of the terms, conditions, and requirements satisfy County standards applicable to the proposed Project.
3. Discuss the impacts of the proposed Project, the proposed mitigation, and whether it appears that each standard has been satisfied.
4. Recommend conditions of approval for any standard that appears not to

have been fully satisfied, or recommend denial.

5. Include additional information that would be relevant to the decision of the Board.

b. Distribution of Staff Report: No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Board. A copy of the staff report shall also be available for public review prior to the hearing.

2.5.6.6 Submittal Requirements:

The applicant shall include the following materials in the application. The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the proposed project complies with the permit approval criteria in 2.5.6.7(2).

(1) Authorized Applicant: Completed application forms and accompanying materials shall be submitted to the Director by the owner, or any agent acting through written authorization of the owner.

a. Authorized Agent: If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.

b. Applicant is Not the Sole Owner: If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all other owners or an association representing all the owners, by which all owners consent to or join in the application.

(2) Application Fees.

a. Application Fee Set by the Board: The application for a permit for Commercial Use of Geothermal Resources shall be accompanied by appropriate fees. A schedule of fees adopted by the Board is available through the Director.

b. Applicant Responsible for Additional Cost of Reviewing and Processing the Application: The applicant is responsible for the costs of reviewing and processing the application for a permit for Commercial Use of Geothermal Resources, including costs of copying, mailings, publications, labor and overhead, and all hearings and meetings on the application.

c. Applicant Responsible for Referral Agency and Consultant Fees: The applicant is responsible for the costs of referral agency and consultant review of the application for a permit for Commercial Use of Geothermal Resources, including reviews associated with the pre-application conference and completeness determination.

d. Deposit: An application for a permit for Commercial Use of Geothermal Resources shall be accompanied by a deposit set forth in the schedule of fees adopted by the Board. The deposit shall be applied toward the costs of the pre-application meeting, referral agency review, and consultant fees. The County shall initially pay the costs of referral agency review and outside consultants retained by the County to review the application from this fund.

1. **Balance:** Throughout the application process, the applicant shall maintain a minimum fee deposit balance established by the Board. The amount of the deposit and the minimum balance required may be reduced upon a finding

by the Director that the application processing and review costs are likely to be less than the minimum amount set herein.

2. **Suspend Processing:** The County may suspend processing the application pending receipt of additional installments required to bring the fee deposit balance to at least the minimum balance. The County will take no action on the application until all fees and expenses related to the application review process have been paid. Suspension shall toll all deadlines imposed on the County by these Regulations.
3. **Refund:** Within thirty (30) calendar days after the decision on the Permit is made, the County shall refund any balance of the deposit not expended.

(3) Information Describing the Applicant:

a. The names, addresses, email address, phone number, organization form, and business of the applicant and, if different, the owner of the proposed Project.

b. Authorization of the application by the owner of the proposed Project, if different than the applicant.

c. Written qualifications of those preparing reports and providing certifications required by these Regulations.

(4) Information Describing the Project:

a. Detailed plans and specifications of the proposed Project.

b. Amount and type of energy (KW, MW) and/or products to be produced by the proposed Project.

c. Detailed map(s) showing the location of all existing and proposed structures and appurtenant facilities.

d. Description of the surface water and groundwater to be used by the proposed Project including: the source, amount and quality of such water; the applicant's right to use the water, including adjudicated decrees, and application for decrees; proposed points of diversion and changes in the points of diversion; and the existing uses of the water. If an augmentation plan for the proposed Project has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.

e. Discussion of the alternatives to the proposed Project that were considered and rejected by the applicant, including the general degree of feasibility of each alternative and reasons why alternatives were rejected.

f. Schedules for, drilling, construction and operation of the proposed Project, including the estimated life of the proposed Project.

(5) Property Rights, Permits and Other Approvals:

a. Description of property rights that are necessary for or that will be affected by the proposed Project, and documentation establishing property rights and easement and right-of-way agreements connected with the property.

b. A list and copies of all other federal, state, and local permits and approvals that have been or will be required for the proposed Project, together with any proposal for coordinating these approvals with the County's permitting process.

c. A description of all mitigation required by federal, state and local authorities and copies of any draft or final environmental assessment or environmental impact statement required for the proposed Project.

(6) Socioeconomic Impact Analysis: An analysis of the socioeconomic impact of the proposed Project. The analysis shall include a description of how the applicant will comply with the applicable permit approval criteria set forth in Section 2.5.6.6 of these Regulations.

a. Land Use:

1. Description of existing land uses within and adjacent to the proposed Project.
2. Description of provisions from comprehensive plans, master plans, and intergovernmental agreements that are applicable to the proposed Project, and an assessment of whether the proposed Project will be consistent with or further the objectives of those provisions.
3. Description of impacts to land use patterns and net effect that the proposed Project would have on existing and future land use patterns.

b. Local Government Services:

1. Description of the demand for local government services including schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure or other County services necessary to accommodate the proposed Project.
2. A map that identifies the access route to, and within the subject property, and a traffic impact assessment to determine the impacts of the proposed Project on the public roadway system.
3. Description of the impacts and net effect of the proposed Project on the capability of local government to provide services, and proposed mitigation.

c. Local Economy:

1. Description of impacts and net effect of the proposed Project on the local economy, and proposed mitigation if necessary, including whether or not applicant is aware of any similar projects and the effect the proposed project is expected to have on similar existing facilities.

d. Recreational Opportunities:

1. Description of present and potential recreational uses in the area where the proposed Project will be located.
2. Description of the impacts and net effect of the proposed Project on present and potential recreational opportunities and revenues to the local economy derived from those uses, and proposed mitigation.

(7) Areas of Paleontological, Historic or Archaeological Importance:

1. Map and description of all sites of paleontological, historic or archaeological interest.

b. Description of the impacts and net effect of the proposed Project on sites of paleontological, historic or archaeological interest, and proposed mitigation.

(8) Environmental Impact Analysis.

a. Air Quality:

1. Description of the air-sheds that will be affected by the proposed Project, including the seasonal pattern of air circulation and microclimates.
2. Map and description of the ambient air quality and state air quality standards of the air-sheds that will be affected by the proposed Project,

including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.

3. Descriptions of the impacts and net effect that the proposed Project would have on air quality during both construction and operation, and proposed mitigation.

b. Visual Quality:

1. Map and description of ground cover and vegetation, forest canopies, waterfalls and streams, view-sheds, scenic vistas, unique landscapes and land formations or other natural features of visual importance.
2. Descriptions of the impacts and net effect that the proposed Project would have on visual quality, and proposed mitigation.

c. Surface Water Quality and Quantity:

1. Map and description of all surface waters that will be affected by the proposed Project, including description of applicable state water quality standards for water bodies that will be affected by the proposed Project.
2. Map and description of existing points of diversion for municipal, agricultural, industrial, and recreational uses of water within the County.
3. Descriptions of the immediate and long-term impact and net effects that the proposed Project would have on the quantity and quality of surface water, and proposed mitigation.

d. Groundwater Quality and Quantity:

1. Map and description of all groundwater, including any aquifers that will be affected by the proposed Project, including:
    i. Seasonal water levels in each subdivision of the aquifer affected by the proposed Project.
    ii. Artesian pressure in aquifers and a description of how the proposed Project may affect adjacent communities and users on wells.
    ii. Groundwater flow directions and levels.
    iii. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
    iv. Existing groundwater quality and classification.
    v. Location of all water wells and their uses.
2. Description of the impacts and net effect of the proposed Project on groundwater, and proposed mitigation.

e. Drinking Water Supplies:

1. An inventory and location of all water bodies and domestic water wells within one mile of the proposed Project.
2. Identification of all intakes for any municipal water supplies downstream from the proposed Project.
3. A description of impacts to drinking water supplies associated with the proposed Project, and proposed mitigation.

f. Floodplains, Wetlands and Riparian Areas:

1. Map and description of all floodplains, wetlands, and riparian areas that will be affected by the proposed Project, including a description of each type of wetlands, species composition, and biomass.
2. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

3. Description of the impacts and net effect that the proposed Project would have on the floodplains, wetlands and riparian areas, and proposed mitigation.

g. Wildlife and Wildlife Habitat:

1. An analysis of existing wildlife and wildlife habitat.
2. A detailed map indicating the location of summer and winter ranges, critical habitat, migration routes, calving grounds, mating grounds, and nesting grounds in relationship to the proposed structures and appurtenant facilities.
3. Description of the impacts and net effect that the proposed Project would have on wildlife and wildlife habitat, and proposed mitigation.

h. Identification of Other Geothermal Resources Affected by the Proposed Project: Description of the impacts and net effect that the proposed Project would have on geothermal resources and proposed mitigation.

(9) Soils, Geologic Conditions, and Natural Hazards:

a. Map and description of soil, geologic conditions, and natural hazards, including soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.

b. Descriptions of the risks to the proposed Project from natural hazards, and proposed mitigation.

c. Descriptions of the impact and net effect of the proposed Project on soil and geologic conditions in the area, and proposed mitigation.

(10) Nuisance: Descriptions of noise, glare, dust, fumes, vibration, and odor levels caused by the proposed Project, and proposed mitigation.

(11) Balance between Benefits and Losses:

a. Description of foreseeable benefits to the County created by the proposed Project.

b. Description of foreseeable losses of natural, agricultural, recreational, or industrial resources within the County and loss of opportunities to develop those resources in the future.

(12) Drainage and Erosion Control Plan: A detailed plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during construction and operation phases of the proposed Project.

(13) Weed Management Plan: A plan for the management and prevention of noxious weeds on the site.

(14) Emergency Response Plan: A plan that addresses events including, but not limited to blow-outs, major fluid spills, earthquakes, fires, floods and other emergencies, including: proof of adequate personnel, equipment, supplies, and funding to implement the emergency response plan immediately at all times during construction and operations. The plan shall include a notification list of response agencies. The plan shall include a provision for the owner or operator to reimburse the appropriate emergency response service providers for costs incurred in

connection with the emergency.

(15) Reclamation Plan: A detailed plan showing proposed reclamation including: schedules; finish contours, grading, sloping; types, placement, and amount of vegetation; subsequent land use plans; and any other proposed elements.

(16) Spill Prevention, Storage and Control Plan: A detailed plan that describes spill prevention, containment, control, storage, countermeasure and clean-up procedures and protocols.

(17) Monitoring and Mitigation Plan:

a. Description of all mitigation for the proposed Project.
   1. Description of how and when mitigation will be implemented and financed.
   2. Description of impacts that are unavoidable and cannot be mitigated.
   3. Description of methodology used to measure impacts of the proposed Project and effectiveness of proposed mitigation measures.

b. Description, location, and intervals of proposed monitoring to ensure that mitigation will be effective.

c. The Board may at its discretion require the applicant to prepare a revised monitoring and mitigation plan for review and approval by the County as a condition of permit approval.

(18) Additional Information May Be Necessary: The Director may request that the applicant supply additional information related to the proposed Project as may be necessary for the Board to make a determination on whether the proposed Project satisfies permit approval criteria.

2.5.6.7 Action on Permit Application by Board:

(1) Permit Hearing: The Permit Hearing shall be conducted in accordance with Sections 2.5.4.2 *Conduct of Public Hearing*, and 2.5.4.4 *Action on Permit Application* of this Section 2.5.

(2) Application of Permit Approval Criteria:

a. The Permit Authority shall apply the following performance criteria and siting criteria to determine whether a permit should be issued.

b. In determining whether the proposed Project satisfies permit approval criteria, the Permit Authority shall take into consideration the construction, operation and cumulative impacts of the proposed Project. A project cannot be segmented to avoid the requirements of these Regulations. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all phases or elements of the development must be considered together when determining whether the proposed Project satisfies the permit approval criteria.

2.5.6.8 Approval Criteria

(1) Performance Criteria:

a. All Property Rights, Permits and Approvals Have Been Obtained: Prior to site

disturbance associated with the proposed Project, the applicant can and will obtain all property rights, permits, and approvals necessary for the proposed Project. If the applicant has not obtained all necessary property rights, permits and approvals, the County may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained or condition the approval as appropriate.

b. No Significant Degradation of Property Rights: The proposed Project shall not significantly degrade property rights held by others.

1. **No Significant Impact to Geothermal Resource**: The proposed Project shall not significantly impact geothermal resources used by others. Examples of factors the County may consider in determining impacts including the following:
    i. Temperature
    ii. Chemistry
    iii. Volume

c. The Proposed Project Will Not Result in Unreasonable Risk of Releases of Hazardous Materials: The proposed Project shall not result in significant risk of releases of hazardous materials. Examples of factors the County may consider in determining risk include without limitation:

1. Adequacy of spill prevention and response plans.
2. Likelihood of hazardous materials or wastes being moved off the site by natural causes or forces.

d. The Surface Facilities of the Proposed Project are Not Subject to Significant Risk from Soils, Geologic, or Natural Hazards: The surface facilities of the proposed Project are not subject to significant risk from soils, geologic, or natural hazards that cannot be reasonably mitigated. Examples of factors the County may consider in determining risk include without limitation:

1. Faults and fissures.
2. Unstable slopes including landslides, rock slides and avalanche areas.
3. Expansive or evaporative soils and risk of subsidence.
4. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
5. Exacerbation of seismic concerns and subsidence.
6. Flood hazard.
7. Wildfire hazard.

e. The Proposed Project Will Not Have a Significant Adverse Effect on the Capability of Local Government to Provide Services, or Exceed the Capacity of Service Delivery Systems: The proposed Project shall not significantly degrade the capability of local government to provide services, or exceed the capacity of service delivery systems within the County. Examples of factors the County may consider in determining impacts to local government services include without limitation:

1. **Public Roadways:** Current and projected capacity of roads and the impact of the proposed Project upon the current and projected capacity.
    i. All public access roads under the jurisdiction of the County shall be constructed and maintained in compliance with the Archuleta County Road Standards, as necessary to accommodate the traffic and equipment related to Project operations and emergency

vehicles.

ii. Ingress and egress points to County roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

iii. If the projected use of the County roads resulting from the proposed Project will result in a need for an increase in roadway maintenance or snow removal, the County shall require the applicant to: i) enter into an agreement with the County whereby the applicant provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or ii) provide a bond or other financial assurance; and/or iii) pay impact fees in an amount acceptable to the County to cover the costs of impacts to the roads.

2. **Water Supply:** Significant reduction in the amount of water available to the County for future water supply.
3. **Water Treatment:** Significant reduction in the current and future capacity of water treatment services.
4. **Wastewater Treatment:** Significant reduction in current and future capacity of wastewater treatment services.
5. **Emergency Services:** Significant reduction in current and future capacity for provision of emergency services.

f. No Significant Degradation of the Economy: The proposed Project shall not significantly degrade any current or foreseeable future sector of the local economy. Examples of factors the County may consider in determining impacts to the economy include without limitation:

1. Reductions to projected revenues generated from each economic sector.
2. Reductions in the value or productivity of any lands.
3. Reductions in opportunities for economic diversification.
4. Potential for boom/bust cycles.

g. No Significant Degradation of Recreation Opportunities and Experiences: The proposed Project shall not cause a significant degradation in the quality or quantity of recreational activities in the County. Examples of factors the County may consider in determining impacts to recreation include without limitation:

1. Changes to existing and projected visitor days.
2. Changes in access to recreational resources.
3. Changes to quality and quantity of hiking and biking trails.
4. Changes to the wilderness experience or other opportunity for solitude in the natural environment.
5. Changes to hunting.

h. No Significant Degradation of Areas of Paleontological, Historic, or Archaeological Importance: The proposed Project shall be conducted in a manner that will be compatible with the preservation of the resource and minimize damage to the resource.

i. No Significant Degradation of Agricultural Lands: The proposed Project shall be designed to retain the maximum amount of productive agricultural land and not interfere with existing irrigation and drainage patterns.

j. The Proposed Project Will Not Significantly Degrade the Natural Environment:

1. **No Significant Degradation of Air Quality:** The proposed Project shall not significantly degrade air quality. Examples of factors the County may consider in determining impacts to air quality include without limitation:
   i. Changes to seasonal ambient air quality.
   ii. Changes in visibility.
   iii. Changes to microclimates.
   iv. Applicable air quality standards.
2. **No Significant Degradation of Visual Quality:** The proposed Project shall not significantly degrade visual quality. Examples of factors the County may consider in determining impacts to visual quality include without limitation:
   i. Visual changes to ground cover and vegetation, streams or any other natural feature, or interference with view sheds and scenic vistas and ridgelines.
   ii. Visual changes resulting from construction activities and from the existence and operation of the proposed Project.
   iii. Changes to unique or fragile areas, including geological formations, forested areas, critical view sheds or water bodies.
   iv. Compatibility of proposed facility and appurtenant structures with surrounding land uses.
3. **No Significant Degradation of Surface Water Quality:** The proposed Project shall not significantly degrade surface water quality. Examples of factors the County may consider in determining impacts to surface water quality include without limitation:
   i. Applicable narrative and numeric water quality standards.
   ii. Changes in point and nonpoint source pollution loads.
   iii. Increase in erosion and sediment loads. The proposed project shall be conducted in accordance with the drainage and erosion control plan.
   iv. Changes in stream channel or shoreline stability.
   v. Changes in storm water runoff flows.
4. **No Significant Degradation of Groundwater Quality:** The proposed Project shall not significantly degrade groundwater quality. Examples of factors the County may consider in determining impacts to groundwater quality include without limitation:
   i. Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
   ii. Changes in capacity and function of wells within the impact area.
   iii. Changes in quality of well water within the impact area.
5. **No Significant Degradation of Wetlands and Riparian Areas:** The proposed Project shall not significantly degrade wetlands and riparian areas. Examples of factors the County may consider in determining impacts wetlands and riparian areas include without limitation:
   i. Changes in the structure and function of wetlands and riparian areas.
   ii. Changes to the filtering and pollutant uptake and storage capacities of wetlands and riparian areas.

iii. Changes to aerial extent of wetlands and riparian areas.
iv. Changes in species' characteristics and diversity.
v. Transition from wetland to upland species.
vi. Introduction of exotic, nuisance, or invasive species into wetland and riparian areas.

6. **No Significant Adverse Effect on Designated Floodplains:** The proposed Project will not have a significant adverse effect on designated floodplains. Examples of factors the County may consider in determining impacts to floodplains include without limitation:
   i. Changes in function and aerial extent of floodplains.
   ii. Creation of obstructions from the proposed Project during times of flooding and vulnerability of the proposed Project to flooding.
   iii. Use of flood-protection devices or flood-proofing methods.
   iv. Increases in impervious surface area caused by the proposed Project.
   v. Increases in surface runoff flow rate and amount caused by the proposed Project.
   vi. Increases in floodwater flow rate and amount caused by the proposed Project.
   vii. Proximity and nature of adjacent or nearby land use.
   viii. Impacts to downstream properties or communities.
   ix. Impacts on shallow wells, waste disposal sites, water supply systems and wastewater disposal or septic systems.
7. **No Significant Degradation of Wildlife and Wildlife Habitat:** The proposed Project has a written plan to mitigate any significant degradation to wildlife or sensitive wildlife habitat and any such significant degradation is outweighed by the benefits of the proposed project. Examples of factors the County may consider in determining impacts to wildlife and wildlife habitat include without limitation:
   i. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any wildlife, taking into account:
      1) Human related activities that will disrupt necessary life cycle functions of wildlife.
      2) Elimination, reduction and/or fragmentation of wildlife habitat.
      3) Disruption of necessary migration or movement patterns, preventing wildlife from using their entire habitat.
      4) Displacement of wildlife species into areas that cannot support or sustain the species over the long term.
      5) Fragmentation of large areas of native vegetation and habitat by existing and proposed Project.
      6) Protection of rare landscape elements such as locally rare vegetation, unique rock formations, sheltered draws or drainage ways.
      7) Maintenance of connections among wildlife habitats and provisions to identify and protect corridors for movement.
   ii. Changes in threatened or endangered species.

iii. Changes to habitat and critical habitat conditions necessary for the protection and propagation of aquatic species.

k. Benefits Outweigh the Loss of Resources: The benefits accruing to the County and its citizens from the proposed Project outweigh the losses of any natural, agricultural, recreational, grazing or commercial resources within the County, or the losses of opportunities to develop such resources.

l. Best Alternative: The proposed Project represents the alternative that best complies with these Regulations.

(2) Siting and Operational Criteria.

a. The Proposed Project and Appurtenant Facilities Shall be Located to Minimize Disturbance to Surface Areas:

1. Project production facilities shall, to the extent practicable, be located in centralized areas to serve the maximum number of wells.
2. All off-site collection and injection pipelines shall, to the extent practicable, share existing dedicated rights-of-way. All pipelines shall be painted and/or landscaped to blend with the environment. For pipelines to be installed adjacent to public roads, applicant shall consult with the Archuleta County Road and Bridge Department in order to minimize impacts on existing and future road needs.
3. Project drill sites shall be constructed adjacent to existing roads to the extent practicable.

b. Setback Requirements: Unless other mitigation techniques would justify a lesser setback, the following setback shall apply to structures and wells appurtenant to the proposed Project. Where state, federal, and County setback requirements differ, the most stringent setback requirements shall control.

Property Boundary	100’
Public Roads	100’
Residence	300’
School	1320’
Hospital	1320’
Any Other Permanent Structure/Development	300’

c. Removal and Disposal of Drilling Wastes upon Completion of Drilling: Within sixty (60) calendar days after completion of the drilling of a well, all drilling wastes must be removed from the drilling site and disposed of in accordance with applicable federal and state regulations.

d. Zero Discharge System: The geothermal facility shall utilize a zero discharge system.

e. Use of Directional or Slant Drilling: The proposed Project may utilize directional or slant drilling when beneficial.

f. The Project Will Not Cause a Nuisance: The proposed Project will not cause excessive noise and vibration levels, dust, fumes, glare, exterior artificial light, and odor. In addition:

1. All vehicles and construction equipment will be properly maintained to minimize exhaust emissions and will be properly muffled to minimize noise.
2. All work in preparation of the site for drilling shall be done between the

hours of 7 a.m. and 7 p.m. for any wells within 300 feet of residential structures whose owners or occupants have requested mitigation.

3. Drill pipes shall be racked and/or made up between the hours of 7 a.m. to 7 p.m. for wells within 300 feet of residential structures whose owners or occupants have requested mitigation.
4. Well venting and testing within 300 feet of residential structures whose owners or occupants have requested mitigation shall be accompanied by the use of an effective muffling device or "silencer."
5. Impulse noises such as sudden steam venting shall be controlled by discharge through a muffler or other sound attenuating system, as appropriate.
6. Outdoor Lighting shall meet all requirements of Section 5.4.4.
7. If the geothermal system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The abandoned system shall be removed by the owner, at the owner's expense, and the impact area restored to be compatible with surrounding uses and as agreed to by the County.

g. Leak Detection and Spill Protection: All production equipment shall be maintained in a manner that prevents leaking and spilling.

h. Impact Area Shall Be Reclaimed Upon Cessation of Project Operation: When the operation of the permitted Project has ceased, all facilities and appurtenances shall be dismantled and removed, and the impact area shall be restored as requested by the landowner and agreed to by the County in the approved reclamation plan.

i. Signage: All Project well sites shall have a durable sign bearing the current name and number of the well; emergency telephone number; name and/or insignia of the operator and the owner. The sign shall be displayed at all times from the commencement of drilling operations until the well has been abandoned.

(3) Operational Conflict Waiver: The County may waive one or more of the permit approval criteria set forth in this Section 2.5.6.8 accordance with the following procedure:

a. State and Federal Operational Conflict Defined:

1. **State Operational Conflict:** A state operational conflict exists if the application of the County standard(s) to the conduct of the Commercial Use of Geothermal Resources would:
   i. Conflict with a state statute, regulation or other requirement; and
   ii. Materially impede or destroy the state's interest in Commercial Use of Geothermal Resources.
2. **Federal Operational Conflict:** A federal operational conflict exists if compliance with both a federal statute, regulation or other requirement and the County standard(s) is a physical impossibility, or when the application of the County standard(s) to the Commercial Use of Geothermal Resources would stand as an obstacle to the accomplishment of the full purposes and objectives of Congress expressed in the federal statute, regulation or other requirement.

b. Request for Operational Conflict Waiver: The applicant may make a written request to the Director to waive a criterion for Operational Conflict Waiver hearing at any time during the Permit application review process, but no later than fourteen (14) calendar days following a final decision on the Permit.

1. The Director shall schedule a public hearing by the Board at the next regularly scheduled meeting for which proper notice can be accomplished following receipt of the Request for Operational Conflict Waiver.
2. Notice of Public Hearing.
   - i. Not less than fourteen (14) calendar days prior to the hearing, the Director shall publish a notice of public hearing in a newspaper of general circulation in the area where the proposed Project is located. The applicant shall be responsible for the cost of publication.
   - ii. Not less than fourteen (14) calendar days prior to the date of the public hearing, the applicant shall mail written notice of the public hearing to the owners of record of all adjacent property, by certified mail, return receipt requested.
   - iii. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.
   - iv. The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

c. Determination on Request for Operation Conflict Waiver: If the Board determines that the applicant has met its burden of proof with a preponderance of evidence that application of the standard(s) to the proposed Project will result in an operational conflict with a state or federal statute, regulation, or other requirement, the Board may waive the standard(s) to the extent necessary to avoid the operational conflict. The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.

(4) Waiver of Standards for Technical Infeasibility or Enhanced Protection: At any time during the application process the County may waive one or more of the permit approval criteria set forth in Section 2.5.6.8 in accordance with the following procedures:

a. Technical Infeasibility:

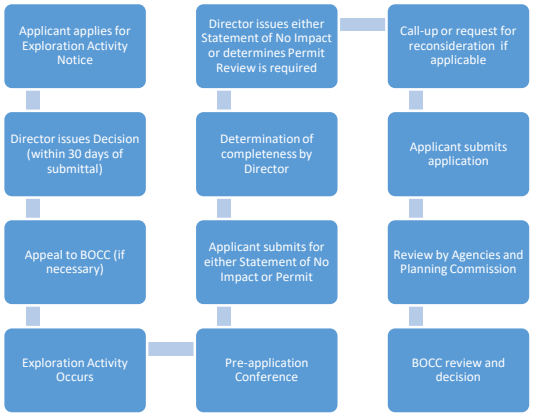
1. **No Economical Technology:** There is no economical technology commercially available to conduct the Commercial Use of Geothermal Resources in compliance with the approval criterion; and
2. **Protection of Public Health, Safety, Welfare and the Environment:** The conduct of Commercial Use of Geothermal Resources, if the approval criterion is waived will be protective of public health, safety, welfare and the environment.

b. Definition of Enhanced Protection: The waiver of one or more criteria allows implementation of an alternate approach that enhances protection of public health, safety, welfare and the environment.

c. **Request for Waiver of Standards for Technical Infeasibility or Environmental Protection:** The applicant may make a written request to the Director for waiver of one or more approval criteria for technical infeasibility or enhanced protection at any time during the application process.

d. **Determination on Request for Waiver:** The Board shall consider a request for waiver during its review and final decision on the proposed Project. If the Board determines that the applicant has met its burden of proof with a preponderance of evidence that application of the approval criterion to the proposed Project is technically infeasible or that protection of public health, safety, welfare and the environment will be enhanced by a proposed alternate approach; the Board may waive the approval criterion. The Board may impose conditions on the waiver that are necessary to minimize any negative impacts.

FIGURE 2-1: PERMIT REVIEW FLOWCHART



DEPARTMENT NOTE: Sections in 25% font have not been implemented in Archuleta County because they are not yet defined areas.

2.6 TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM

2.6.1 Purpose:

The transfer of development rights program is a planning incentive for cooperatively managing growth between Archuleta County, the Town of Pagosa Springs, and willing property owners, and is established for the following purposes:

2.6.1.1 To achieve the desire future conditions generally consistent with the Community Plan.

2.6.1.2 To encourage the preservation of large land parcels in agricultural use.

2.6.1.3 To encourage infill development and redevelopment in urban areas.

2.6.1.4 To encourage landowners in designated sending areas to forego or limit development by receiving compensation for their development rights.

2.6.1.5 To provide an opportunity for landowners in designated receiving areas to obtain a higher return on investment by developing at an increased density.

2.6.1.6 To encourage intergovernmental cooperation and coordination in order to achieve the above purposes.

2.6.2 Sending Areas:

The following provisions are established for sending areas:

2.6.2.1 Sending areas shall be limited to the AF or AR zoning districts. In addition, an eligible sending site shall be within a Scenic Overlay district or Wildlife Habitat Overlay district, unless otherwise approved by the Board of County Commissioners.

2.6.2.2 The number of development rights eligible for transfer shall be limited to the maximum density allowed in the zone district in which the sending site is located. For example, seventy (70) acres of land zoned AR would be eligible to have a maximum of two (2) development rights transferred.

2.6.2.3 An owner of a sending site in a sending area may voluntarily sell their development rights to an owner of a receiving site, or other buyer, at a market value established by the seller and the buyer.

2.6.2.4 A transfer of development rights shall be evidenced in a deed restriction signed by the owner of record of the sending site from which development rights are being transferred. The deed restriction shall be in a form approved by the Director of County Development and shall identify:

(1) The transferee;

(2) The transferor;

(3) The legal description of the sending site from which the development rights are being transferred; and

(4) The number of development rights being transferred from the sending site.

2.6.2.5 The deed restriction shall be recorded in the real property records of Archuleta County clearly stating the number of development rights that have been transferred. The deed restriction may also include a conservation easement.

2.6.2.6 Upon recordation of the deed restriction, a TDR certificate shall be issued by the Director of County Development identifying the number of development rights transferred, and the book and page number of the recorded deed restriction.

2.6.2.7 Once a TDR certificate is issued, future development of a sending site shall be limited to the remaining density not extinguished by the sale of development rights, and may only be developed as either a Conservation PUD per Section 3.1.6.4 of these Regulations or a

Rural Land Use Process Subdivision per Section 4.5 of these Regulations.

2.6.2.8 An owner of a sending site choosing not to participate in the TDR program shall retain the option to develop their property as otherwise provided for in these Regulations.

2.6.3 Receiving Areas:

The following provisions are established for receiving areas:

2.6.3.1 Existing zoning limits the development potential of properties within receiving areas to a base density. For a parcel to be developed at a density greater than the base density within a receiving area, the owner shall use one (1) or more development rights from a TDR certificate.

2.6.3.2 The transfer ratio of a development right shall be 1:1; for each single (1) development right transferred, one (1) additional dwelling unit is eligible as additional density on a receiving site.

2.6.3.3 Development rights and TDR certificates proposed for use on a receiving site shall originate from a sending site within Archuleta County. Development rights not used from a TDR certificate may be transferred to a new TDR certificate.

2.6.3.4 An eligible receiving site shall be within either an Urban Service Overlay District or the Town of Pagosa Springs, unless otherwise approved by the Board of County Commissioners.

2.6.3.5 Receiving sites proposed within the Town of Pagosa Springs shall require approval by the Town of Pagosa Springs.

2.6.3.6 TDR certificates may be used on a receiving site only with the approval of a PUD per Section 3.1.6 of these Regulations, unless otherwise approved by the Board of County Commissioners.

2.6.3.7 An owner of a receiving site choosing not to participate in the TDR program shall retain the option to develop their property as otherwise provided for in these Regulations. However, no rezoning to a higher density shall be permitted within a receiving area in unincorporated Archuleta County.

SECTION 3 – ZONING REGULATIONS

3.1 DISTRICT REGULATIONS

3.1.1 Zoning Map:

3.1.1.1 Zoning Map Adopted

The Board of County Commissioners hereby provides for the adoption of the "Zoning Map of Archuleta County, Colorado," a true and correct copy of which shall be maintained on file in the office of the County Clerk and Recorder.

3.1.1.2 Transition to Zoning Districts

On and after the date of adoption by the Board of County Commissioners of the zoning map described at Section 3.1.1 and any amendment thereto, all real property within the unincorporated area of Archuleta County described in such map or amendment thereto shall be included within the Zoning Districts described at Section 3.1.2., and, in some cases, also within one or more of the Overlay Districts described at Section 3.1.5, all as shown on the Zoning Map of Archuleta County, Colorado.

3.1.1.3 Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of zoning districts to be shown on the official Zoning Map, the following shall apply:

(1) Centerlines of road boundaries shall follow the centerlines of roads, highways, and /or alleys.
(2) Platted lot line boundaries shall follow the platted lot line.
(3) County line boundaries shall follow the County limits.
(4) Railroad line boundaries shall be midway between the main track(s).
(5) Shore line boundaries shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of rivers, streams, canals, ditches, or other bodies of water shall be construed to follow the center lines.

3.1.2 Zoning Districts Established:

The County is divided into the following Zoning Districts to implement the Community Plan and related official plans and the official Zoning District Map, and to serve other purposes of these Regulations:

3.1.2.1 Agricultural/Forestry (AF)

The AF Zoning District is an Agricultural zoning district intended to provide for permitted regulation of land uses on federal, state, BIA, lands. The AF district includes the majority of public lands within the county. Land use in the AF district is encouraged to conserve forest resources, protect the natural environment, and preserve uninhabited areas.[1]

[1] Amended June 2018 (Res. 2018-18)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018
5/2021, 10/2021

3.1.2.2 Agricultural/Ranching (AR)[2]

The AR Zoning District is an Agricultural zoning district intended to be generally consistent with the Very Low Density Residential land use district in the Community Plan and provide areas where continued agriculture or grazing use is practiced on a large scale. The AR district includes the majority of the rural agricultural land within the county that is in private ownership.

(1) Residential density shall be a maximum of 2 dwellings per lot, parcel or tract, with typical accessory structures.

(2) More than 2 dwellings on 35 acres or more may be permitted for active farm and ranching operations, with an approved Land Use Permit.

(3) Land use in the AR district is encouraged to provide for the maintenance of agricultural production and preservation of associated life styles, with new residential development encouraged to proceed through the Rural Land Use subdivision process. Commercial uses are generally limited to those associated with Agricultural and Recreational uses.

3.1.2.3 Agricultural Estate (AE)[3]

The AE Zoning District is an Agricultural zoning district intended to be generally consistent with the Low Density Residential land use district in the Community Plan, with lots of five (5) to 35+ acres, and provide areas where continued agriculture or grazing use is practiced on a smaller scale.

(1) Residential densities in this district shall be no more than two (2) dwellings per lot, with typical accessory structures.

(2) Residential development in the AE district is encouraged to be designed in a way that provides for the preservation and protection of irrigated croplands, range lands, watershed and wildlife habitats. Commercial uses are generally limited to home occupations and those associated with non-intensive agricultural operations.

Note: There is also a Zone AE, an area of the Special Flood Hazard Area on the NFIP Flood Insurance Rate Maps (FIRM).

3.1.2.4 Rural Residential (RR)[3]

The RR Zoning District is a Residential zoning district intended to be generally consistent with the Medium Density Residential land use district in the Community Plan, and provide for orderly residential development where water and/or sanitary sewer services may not be available.

(1) Residential densities in this district shall be no more than two (2) dwellings per lot, with typical accessory structures.

[2] Amended September 2006 (Res. 2006-25); December 2010 (Res. 2010-56); June 2018 (Res. 2018-18)
[3] Amended September 2006 (Res. 2006-25); June 2018 (Res. 2018-18)

(2) Lots of three (3) acres or larger are permitted where either water or sanitary sewer is available; a minimum of five (5) acres is required where both well and septic systems are necessary.

(3) Commercial uses are generally limited to home occupations.

3.1.2.5 Residential (R)[4]

The R Zoning District is a Residential zoning district intended to be generally consistent with the High Density Residential land use district in the Community Plan, where adequate services and facilities are available and such densities do not negatively impact the essential character of the district or adjacent districts.

(1) Residential densities in this district shall be no more than one (1) dwelling unit per eight thousand (8,000) square feet of lot area, with typical accessory structures.

(2) Residential development may be permitted in building configurations of single-family, two-family and multi-family dwellings, and home occupations are allowed, with approvals in Table 3, to standards in Table 4.

(3) Commercial development other than home occupations is generally permitted as a walkable Neighborhood or Mixed Use center.

3.1.2.6 Mobile Home Park (MH)[4]

The MH Zoning District is a Residential zoning district intended to provide residential areas specifically for mobile home parks and manufactured (HUD) homes on individually owned lots. The integration of manufactured homes is encouraged in areas where adequate services and facilities are available and such development does not impact the essential character of the district or adjacent districts. Commercial development other than home occupations is generally not permitted.

3.1.2.7 Commercial (C)[4]

The C Zoning District is a Non-residential zoning district intended to be generally consistent with the Commercial land use district in the Community Plan, and provide for all types of commercial and mixed use activities which have functional and economic relationships to the County, including retail, office and personal services. Quality commercial development using design standards is required, while poor site planning that would negatively impact the County's scenic environment and tourism economy is discouraged.

3.1.2.8 Industrial (I)[4]

The I Zoning District is a Non-residential zoning district intended to be generally consistent with Industrial Parks land use district in the Community Plan "to set aside possible locations for industrial parks to encourage the development of a more diversified economy". The I Zoning District also allows flexibility for other types of industrial development which are not likely to become a nuisance to surrounding areas. Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations are

[4] Amended June 2018 (Res. 2018-18)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

confined primarily to the premises of the lot on which an industrial use is located. Non-industrial development is generally discouraged in the Industrial district.

3.1.3 Zoning District Uses:

Table 3 identifies Uses-By-Right and Conditional Uses that may be permitted in each of the zoning districts listed in Section 3.1.2. Any use not specifically listed may be considered by the Board of County Commissioners as a Conditional Use. Additional permits may be required.[5]

TABLE 3: USES BY ZONING DISTRICT

Type of Permit

R	–	Use by Right	Geo	–	Geothermal
VRP	–	Vacation Rental Permit[6]	O&G	–	Oil & Gas
C/BC	–	Conditional Use / Board Conditional Use Permit	S&G	–	Sand & Gravel

Note: The Director of Development is authorized to interpret the meaning and scope of the uses listed herein. The Director of Development's interpretation may be appealed to the Board of Adjustment. [7]

USE	AF	AR	AE	RR	R	MH	C	I
AGRICULTURAL								
Farm and Ranch Use	R	R	R	R	C	C	C	C
Commercial Stables or Horse Boarding		R	R	C			C	
Farm/Ranch Stand		R	C	C				
Plant Nursery and Greenhouse[8]		R	R	C			R	R
Log and Soil Storage	R	R	R					
Forestry Operation	R	R	R					
Tree Farms	R	R	R					
RESIDENTIAL								
Dwelling, Multi-family					C		C	BC[9]
Dwelling, Single-family Attached				C	R		R	C[10]
Dwelling, Single-family Detached		R	R	R	R		R	C[10]
Family Child Care Home		R	R	R	R	R	R	
Group Home		R	R	R	R		R	
Home Occupations (*See Section 5.6.5)		R	R	R	R	R	R	C

[5] Amended June 2018 (Res. 2018-18);
[6] Amended May 2021 (Res. 2021-35);
[7] General Amendment to Table 3, added AC/BC permits, June 2018 (Res. 2018-18)
[8] Amended October 2016 (Res 2016-62)
[9] Amended May 2013 (Res. 2013-21); June 2018 (Res. 2018-18)
[10] Amended May 2013 (Res. 2013-21)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

USE	AF	AR	AE	RR	R	MH	C	I
Manufactured Home[11]		R	R	R	R	R	R	C
Mobile Home Park (*See Section 5.6.7)						R		
Vacation Rentals of a Single-family Dwelling [12]		VRP	VRP	VRP	VRP	VRP	VRP	VRP
Vacation Rentals, Multi-family (*See Sections 3.2.7 & 5.5.6)[17]					VRP		VRP	VRP
COMMERCIAL								
Adult-Oriented Use							C	
Auto/Equipment Sales Lot							R	R
Bar or Tavern					C		C	C
Bed and Breakfast		C	C	C	C		R	
Car Wash							R	
Child Care Center					C		R	
Clubs and Lodges							R	
Drive-in/Drive-thru Use							C	
Entertainment Facilities and Theaters							R	
Firewood Related Wood Product Sales	R	R					R	R
Gasoline Station					C		C[13]	C
Group Care Facility		C	C				R	
Health and Athletic Club							R	
Kennel[14]	BC	BC	BC				C	C
Lodging Establishment[15]		C	C				R	
Lodging Units, 3 or fewer[16]	R	R	C				R	
Lodging Units, 4 or more[16]	R	C	C				R	
Medical and Dental Offices							R	
Medical Clinic							C	
Mortuary and Funeral Home							R	
Office, Professional					C		R	R
Restaurant					C		R	R
Retail/Service, Small (<5,000 S.F.)					C		R	R
Retail/Service (5,000 S.F. to 25,000 S.F)							R	
Retail/Service, Large (>25,000 S.F.)							C	

[11] Amended May 2013 (Res. 2013-21) "Mobile Home" deleted
[12] Amended July 2018 (Res. 2018-14); May 2021 (Res. 2021-35)
[13] Amended October 2006; (Res. 2006-29)
[14] Amended May 2014; (Res. 2014-22)
[15] Amended July 2013; (Res. 2013-42)
[16] Amended July 2013; (Res. 2013-42); May 2019 (Res. 2019-39)

USE	AF	AR	AE	RR	R	MH	C	I
Shopping Center							C	
Shopping Center, Neighborhood					C		R	
Vehicle Minor Repair, Servicing and Maintenance							R	R
Veterinary Facility		R	R				R	R
INDUSTRIAL								
Asphalt Batch Plants							BC	BC
Building Contractors and Equipment		BC	BC				C	R
Concrete or Cement Plants							BC	BC
Industrial, Heavy								BC
Industrial, Light							C	R
Junk Yard (*See Section 5.6.6)								BC*
Logging Operation	C	R						
Marijuana Establishment, Medical[17]							R	R
Marijuana Establishment, Retail							R	R
Oil and Gas Operation (*See Section 9.2)	O&G	O&G	O&G				O&G	O&G
Outdoor Storage (*See Section 5.4.2.6)		BC	BC				R	R
Recycling Facility							C	R
Resource Extraction, Processes and Sales (*See Section 9.1)	S&G	S&G	S&G				S&G	S&G
Sawmill	C	R					C	R
Truck Stop							C	C
Vehicle Major Repair, Servicing and Maintenance							C	R
Warehouse, Mini-storage							C	R
Warehouse and Distribution							C	R
Workshop and Custom Small Industry		R	C	C			R	R
RECREATIONAL								
Campground [18]		R	C				C	
Dude Ranch or Wilderness Lodging (*See Section 5.5.4)	BC	BC						
Golf Courses and Driving Ranges		C	C	C			C	

[17] Amended March 2015; October 2016 (Res 2016-62)
[18] Amended August 2011 (Res. 2011-39)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

USE	AF	AR	AE	RR	R	MH	C	I
Limited Indoor Recreation Facility							R	
Limited Outdoor Recreation Facility		BC					C	
Outdoor Shooting Range		BC						
Parks, Greenbelts and Passive Recreation Areas	R	R	R	R	R	R	R	R
Race track		BC						BC
Recreational Vehicle Park[19] (*See Section 5.5.5)		BC	BC			R	C	BC
OTHER								
Airport, Airstrip, Helipad (*See Section 3.1.5.1)	BC	BC	BC	BC			BC	BC
Animal Shelter	BC	BC	BC				BC	BC
Cemetery	R	R	C	BC				
Churches and Religious Institutions	C	R	R	R	C	BC	R	R
Building- or structure-mounted CMRS Facilities (*See Section 5.6.3)	R	R	R	R	R	R	R	R
CMRS Facilities roof-mounted and freestanding (*See Section 5.6.3)	BC	BC	BC	BC	BC	BC	BC	BC
Electric Power Distributed Generation	BC	C	C	C	C	C	C	C
Electric Power Generation Facilities	BC	BC	BC	BC	BC	BC	BC	BC
Electric Power Transmission Lines	BC	BC	BC	BC	BC	BC	BC	BC
Geothermal Resources (*See Section 2.5.6)	Geo	Geo	Geo	Geo	Geo	Geo	Geo	Geo
Major Extensions of Existing Water or Sewage Systems	BC	BC	BC	BC	BC	BC	BC	BC
Major New Sewage Systems	BC	BC	BC	BC	BC	BC	BC	BC
Major New Water Systems	BC	BC	BC	BC	BC	BC	BC	BC
Meeting Place and Place for Public Assembly	C	R	R	R	C	BC	R	R
Mixed-Use Development					C		C	C
Natural Gas Transmission Pipelines	BC	BC	BC	BC	BC	BC	BC	BC
Parking Lot							C	R
Private School	BC	BC	BC	BC	BC	BC	BC	BC
Public School	BC	BC	BC	BC	BC	BC	BC	BC
Public Use	BC	BC	BC	BC	BC	BC	BC	BC
Public Utility	BC	BC	BC	BC	BC	BC	BC	BC

[19] Amended May 2013 (Res. 2013-21)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

USE	AF	AR	AE	RR	R	MH	C	I
Sanitary Landfill or Solid Waste Transfer Station	BC	BC	BC	BC	BC	BC	BC	BC
Temporary Uses (*See Section 3.2.4)	R	R	R	R	R	R	R	R
Transportation Services and Facilities	BC	BC	BC	BC	BC	BC	BC	BC
Utility Substations	BC	BC	BC	BC	BC	BC	BC	BC
Water Impoundments	R	R	BC	BC	BC	BC	BC	BC
Water Storage Facilities	BC	BC	BC	BC	BC	BC	BC	BC

3.1.4 Zoning District Standards

Table 4 lists the height, setback and other zone district standards for each of the zone districts listed in Section 3.1.2.

TABLE 4: ZONE DISTRICT STANDARDS

DIMENSION	AF	AR	AE	RR	R	MH	C	I
Minimum Lot Size	160 acres	35 acres	5 acres	3 acres (w/H20 or Sewer)	8,000 ft^2	2,500ft^2	10,000 ft^2	10,000 ft^2
Minimum Lot Width	500 feet	200 feet	100 feet	80 feet	60 feet	40 feet	100 feet	100 feet
Minimum Front Setback[20]	100 feet	50 feet	25 feet	20 feet	10 feet	10 feet	20 feet	25 feet
Minimum Garage Door Setback[20]	n/a	n/a	n/a	20 feet	20 feet	20 feet	20 feet	n/a
Minimum Side Setback	100 feet	25 feet	25 feet	20 feet	10 feet	10 feet	10 feet	25 feet
Minimum Corner Setback[21]	100 feet	50 feet	25 feet	20 feet	10 feet	10 feet	20 feet	25 feet
Minimum Rear Setback	100 feet	25 feet	25 feet	20 feet	10 feet	10 feet	10 feet	25 feet
Maximum Height	40 feet	40 feet	35 feet	35 feet	35 feet	16 feet	40 feet	40 feet
Accessory Height	40 feet	40 feet	30 feet	30 feet	30 feet	16 feet	40 feet	40 feet
Maximum Density[22]	n/a	2 DU/ Parcel*	2 DU/ Parcel*	2 DU/ Parcel*	5 DU/ Ac.	12 DU/Ac.	n/a	n/a
Minimum District Size	500 acres	100 acres	20 acres	12 acres	1 acre	5 acres	1 acre	1 acre

*See also section 2.1.2.5[29] DU = Dwelling Unit Ac. = Acre

[20] Amended May 2019 (Res. 2019-39)
[21] Amended October 2016 (Res 2016-62)
[22] Amended May 2021 (Res. 2021-35)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
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3.1.4.1 Measuring Setbacks: Setbacks are a minimum distance measured between a structure and property lines, road rights-of-way (ROW) and access easements (as defined in Section 11). Variance from setback standards may only be granted as provided in Section 2.4. [23]

(1) Setbacks shall be measured as the minimum horizontal distance between the edge of structures, including the closest projection of a deck or porch, to a setback line.

(2) Eaves may encroach into any required setback, extending no more than 2' from that structure.

3.1.4.2 Garage Door Setback: The vehicle door façade of any garage, attached or detached, shall maintain a minimum setback of at least 20' to fit at least one on-site parking space.[23]

3.1.4.3 Other Setbacks: See also Section 3.2.6 Accessory Structures, Section 5.2.1.2 Water Body Setbacks, Section 5.5.5 RV Parks and Campgrounds, and Section 5.6.7 Mobile Home Parks. Specific setbacks in Section 2.5.6.8 apply to Geothermal Resource uses, and in Section 9 apply for Mining uses (Sand & Gravel and Oil & Gas). [23]

3.1.5 Overlay Districts:

An Overlay District is a supplemental district that may be superimposed over any Zoning District established in Section 3.1.2. The boundaries of each Overlay District shall be established by Resolution of the Board of County Commissioners and shall be shown on the Official Zoning Map, Section 3.3.1. On and after the date of adoption by the Board of such Resolution, all real property within the boundaries of each Overlay District, as described in said Resolution, shall become subject to the requirements of that Overlay District. Any use by right or conditional use permitted in the underlying Zoning District shall also be permitted in an Overlay District if the proposed use conforms with the purpose and any applicable standards for both the Zoning District and the Overlay District. The following Overlay Districts are established:

3.1.5.1 Airport Overlay District (AO)

The requirements of the AO District shall be applied in the vicinity of all general aviation airports and public heliports which would be significantly affected by air traffic, noise or any hazard related to the establishment, operation or maintenance of an airport or heliport facility. The degree of protection provided by the AO District is considered reasonable and prudent for land use regulatory purposes and is based on established parameters on control. Establishment of an AO District, however, does not imply that areas outside of an AO District will be totally free from airport and aircraft related hazards nor that all hazards within an AO District will be completely mitigated. Establishment of an AO District shall not create a liability on the part of or cause any action against Archuleta County or any officer, employee or contractor thereof for any damages that may result directly or indirectly from reliance on the provisions contained herein.

[23] Amended May 2019 (Res. 2019-39)

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

The purpose of the AO District is to:

- Minimize exposure of residential and other sensitive land uses to aircraft noise areas.
- Avoid danger from aircraft accidents and reduce the possibility for such accidents.
- Discourage traffic congestion within the area of the AO District.
- Restrict incompatible land uses in proximity to and within airport influence areas.

(1) No use may be made of land within the AO District in such a manner as to create electrical interference with radio communication between an airport or heliport and aircraft or make it difficult for pilots to distinguish between airport or heliport lights and other lights, cause glare in the eyes of pilots using the airport or heliport, impair visibility in the vicinity of the airport or heliport or otherwise endanger the taking off or the maneuvering of aircraft in the vicinity of the airport or heliport. Noise attenuation in building design shall be encouraged and may be required for structures to be erected within the district.

(2) A notice and approval from the FAA shall be required for the construction or alteration of any structure two hundred (200) feet or higher located within twenty thousand (20,000) feet of the end of any runway.

(3) Surface limitations within an AO District include all land and air space within the AO District that would be hazardous to air navigation if infringed upon. Surface limitations include areas above imaginary surfaces and in the clear zone and are established to regulate the height of structures and natural objects in the vicinity of an airport or heliport. These surface limitations are set forth by the FAA in the Federal Aviation Regulations, Part 77, which are hereby adopted by reference.

(4) In addition, before any structure or natural object is permitted to be erected, altered, maintained or allowed to grow above the imaginary surfaces established herein, a **Notice of Construction or Alteration** shall be filed with the FAA for a determination of hazardous or non-hazardous conditions and of effect on the airport rules and regulations. The Board of County Commissioners shall not approve any such development until after receiving and considering the FAA recommendation.

(5) Within AO districts in the vicinity of airports and heliports, land use patterns will be encouraged that separate uncontrolled noise sources from residential and other noise-sensitive areas and that avoid danger to public health and safety or to property due to aircraft operations.

(6) In areas subject to flight hazards, uses such as schools, churches, hospitals and libraries are not encouraged. Open space recreational and agricultural uses shall be encouraged. Any other use proposed shall be accompanied by written evidence that the proposed development poses no significant threat to public health and safety or to property. Approval may be contingent on the applicant granting an avigation easement.

(7) In addition to the submission requirements otherwise contained within these Regulations, the Planning Commission may, at its discretion, require additional materials regarding any proposed land use change or development project in an AO District. These additional materials may include, but not be limited to, any or all of the following items:

- **a.** A map showing the height of all existing and proposed structures within the contemplated development and the relationship of these structures to adjacent land uses.
- **b.** Evidence of the elevation and pattern of aircraft flights over the proposed site.
- **c.** Information relating to noise levels on the proposed site and written statements regarding sound mitigation measures, if any that will be used to attenuate existing or projected noise levels.

(8) Compliance with the provisions of an AO District is not required for private noncommercial landing strips and heliports provided that they meet the following provisions and requirements:

- **a.** The applicant shall apply for and be granted a Conditional use permit for the proposed use.
- **b.** The applicant shall own a minimum of thirty-five (35) contiguous acres of land on which the landing strip would be located or five (5) contiguous acres of land on which the heliport site would be located.
- **c.** No residential dwelling units, other than one (1) dwelling unit owned by the applicant or an immediate member of the applicant's family, shall be located, within one half mile of either end of any runway.
- **d.** Runways will be so oriented that aircraft takeoffs and landings will not pass within one thousand (1,000) feet of any school, dwelling unit or place of public assembly.
- **e.** The applicant shall provide evidence that the FAA has been sent an application for approval of airspace.
- **f.** The applicant shall, at the discretion of the Board of County Commissioners, grant an aviation easement to Archuleta County or other appropriate public body.

3.1.5.2 Floodplain Overlay District (FO)

The requirements of the FO District shall be applied to lands within a one hundred (100) year floodplain as mapped on FEMA Flood Insurance Rate Maps (FIRM). The purpose of the FO District is to implement the requirements of Section 10, Floodplain Regulations.

DEPARTMENT NOTE: Overlay districts in 25% font are not yet defined in Archuleta County.

3.1.5.3 Scenic Overlay District (SO)

The purpose of the SO District is to serve as a method whereby the visual image of Archuleta County along designated sections of certain roads and highways can be preserved and enhanced. Due to the fact that the mountain setting of Archuleta County is one of the primary factors motivating tourist travel to the area it is important that development along designated sections of certain roads and highways be of a nature that does not detract from or block the scenic values associated with Archuleta County.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

(1) Properties within the SO District shall be used and developed for any purpose permitted by the underlying zone district. To the extent the property owner chooses to develop the property to preserve its scenic values, that use shall be limited to 1) an eligible sending site associated with the TDR Program described in Section 2.6 of these Regulations, 2) a Conservation PUD per Section 3.1.6.4 of these Regulations, or an RLUP per Section 4.5 of these Regulations...

(2) All buildings and other structures located in a sending site associated with the TDR Program, a Conservation PUD or a RLUP within an SO District shall be sited, constructed and finished in a manner consistent with the standards set forth in Section 5.2.1.7 of these Regulations.

3.1.5.3 Watershed Overlay District (WO)

(1) The purpose of the WO District is to:

a. Protect the watersheds and drinking water supplies from activities which could degrade drinking water quality in streams, rivers, lakes and reservoirs; including but not limited to toxins, poisons, and nutrient runoff.
b. Protect water supply reservoirs from sedimentation which would reduce their storage capacity, shorten their useful life, and reduce capacity to withstand drought.
c. Ensure that development is planned and designed to be harmonious with wildlife habitat.
d. Preserve the natural environment, historical and cultural resources, and aesthetics of the watershed to the greatest extent possible.
e. Ensure compatibility between a proposed land use activity and natural constraints by requiring well-engineered solutions to those constraints.

(2) **Development Standards**. A site plan conforming to the following requirements shall be submitted to the Planning Department for approval before any land disturbance (other than the exempt activities provided in the next section) or building permit may be undertaken in a WO District.

a. A scale drawing showing location and dimensions off all existing and planned structures, roads, water courses, wastewater and storm water systems, utility installations, as well as the locations, area and dimensions of any existing or proposed impervious surfaces;
b. Topographical map of the site and all adjacent land within two hundred (200) feet of any boundary of the property, with contour lines of five (5) feet or less;
c. A storm water management plan, regardless or parcel size or zoning.
d. A detailed re-vegetation plan with a timeline for implementation, including a detailed management plan for control of nutrient runoff.
e. Location and detailed drawing and specifications of any spill and leak collection systems for containing accidentally released hazardous or toxic waste.

(3) **Additional Standards**. Disturbance of the following types of land is prohibited in the WO District, except for perpendicular crossings of roadways, drainage ways, trails and paths and approved utility easements:

a. Riparian buffers fifty (50) feet.
b. Wetlands, as determined from field delineation, unless a permit has been obtained pursuant to Section 404 of the Clean Water Act.
c. Soils with severe limitations according to the applicable NRCS soil maps.

(4) Hazardous Materials Mitigation. Certain land uses in the WO district will require a hazardous materials mitigation plan. The hazard mitigation plan shall detail specifically how hazardous materials will be handled and stored, and how spills will be contained on site. Those land uses include:

a. Distribution or storage of hazardous materials;
b. Sale of fuel for motor vehicles;
c. Confined animal feeding operations such as feedlots;
d. Landfills or waste water disposal facilities of any kind (except for septic tanks approved by San Juan Basin Health Department);
e. Underground or above ground fuel or chemical storage tanks;
f. Disposal of hazardous or toxic waste;
g. Industries or businesses classified as large quantity waste generators;
h. The manufacture of chemicals, dairy products, fats and oils, leather tanning; meat, fish and poultry packing; the manufacture of paper and allied products; petroleum industries; the manufacture of primary metal, rubber, plastic or concrete products;
i. Junkyard or auto wrecking facilities;
j. Truck terminals;
k. Auto and truck rental and repair shops;
l. Commercial auto and truck washes;

Within the WO District, the land uses described above shall be prohibited within two hundred and fifty (250) feet of any lake or water course described on the USGS 7.5 minute topographic map.

(5) Exemptions. The following uses shall be exempt from the stream corridor buffer and setback requirements in the WO District provided they meet the following conditions.

a. Utilities, so long as they are located as far as practicable from the stream bank, so not impair the quality of the stream water and are installed and maintained so as to protect the integrity of the buffer and setback areas in which they are located.
b. Agricultural activities involved in the planting and harvesting of crops, cattle or livestock raising, or non-commercial forestry or timbering operations, if best management practices developed by the either the Colorado Department of Agriculture or the Colorado State Forest Service are followed.
c. County or NRCS approved stream channel, drainage or water quality improvement projects.

3.1.5.4 Wildlife Habitat Overlay District (WHO)

(1) The purpose of the WHO District is to:

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

a. Be generally consistent with the Wildlife Habitat Overlay land use district in the Community Plan. However, the Critical Wildlife Habitat and Wildlife Migration Corridor shown on the Future Land Use Map in the Community Plan is not considered accurate for the purposes of this Section. Instead, the Wildlife Habitat Overlay District shall be defined as those areas designated as "HIGH" on the Wildlife Habitat Assessment Map on file at the Planning Department.
b. Maintain and enhance the diversity of wildlife species and habitat in Archuleta County.
c. Protect the environment from land use activities that would cause immediate or foreseeable danger to significant wildlife habitat and/or endanger a wildlife species.
d. Plan for and design land use development to be harmonious with wildlife habitat and the species that depend on their wildlife habitat.

(2) Unless otherwise requested by a property owner, the use of the WHO District shall be limited to 1) an eligible sending site associated with the TDR Program described in Section 2.6 of these Regulations, 2) a Conservation PUD per Section 3.1.6.4 of these Regulations, or an RLUP per Section 4.5 of these Regulations.

(3) Any development within a WHO District shall address the mitigation techniques set forth in Section 5.2.1.6 of these Regulations.

3.1.5.5 Rural Community Overlay District (RCO)

The purpose of the RCO District is to:

(1) Be generally consistent with the Village Center land use district in the Community Plan, allowing for specific locations of small-scale commercial and service activities.

(2) Recognize the unique character and settlement patterns of rural communities within the County.

3.1.5.6 Urban Services Overlay District (USO)

The purpose of the USO District is to:

- Be generally consistent with the Preferred Growth Scenario in the Community Plan.
- Support the Town of Pagosa Springs Comprehensive Plan within the USO District.
- Implement intergovernmental agreements regarding growth management.
- Designate areas in the county adjacent to the Town of Pagosa Springs corporate limits where urban level development and annexation are appropriate.
- Coordinate infrastructure and facilitate development compatible with Town of Pagosa Springs development standards.
- Provide a receiving area for the transfer of development rights associated with the TDR Program described in Section 2.6 of these Regulations.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

3.1.6 Planned Unit Development (PUD)

3.1.6.1 Purpose and Intent:

The PUD district is intended to be generally consistent with High Density Residential land use district in the Community Plan. The purpose of a PUD is to permit and encourage greater flexibility and innovation so that the development is compatible with the site's physical and environmental characteristics. All uses that are permitted in the underlying zone district where the PUD is located and any other uses that are consistent with the Community Plan may be permitted in a PUD.

3.1.6.2 Review Procedure:

(1) The PUD is a type of customized zoning district. An application for a PUD shall comply with the Rezoning procedures in Section 3.1.7.

(2) The PUD is also a type of customized subdivision. An application for a PUD shall comply with the Major Subdivision Review process in Section 4 of these Regulations, and be reviewed with the sketch plan, preliminary plan, and final plat for the subdivision.

3.1.6.3 Approval Criteria:

In addition to the Standards in Section 5, the following standards shall apply to PUD requests.

(1) The location, character and intent of the PUD shall be consistent with the Community Plan.

(2) The PUD shall be compatible with the scale, intensity and type of uses located on adjacent property.

(3) The PUD shall preserve at least fifty (50) percent of the area as open space.

(4) The PUD shall provide for variety in housing types, price and ownership forms.

(5) The PUD shall provide pedestrian ways throughout the PUD that allow residents to walk safely and conveniently among areas of the PUD.

(6) The design and layout of the PUD shall protect unique natural features and will not cause significant degradation of the environment.

(7) The PUD shall not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.

(8) The layout and design of the PUD shall preserve views and vistas, construction on ridgelines that are visible from major roadways or residential development shall be prohibited, and the design of the activity shall be compatible with the surrounding natural environment.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

(9) The PUD shall provide recreational opportunities and amenities to residents of the PUD.

(10) Each phase within a PUD shall be planned so that failure to proceed to the next phase of the PUD will not have a significant adverse impact on the PUD or its surroundings.

The Board of County Commissioners may waive or modify specifications, standards and requirements such as density, setbacks, height restrictions, land dedications, improvement standards and related requirements that would be otherwise applicable to a particular land use or zoning district, if such waiver or modification furthers the objectives of these Regulations.

3.1.6.4 Conservation PUD:

In the AR district, residential lot density may be increased from two (2) dwelling units [24] per thirty five (35) acres up to one (1) dwelling unit per five (5) acres with a Conservation PUD subject to the following requirements:

(1) A Conservation PUD shall contain a minimum of one hundred and forty (140) acres of land.

(2) A Conservation PUD shall preserve at least seventy (75) percent of the area in a perpetual conservation easement held by a qualified land trust.

(3) The increase in density will be calculated on the remaining 25% of developable land after the conservation easement is applied.[24]

(4) The area contained within the conservation easement shall qualify, in the County's judgment, and subject to State and federal requirements for conservation easements, as an agricultural, environmental, scenic or open space resource.

(5) Subdivided lots created through the Conservation PUD process shall be screened, clustered or distributed in such a manner as to minimize any visual and/or environmental impacts, maximize access to and use of existing roads and utilities, and maintain the rural character of the area.

(6) A Conservation PUD shall be processed per the review procedures established in Section 3.1.6.2.

[24] Amended August 2011 (Res. 2011-40)

3.1.7 Rezoning:

3.1.7.1 Applicability:

Applications to rezone or change the zoning classification of a parcel or parcels of land shall comply with the common procedures described in this Section 3.1.7. The requirements of this Section also apply to the creation and amendment of a Planned Unit Development (PUD). Rezoning applications may be initiated by either the owner of the subject property, or the Board of County Commissioners.

3.1.7.2 Submittal Requirements:

Applicants for rezoning shall supply the following information and such additional information and documentary material as the Planning Department shall require:

(1) A legal description of the property to be rezoned.

(2) A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding areas, and the current zoning and use thereof within a distance of two (2) miles from the boundaries of the proposed rezoning.

(3) A graphic description of all natural and man-made water courses, retention areas, streams, lakes and known one-hundred (100) year flood plains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater.

(4) A description of any unique features, such as historical sites, unique land forms or scenic vistas contained within the land proposed for rezoning.

(5) Confirmed source of water and wastewater service proposed.

3.1.7.3 Review Criteria:

All actions by the Planning Commission in reviewing and making recommendations on a rezoning application and by the Board of County Commissioners in approving or disapproving such application shall be based in general upon the provisions of these Regulations, and on the following additional criteria:

(1) That the existing zoning is inconsistent with the goals, objectives or policies of the Community Plan.

(2) That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of these Regulations to encourage different densities or uses within the land in question

(3) That the proposed rezoning is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives and policies contained within the Archuleta County Land Use Plan.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
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(4) That the existing zone classification currently recorded on the official zoning maps of Archuleta County is in error.

(5) That the change of zone is in conformance, or will bring the property into conformance, with the Community Plan goals, objectives and policies, and other related policies or plans for the area.

(6) That the proposed change of zone is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived.

(7) That there will be social, recreational, physical and/or economic benefits to the community derived by the change of zone.

(8) That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of zone, or that the applicant will upgrade and provide such where they do not exist or are under capacity.

(9) That the proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems, or seriously reducing light and air to adjacent properties.

(10) That the rezoning will not create an isolated or spot zone district unrelated to adjacent or nearby areas.

The applicant shall carry the burden of demonstrating that the land in question should be rezoned and that the advantages resulting from rezoning would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of the Board of County Commissioners to rezone any land within unincorporated Archuleta County or otherwise amend the Zoning Map for any reason consistent with health, welfare or safety of the residents of the County. The final decision on a change of zone expressly rests in the exercise of the discretion of the Board of County Commissioners. All applicants are advised there is no right to a change of zone.

3.1.7.4 Amendment of Official Zoning Map:

Upon approval by the Board of County Commissioners of a rezoning application, a true and correct copy of the resolution of the Board approving such rezoning shall be filed with the County Clerk and Recorder and the official Zoning Map maintained as provided by Section 3.1.1 shall be amended to reflect the change of zone.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

3.2 USE REGULATIONS

3.2.1 Change of Use[25]

3.2.1.1 Conversion of Limited Impact Uses to Use-By-Right or Conditional Use

All legal, conforming Limited Impact Uses previously permitted and approved as such by specific action of the County and in existence on May 23, 2006, the date of adoption of this Section, are hereby converted to either a use by right or a conditional use, as detailed in Table 3 at Section 3.1.3. In order to determine whether a previously permitted Limited Impact Use is now a use by right or a conditional use, locate the description of the use in the Table, then read to the right to determine into which category the use in question falls.

3.2.1.2 Change of Use Review

As provided in Section 2.1, any development, re-development or change in land use shall be completed in conformance with these Regulations. As required by CRS 30-28-114 *et seq*, it is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure without obtaining a Building Permit. Prior to occupancy, a tenant, property owner, or their representative should apply for a Change of Use Land Use Permit to confirm land use conformance without Site Plan, Conditional Use, or other required review.

*See also definition of **Change of Use:**[26] A change from one principal use of a building or land to another principal use of the building or land when there is no increase in the size of the existing building or extent of the use of the land.*

3.2.2 Use-by-Right (UBR) Site Plan Review[27]

A Use-by-Right is a land use that is allowed within the specific zoning district per Table 3 of these regulations, confirmed by a Land Use Permit for Site Plan Review.

3.2.2.1 Purpose and Intent:

Site plan review is conducted to ensure that the development is in conformance with environmental, infrastructure, and site development standards outlined in Section 5 of these regulations.

3.2.2.2 Submittal Requirements:

All requests for a Use by Right Site Plan Review shall be submitted utilizing the Archuleta County Land Use Permit application form and the applicable application fees. The application fee shall be as established by the Board of County Commissioners in accordance with Section 2.2.4.4. Application fees shall be non-refundable. The applicant shall submit a complete application and sufficient printed or digital copies of associated materials as determined by the Planning Director. Certain submittal requirements may be waived or modified by the Planning Staff, if it is demonstrated that the material to be waived or modified is not applicable to the proposed use. Except

[25] Amended October 2006 (Res. 2006-29); June 2018 (Res. 2018-18)
[26] Amended June 2018 (Res. 2018-18)
[27] Amended February 2007 (Res. 2007-08); June 2018 (Res. 2018-18); May 2019 (Res. 2019-39)

where detailed in specific Development Standards, the following information and materials shall be submitted with the application:

(1) A vicinity map, locating the subject parcel within Archuleta County (8-½" by 11").

(2) A written description of the proposed use, in sufficient detail to describe the nature of the proposal, including but not limited to:
- **a.** How the use will be operated.
- **b.** How ongoing maintenance of the use and site will be provided.

(3) A detailed site development plan, drawn to a scale appropriate to the size of the project. All sheet sizes shall be twenty-four by thirty-six inches (24"x36"). The site development plan may need to indicate existing (and proposed) topography; but shall indicate all existing natural and man-made features and the proposed development for the property (including but not limited to building locations, parking areas, traffic circulation, usable open space, landscaped areas, exterior lighting locations and utilities and drainage features).
- **a.** Note the Zoning District, Water and Sewer supply, Landscape requirements, Minimum parking requirements and how calculated, and Vision Clearance Areas.
- **b.** If required, topography should be indicated as follows:
  1. Contour intervals of two (2) feet on land sloping less than ten (10) percent.
  2. Contour intervals of five (5) feet on land sloping ten (10) percent to twenty (20) percent.
  3. Contour intervals of ten (10) feet on land sloping greater than twenty (20) percent.
- **c.** If applicable, a final determination as to the required drawing scale and appropriate contour interval shall be as determined by the Planning Staff.

(4) Elevation drawings (drawn to scale) of any proposed structures.

(5) A proposed development schedule, if applicable, indicating the details of a phasing plan.

(6) Any existing or proposed agreements, provisions or covenants which might govern the use.

(10) An Owners and Encumbrances report, which shows easements and mineral owners or lessees of record, shall be required for multi-family developments where ownership would be transferred.

(11) Proof of ownership shall be submitted, unless a full title report is being submitted.

(12) Any additional materials, as may be required by the Planning Staff, which are deemed necessary to fully evaluate the compliance of the proposed use with these regulations.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

3.2.2.3 Application Completeness:

An application will only be considered complete if it is submitted in the required form and number, including all required information and the applicable fee. If an application is determined to be incomplete, the Planning Staff shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the applicant does not correct the deficiencies within 30 days from receipt of the notice, the application shall be considered withdrawn, and the application shall be returned to the applicant.

3.2.2.4 Administrative Review:

Applications for UBR Land Use Permit requests shall comply with the following procedures:

(1) The Planning Staff and the County Engineer shall review the application. The express purpose of the review is to ensure that the proposal complies with all applicable development standards and requirements.

(2) The staff shall review each land use permit pursuant to the applicable development standards in section 5. Based upon this review, the Planning Staff shall either approve, approve with conditions, or deny the application for a Land Use Permit.

(3) The staff review, and the subsequent action on the application, shall occur within 30 calendar days of the Planning Staff's acceptance of a complete submittal.

(4) The Planning Staff may also request a Review by Referral Agency(ies) per Section 2.2.5 of these Regulations, as needed.[28]

3.2.2.5 Review Criteria:

All Uses-by-Right shall meet environmental, infrastructure, and site development standards, as detailed in Section 5.2, 5.3, and 5.4 of these regulations.

4.2.2.6 Approval and Effect

(1) Issuance of a UBR Land Use Permit shall authorize only the particular use for which it is issued.

(2) Developments and uses granted by the approval of a UBR Land Use Permit shall be developed or established in accordance with an approved phasing plan, or within one year of the date of approval if no phasing plan is established. The submittal of a complete application for a Building Permit shall constitute a good faith effort to establish the development or use. Failure to develop or establish such development or uses in accordance with the time period approved on the UBR Land Use Permit shall cause the UBR Land Use Permit to expire.

[28] Amended October 2021 (Res. 2021-76)

(3) A UBR Land Use Permit shall be valid for as long as the applicant maintains the conditions of approval, unless a specific time limit for the use is set forth as a part of the approval.

(4) A Use-by-Right that is discontinued for a period of twelve (12) months, regardless of any intent to resume operation of use, shall not be resumed without the appropriate review/permit as required by these Regulations.[29]

(5) If the conditions of approval are not maintained, it shall be considered a violation of these Regulations and subject to the provisions of Section 1.4 (Enforcement).

3.2.2.7 Minor Amendments:

(1) The Planning Director may approve Minor Amendments to an approved UBR Land Use Permit. Authorized Minor Amendments include those that do not alter the basic intent and character of the approved UBR Land Use Permit; are consistent with the Site Development Standards (Section 5.4); are deemed necessary in light of technical or engineering considerations first discovered during actual construction; or could not have been reasonably anticipated during the initial review process.

(2) Minor Amendments must comply with all relevant Archuleta County regulations. Minor Amendments may include, but are not limited to:

- **a.** variations to the location of an approved building footprint of not more than five (5) feet;
- **b.** minor deviations in the location of infrastructure (roads and utilities);
- **c.** modifications to approved site or landscape plans that do not adversely impact pedestrian or vehicular circulation throughout or adjacent to the project; or
- **d.** changes to the gross floor area of not more than ten (10) percent of the approved square footage on the site.

(3) Minor Amendments shall not include changes in use or changes in the percentage of required open space. Any change not qualifying as a Minor Amendment shall be considered a Major Amendment and shall comply with Section 3.2.2.8.

3.2.2.8 Major Amendments:

Unless the application qualifies as a Minor Amendment pursuant to Section 3.2.2.7, a UBR Land Use Permit may be amended, extended, varied or altered only as a new application for approval of a UBR Land Use Permit.

[29] Amended October 2021 (Res. 2021-76)

3.2.3 Conditional Use Permit (CUP): [30]

Conditional Uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. Because of their unusual or special characteristics, Conditional Uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Archuleta County at large.

3.2.3.1 Purpose and Intent: [31]

Conditional Uses may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the Conditional Use is in accordance with the development objectives of the County (per the Community Plan) and will not be detrimental to other uses or properties. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for Conditional Use Permits shall not be approved. All Conditional Uses shall meet the environmental, infrastructure, and site development standards as detailed in Section 5 of these regulations.

(1) The Planning Commission shall be the primary decision-making body for Conditional Use Permits (CUP).

a. Should an Applicant disagree with a determination or conditions of approval of the Planning Commission, the Applicant may appeal for a Public Hearing before the Board of County Commissioners, with payment for any difference for a Board Conditional Use Permit per Section 2.2.12[32].

(2) Board Conditional Use Permit: For certain uses with potential for causing greater adverse impacts (as shown in Table 3), the Board of County Commissioners will make the final determination, with recommendation by the Planning Commission.

3.2.3.2 Submittal Requirements

The applicant shall submit a complete application and sufficient printed or digital copies of associated materials as determined by the Director and the non-refundable application fee for the proposed Conditional Use Permit to the Planning Department. Except where detailed in specific Development Standards, the Conditional Use Permit application shall include:

(1) A vicinity map, locating the subject parcel within Archuleta County (8-½" by 11").

(2) A written description of the proposed use, in sufficient detail to describe the nature of the proposal, including but not limited to:

a. How the use will be operated;

b. How ongoing maintenance of the use and site will be provided;

c. How its impacts on surrounding properties will be minimized and mitigated.

[30] Amended June 2018 (Res. 2018-18)
[31] Amended May 2021 (Res. 2021-35) Administrative Conditional Use Permit deleted
[32] Amended October 2021 (Res. 2021-76)

(3) A detailed site development plan, drawn to a scale appropriate to the size of the project. All sheet sizes shall be twenty-four by thirty-six inches (24”x36”). The site development plan shall indicate existing (and proposed) topography, all existing natural and man-made features, and the proposed development for the property (including but not limited to building locations, parking areas, traffic circulation, usable open space, landscaped areas, exterior lighting locations and utilities and drainage features).

a. Note the Zoning District, Water and Sewer supply, Landscape requirements, Minimum parking requirements and how calculated, and Vision Clearance Areas.

b. Topography shall be indicated as follows:

1. Contour intervals of two (2) feet on land sloping less than ten (10) percent.

2. Contour intervals of five (5) feet on land sloping ten (10) percent to twenty (20) percent.

3. Contour intervals of ten (10) feet on land sloping greater than twenty (20) percent.

c. A final determination as to the required drawing scale and appropriate contour interval shall be as determined by the Planning Department during the pre-application meeting.

(4) Elevation drawings (drawn to scale) and/or perspective drawings of any proposed structures.

(5) Restoration or reclamation plans shall be required for all uses proposing extensive grading or for extractive-type uses.

(6) A proposed development schedule, if applicable, indicating the details of a phasing plan. Any existing or proposed agreements, provisions or covenants which might govern the use**.**

(7) An Owners and Encumbrances report, which shows easements and mineral owners or lessees of record, shall be required for multi-family developments where ownership would be transferred.

(8) Proof of ownership shall be submitted, unless a full title report is being submitted.

(9) Any additional materials, as may be required by the Planning Department or the Planning Commission, which are deemed necessary to fully evaluate the compliance of the proposed use with these Regulations.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

3.2.3.3 Review Procedure:

Upon determination of a complete Application,-the proposal shall be scheduled for Public Hearing before the Planning Commission. The Planning Commission shall approve, approve with conditions, or deny the application, basing its recommendation upon facts presented in the public hearing in consideration of the criteria for review.

(1) For a Board CUP, the Planning Commission shall recommend that the Board of County Commissioners approve, approve with conditions, or deny the application based on the same criteria.

(2) Conditions. The Planning Commission may require or recommend conditions or stipulations, which may include physical design as well as operational and/or maintenance considerations in addition to standard development and use regulations which apply within a particular zone district or for a similar "permitted use."

a. Unless otherwise specified, a Conditional Use Permit shall run with the land in perpetuity.

1. The Planning Commission may specifically require or recommend whether the particular conditional use is dependent upon design, management or operational aspects such that it should be a personal grant of use to the owner of the conditional use and not a grant which transfers with the affected property, or

2. The Planning Commission may specifically require or recommend the permit be granted only for a defined period, after which time the conditional use shall expire unless renewed subject to all of the requirements of this Section.

(**3**) The Board of County Commissioners shall **also** conduct a public hearing on a Board Conditional Use Permit application. In addition to consideration of the Planning Commission recommendation, the Board shall hear additional evidence and testimony presented, and either approve, approve with conditions or deny the application; the Board's decision being based upon all evidence presented, with due consideration of the criteria for review.

3.2.3.4 Review Criteria:

Before acting on a Conditional Use Permit application, the Planning Commission and the Board of County Commissioners shall consider the following criteria and factors with respect to the proposed use:

(1) The relationship and impact of the use on the development objectives of Archuleta County.

(2) The effect of the use on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.

(3) The effect of the use upon traffic, with particular reference to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, sidewalks and parking areas.

(4) The effect of the use upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses.

(5) The adequacy of the design features of the site to accommodate the proposed use, including but not limited to accessibility, service areas, parking, loading, landscaping and buffering, lighting, etc.

(6) The effect of the use upon the natural resources and wildlife habitat areas.

(7) Such other factors and criteria as the Planning Commission and the Board of County Commissioners deems applicable to the proposed use.

3.2.3.5 Necessary Findings:

Before acting on a Conditional Use Permit application, the Planning Commission and the Board of County Commissioners shall make the following findings:

(1) That the proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

(2) That, if required by the proposed use, there are adequate and available utilities and public services to service the proposed use, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are not necessarily limited to, sewage and waste disposal, water, electricity, law enforcement, and fire protection.

(3) That the proposed use will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety, etc.

3.2.3.6 Approval and Effect:

(1) Issuance of a Conditional Use Permit shall authorize only the particular use for which it is issued.

(2) Developments and uses granted by the approval of a Conditional Use Permit shall be developed or established in accordance with an approved phasing plan, or within one year of the date of approval if no phasing plan is established. The submittal of a complete application for a Building Permit shall constitute a good faith effort to establish the development or use. Failure to develop or establish such development or uses in accordance with the time period approved on the Conditional Use Permit shall cause the Conditional Use Permit to expire.

(3) A Conditional Use Permit shall be valid for as long as the applicant maintains the conditions of approval, unless a specific time limit for the use is set forth as a part of the approval.

(4) A Conditional Use that is discontinued for a period of twelve months, regardless of any intent to resume operation of use, shall not be resumed thereafter. Any future use of the site or structures thereon shall conform to all the provisions and procedures of this section.

(5) If the conditions of approval are not maintained, it shall be considered a violation of these regulations and subject to the provisions of Section 1.4 (Enforcement).

3.2.3.7 Minor Amendments:

(1) The Planning Director may approve Minor Amendments to an approved Conditional Use Permit, or may refer Minor Amendments to the Planning Commission. Authorized Minor Amendments include those that do not alter the basic intent and character of the approved Conditional Use Permit; are consistent with the Site Development Standards (Section 5.4); are deemed necessary in light of technical or engineering considerations first discovered during actual construction; or could not have been reasonably anticipated during the initial review process.

(2) Minor Amendments must comply with all relevant Archuleta County regulations. Minor Amendments may include, but are not limited to:

- **a.** variations to the location of an approved building footprint of not more than five (5) feet;
- **b.** minor deviations in the location of infrastructure (roads and utilities);
- **c.** modifications to approved site or landscape plans that do not adversely impact pedestrian or vehicular circulation throughout or adjacent to the project; or
- **d.** changes to the gross floor area of not more than ten (10) percent of the approved square footage on the site.

(3) Minor Amendments shall not include changes in use or changes in the percentage of required open space. Any change not qualifying as a Minor Amendment shall be considered a Major Amendment and shall comply with Section 3.2.3.8.

3.2.3.8 Major Amendments:

Unless the application qualifies as a Minor Amendment pursuant to Section 3.2.3.7, a Conditional Use Permit may be amended, extended, varied or altered only as a new application for approval of a Conditional Use Permit.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

3.2.4 Temporary Use Permit (TUP): [33]

Some uses of land may be appropriate as Temporary Uses when not detrimental to the public health, welfare and safety. Certain Uses by Right occur infrequently, while others do not require permanent facilities. Certain special events and other accessory uses of property may also be properly permitted as Temporary Uses.

3.2.4.1 Application Requirements. All Temporary Uses require a permit from the Planning Department. Temporary Use Permit reviews are subject to review by all other agencies such as the fire district, health department, Road & Bridge department, and any other applicable agency at the local, State or Federal level. Applications for TUPs shall include: the application, the appropriate application fee, a written description of the proposed use, a sketch site plan showing all existing and proposed uses in adequate detail so as to provide enough information for Staff to review; other items as reasonably necessary to make an informed decision.

(1) Temporary events and structures do not require a separate permit if the property has an approved Land Use Permit specifically including those uses.

(2) Private events, where no admission is charged nor goods or services bought or sold, do not require a Temporary Use Permit when hosted by the property owner or long-term (>30 days) lessee.

3.2.4.2 Commercial Special Events. Where property is made available for a fee, admission is charged, or where the goods or services are bought or sold, may be permitted with sufficient potable water and wastewater facilities, public access and on-site parking.

(1) Any Use-by-Right that does not require permanent facilities may be allowed as a Temporary Use for up to ninety (90) days in a calendar year.

(2) Auctions, flea markets, carnivals, circuses, bazaars, concerts and other amusement activities, may be allowed provided they do not continue more than ten (10) consecutive days, no more than three times per year, and obtain any permits required by law.

a. Garage sales or yard sales of typical size and scope accessory to a Dwelling Unit do not require a Temporary Use Permit, unless held more than three times per year.

(3) Christmas tree sales shall be allowed in all zoning districts, except in residential districts on lots of one (1) acre or less, for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the setback requirements of these Regulations provided that no tree shall be displayed within any required Site Triangle.

(4) Any Special Events in conjunction with a Vacation Rental shall require a Temporary Use Permit.

[33] Amended June 2018 (Res. 2018-18)

3.2.4.3 Temporary Structures and Recreational Vehicles/Tents[34] may be permitted when meeting setbacks specified in Table 4, PUD Development Plan, and requirements listed here, with an approved TUP.

(1) Contractors' office/living quarters and equipment sheds accessory to a construction project shall be allowed in any zoning district, with an active land use or building permit, and to continue only during the duration of such project.

a. A temporary Building Contractors and Equipment yard, temporary Asphalt Batch Plants, temporary Concrete or Cement Plants, or temporary Aggregate Crushing facilities necessary for an active construction project may be permitted in any zoning district on adjacent property for the duration of such project, with all required State of Colorado permits.

(2) A Recreational Vehicle (RV) is allowed to be occupied in residential zoning districts with an approved TUP[34], coinciding with the commencement of an active building permit for a principal building, and renewable with the building permit until such time a Certificate of Occupancy is received for the principal building. At any time when the local health department requires a septic system, the approved system shall be installed or RV removed.[35]

(3) Recreational Vehicles and tents are allowed to be occupied and used for non-commercial camping purposes on residential property for up to fourteen (14) consecutive days in a quarter after approval of a no-cost permit, or for up to 120 consecutive days in a calendar year by TUP.

a. At no time shall solid and liquid wastes be discharged or otherwise disposed of on the surface of the ground, buried in the ground in any way, or dumped into any well, cave, open ditch, stream, lake, or reservoir.

b. Health Department permits are required for all on-site wastewater treatment systems (OWTS), including pit and vault privies (outhouses), composting toilets, and septic systems. These permits must be included with a camping permit or TUP application, as appropriate. No permit is required to operate a self-contained system, such as an RV gray/black-water system that is properly disposed of at a wastewater treatment plant, or for a self-contained backcountry toilet ("groover" or "wag bag") that is properly disposed of in the solid waste (garbage) collection stream.[34]

*See also definition of **Recreational Vehicle:** An automobile, travel trailer, camp-car, camper, bus, motor home, or other vehicular or portable unit, with or without motor power, designed and constructed for travel and intended for human occupancy as temporary living quarters for recreational, vacation, or travel purposes.*

[34] Amended Oct 2021 (Res. 2021-76)
[35] Amended Dec 2010 (Res. 2010-57)

3.2.5 Accessory Uses: [36]

Accessory uses shall comply with all requirements for the principal use, including obtaining a building permit**,** except where specifically modified by this Section, and shall also comply with the following limitations:

3.2.5.1 Gardening and raising animals for personal use, within the requirements of Sec. 5.6.2, shall be considered a customary Accessory Use with no sales from the premises.[37]

(1) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales from the premises.

3.2.5.2 A swimming pool may be permitted in any district as an accessory use subject to the following additional requirements:

(1) No swimming pool may be located in any required front or side setback abutting a street.

(2) Every swimming pool must be completely surrounded by a fence or wall not less than six (6) feet in height with no openings large enough to permit children to pass through, other than gates or doors that can be fastened to protect against entry. A building may be used as part of the required enclosure.

(3) All gates or doors opening through such enclosures must be equipped with self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use.

(4) All swimming pools shall comply with the state building code and the National Electrical Safety Code.

3.2.6 Accessory Structures:[38]

Accessory structures shall comply with all building code requirements and require a building permit where applicable.

3.2.6.1 An accessory structure may be constructed or placed onto a property with or without a principal structure.

3.2.6.2 No part of any accessory structure shall be located closer than five (5) feet to any other structures unless it is attached to, or forms a part of that structure. [39]

3.2.6.3 An accessory structure shall meet the same required setback distances as a principal structure, or as provided in subdivision covenants recorded prior to May 23, 2006, whichever is less.[33]

[36] Amended February 2011 (Res. 2011-9); (Res. 2011-11) Guesthouse and renting sections removed
[37] Amended October 2016 (Res 2016-62)
[38] Amended February 2011 (Res. 2011-09); June 2018 (Res. 2018-18)
[39] Amended May 2019 (Res 2019-39)

(1) A fence over 8' in height must meet all required setbacks.
- **a.** A fence over 6' in height or a security fence as defined in Sec. 11.2.1 must meet the minimum front or corner setback, unless located in Commercial (C) or Industrial (I) zoning districts.
- **b.** Fences must maintain the required Vision Clearance Area in Sec. 5.4.7.

(2) Propane tanks shall be exempt from setbacks for accessory structures, provided the tank location conforms to requirements of the National Fire Protection Association (NFPA) and Colorado Department of Labor and Employment, Division of Oil and Public Safety.

3.2.6.4 Flag poles and personal antenna structures (including ham radio antennas but not Commercial Mobile Radio Systems structures) shall be exempt from the Accessory Height requirements in Table 4.

3.2.6.5 Accessory structures shall encompass no more than 10% of land area.

3.2.6.6 Portable Accessory Structures: On property of less than or equal to one acre, one unit is allowed up to a total of 400 square feet; from 1 acre up to 5 acres two units are allowed of up to a total of 800 square feet; property greater than 5 and equal to or less than 10 three units are allowed up to a total of 1200 square feet; property over 10 acres and less than 35 acres are allowed 5 units of up to a total of 2000 square feet.

Property size:	<= 1 ac.	>1 and < =5 ac	>5 <=10 ac	>10 <35 ac.
No. of units allowed:	1	2	3	5
Total square feet:	400	800	1200	2000

A portable accessory structure in Agricultural Use as exempted under Section 2.1.2 is also exempt from the limits of this Section 3.2.6.6. [40]

3.2.6.7 Accessory structures including portable accessory structures used for Commercial and/or Industrial purposes shall be by a minor amendment to a Conditional Use Permit (CUP) or Use-By-Right (UBR) permit only and shall comply with all applicable Regulations and Standards thereof. There shall be no additional fee charged to amend a UBR Site Plan to allow accessory structures[41].

[40] Amended October 2016 (Res 2016-62)
[41] Amended February 2011 (Res. 2011-09); October 2016 (Res 2016-62)

3.2.7 Vacation Rental Permit (VRP):[42]

Vacation Rental is a Residential Use of a dwelling unit—either an entire dwelling or individual rooms—on a short-term rental basis, less than thirty (30) days at a time. Meals are not provided, although guests may have full access to kitchen facilities. *It is unlawful to rent or offer to rent any Dwelling Unit as a Vacation Rental unless and until a Vacation Rental Permit has been approved.* Vacation Rentals are land uses that have potential for causing adverse impacts on others because of such factors as proximity to other homes, method of operation, scale or intensity of activity, or parking and traffic generated. Because of these characteristics, Vacation Rental Permits require review and evaluation so that Vacation Rentals may be located and operated with proper respect for their effects on surrounding neighbors, properties, and Archuleta County at large.

3.2.7.1 Purpose and Intent

Vacation Rentals may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the Vacation Rental is in accordance with the development objectives of the County (per the Community Plan) and will not be detrimental to other uses or properties.
Vacation Rentals must meet all building, zoning, environmental, infrastructure, and site development standards as detailed in Section 5 of these regulations. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for Vacation Rental Permits shall not be approved.

(**1) Planning Department.**

- **a.** The Development Director may approve VRPs administratively (as shown in Table 3).
- **b.** The Director may refer any VRP Application to the Planning Commission for final determination.
- **c.** Should an Applicant disagree with a determination or conditions of Administrative approval; the Applicant may appeal for a Public Hearing before the Planning Commission.

(2) The Planning Commission.

- **a.** For Vacation Rentals with the potential for causing greater adverse impacts, the Planning Commission will make the final determination, with recommendation by the Development Director.
- **b.** Should an Applicant disagree with a determination or conditions of approval of the Planning Commission, the Applicant may appeal for a Public Hearing before the Board of County Commissioners.

3.2.7.2 Submittal Requirements

The Applicant shall complete the online application process in the approved system including sufficient details, digital copies of required materials, and payment of the non-refundable application fee, as provided for in the current County Fee Schedule. The application shall include:

(1) Property Details and Contact information for Property owner, Caretaker (or Property Manager), and Applicant (if other than owner);

[42] Amended May 2021 (Res. 2021-35) Vacation Rental Permit Added

(2) Recorded Property Ownership Deed;

(3) Proof of Ownership – If "Grantee" on the Deed is a Trust or Corporate Entity, the Applicant must submit documents that identify all individuals who have authority to make decisions regarding the property;

(4) Agent Authorization Documents – If there is a formal Property Management Contract, it must be submitted;

(5) Proof of Neighbor and Owner's Association Notification – Proof that the completed Vacation Rental Notification Form (provided by the Planning Department or found online) has been sent. This shall be documented by submitting Certificates- of-Mailing (not Certified Mail) proving the notification was sent *at least two weeks before the date of application.* Notice must be sent to:

a. All adjacent property owners of any parcel touching your parcel or units in a shared building for condos (contact the Planning Department for assistance with this list);

b. Any Owner's Association for the dwelling (Associations with a defined notification process supersede this process);

(6) Parking Plan Site Map – An *aerial map* of the dwelling to be used for the rental including markings for all available on-site guest parking spaces. An improvement location certificate or other survey will also suffice, but not a hand- drawn sketch;

(7) Water Treatment/Sewer Documents – A public sewer bill or On-Site Water Treatment System (OWTS) Permit documenting how wastewater will be managed at the property and limits to capacity, if applicable;

(8) Proposed Advertisements – Advertisements (or proposed draft advertisements and pictures) must be reviewed for compliance as part of the application process;

(9) Proposed Rules for Renters – Proposed rules that will be provided to rental guests will be reviewed for the following:

a. County ordinances, including parking, noise, and applicable fire ban ordinances;

b. Neighborhood rules, restrictions, and covenants for the home, if applicable;

c. Non-Emergency Phone numbers for sheriff, medical, fire protection district, etc.;

(10) Sales/Lodging Tax Payment Method – Documents that show how Colorado Sales and Lodging Taxes will be paid must be submitted;

(11) Proof of Property Taxes Paid – Proof that all personal and real property tax accounts with Archuleta County Treasurer are not in arrears must be submitted;

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

(12) Vacation Rental Disclosure Form – The completed Vacation Rental Disclosure Form (provided by the Planning Department or found online) must be reviewed, initialed, signed, and submitted to document property owner understanding and compliance with performance standards found in Section 5.5.6;

(13) Payment of Appropriate Fees – The Development Director will assign the appropriate fee, in accordance with the current County Fee Schedule, after the application documents are fully reviewed.

3.2.7.3 Review Procedure

Upon determination of a Complete Application, the Development Director shall approve, approve with conditions, or deny the application, basing this decision upon the facts presented in the application and in due consideration of the criteria for review.

(1) The Development Director shall make the final determination without a public hearing, unless appealed or referred to the Planning Commission.

(2) Conditions. The Development Director, Planning Commission, or Board of County Commissioners may require or recommend conditions or stipulations, which may include property and room configurations, as well as operational and/or maintenance considerations, in addition to standard development and use regulations which apply within a particular zone district or for a similar "permitted use."

(3) The Development Director, Planning Commission, or Board of County Commissioners may specifically require or recommend the permit be granted only for a defined period, after which time the approved use shall expire unless renewed subject to all of the requirements of this Section.

3.2.7.4 Review Criteria

Before acting on a Vacation Rental Permit application, the Development Director, Planning Commission, or Board of County Commissioners shall consider the following criteria and factors with respect to the proposed use:

(1) The relationship and impact of the Vacation Rental on the development objectives of Archuleta County.

(2) The effect of the Vacation Rental on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.

(3) The effect of the Vacation Rental upon traffic, with particular attention to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, side-walks, and parking areas.

(4) The effect of the Vacation Rental upon the character of the area in which the dwelling is located, including the scale of the proposed Vacation Rental in relation to surrounding uses.

(5) The adequacy of the design features of the site and dwelling to accommodate the proposed Vacation Rental, including but not limited to accessibility, service areas, parking, loading, lighting, etc.

(6) The effect of the Vacation Rental upon the natural resources and wildlife habitat areas.

(7) Such other factors and criteria as the Development Director, Planning Commission, and Board of County Commissioners deems applicable to the proposed Vacation Rental.

3.2.7.5 Necessary Findings:

Before acting on a Vacation Rental Permit application, the Development Director, Planning Commission, or Board of County Commissioners shall make the following findings:

(1) That the location of the proposed Vacation Rental, the proposed access to the site, and the conditions under which the Rental would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

(2) That there are adequate and available utilities and public services to service the proposed Vacation Rental, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are not necessarily limited to sewage and waste disposal, water, electricity, law enforcement, and fire protection.

(3) That the proposed Vacation Rental will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety, community character, etc.

3.2.7.6 Approval and Effect:

(1) Unlike other Use Permits, a Vacation Rental Permit shall NOT run with the land in perpetuity. New property owners must apply for their own Vacation Rental Permit after transfer of property ownership is completed. It is unlawful to rent or offer to rent a Vacation Rental until and unless the VRP is *approved*.

(2) The Planning Department will conduct a Validation Inspection to verify the accuracy of the information submitted during the application process, as well as the compliance or continued compliance with conditions of approval, applicable building codes, land use codes, zoning restrictions, and other standards for Vacation Rental operations.

(3) The dwelling will be inspected within forty-five (45) calendar days after the approval of a new VRP.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

(4) The dwelling will be re-inspected within forty-five (45) calendar days after the approval of a renewal VRP.

(5) The dwelling may be re-inspected within fourteen (14) calendar days after a complaint is received regarding violations of these Land Use Regulations to determine complaint validity.

(6) New conditions may be applied after any Validation Inspection. If any conditions or standards are not met or maintained, it shall be considered a violation of these Land Use Regulations and the VRP shall be subject to the provisions of Section 1.4 (Enforcement).

(7) An approved Vacation Rental Permit shall be effective from the date of approval for one (1) year, unless otherwise determined by the Development Director, Planning Commission, or Board of County Commissioners at the time of issuance. Renewal applications (including all required documents and payment) must be submitted before the VRP expiration date or the permit will be considered Closed.

(8) A Closed permit requires the completion of a New Vacation Rental Application and will be subject to all standards and criteria in place on the date of application submittal.

Amended 10/2006, 2/2011, 8/2011, 5/2013, 7/2013
5/2014, 3/2015, 10/2016, 6/2018, 7/2018, 5/2019
5/2021, 10/2021

SECTION 4 – SUBDIVISION REGULATIONS

4.1 GENERAL

Any division of land should be carefully considered. It is much easier to divide land than to re-assemble parcels for future conservation and development. [1]

4.1.1 Purpose and Intent:

New subdivisions require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Archuleta County at large. New subdivisions may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the new subdivision is in accordance with the development objectives of the County (per the *Archuleta County Community Plan*) and will not be detrimental to other uses or properties.

4.1.2 **Subdivision Regulations**: A Subdivision of land, as defined by State Statute in CRS §30-28-101 and by these Regulations, is both a process and a result—the process of dividing property, and the resulting parcel of divided land (including land used for condominiums and townhomes) with certain exceptions, such as the exemption for parcels of land thirty-five acres or larger in single ownership. Any Subdivision of land less than 35 acres must be approved by the Board of County Commissioners in conformance with these Regulations and State Statutes to be considered a Legal Lot. The sale of subdivided lots prior to County approval is illegal and punishable by civil and criminal prosecution and penalty (CRS §30-28-110(4)).

4.1.2.1 Major Subdivision

A Major Subdivision is any division of land into four (4) or more tracts, spaces, or separate interests or interests in common, except as exempt under the definition of Subdivision in Chapter 11.

(1) Divisions of land subject to Subdivision review include condominiums, townhomes, and other common interest communities, but not divisions of land by lease or rent.[2]

(2) The Major Subdivision review process includes Sketch Plan, Preliminary Plan and Final Plat review, in accordance with the procedures in Section 4.2, Section 4.3, and Section 4.4.

4.1.2.2 Minor Subdivision

A Minor Subdivision, formerly known as a Minor Impact Subdivision, is any subdivision which involves the division of land into three (3) or fewer tracts, spaces, or separate interests.

*See also definition of **Legal Lot:** A Lot, Parcel or tract of land created prior to **September 1, 1972**; or after that date by Subdivision Review or exempted from Subdivision Review by the Board of County Commissioners.*

[1] Amendments to Section 4.1, May 2019 (Res. 2019-39)
[2] Amended August 2011 (Res. 2011-41); May 2019 (Res. 2019-39)

(1) All lots in a Minor Subdivision must be able to be accessed and served with existing improved roads and utilities, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of these Regulations.

a. Any Subdivision which requires new or improved roadways shall follow a Major Subdivision Review process.

(2) The Minor Subdivision review process includes Sketch Plan and Final Plat review, in accordance with the procedures in Section 4.2 and Section 4.4.

4.1.2.3 Condominium or Common Interest Community

Creation of condominiums, townhomes or Common Interest Community shall follow the appropriate Major or Minor Subdivision Review process, and demonstrate conformance with CRS Article 33 and/or Article 33.3 as appropriate.

4.1.2.4 Amended Plat

Amendment of a Subdivision Plat previously approved by the Board of County Commissioners shall follow procedures in Section 4.6, which may include Sketch Plan, Preliminary Plan and/or Final Plat review as determined by the Development Director.

4.2 SKETCH PLAN[3]

4.2.1 Purpose and Intent:

Sketch Plan is an informal initial review of the concept and general scope of the proposal at an early stage in the planning. Sketch Plan review is an opportunity for Applicants and Archuleta County to clarify policies, provide procedural guidance, make Applicants aware of initial concerns, and discuss relevant provisions of the *Archuleta County Community Plan* and Land Use Regulations, in order to ensure the best chance of the Applicant's project success.

4.2.2 Submittal Requirements:

Applicant shall submit a complete Archuleta County Land Use Permit application, the application fee, and any supplemental data for the proposed subdivision to the Planning Department, , as determined at the Pre-Application Conference (Section 2.2.4.1). Certain information may be waived for Amendments to existing Subdivisions. The Sketch Plan application shall include:

4.2.2.1 A **vicinity map** prepared at an appropriate scale showing the proposed project area and approximately one-half (½) mile adjacent area, indicating land use, access, utilities, and significant natural or man-made features.

4.2.2.2 Sketch Plan prepared by a professional surveyor, architect or engineer, showing proposed lots, access, and ownership of the land to be subdivided; and ownership of adjacent lands at scale sufficient for initial review at 11x17" or 24"x36" in print, and number of copies determined at Pre-Application.

[3] Amendments to Section 4.2, May 2019 (Res. 2019-39)

(1) A formal property survey and documentation of ownership of the surface and mineral estates including mineral lessees, if any, are required by CRS §30-28-133(3)(a), and shall be submitted with Preliminary Plan and/or Final Plat review.

4.2.2.3 A written **narrative description** of the development including, where applicable the following information:

(1) Subdivision Design Standards: Assurance of all-weather access from existing county or state roads, and provisions for maintenance of roads, as required by Section 5.1 of the Land Use Regulations.

(2) Environmental Resources: Information such as surface water resources (including streams, lakes and wetlands), natural features and vegetation, and natural hazards, including steep slopes, geologic hazards, flood hazards, wildfire hazards, and radiation hazards) required by Section 5.2 of the Land Use Regulations.

a. Geology and soil suitability affect new development. Include maps and tables concerning suitability of types of soil, in accordance with standard soil classifications, such as reports from the National Cooperative Soil Survey available from the USDA Natural Resource Conservation Service (NRCS), and any additional preliminary information.

b. For property subject to (or likely to be subject to) flooding, especially in the Special Flood Hazard Area, include a FEMA *FIRMette* or floodplain map.

(3) Infrastructure: Information on availability of Infrastructure, including access to public roads and trails, on-site drainage, public utilities, provision of suitable water supply and sewage treatment, and fire protection, as required by Section 5.3 of the Land Use Regulations.

4.2.2.4 More detailed information and studies may be required depending on the scope of the proposed development, including a written description of the layout or plan of development including, where applicable, the following information:

(1) Total acreage of land to be subdivided; and number and approximate size of proposed lots and tracts.

(2) Reasonable evidence that a water supply that is sufficient in terms of quality, quantity and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed.

(3) Type of sewage disposal and treatment system proposed for the subdivision and explanation of how the proposed system complies with San Juan Basin Public Health (SJBPH) and/or Colorado Department of Public Health and Environment (CDPHE) rules and regulations.

(4) Information concerning provision of services and amenities, such as public safety and fire protection, electricity and broadband, recreation, schools, etc.

(5) Assurance of all-weather access to the proposed subdivision from an existing county or state road.

(6) Any existing or proposed Covenants, Codes & Restrictions (CC&Rs).

4.2.3 Review Procedure:

4.2.3.1 The Planning Department shall review the Sketch Plan for conformance with the *Community Plan*, these Regulations, and other adopted County policies and ordinances. Planning Staff will circulate the Sketch Plan for Review by Referral Agencies as provided in Section 2.2.5.

4.2.3.2 Either the applicant or the Planning Department may request that the Sketch Plan be reviewed by the Planning Commission if needed to clarify policies or provide additional guidance, in particular for Major Subdivision review. In such instances, the Sketch Plan will be reviewed at the next available Planning Commission meeting at the discretion of the Chair of the Planning Commission.

4.2.3.3 The Planning Department will provide the applicant with written comments regarding the proposed subdivision within five (5) working days following the close of reviews in Section 4.2.3.1 or Planning Commission review in Section 4.2.3.2.

4.2.3.4 A Preliminary Plan or Final Plat, as appropriate, must be submitted within twelve (12) months from the date of the written comments described in 4.2.3.3; otherwise a new Sketch Plan must be submitted, unless an extension is granted by the Director.

(1) Preliminary Plan or Final Plat applications are subject to any amendments of these regulations that may take place between Sketch Plan approval and the date of that application, as provided in Section 1.1.8. It is the Applicant's responsibility to be aware of any proposed changes to these Regulations during the interim.

4.3 PRELIMINARY PLAN[4]

4.3.1 Purpose and Intent:

The Preliminary Plan submittal is the second step in the Major Subdivision review process, and is not required for a Minor Subdivision. The Preliminary Plan will be presented to the Planning Commission for their review and consideration for approval.

4.3.2 Submittal Requirements:

In accordance with review of the Sketch Plan, the applicant shall prepare and submit one complete copy of an updated Archuleta County Land Use Permit application, the non-refundable application fee, and any supplemental data for the proposed subdivision to the Planning Department, as determined by Sketch Plan Review. The Preliminary Plan application shall comply with the requirements of the Development Standards in Section 5, and shall include:

[4] Amendments to Section 4.3, May 2019 (Res. 2019-39)

4.3.2.1 A **vicinity map** prepared at an appropriate scale covering at least one-half mile around the proposed subdivision (or farther if necessary to show all influencing factors) and showing existing roads, streams, municipal boundaries, platted areas, adjoining ownerships, utilities and similar major natural or man-made features of the area. The nearest section lines shall be indicated for reference purposes.

4.3.2.2 The **Preliminary Plan map** shall be prepared at an appropriate scale with outer dimensions of twenty-four by thirty-six inches (24"x36"), legible as a PDF. The number of printed copies shall be determined by Sketch Plan Review. If more than one (1) map is required to show the subdivision, a key map showing the whole subdivision shall be submitted with detail as to how each map ties together. It shall include or show:

(1) Proposed name of the subdivision.

(2) Date of preparation, true north arrow, scale and signature of the person responsible for preparing the map.

(3) Names and addresses of the landowner, the applicant and the designer of the subdivision.

(4) An accurate survey of the perimeter boundary of the area to be subdivided with ties to permanent location markers, such as existing section corner markers or other suitable points acceptable to the Planning Commission. Total acreage must be specified.

(5) Topography, indicated by contour lines at intervals of two (2) feet on land less than six (6) percent slope, five (5) feet on land sloping seven (7) percent to twenty (20) percent, or ten (10) feet on land sloping over twenty (20) percent; shading shall be provided on land sloping over twenty (20) percent - thirty (30) percent and greater than thirty (30) percent.

(6) Location and principal dimensions for all existing and proposed street right-of-ways (including street names), alleys, buildings, easements, water and sewer lines, telephone lines, power lines, gas lines, water courses and other important features within and adjacent to the property to be subdivided.

(7) Principal dimensions to the nearest foot (which may be scaled values) and the approximate area (square feet or acres) of all proposed lots, parcels and tracts.

(8) The proposed type of use for each lot, parcel and tract.

(9) Lots shall be numbered consecutively, either throughout the subdivision or block by block. Other parcels or tracts shall also be individually identified by number or letter.

(10) The names of abutting subdivisions or the names of the owners of the abutting un-platted property.

(11) Delineation of any area subject to a base flood and the flood water elevations at representative cross sections. All floodplain areas shall be shaded on the map. Easements for storm drainage shall be provided as necessary.

(12) Reasonable access shall be provided to adjoining public and private lands by suitable right-of-ways or easements where such access is desirable or appropriate for present or future use of adjoining lands.

(13) Planned Unit Developments have special requirements which must be addressed. (See Section 3.1.6).

4.3.2.3 Evidence to establish that definite provision will be made for a **water supply** that is sufficient in terms of quantity, dependability and quality to provide for the proposed subdivision. Applicant shall provide a report signed and sealed by a professional engineer registered in the State of Colorado, which must include, as a minimum, the following information:

(1) The expected water requirements of the subdivision at full development including various water uses to be permitted.

(2) The estimated consumptive use of water by the subdivision.

(3) The source of water for the subdivision and the dependability of this source.

(4) If applicable, evidence of ownership or right of acquisition of, or use of, existing and proposed water rights.

- **a.** Historic use and estimated yield of claimed water rights.
- **b.** Amenability of existing water rights to a Water Court decreed change in use, if necessary.
- **c.** The dependability of claimed water rights for use as a subdivision water supply.
- **d.** An evaluation of the potential for material injury to other existing water rights as a result of the subdivision water usage, including the cumulative effect of on-lot household or domestic wells.
- **e.** A plan of augmentation or plan of exchange whereby any material injury to existing water rights is prevented.

(5) If applicable, evidence that public or private water owners can and will supply water to the proposed subdivision stating the amount of water available for use by the proposed subdivision and the feasibility of extending service to the new area.

(6) Evidence concerning potability of the proposed water supply for the subdivision.

4.3.2.4 Evidence to establish that, if a **public sewage disposal system** is proposed, provision has been made for such system and, if other methods of sewage disposal are proposed, evidence that such systems will comply with state and local laws and regulations which are in effect at the time of submission

4.3.2.5 **No County Maintenance of streets or roads**. The County's acceptance of this plat constitutes acceptance, on the public's behalf, of the offer of dedication of rights-of-way over the subdivision roads, but does not constitute acceptance of road maintenance obligations. Owner(s) of property in the subdivision and/or the homeowners' association shall retain all road maintenance obligations for all roads in the subdivision.

4.3.2.6 If the subdivision does not abut an existing county or state road so as to provide direct access to the subdivision, evidence as to **how public all-weather access** is to be provided and maintained. The applicant shall be responsible to provide access road or roads. Plat notes on the Preliminary Plan map and Final Plat shall state that it is the responsibility of the property owners to maintain such road or roads.

4.3.2.7 All proposed subdivisions shall submit a **fire protection plan** reviewed by the Fire Chief/Fire Marshall of the Pagosa Fire Protection District or other qualified individual.

4.3.2.8 Information explaining how the subdivision application complies with the **public land dedication** requirements in Section 6.

4.3.2.9 Proposed **covenants** or restrictions to control activities or land uses, which would be recorded along with a final plat.

4.3.2.10 If the proposed subdivision lies in an identified **flood hazard area**, or is suspected by Staff to lie in a flood hazard area, the applicant shall submit, certified by a Colorado licensed professional engineer, the following:

(1) On the Preliminary Plan map, show the area which would be covered by a base flood and flood water surface elevations at representative cross sections. This area shall be shaded on the Preliminary Plan map and Final Plat.

(2) On the Preliminary Plan map, show lowest floor elevation, size and location of all proposed and existing structures and improvements; and location and elevation of streets, water supply systems and sewage facilities.

(3) Proposed flood proofing measures, if any.

(4) Specifications for building construction and materials, filling, dredging, grading, channel changes, storage of materials, water supply systems and sanitary facilities.

(5) Descriptions of any construction activity which would affect the hydraulic capacity of the floodway.

(6) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

4.3.2.11 If the proposed subdivision lies in an identified **geologic hazard area**, or is suspected by the Planning Commission to lie in a geologic hazard area, the applicant shall submit the following maps, reports or data prepared by a qualified geologist:

(1) A map or maps portraying the geologic conditions of the area with particular attention given to the applicable geologic hazard. If appropriate, sub-surface geologic cross sections shall also be utilized to portray such conditions at depth. The geologic maps shall be at the same scale and in the same format as the Preliminary Plan maps.

(2) A geologic report explaining the above maps and cross sections with particular emphasis on evaluating and predicting the impact of such geologic or hazardous conditions on the proposed land use changes and developments. It shall also include recommended mitigating procedures to be employed in meeting the purposes of these regulations.

(3) The applicant, in narrative, pictorial or graphic form, shall explain the nature, density and intensity of the proposed development or land use change and shall explain mitigation procedures which will be needed and are planned to carry out the objectives of these regulations.

(4) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

4.3.2.12 If the proposed subdivision lies in an identified **wildfire hazard area**, or is suspected by the Planning Commission to lie in a wildfire hazard area, the applicant shall submit the following information certified by a qualified professional forester:

(1) Maps or overlays portraying the existing wildfire conditions of the area with particular attention given to the effects of slope, topographic and vegetative (living and dead) conditions. Such maps shall be on a scale sufficiently detailed to meet the objectives of these regulations.

(2) The procedures proposed to reduce or control conditions of wildfire hazard.

(3) The fire protection plan for the proposed land use including all fire suppression facilities which are necessary to meet the objectives of these regulations.

(4) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

4.3.2.13 If the proposed subdivision lies in an identified **mineral resource area**, or is suspected by the Planning Commission to lie in a mineral resource area, the applicant shall submit the following data prepared by a qualified geologist:

(1) Ownership of the mineral rights affected.

(2) Type and location of mineral resources under the property.

(3) An analysis of the commercial feasibility of extracting the mineral resource.

(4) A map or maps portraying the geologic conditions of the area with particular attention given to the applicable mineral resource deposit. If appropriate, sub-surface geologic cross sections shall also be utilized to portray such conditions at depth. The geologic maps shall be at the same scale and in the same format as the development plan maps.

(5) An analysis of the fiscal impacts on local services and facilities.

(6) Evidence that the development plan will present no obstacle to extraction of the mineral resources on or under the subject property or evidence that the proposed development will be of greater economic value than the minerals present.

(7) Plat notes on the Preliminary Plan map and Final Plat stating that a mineral resource exists.

4.3.2.14 If the proposed subdivision lies in a **radiation hazard area**, or is suspected by the Planning Commission to lie in such an area, the applicant shall submit:

(1) A report of the hazard as prepared by the Geological Survey or a qualified geologist.

(2) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

4.3.2.15 When a proposed street will intersect with a **State of Federal highway**, a copy of the applicable access application or permit issued by the Colorado Department of Transportation shall be submitted.

4.3.2.16 An **erosion control plan** shall be submitted.

4.3.2.17 A **drainage plan** shall be submitted.

4.3.2.18 When site conditions warrant, the Planning Commission, County Engineer, or Planning Department may determine that in order to make an informed decision, the applicant shall submit additional supplemental data. This supplemental data shall be determined at the Sketch Plan stage or at the Preliminary Plan Pre-Application meeting. This supplemental data can include, but is not limited to, preliminary engineered construction drawings, preliminary drainage plans, etc.

4.3.3 Review Procedure:

4.3.3.1 The Planning Department shall review the Preliminary Plan for conformance with the *Community Plan*, these Regulations, and other adopted County policies and ordinances and circulate for Review by Referral Agencies as provided in Section 2.2.5.

4.3.3.2 The Preliminary Plan will be scheduled for review in a public hearing at the next available Planning Commission meeting for which public notice can be given as provided in Sections 2.2.2 and 2.2.3.

(1) Applicant shall certify notice as provided in Section 2.2.3, prior to the public hearing.

4.3.3.3 The Planning Commission, at a public hearing, shall review the Preliminary Plan and after considering the comments and recommendations of the agencies specified in Section 2.2.5, testimony of the general public, and impacts on adjoining areas and the county as a whole, from factors such as natural resources, natural hazards, erosion, county services, transportation, education, socio-economic factors, and county needs and benefits, the Planning Commission shall approve, conditionally approve, continue or disapprove the Preliminary Plan.

4.3.3.4 In the event the Planning Commission disapproves a Preliminary Plan, the applicant may appeal to the Board of County Commissioners and present the Preliminary Plan for its disapproval or approval as submitted (before proceeding to prepare a Final Plat).

4.3.3.5 In the event the Planning Commission continues a Preliminary Plan, no public hearing shall continue for more than forty (40) days from the date of commencement without the written consent of the applicant. Any continuation of a public hearing shall be to a date certain.

4.3.3.6 Preliminary Plan approval shall be valid no longer than one (1) year. In the event a Final Plat is not submitted to the Planning Commission within this time, the Preliminary Plan approval becomes null and void and of no further force nor effect. An extension of time may be applied for on the basis of unforeseen circumstances.

(1) The applicant shall, in writing, request an extension citing the specific reasons for such extension and for how long the extension is required.

(2) One written extension of time may be granted by the Planning Commission.

(3) If an extension of time is granted, these Regulations, as may be amended, shall apply.

4.4 FINAL PLAT[5]

4.4.1 Purpose and Intent:

The Final Plat submittal is the last step in the subdivision review process. The Final Plat review will be presented to the Planning Commission for their review and recommendation to the Board of County Commissioners.

4.4.2 Submittal Requirements:

Not more than twelve (12) months after Sketch Plan review or Preliminary Plan approval (and after any such extension time as may have been granted), the applicant shall prepare and submit one complete copy of an updated Archuleta County Land Use Permit application and Final Plat, the non-refundable application fee, and any supplemental data for the proposed subdivision to the Planning Department. The Final Plat application shall comply with the requirements of the Development Standards in Section 5, and shall include:

4.4.2.1 A **Mylar plat map** and PDF, prepared by a Colorado-licensed surveyor at an appropriate scale, with outer dimensions of twenty-four by thirty-six inches (24"x36") as printed and suitable for recording with the County Clerk & Recorder. In the case of multiple sheets, a small key map showing the relationship of the individual sheets shall be shown on each sheet.

(1) Shading shall be provided on land sloping from twenty (20) percent – thirty (30) percent and another form of shading shall be provided for land sloping thirty (30) percent or greater. All information shall be accurate and legible.

(2) Submission of the Mylar original of the Final Plat to the Planning Department may be deferred until approval of the plat by the Board of County Commissioners.

4.4.2.2 The **Final Plat** shall contain the following information and shall be prepared and signed by a registered Colorado land surveyor.

(1) Subdivision name, scale, true north arrow, date of preparation and basis of bearings.

(2) The property owner's name and mailing address.

(3) Legal description of property and the total acreage. This should be part of the dedication statement.

(4) Complete survey data which shall include all information necessary to establish the boundaries in the field; a description of all monuments, both found and set, which mark the boundaries of the property; and a description of all control monuments used in conducting the survey. All monumentation shall be in place prior to final plat submittal to the County Surveyor.

[5] Amendments to Section 4.4, May 2019 (Res. 2019-39)

(5) Subdivision boundary lines; street and other right-of-way lines; easements; property lines of lots, parcels and tracts; showing in all cases accurate distances, bearings, curve radii, central angles and arc lengths.

(6) Street names or easement descriptions and widths of each right-of-way or easement.

(7) A number or other means to identify each lot, parcel or tract, and the area (square feet or acres) of each.

(8) The type of use permitted (other than single family residential) for each lot, parcel or tract.

(9) A vicinity map, drawn at an appropriate scale showing the perimeter outline of the platted area, accesses, abutting subdivisions or ownerships, surrounding section lines, and other relevant information so the subdivision location may be ascertained by persons unfamiliar with the area.

(10) All appropriate plat notes and appropriate shading, such as floodplain information, geological hazard, mineral resources, access information, etc.

(11) The following certifications and dedications shall appear on the Final Plat and shall be substantially in conformance with the format on file with the Planning Department.

- **a.** Dedication and waiver by the applicant.
- **b.** Surveyor's Certification.
- **c.** County Surveyor's Certification.
- **d.** Planning Commission Certification.
- **e.** County Commissioners' Conditional Certification.
- **f.** County Commissioners' Approval to Record Certification.
- **g.** Clerk and Recorders Certification.
- **h.** Lien Holder Certification.[6]

4.4.2.3 The **County Surveyor** shall review all plats for accuracy at the applicant's expense.

(1) Surveyor fees shall be paid to the Planning Department prior to submittal to the County Surveyor and a paid receipt presented to the County Surveyor. The County Surveyor shall have up to fourteen (14) calendar days to review the plat.

(2) The County Surveyor shall review the plat and if any corrections are needed, the applicant shall have the corrections made and two (2) copies of the corrected plat shall be re-submitted to the County Surveyor and two (2) copies to the Planning Department. Re-check fees shall be paid to the Planning Department and a paid receipt presented to the County Surveyor. If corrections are needed, the County Surveyor shall have an additional fourteen (14) calendar days for review from the date the corrected plat is received by the County Surveyor.

[6] Amended Oct.2006 (Res. 2006-29)

4.4.2.4 **Tax Certificate** from the County Treasurer showing that no taxes are currently due or delinquent against the property.

4.4.2.5 A **Title Report** from within three (3) months of the Final Plat submission showing the names of all surface owners, and lien holders in the platted area as the names may appear upon records in the County Clerk and Recorder's Office. The Title Report shall also include all easements of record.

4.4.2.6 Applicant shall identify **mineral estate owners** entitled to notice under CRS §24-65.5-101 *et seq*..

4.4.2.7 Statements from **utility companies** (water, sewer, electric, gas, telephone, etc.), as applicable, concerning the extent to which service can be provided to the subdivision, and at whose expense.

4.4.2.8 The restrictions or protective **covenants** to be recorded controlling the use of land and activities in the subdivision, if applicable.

4.4.2.9 In the **Airport Overlay (AO) District**, a copy of the avigation easement to be recorded for said land, within an airport influence area. The avigation easement shall be substantially in conformance with the format on file with the Planning Department.

4.4.2.10 **Subdivision Summary Form** appropriately filled out. The Subdivision Summary Form is available from the Planning Department.

4.4.2.11 When a proposed road will intersect with a **state or federal highway**, a copy of the applicable access permit issued by the Colorado Department of Transportation.

4.4.2.12 Assurance that there will be **all-weather access** to the subdivision via public roads, conforming to county standards, from existing county or state roads and that maintenance, including snow removal, is assured for said access roads.

4.4.2.13 For Major Subdivisions, the applicant shall submit two (2) complete sets of **Design and Construction drawings** prepared by a professional engineer licensed in the State of Colorado. These Construction Drawings shall include roadway/utility plan and profiles, roadway/utility cross-sections, a drainage plan, and other details necessary for construction, at a scale no smaller than one inch equals forty feet (1" = 40'), unless otherwise approved by the County Engineer. These Design and Construction drawings will also be presented to area utility companies by the applicant. All utility companies, the County Road and Bridge Department, and the Planning Department shall approve the Construction Drawings prior to recommending Final Plat Conditional approval to the Planning Commission and to the Board of County Commissioners.

(1) Construction Drawings shall be prepared on a twenty-four by thirty-six inch (24"x36") plan and profile sheets at a minimum horizontal scale of one inch equals forty feet (1" = 40'), with a vertical scale of one inch equals five feet (1" = 5'). Other scales and sheet sizes may be considered, as determined by the County

Engineer. Each drawing shall include a title block showing the project identity, scale and date, name and title of designer; and shall include north arrow, legend and general notes.

(2) Roadway design shall be prepared on plan and profile drawings. The plan view of the roadway is to be shown by centerline stationing with curve control points being identified by stationing. The curve radii, delta angles and bearings of tangents shall be shown when required by the County Engineer. All road elements such as curbs, gutters, utilities, easements and road rights-of-way shall be shown. All County roads by number and proposed roads by name shall be identified.

The profile shall depict vertical alignment for existing and proposed roads and storm sewers by stationing and grade. The plan and profile of any given road shall be depicted on the same sheet. The cross culvert locations shall be shown by stationing and skew angle. The design specifications and standards in these regulations shall be followed.

(3) Major intersections will be defined by the County Engineer. Major intersection design will require details to be shown at a scale of one inch equals twenty feet (1" = 20'), on a twenty-four by thirty-six inch (24"x36") plan-drawing sheet. The configuration and channelization shall be shown in detail to include elevations of the roadway surface, curbs, and gutters; striping and paving; and signalization, when required by the County Engineer.

(4) Unless waived by the County Engineer, a professional engineer licensed in the State of Colorado will conduct a drainage study of the area to be developed and adjacent areas that affect the development.

- **a.** The drainage study shall be shown at a scale to correlate with the roadway drawings scale, and shall be shown on a separate twenty-four by thirty-six inch (24"x36") plan drawing sheet.
- **b.** The drawing shall include contours of existing conditions and of developed conditions. The topography shall depict flow paths of storm waters. Contour intervals shall be at two-foot (2') intervals for up to twenty (20) percent terrain slopes and ten (10) foot intervals for terrain slopes greater than twenty (20) percent. At an appropriate scale, depict also the outlines of the sub and major drainage basin flows to and within the proposed development. Runoff control measures such as detention basins shall be shown.
- **c.** Describe the effect of offsite flows on the development and how they are affected by the development. Describe the control measures, which will be necessary for their proper conveyance.
- **d.** Define the system that will convey the historic and developed onsite flows throughout the development and how they will be dispersed off-site.

(5) Construction details of proposed roadway and drainage structures shall be shown at a scale of one inch equals twenty feet (1" = 20') or of one inch equals ten feet (1" = 10'), whichever is appropriate, on a separate twenty-four by thirty-six inch (24"x36") plan-drawing sheet. The sheet shall be identified by a title block to

include all pertinent information. The details may be additionally presented on an eight and a half by eleven inch (8 ½"x11") paper to be included in the construction specifications report. The drawings shall depict construction details of items such as erosion protection at entrances and exits of culverts, drop inlets (when required), detention pond facilities, final roadway template showing structural data, channel cross sections, and other structures pertinent to construction.

4.4.2.14 In areas subject to **Natural or Manmade Hazards**, identified by Sketch Plan and/or Preliminary Plan review:

(1) In areas subject to flooding, including the Flood Hazard Overlay District, any Special Flood Hazard Areas indicated and Base Flood Elevations shaded and noted on the Final Plat, as required by Section 10 of these regulations.

(2) Geologic or Radiation hazard mitigation plan, when required as a result of Preliminary Plan review, and noted on the Final Plat.

(3) Wildfire control plan, when required by the Fire Marshall during Sketch Plan or Preliminary Plan review, and noted on the Final Plat.

4.4.2.15 Fire Protection Plan reviewed by the Fire Marshall of the Fire Protection District or other qualified individual, if required.

4.4.2.16 Appropriate deeds or arrangements covering **land for public purposes** or money in lieu thereof.

4.4.3 Review Procedure:

4.4.3.1 The Planning Department shall review the Final Plat for conformance with the Community Plan, these Regulations, and other adopted County policies and ordinances and circulate for Review to any Referral Agencies which made comments on Sketch Plan or Preliminary Plan Review.

4.4.3.2 The Final Plat will be reviewed at the next available Planning Commission meeting which occurs at least twenty-one (21) days after receipt of a complete application (as provided in Table 1).

4.4.3.3 At the scheduled meeting the Planning Commission shall review the proposed Final Plat and, taking into consideration all pertinent factors including, but not limited to, impact on natural resources, transportation, education, socio-economic factors, county services, county needs and benefits; and general health, safety and welfare implications; shall thence recommend to disapprove or approve, as submitted, the proposed subdivision.

4.4.3.4 Upon the Planning Commission recommendation of the Final Plat, the application will be scheduled for review in a public hearing at the next available Board of County Commissioners meeting for which public notice can be given as provided in Section 2.2.2 and 2.2.3.

(1) The Board of County Commissioners meeting may be scheduled for concurrent notice with the Planning Commission meeting, at the Applicant's risk that continuance or re-scheduling may require updating that notice.

(2) Applicant shall certify notice as provided in Section 2.2.3, prior to the public hearing.

4.4.3.5 No plat for any land division shall be approved by the Board of County Commissioners unless at the time of the approval of platting the Subdivider provides certification of the County Treasurer's office that all ad-valorem taxes applicable to such subdivided land are current and there are no delinquent taxes.

4.4.3.6 The Board of County Commissioners, at a public hearing with notice as provided in Table 2, shall review the subdivision proposal and after considering testimony from any interested parties and the applicant, and the Planning Commission recommendations, shall conditionally approve or disapprove the Final Plat.

(1) Conditional approval shall include specific arrangements for providing any land for public purposes or money in lieu thereof required by Section 6 Dedications, and an improvements agreement to be executed with an exhibit listing all required improvements.

(2) Conditional approval shall be evidenced by signing the County Commissioners' Conditional Certification on the Final Plat.

(3) No site preparation for any proposed subdivision shall commence until the County Commissioners' signing of the Conditional Certification on the Final Plat and Applicant has completed a pre-construction meeting with the Development Director and the County Engineer or designee(s).

(4) The Final Plat approval assures the applicant that upon satisfactory completion of the listed improvements and completion of the arrangements for land or money for public purposes, the Final Plat will be accepted for recording.

4.4.3.7 Final Plat Approval: Upon conditional approval by the Board of County Commissioners, the Mylar original of the Final Plat shall immediately be returned to the Planning Department to be held until the required public improvements have been complete to the satisfaction of the County Engineer and the Development Director.

(1) No alterations of any kind shall be made to the Final Plat after approval by the Board of County Commissioners.

(2) When no improvements are required, Applicants shall have one (1) year to request final approval and recording of the Final Plat Mylar.

(3) Upon completion of all required improvements, and of arrangements for land or money for public purposes, and within a two (2) year time limit, the applicant shall

notify the Planning Department and request final approval and recording of the Final Plat.

4.4.3.8 The Board of County Commissioners, after ascertaining satisfactory completion of the required improvements and of the arrangements for land or money for public purposes, may give final approval of the Final Plat for recording. This shall be evidenced by signing the Approval to Record Certification on the Final Plat and accept a warranty bond or other assurance.

(1) The final approval shall be evidenced by signing the Approval to Record Certification on the Final Plat and release of the Performance bonding obligation.

(2) The warranty bond or other assurance shall be for any engineering or construction defects or inadequacies that appear in the completed improvements within two years from the date of final approval. Such bond or other assurance shall be an amount recommended by the Archuleta County Engineer and approved by the Board of County Commissioners.

4.4.3.9 The Planning Department shall then have recorded, without undue delay, the Final Plat and any appropriate supplemental instruments such as covenants, avigation easements, etc.

4.4.3.10 The Board of County Commissioners may withdraw approval of a plat if and when it is determined that information provided by the applicant, upon which such approval was based, is false or inaccurate. The Board of County Commissioners may also withdraw approval if the applicant fails to complete the required improvements within the allotted time period.

4.5 RURAL LAND USE PROCESS SUBDIVISION

4.5.1 Purpose and Intent:

The purpose and intent of the Rural Land Use Process Subdivision is to:

4.5.1.1 Recognize the current thirty-five (35) acre exemption law and implement the provisions of Section 30-28-401, *et seq*., C.R.S., and amendments to Section 37-92-601, C.R.S.

4.5.1.2 Preserve and protect land such as agricultural land, open lands, parks and trails, as well as distinct landscapes, forest land, ecosystems, watersheds, ridge lines, wildlife, wetlands, hazardous areas, scenic view corridors, and historic and archeological sites, and to encourage development that respects these areas.

4.5.1.3 Encourage development that fosters continued agricultural land uses and protects the County's rural character, open space, and the character of existing communities while recognizing current land use regulations.

4.5.1.4 Implement "Community Character and Cultural Traditions" policies from the *Community Plan* that call for incentives encouraging "genuine" farming and ranching operations and preservation of agricultural lands.

4.5.1.5 Implement "Land Use and Growth Management" policies from the Community Plan.

4.5.1.6 Develop new methods that, with incentives, encourage the retention of agricultural and forest land as productive resources.

4.5.1.7 Give priority consideration for protection to parcels containing areas designated as critical wildlife habitat areas through the use of incentives and to conclude this process and negotiations in a timely manner consistent with other thirty-five (35) acre developments.

4.5.1.8 Assist in larger parcel planning.

4.5.1.9 Facilitate cooperation among neighboring landowners to create a single proposal for clustering on one property or a combination with appropriate economic incentives to each.

4.5.1.10 Provide flexibility in land use regulations responding to the needs of the agricultural community (i.e., additional family dwelling units, migrant farm housing, caretaker/foreman quarters, guest housing, etc.).

4.5.2 Applicability:

A RLUP Subdivision may be used for any land in Archuleta County that involves a single parcel, or two (2) or more contiguous parcels, at least seventy (70) acres in size and meeting the criteria of this Section. [7]

4.5.3 Submittal Requirements:

In lieu of the submittal requirements typically required for a Major or Minor Subdivision, the applicant for a RLUP Subdivision shall submit one complete copy of an Archuleta County Land Use Permit application, the application fee, and any supplemental data for the proposed subdivision to the Planning Department, as determined by Sketch Plan Review. [8]

4.5.3.1 Vicinity Map. A map that identifies the general location and boundaries of the parcel to be subdivided, together with identification of the uses of all lands adjacent to the parcel.

4.5.3.2 Site Plan. A site plan that includes the following information:

(1) Boundary lines, corner pins, dimensions and other land survey information; dimensions of the parcel to be exempted.

[7] Amended May 2019 (Res. 2019-39)
[8] Amended May 2019 (Res. 2019-39)

(2) Existing and proposed topography at contours at vertical intervals suitable to demonstrate the drainage and grading features.

(3) Location of wells and septic systems.

(4) General location of roadways, easements; rights-of-way, both existing and proposed.

(5) Description of natural features such as ridges, wildlife corridors, waterways and wetlands, soils, vegetative cover and other features that would, in the opinion of the County, influence development.

4.5.3.3 RLUP Subdivision Plat: A plat suitable for recording, that includes the following information:

(1) All boundary survey control points with monument descriptions to create blocks, lots, rights-of-ways and easements.

(2) Purpose, width and location of all easements.

(3) Location of all lots and blocks with accurate dimensions.

(4) Location, identification and dimensions of roads, driveways and trials.

(5) Location and dimensions of open space parcels and preserved areas.

(6) Location of utilities.

4.5.3.4 Development Report:

(1) The existing environmental conditions on the parcel to be developed and the effects of the development on those conditions.

(2) The design and engineering of any septic or sewer system, including provisions for on-going operation and maintenance.

(3) A description of the conservation values to be preserved and the means to preserve those values for the two-thirds (2/3) of the area of the parcel that will remain undeveloped as open space, pasture or grazing lands, parkland, wildlife habitat or other conservation uses acceptable to the County. Examples of means to preserve the property include, without limitation, creation of a conservation easement, conveyance of land to a land trust, conveyance to home owners association.

(4) A description of the proposed water supply.

4.5.4 Review Procedure:

4.5.4.1 The review procedure for a RLUP Subdivision shall be in accordance with the Major Subdivision process. The Major Subdivision review process includes Sketch Plan, Preliminary Plan and Final Plat review, in accordance with the procedures in Section 4.2, Section 4.3, and Section 4.4.

4.5.4.2 No later than ten (10) days after approval, the Board of County Commissioners shall notify the state engineer of such approval and shall provide the state engineer with a copy of the approved RLUP.

4.5.5 Review Criteria:

The Planning Commission and Board of County Commissioners shall be guided by the following criteria in reviewing RLUP Subdivision applications: [9]

4.5.5.1 That the application meets all of the minimum requirements of this Section.

4.5.5.2 That the application fulfills the goals of the County to preserve open space and scenic corridors, protect wildlife habitat and watersheds, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.

4.5.5.3 That at least two thirds (2/3) of the total area of the tract is reserved for the preservation of contiguous open space.

4.5.5.4 That the application reduces the extension of roads and utilities to serve the proposed development.

4.5.5.5 That the proposed development will not exceed two (2) dwelling units for each thirty-five (35) acre increment, before Incentives in Section 4.5.6.

4.5.5.6 That the application permits landowners to implement smart growth on land that is otherwise exempt from subdivision regulation.

4.5.5.7 That approval of the application would preserve existing agricultural uses.

4.5.5.8 That approval of the application would protect existing view sheds of benefit to present and future residents and visitors to the County.

4.5.5.9 That a water-court approved plan for augmentation shall be required and shall accompany any approved RLUP Subdivision when water usage in the development would exceed an annual withdrawal rate of one (1) acre-foot for each thirty-five (35) acres within the development, provided, however, that this requirement shall not apply in the event the development will be served by the use of treated domestic water provided by any public or private entity.

[9] Amended May 2019 (Res. 2019-39)

4.5.6 Permitted Incentives for Approval of RLUP Subdivisions:

The Planning Commission may recommend, and the Board of County Commissioners may consider, the following incentives which may be granted in connection with approval of the RLUP Subdivision application:

4.5.6.1 Density bonuses, not to exceed a gross density of one (1) dwelling unit per seventeen and one half (17.5) acres.

4.5.6.2 The density bonus permitted hereby may be used for construction of additional family dwelling units, migrant farm housing, caretaker/foreman quarters, and guest housing at a higher density than permitted by underlying zoning.

4.5.6.3 Qualification of preserved scenic corridors and wildlife habitat areas as a Sending Site to the extent permitted by the County through the Transfer of Development Rights program in Section 2.6 of these Regulations.

4.5.7 Conditions:

In exchange for the permitted incentives in Section 4.5.6, any of the following conditions may be imposed by the Board of County Commissioners upon the approval of a RLUP Subdivision:

4.5.7.1 That the RLUP Subdivision set aside land for open space, scenic corridors, watershed protections, wildlife habitat, or critical areas of importance as identified in Section 4.5.1.2, in a conservation easement held by a qualified land trust.

4.5.7.2 That the RLUP Subdivision shall not permit development of any preserved land set aside in either a perpetual conservation easement or a conservation easement for at least forty (40) years. In the event a non-perpetual conservation easement of forty (40) years or more is used to preserve land, the RLUP shall stipulate a "first right of refusal" allowing the County and/or a qualified land trust the option to purchase, at prevailing market value, the development rights available at the conclusion of the term of the non-perpetual conservation easement.

4.6 AMENDMENTS[10]

4.6.1 Purpose and Intent:

Amendment of a Subdivision plat previously approved by the Board of County Commissioners provides property owners the opportunity to combine lots; reconfigure lots, tracts and rights-of-way; change conditions of approval and notes on the face of a plat; or generally address any inadequacies in the original plat. Amendment of an existing plat requires review and evaluation to ensure conformance with the *Community Plan*, the Land Use Regulations, any other County regulations and ordinances, and State Statutes.

[10] Amendments to Section 4.6, May 2019 (Res. 2019-39)

4.6.2 Applicability:

4.6.2.1 Amendments to a recorded plat shall typically be accomplished by re-plat (including re-subdividing, minor boundary adjustments, single transaction large lot subdivision, or any other changes to a recorded plat) prepared by a Colorado-licensed surveyor. The Review process may include Sketch Plan, Preliminary Plan, and/or Final Plat as provided in Section 4.6.4.3 and determined by the Development Director.

4.6.2.2 Amendments to a recorded plat, for the purpose of minor corrections, may be completed as a Correction Plat as provided in Section 4.6.4 below.

4.6.2.3 Amending a plat does not change any covenants or restrictions previously recorded pertaining to the subdivision since they run with the land and can be changed only with the written approval of all parties having a legal or equitable interest in the whole subdivision.

4.6.2.4 All platted utility easements shall remain on the subject property unless appropriate releases are obtained. Additional easements, including drainage easements, may be needed when re-subdividing or amending a plat.

4.6.2.5 All plat amendments shall comply with these Regulations.

4.6.3 Submittal Requirements:

The applicant shall submit one complete copy of an Archuleta County Land Use Permit application for the appropriate review process required by Section 4.6.4.3 and as determined at the Pre-Application Conference, the non-refundable application fee, and any required supplemental data for the proposed subdivision amendment to the Planning Department. The application shall include:

4.6.3.1 A written statement giving the details of the proposed plat amendments and the reasons why they are necessary.

4.6.3.2 The appropriate plans and plats for review required by Sections 4.2, 4.3, and 4.4, as determined at Pre-Application.

4.6.3.3 An original Tax Certificate(s) for all lots, parcels and/or tracts involved from the County Treasurer showing that no taxes are currently due or delinquent against the property.

4.6.3.4 An original Title Report done within three (3) months of submission from a licensed Colorado Title Company shall be provided showing the names of all surface owners, and lien holders. An Owners & Encumbrance Report or Mortgage Guarantee Report may be sufficient for an Amended Plat at the Development Director's discretion.

(1) A Title Report including mineral owners and lessees of mineral rights may be required.

4.6.3.5 Any supplemental data, as required by the Planning Department, which is deemed necessary to adequately review the request.

4.6.3.6 In addition, the following information may be needed, if there is no past history on file or information is not adequate, to assist in making a determination as to whether the plat amendment is feasible: topography, geology, soils, drainage, floodplain, hazards, roads, etc.

4.6.3.7 All of the costs of amending a plat including, but not confined to notification, plat preparation, surveying, recording, etc., shall be paid by the applicant.

4.6.4 Review Procedure and Criteria for Approval:

4.6.4.1 The Planning Department shall review the Amended Plat for conformance with the Community Plan, these Regulations, and other adopted County policies and ordinances and circulate for Review by Referral Agencies as provided in Section 2.2.5.

4.6.4.2 The County Surveyor shall review the Amended Plat for accuracy, prior to review by the Planning Commission, at the applicant's expense. Surveyor fees shall be paid to the Planning Department prior to submittal to the County Surveyor and a paid receipt presented to the County Surveyor. The County Surveyor shall have up to fourteen (14) calendar days to review the plat.

(1) If any corrections are needed, the applicant shall have the corrections made and two (2) copies of the corrected plat shall be re-submitted to the County Surveyor**,** and two (2) copies to the Planning Department. Re-check fees shall be paid to the Planning Department and a paid receipt presented to the County Surveyor. If corrections are needed, the County Surveyor shall have an additional fourteen (14) calendar days for review from the date the corrected plat is received by the County Surveyor.

4.6.4.3 Amendments to a recorded plat may need to go through one or more steps of the subdivision review process including Sketch Plan, Preliminary Plan and Final Plat review, as determined by the Development Director after the Pre-Application Conference (Table 1).

(1) Correction Plat. If it is discovered that there is a minor survey or drafting error on a recorded plat, the applicant shall be required to submit an Amended Plat application indicating the revisions made as compared to the previously recorded plat. Such a correction plat may be approved by the County Commissioners without the otherwise required review or hearing procedures if the corrections are consistent with the approved Final Plat; and after such approval, it shall be recorded.

a. If, however, correction of an error results in conditions which do not comply with these Regulations or results in changes affecting parties other than the applicant, the Amended Plat shall then be reviewed by the Planning Commission in accord with the procedures for Final Plat processing before the County Commissioners review or recording.

(2) Minor Lot Line Adjustment: As defined by these regulations, an MLLA may be reviewed by the Planning Commission and Board of County Commissioners at public meetings, rather than requiring public hearings and without the benefit of Sketch Plan Review (Table 1).

a. Reducing 3 lots to 2 lots, eliminating an established lot in the process, may be accomplished by Minor Lot Line Adjustment.

b. All criteria of these regulations must be met, and:

1. No new lots or parcels are created;
2. The resulting lots or parcels are comparable to the size and character of lots or parcels within that subdivision;
3. No lot or parcel is rendered non-conforming, and any existing non-conforming lot or parcel is not rendered more non-conforming;
4. There shall be no significant effect to the adjoining property due to the boundary adjustment.

(3) Lot Consolidation: Consolidation of legal lots in an approved Subdivision may be accomplished by Resolution, and reversal of a Consolidation by Resolution, as provided in Section 4.7.

4.6.4.4 If the Amended Plat is approved by the Board of County Commissioners, the applicant must complete all conditions and pay all fees, and record the Amended Plat no later than twelve (12) months from the date of the County Commissioners approval, or the Amended Plat becomes null and void. [11]

(1) All back fees, including but not limited to, property owners fees, water and/or sewer district fees, or metro district fees, that were voided or reduced as a result of an Amended Plat shall be paid in full when required, before the plat is recorded.

(2) It is the responsibility of the applicant to submit to the Planning Department from each entity, either a paid receipt or a written document stating no back fees are due.

4.6.5 Amending a Plat for Right-of-Way and Easement Vacations[12]

The purpose of this section is to provide for the vacation of rights-of-way and easements for roads, utilities, or other purposes, created by a Subdivision Plat, and that no longer serve the public. The process may be applied for by a property owner, or initiated by the County via resolution. Vacation of road rights-of-way and access easements not created by plat (typically by deed or resolution) may be accomplished by Board resolution and shall follow procedures in the *Archuleta County Road & Bridge Design Standards* and C.R.S. §43-2-301 et seq.

[11] Amended May 2013 (Res. 2013-22) Deleted former sections 4.6.4.3(3)-(5) and amended 4.6.4.4; Amended May 2019 (Res. 2019-39)
[12] Amended March 2012 (Res. 2012-15) Entire section added. Amended May 2019 (Res. 2019-39)

4.6.5.1 Application: The applicant shall submit one complete copy of an Archuleta County Land Use Permit application, application fee, and a written statement of details and the reasoning behind the vacation.

(1) A plat map (vacation plat) and PDF prepared by a Colorado-licensed surveyor shall be submitted, at appropriate scale showing ownership, acreage and vesting of property in compliance with C.R.S. §43-2-302.

4.6.5.2 Review Procedure: All applications for right-of-way or access or utility easement vacations shall follow the Review Procedure as described in Section 2.2 and 4.6.4 herein, except as required by C.R.S. §43-2-303. The County Engineer shall review all applications for right-of-way and access easement vacations for conformance with the *Archuleta County Road & Bridge Design Standards*.

(1) Notices other than those required in Section 2.2.3 are required only when a subject roadway has been established for use as such; in this case, the notice must follow C.R.S. §43-2-302(2)(b).

4.6.5.3 Review Criteria: A public right-of-way or easement of record, or any portion thereof, which the County has jurisdiction over, shall be eligible for vacation if the following criteria are met:

(1) Approval of the vacation request will not leave any land adjoining the right-of-way without an established public road or private access easement connecting the land with another established public road, or without utility or drainage services;

(2) That the vacation will provide a public benefit, and/or will be for a public purpose. When necessary, the County may reserve an easement in the right-of-way for existing or planned utilities, or for drainage. Any easement shall be recorded with the County Clerk at the expense of the petitioner.

(3) The recommendations of referral agencies have been considered.

4.6.5.4 Vesting of Vacated Property: Any right-of-way that is vacated will be divided proportionally among the affected lots, unless it can be demonstrated the entirety of the right-of-way was originally taken from one parcel. In that case, the right-of-way will be returned to that parcel.

(1) Property owners on each side of the right-of-way are allowed to divide the vacated right-of-way differently but may transfer ownership only after final approval and recordation of the vacation.

4.7 LOT CONSOLIDATIONS AND UN-CONSOLIDATIONS[13]

4.7.1 Purpose and Intent:

A Subdivision plat of record may be amended by resolution of the Archuleta Board of County Commissioners to consolidate two or more *abutting* (bordering) legal lots into one legal lot of record. The resolution eliminates the interior lot lines but has no effect by itself on recorded easements. A lot consolidation by Resolution may be reversed by Resolution when certain criteria can be met. Reversal of any consolidation of legal lots may also be considered by Amended Plat, according to the procedures outlined in Section 4.6 above.

4.7.1.1 Consolidation of lots on a subdivision plat may be considered when:

(1) All lots are in the same block, unit, or phase of a platted subdivision;

(2) All lots are in the same zoning district;

(3) All lots are in the same taxing districts;

(4) Vested ownership in all lots is the same; the title in which they are held is the same (names on the deeds are the same) and must held the same (for example, single ownership, joint tenants, tenants in common, or in trust).

4.7.1.2 Reversal of a lot consolidation, or un-consolidation, may be considered when:

(1) Un-consolidation by resolution will only be allowed once per 3-year period.

(2) A Resolution shall have the effect of undoing the most recent Resolution, and the consolidated lots shall be returned to a pre-consolidation boundary configuration. The original and all applicable subsequent plat name(s) and recording number(s) shall be referenced in the Resolution.

(3) A resolution to reverse a consolidation may result in no more than three (3) lots.

(4) If any improvements encroach on property lines or current setbacks, then un-consolidation shall only be considered by Plat Amendment under Sec. 4.6.

4.7.1.3 A Pre-Application Conference is required prior to application, as provided by Section 2.2.4.1.

4.7.2 Submittal Requirements:

The Applicant shall submit one complete copy of an Archuleta County Land Use Permit application, non-refundable application fee, and supporting material as determined at the Pre-Application Conference (Section 2.2.4.1).

[13] Amendments to Section 4.7, Deleted Subdivision Exemption Plat provisions and moved to Section 4.9, replaced with previous Section 4.9 and 4.10 for Lot Consolidations & Reversal and amended, May 2019 (Res. 2019-39).

4.7.2.1 Applications for lot consolidation or reversing consolidation shall provide:

(1) An Ownership and Encumbrance (O&E) or Mortgage Guarantee report from a licensed Colorado title company, not more than three months old. Such document shall evidence the following for each lot described individually:

a. The report shall describe exact names of all owners, for all lots to be consolidated or unconsolidated. Properties shall be vested identically (names by vary only as allowed in accordance with C.R.S. §38-35-116).

b. All lots are titled identically, whether joint tenancy or tenants in common.

c. All liens (or specifically state there are no lien holders). Any and all lien holders will be required to complete the "Lien Holder Consent to Consolidate Lots" form as part of the application submittal.

d. Property description including legal descriptions and reception numbers for related resolutions or plats and other historical information.

(2) Original notarized signature(s) of lien holders as shown on the O&E or Mortgage Guarantee Report, giving their approval of the lot consolidation, is required and shall be included with the submittal. A sample form is available from the Planning Department.

(3) A copy of a tax receipt or other written proof showing that no taxes are currently due or delinquent against the lot(s) involved. The tax receipt or other written proof must also show that the lots are in the same tax district.

(4) Notice of Intent, as detailed in Section 4.7.2.3 below.

(5) Any supplemental data identified by the Planning Staff at the Pre-Application Conference, which is deemed necessary to adequately review the request. Incomplete submissions will not be considered.

4.7.2.2 When Reversing a Lot Consolidation if there are any improvements located on the consolidated lot, Applicant shall also provide an Improvement Location Certificate from a licensed Colorado surveyor.

4.7.2.3 Applicant shall provide Notice of Intent to apply for Lot Consolidation or Reversing a Consolidation, with their application.

(1) Upon completion of the Pre-Application Conference and confirmation by Applicant of their intent to apply for Lot Consolidation or Un-consolidation, Planning Staff shall cause to be prepared Notification which shall include the following:

a. A description of the proposed consolidation;

b. A vicinity map showing the lots which are being consolidated and nearby roads or other identifying landmarks (the County GIS website may be used);

c. An invitation to comment on the application;

d. The address and telephone number for the Planning Department; and

e. The date when responses must be received by the Planning Department (no sooner than thirty days from the date sent).

(2) The Notification shall be sent shall be sent via Certificates of Mailing to:

a. All utility companies, applicable property owner's association(s) and special districts.

b. When Reversing a Lot Consolidation, Notification shall also be mailed to all adjacent property owners at the address shown in the Assessor's records.

c. The original Certificate of Mailing receipts shall be submitted to the Planning Department

(3) Planning Staff will schedule consideration of an application by the Board of County Commissioners no sooner than 30-days after the post mark on the Certificate of Mailing receipts.

4.7.3 Effects on Platted Easements

Consolidating or Un-consolidating lots does not change any of the previously recorded, platted utility easements and they shall remain as platted on the subject property. Easements where utilities are physically present should remain, unless those utility lines are relocated at the Applicant's expense.

4.7.3.1 As an alternate to the process in Section 4.6.5 above, Applicant may make a written request to all utility companies actively serving Archuleta County, to vacate utility easements along the interior lot lines (typically side yard but may be rear yard) to be abandoned.

4.7.3.2 If a lot consolidation is requested because of plans to build over the interior lot lines, Applicants shall check with utility companies before proceeding with the lot consolidation, to ensure that all utility companies will abandon the easements.

(1) To have utility easements abandoned along the interior lot lines, Applicants must obtain written releases (such as Quit Claim Deeds) from each utility company serving Archuleta County, after approval of the lot consolidation by Archuleta County.

(2) Written releases must be recorded in the County Clerk and Recorder's Office, at the Applicant's expense, after the Archuleta Board of County Commissioners has passed a Resolution approving Applicant's request to Consolidate said lots.

4.7.3.3 When Reversing a Lot Consolidation, in the event that utility easements as dedicated on the original recorded plat have been vacated, easements as required under the current Regulations at the time of application must be granted and conveyed to each utility company which previously vacated such easement.

(1) Applicant shall prepare and submit a grant of easement by deed or other legal instrument for review by Planning Staff.

(2) After approval of the Resolution, these documents shall be recorded in the office of the Archuleta County Clerk and Recorder at the Applicant's expense.

4.7.4 Review Process and Criteria for Approval

Once an application for Lot Consolidation or Un-Consolidation is submitted (including all notice requirements), Planning Staff will review the request within seven (7) days of a complete application, and inform the Applicant of any deficiencies.

4.7.4.1 Upon completion of the 30-day period for the Notice of Intent (Section 4.7.2.3), Planning Staff shall submit a Resolution of Approval for consideration at the next public meeting of the Board of County Commissioners.

4.7.4.2 The Board shall consider any written comments if received during the Notice period.

4.7.4.3 Applicants shall be aware they may be liable for fees to property owners' associations, water and sanitation districts, and metropolitan districts.

(1) When Reversing a Lot Consolidation, the return of such consolidated lots to their original platted configuration may result in an increase in property taxes for any lot remaining vacant.

4.8 VACATION OF A RECORDED SUBDIVISION

4.8.1 Purpose and Intent:

The vacation of a recorded subdivision requires review and evaluation so that the effects on surrounding properties and Archuleta County at large can be evaluated. The vacation of a recorded subdivision may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the vacation of a recorded subdivision is in accordance with the development objectives of the County (per the Archuleta County Community Plan) and will not be detrimental to other uses or properties.

4.8.2 Submittal Requirements:

The applicant shall submit seventeen (17) copies of the Petition for Vacation application, the non-refundable application fee, and any required supplemental data for the Application for Vacation to the Planning Department. The application shall include:

4.8.2.1 A title report completed within the past three (3) months by a licensed Colorado Title Company showing the names of all surface owners and lien holders as the names may appear upon records in the County Clerk and Recorder's Office.

4.8.2.2 A statement of approval by signature notarized by a Notary Public of one hundred (100) percent of all owners, equitable and legal lien holders of the property making up the recorded subdivision. Said statement of approval by record Owner and lien holders shall be in a form approved by the Planning Department.

4.8.2.3 A Tax Certificate from the County Treasurer showing that no taxes are currently owed and/or delinquent against the property to be vacated.

(1) As a prerequisite to the vacation of the recorded subdivision the applicant shall pay and provide evidence of payment of the pro-rated taxes on the property to be vacated as of the date of vacation of the property in question.

4.8.2.4 Evidence that all holders of easements crossing the subdivision property have legally conveyed the originally conveyed easements back to the applicant.

(1) It shall be an express condition of the approval to a vacation of a recorded subdivision that the holder of the benefit of any easement granted by the platting of a recorded subdivision convey to the applicant their interest in the easement.

(2) A Petition for Vacation of any previously subdivided property shall not be approved where vacation of the subdivision eliminates rights-of-way or easements within the subdivision servicing or potentially servicing adjoining property.

(3) At the discretion of the Board of County Commissioners, if alternate means of access or easements crossing the subject property can be facilitated to service adjoining properties, the County may allow such alternatives in granting the Petition for Vacation of the subject properties. Except at the discretion of the Board of County Commissioners an easement may not be eliminated.

4.8.3 Review Procedure:

4.8.3.1 The Planning Department shall review the Petition for Vacation for conformance with the Community Plan, these Regulations, and other adopted County policies and ordinances. Following Staff review, the Petition for Vacation shall be scheduled for consideration by the Planning Commission.

4.8.3.2 At the scheduled meeting, the Planning Commission shall review the Petition for Vacation and take into consideration all pertinent factors.

4.8.3.3 Upon recommendation of approval of the Petition for Vacation, it shall be held by the Planning Department for presentation to the Board of County Commissioners.

4.8.3.4 The Board of County Commissioners, at a public hearing, shall review the Petition for Vacation and after considering testimony from any interested parties and the applicant, and the Planning Commission recommendation, shall approve or disapprove the Petition for Vacation.

4.8.3.5 If approved, the Planning Department shall then have recorded, without undue delay, the vacation plat and any appropriate supplemental instruments.

4.8.3.6 The cost of recording the vacation plat and the cost of recording supplemental instruments shall be paid by the applicant.

4.9 SUBDIVISION EXEMPTION

The Board of County Commissioners may exempt a division of land from the definition of Subdivision in C.R.S. §30-28-101 and in these Regulations, if the Board can determine that such division is not intended to evade the purposes of this Section 4 and C.R.S. Article 28 Part 1.[14]

4.9.1 Purpose and Intent:

Exemption from Subdivision Review by the Board of County Commissioners may be appropriate in very limited circumstances. Among these is for the benefit of the traditional ranching/farming family to allow more than one family to remain living on the property to assist with the operation of the farm and ranch. However, State Law does allow the Board of County Commissioners the option to consider exceptions for other extraneous circumstances unrelated to the traditional ranching family conditions.

4.9.2 Submittal Requirements:

The applicant shall submit one complete copy of an Archuleta County Land Use Permit application, non-refundable application fee, and supporting material as determined at the Pre-Application Conference (Section 2.2.4.1). Certain data may be waived by the Development (Planning) Director.

4.9.2.1 Exemption plat and PDF prepared by a Colorado-licensed surveyor shall be submitted, at appropriate scale showing ownership and acreage.

4.9.2.2 Written description of the request and how the proposal meets Criteria for Approval.

4.9.2.3 Copies of well permits and Onsite Wastewater Treatment Systems (OWTS) permits, for any wells or septic systems on the parcel.

4.9.2.4 Title Report from within three (3) months of application showing the names of all surface owners and lien holders as the names may appear upon records in the County Clerk and Recorder's Office. The Title Report shall include all easements of record.

4.9.3 Review Procedure:

The Development Director shall refer the application for review as provided in Section 2.2.5.

4.9.3.1 The Planning Department shall schedule the application for a Public Hearing at the next available Board of County Commissioners meeting for which public notice can be given as provided in Section 2.2.2 and 2.2.3.

(1) Notice shall be provided as required by Table 2. Notice to Mineral Estate Owners and Lessees may also be required by State law.

[14] Section 4.9 originally Amended May 2013 (Res. 2013-23), entire Section replaced. Amended May 2019 (Res. 2019-39) previous Section 4.9 combined with Section 4.10 and moved to Section 4.7; previous Section 4.7 moved to Section 4.9 and amended.

4.9.4 Criteria for Approval:

The Board of County Commissioners must be able to find that the proposed division of land is not proposed to evade requirements of Section 4 of the *Archuleta County Land Use Regulations* and C.R.S. §30-28-101 *et. seq*. Also:

4.9.4.1 Access from public roads shall remain the same;

4.9.4.2 There shall be no more than one home on a divided tract, or two homes remaining on the original tract;

4.9.4.3 For divisions of land benefiting a traditional ranching/farming family, the minimum lot size in the Agricultural/Ranching (AR) zoning district of 35 acres (Table 4) may be waived once, through this Exemption process.

4.9.4.4 Additional deed restrictions may apply.

4.10 APPLICATION FOR LEGAL LOT STATUS TO RESOLVE IMPROPERLY DIVIDED PARCELS[15]

4.10.1 Purpose and Intent

To provide for an orderly manner of memorializing Improperly Divided Parcels of real property less than 35 acres in size and situated in Archuleta County, Colorado. This will allow property owners of those parcels to develop the land or receive use permits on the same.

4.10.2 Applicability

4.10.2.1 This Section applies to parcels of less than thirty-five (35) acres in size that were *not* created, for whatever reason, through a documented process that complies with C.R.S. 30-28-101 et. seq. If a parcel of this size is outside of a subdivision and was created after Sept 1, 1972 and before the adoption of these Land Use Regulations on May 23, 2006, this Section will apply.

4.10.2.2 If a parcel of this size was created after these Regulations were adopted, the parcel will not be eligible for this process. In these cases, the parcel will be considered in violation as described in Section 1.4.2.1(3) Activities Without Permit or Approval. These violations can only be corrected via Subdivision Exemption Plat as in Section 4.9.

4.10.3 Submittal Requirements

The Development Director shall consider and act upon all complete Applications for Legal Lot Status as authorized by these Regulations. The Development Director may waive any of these application requirements or conversely, require additional documents if needed to thoroughly review the particular case and make a recommendation under these Regulations.

4.10.3.1 Completed copy of an Archuleta County Land Use Permit Application (available online or provided by the Planning Department) and the non-refundable application fee.

[15] Amended 5/2021 (Res. 2021-35) Entire Sec Added

4.10.3.2 Aerial map showing the entire parcel, improvements on the parcel, and all abutting parcels.

4.10.3.3 A narrative description of the history of the parcel and how it came into existence in its current form, with supporting documentation including copies of all deeds and/or purchase contracts back to its creation.

4.10.3.4 Proof of access to a public road by any of the following:

(1) Recorded easement or right-of-way agreement;

(2) Entitlement to use of private road;

(3) Court decree;

(4) Other legal entitlement to access.

4.10.3.5 Copy of vesting deed to the current owner.

4.10.3.6 Proof of all property taxes paid current.

4.10.3.7 A list of current uses on or of the property.

4.10.3.8 Septic and well permits (if applicable).

4.10.3.9 Certificate of Occupancy for structures built after 1996

4.10.4 Review Procedure

4.10.4.1 Once the Application for Legal Lot Status is submitted, Planning Staff will review the request and notify the applicant within three (3) business days of application completeness.

4.10.4.2 The Planning Staff will then conduct an investigation to determine the conformance of the parcel regarding these Regulations and other County rules and ordinances. If the parcel does not meet the approval criteria listed in Section 4.10.5, the Development Director will deny the application, providing the applicant sufficient detail regarding what steps must be taken to remedy the situation so the applicant can re-apply at a later date or that they are not eligible for this program.

(1) If an application is denied or conditionally approved by the Development Director, the applicant may request a hearing by the Planning Commission in writing within twenty (20) days after notice of the Development Director's action. The Development Director shall add the hearing to the Agenda for the next Planning Commission meeting that is at least thirty (30) days after the date the appeal notice is received by the Development Director.

(2) If an application is denied or conditionally approved by the Planning Commission, the applicant will have the right to appeal for a public hearing before the Board of County Commissioners. Again, the notice of appeal must be received by the Development Director in writing within twenty (20) days after the Planning Commission meeting. The appeal will be forwarded to the County Administrator to determine when the item will be placed on the agenda of the Board of County Commissioners at least thirty (30) days after the notice is received by the County Administrator.

(3) For all appeals, the public notice in accordance with Sections 2.2.3.1 and 2.2.3.2 shall be required.

4.10.4.3 For all parcels that are determined to be compliant with these Regulations, the Planning Staff shall prepare and submit a Certificate of Designation of Legal Lot Status for approval on the consent agenda at the next public meeting of the Planning Commission.

4.10.4.4 If there are conditions for approval recommended by the Planning Department, the Planning Commission shall review the case as part of their new business agenda.

4.10.5 Criteria for Approval

4.10.5.1 The premises are not subject to any unresolved enforcement action by Archuleta County;

4.10.5.2 The Property Taxes (real and personal) for the property are paid and no tax liens exist on the parcel;

4.10.5.3 The applicant and the parcel are in compliance with all other applicable County regulations (Section 1.4.3.1);

4.10.5.4 The parcel has proof of access to a public road by any of the following:

(1) A recorded easement or right-of-way agreement;

(2) Entitlement to use of a private road;

(3) Court decree;

(4) Other legal entitlement to access.

4.10.5.5 The application and submitted documents do not contain a material falsehood or misrepresentation.

4.10.6 Certificate of Designation of Legal Lot Status

4.10.6.1 The Planning Department shall issue its Certificate of Designation of Legal Lot Status to applicants only for the purpose of establishing a Parcel as having been created or

otherwise effectively complying with C.R.S. § 30-28-101 et seq.; and being exempt from minimum lot size for zoning requirements for which current land uses are to be treated as non-conforming as more specifically set forth herein below.

4.10.6.2 A Certificate of Designation of Legal Lot Status issued pursuant to these Regulations shall apply to a specific parcel of property; shall "run with the land" in perpetuity once it is recorded with the Office of the Clerk and Recorder for Archuleta County, Colorado.

4.10.7 Effects on Legalized Parcels

4.10.7.1 Zoning for the parcel will remain as it was prior to the issuance of the Certificate of Designation of Legal Lot Status.

4.10.7.2 Current and future owners of the legalized parcel may apply for Land Use and Building Permits for their parcel in accordance with these regulations.

4.10.7.3 Boundary line adjustments (the moving of boundary lines without creating new parcels) are allowed on the legalized parcel without risk of losing legal lot status. However, creating new parcels must be accomplished using the proper subdivision process found in Section 4 of these regulations.

Sample Plat Certifications
05/07/2019

PLANNING COMMISSION CERTIFICATE

This plat and the statements hereon reflect the recommendation of the Planning Commission, made the _____ day of _____, 20____.
This approval does not extend to the design of utilities, sewage disposal, roads, or any other service facility.

BY: _____
Chairman

BOARD OF COUNTY COMMISSIONERS CERTIFICATE

This plat [vacation or public utility easements or public right-of-way as marked,] and the statements hereon were conditionally approved, pending completion of special improvements, on the _____ day of _____, 20____ by the Board of County Commissioners of Archuleta County, Colorado.

BY: _____
Chairman

(Include clauses within brackets for Vacation of Easement and Vacation of Right-of-Way by plat.)

APPROVAL TO RECORD

Having ascertained that the conditions of approval have been satisfactorily completed on this _____ day of _____, 20____, the Board of County Commissioners approve this plat for recording by the County Clerk and Recorder.

BY: _____
Chairman

SECTION 5 – DEVELOPMENT STANDARDS[1]

5.1 SUBDIVISION DESIGN STANDARDS

5.1.1 Access:

All lots or parcels created by any new subdivision shall have legal access to county or state roads or highways.

5.1.1.1 For subdivisions accessing county or state roads across federal lands for year –round access, evidence of permission for such access from the federal land manager is a required precondition to subdivision approval. Such access across federal lands may be required to be upgraded to conform to the federal agency road standards or the *Archuleta County Road and Bridge Standards*.

5.1.1.2 If the proposed subdivision provides for indirect access (i.e. over intervening private drives), access and utility easements that benefit all owners of the subdivision with indirect access, shall be provided. Said easements shall be recorded at the same time the plat is recorded. An applicant, subdivider, or developer may be required to upgrade or complete such roads or accesses in conformance with the *Archuleta County Road and Bridge Standards*.

(1) Reserving strips of land to control access to roads is permitted only when the control of such strip is given to the County.

(2) There shall be sufficient ingress and egress to the subdivision, to minimize chances of traffic congestion or blockage in times of emergency.

(3) Alleys or other suitable means of service access shall be provided in commercial, industrial and mixed-use areas. Alleys may also be permitted in residential projects.

5.1.2 Roads and Blocks:

The road system shall be designed to be safe for traffic, allow for alternate access and routing in case of emergencies, be practical to maintain, provide access to all lots, buildings and structures, coordinate with existing or planned roads and, as appropriate, furnish access to adjoining public or private lands. Intersections shall be located and designed to provide suitable visibility, grade and other conditions optimizing traffic safety.

5.1.2.1 Right-of-way widths shall be as required in the *Archuleta County Road & Bridge Design Standards* (Table 27-3).[2]

5.1.2.2 Roads shall bear a logical relationship to the topography.

[1] Amended June 2018 (Res. 2018-18)
[2] Amended May 2019 (Res. 2019-39)

(1) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a reduced gradient shall be provided having not greater than a two (2) percent slope at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting road.

(2) Whenever roads intersect another road from opposite sides and are not aligned, offsets shall be at least one hundred and thirty-five (135) feet, centerline to centerline.

(3) Intersections shall be as nearly at right angles as possible with no intersections designed to an angle of less than seventy-five (75) degrees.

(4) Dead-end roads shall be prohibited unless they are designed to connect with future roads in adjacent land, in which case a temporary turn-around shall be required which is adequate for snow removal and emergency equipment to turn around.

(5) Half roads shall not be permitted. When a proposed half road in a project adjoins another property, the entire road shall be shown on the plat, including that portion outside of the project as a dotted line. The responsibility for acquiring any additional right-of-way shall be with the developer.

5.1.2.3 Road names shall comply with guidelines on file with the Planning Department, and shall not duplicate the names of any previously platted or officially named roads in the County.

5.1.2.4 Private roads shall conform to specifications as required under the *Archuleta County Road and Bridge Specifications* and approved by the County Engineer.

5.1.2.5 If applicable, a letter shall be submitted from the County Engineer concerning the impact of the proposed subdivision on the County roads. If applicable, a letter shall be submitted from the Colorado Department of Transportation concerning the impact of the proposed subdivision on the highway.

5.1.2.6 Block lengths and widths shall be designed to allow convenient access and circulation for emergency vehicles and shall be practical and compatible with the overall design of the project, topography and natural features.

5.1.2.7 In general, block lengths should not exceed sixteen hundred (1600) feet nor be less than four hundred (400) feet.

5.1.2.8 Where block lengths exceed one thousand (1,000) feet, pedestrian right-of-ways of not less than ten (10 feet) in width shall be provided through blocks where needed for pedestrian circulation.

5.1.3 Lots:

5.1.3.1 A parcel shall not be platted for residential or other uses which would be hazardous to health and safety of the public.

5.1.3.2 No multi-family, commercial or industrial lots, tracts or parcels shall be approved unless suitable water supply, sewage treatment facilities and adequate off-street parking are assured.

5.1.3.3 Lot dimensions and sizes shall conform to applicable zoning requirements.

5.1.3.4 Side lot lines shall be substantially at right angles or radial to road right-of way lines.

5.1.3.5 Wedge-shaped lots or lots fronting on cul-de-sacs shall not be less than thirty (30) feet in width at the front property line.

5.1.3.6 Lots with double frontage shall be avoided, except where essential to provide separation from major arterials, incompatible land uses, or topographic considerations.

5.1.3.7 Lot area requirements for various types of water and sewer systems shall be as set forth in the Zoning District Standards, Section 3.1.4.

5.1.4 Survey Monuments: [3]

5.1.4.1 Permanent survey monuments shall be set within all subdivisions pursuant to Title 38, Article 53, Colorado Revised Statutes, as amended. In addition, No. 5 steel rebar, twenty-four (24) inches or longer, shall be set at all lot corners prior to selling or advertising for sale such lots. All monuments, markers and benchmarks shall have fixed securely to the top thereof the registration number of the land surveyor responsible for the establishment of such monument, marker or benchmark. Benchmarks shall be stamped with the letters "B.M." and the elevation of the benchmark.

5.1.4.2 Monuments located within roads shall be of No. 5 rebar steel, thirty-six (36) inches or longer, placed so that their tops are six (6) inches below the final road surface. When a road is paved or otherwise surfaced, all such monuments within the paved or surfaced area shall be fitted with monument boxes of sturdy construction and monuments set after paving or surfacing shall also be provided with sturdy monument boxes.

5.1.4.3 All monuments, markers and benchmarks shall be set or witnessed according to standard construction techniques and in a fashion that is satisfactory to the Board of County Commissioners.

[3] Amended May 2019 (Res. 2019-39) moved from Sec. 5.3.1

5.2 ENVIRONMENTAL STANDARDS

5.2.1 Preservation of Surface Water Resources [4]

5.2.1.1 Water Quality Control. The Federal Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) are intended to reduce pollutants entering streams, rivers, lakes and wetlands as a result of runoff from residential, commercial and industrial areas. State of Colorado regulations control storm water discharges from construction activities that disturb at least one (1) acre of land, or is part of a larger common plan of development or sale that will disturb at least the minimum land area.

(1) Best management practices should be used to mitigate potential pollutants in stormwater runoff, during construction as well as for the life of the project.

(2) Colorado Department of Public Health and Environment (CDPHE), Water Quality Control Division (WQCD) requires persons responsible for land disturbance to obtain a storm water discharge permit associated with construction activities through the Colorado Discharge Permit System (**CDPS**) before construction.

a. The County shall require proof of approval or waiver of a **CDPS General Permit for Stormwater Discharges Associated with Construction Activities** or other permit as may be required by CDPHE, as a condition of final approval of any development one (1) acre of larger in land area.

(3) Disturbance of any area of land in a Special Flood Hazard Area (SFHA) or Floodplain Overlay District (FO) may also require a Floodplain Development Permit under Section 10 Floodplain Regulations.

5.2.1.2 Water Body Setbacks [5]

All roads and driveways, and all structures and improvements, shall be located a minimum of **twenty five (25) feet** from the Ordinary High Water mark (OHWM) of any perennial Water Body.

(1) Exceptions include:

a. The structure is water-dependent (i.e., well-house, docks, piers, watercraft launches and ramps, flood control structures), and is a use by right or conditional use;

b. Because of the physical features, other restrictions, and conditions of the property, construction outside of the water body setback is not technically feasible (i.e., the entire property is within the water body setback), or would contribute to a hazardous condition on the property;

c. In the case of a road, the road is necessary to achieve access to the property or to a building site thereon and no other access route which would avoid the water body setback is technically feasible.

[4] Amended June 2018 (Res. 2018-18)
[5] Amended September 2006 (Res 2006-25); June 2018 (Res. 2018-18)

(2) The Board of Adjustment may grant Variance to the Water Body Setback when an Applicant can meet the criteria in Section 2.4 and Section 10 Floodplain Regulations.

5.2.1.3 Wetlands Protection

Delineated wetlands shall be shown on Site Plans, and mitigation measures described in the narrative for any Land Use Permit. Mitigation techniques for development near wetland areas, as defined by the US Army Corps of Engineers, may include:

(1) Avoiding development near wetland areas.

(2) Preserving existing significant vegetation within and surrounding wetland areas.

(3) Developing sediment ponds and drainage swales to prevent pollution of nearby wetlands.

(4) Replacing disturbed wetland areas in-kind, and on-site.

5.2.2 Preservation of Natural Features and Resources [6]

5.2.2.1 Natural Features: Provisions shall be made to preserve natural features of the site, such as unusual rock formations, lakes, rivers, streams and trees.

(1) Significant vegetation, including dominant or mature trees and shrubs and endangered species, should be retained where possible and in accordance with *Community Wildfire Protection Plan* requirements. When regenerating sites, replacement trees or shrubs shall be selected from indigenous species native to the region (Ponderosa Pine, etc.). Provisions shall be made to provide adequate hydration and appropriate soil for the replacement trees to ensure successful growth.

5.2.2.2 Archeological Resource, Cultural Resource, or Historical Resources: Provisions shall be made to preserve archeological, cultural or historical resources on the site.

(1) A letter of verification of a search of Inventory of Cultural Resources from the State Historical Society, or a report defining the archaeological or historical resources on the site based on information available from the State Historic Preservation Officer (SHPO), or the appropriate archeological field survey report, may be required.

(2) Mitigation measures shall be proposed by the applicant to reduce the impact of future human settlement on any identified archeological, cultural or historical resources on the site.

5.2.2.3 Wildlife Habitat Protection: For all development within the Wildlife Habitat Overlay District [*Not Yet Defined*]:

[6] Amended June 2018 (Res. 2018-18)

(1) The applicant shall provide a list of all Wildlife Activity Areas and the Habitat Ranking for the proposed development site. A list of Wildlife Activity Areas may be obtained from CDOW. The list shall be developed using the Colorado Division of Wildlife's GIS species maps. Habitat Ranking may be determined by referring to the Wildlife Habitat Assessment Map, on file at the Planning Department.

(2) If the proposed development lies in an area identified as "HIGH" on the Wildlife Habitat Assessment Map, the applicant shall provide a Wildlife Impact and Mitigation Plan. A Wildlife Impact and Mitigation Plan shall include conflicts of the proposed development with the guidelines included in the WDSG. Also required is a mitigation plan outlining steps to address identified conflicts.

(3) Mitigation techniques for development within a Wildlife Habitat Overlay District may include:

- **a.** Creating buffer zones between wildlife habitat and areas of development.
- **b.** Constructing game-proof fencing, one-way gates and game underpasses or other structures to minimize hazards.
- **c.** Developing additional or improved habitat to compensate for habitat losses.
- **d.** Retaining existing vegetation.
- **e.** Avoiding disturbance of stream beds, stream banks and streamside vegetation.
- **f.** Placing catchment basins to avoid siltation of streams.
- **g.** Using stream alteration techniques in accordance with the Colorado Division of Wildlife to enhance fish habitat.
- **h.** Reclaiming disturbed areas for use by wildlife and waterfowl upon completion of development.
- **i.** Using slopes flatter than three to one (3:1), and creating islands and irregular shorelines for reclamation of wet site excavations.
- **j.** Avoiding new road construction through critical habitat areas.
- **k.** Limiting recreational or other use of wildlife concentration areas during the seasons of wildlife concentration.
- **l.** Limiting density of adjacent development.
- **m.** Providing dog control in development areas.

(4) For any additional mitigation techniques, applicants shall submit a wildlife impact report created by a qualified professional for review by the Colorado Division of Wildlife (CDOW).

- **a.** Upon review of the wildlife impact report by CDOW, CDOW may provide additional mitigation techniques for alleviating any identified wildlife impacts.
- **b.** The applicant shall be required to comply with CDOW recommended mitigation techniques, unless otherwise waived by the Board of County Commissioners.

(5) Fencing within a Wildlife Habitat Overlay District shall be in accordance with the following standards:

- **a.** Use of privacy fencing, chain link fencing, and other restrictive access fencing shall be restricted to the immediate area surrounding a dwelling unit or within the designated building envelope and shall not be used as a method to designate boundaries of lot sizes in excess of one (1) acre.

b. Fencing outside the immediate building envelope or area surrounding a dwelling unit shall have a recommended maximum top height of forty-two inches (42"), not to exceed forty-eight inches (48”), and the bottom section should be at least sixteen inches (16”) above the ground. If fence is of wire construction, there shall be at least twelve inches (12”) between the top two wires. Construction of woven wire fences shall be prohibited unless a waiver is granted by CDOW.

c. Construction of wrought iron fencing with closely spaced vertical bars less than twelve inches (<12”) and speared tops shall be prohibited unless a waiver is granted by CDOW.

5.2.2.4 Scenic View Protection: For all development within a Scenic Overlay District [*Not Yet Defined*]:

(1) Buildings, including roofs and roof appurtenances, shall be limited to materials, textures, colors and tones that blend harmoniously and inconspicuously with the indigenous landscape and shall, to the greatest extent possible, be screened by natural slopes from highway view.

(2) No buildings or other structures shall rise above a ridgeline to create a silhouette against the sky. Building and structures located near a ridgeline shall reduce their visual impact by one or more of the following mitigation techniques:

a. Reduce the height of the building or structure.

b. Reduce the width or decrease the mass of the building or structure.

c. Blend the roofline into the surrounding landscape.

d. Add trees and other vegetation to break up or hide the building or structure.

e. Use exterior colors and finishes that would help blend the structure into the surrounding landscape.

f. Other techniques that would help soften the appearance of the structure.

5.2.3 Mitigation of Natural Hazards [7]

5.2.3.1 Steep Land:[8]

(1) Any structure ***built upon*** slopes of greater than twenty (20) percent shall meet the “County Typical Foundation for Slopes” or require engineered foundation plans.

(2) Slopes of thirty-three (33) percent shall not be ***built upon*** with habitable structures unless a geological report proves no geologic hazards exist such as excessive erosion, landslides, rock falls, collapsible soils, etc., or unless appropriate provisions identified in the report are incorporated into engineered foundation plans to eliminate or control the hazard(s).

(3) Habitable structures ***built adjacent to*** slopes of thirty-three (33) percent or greater must meet setbacks outlined in the Adopted Building Code, or as identified in a

[7] Amended June 2018 (Res. 2018-18); May 2019 (Res. 2019-39)
[8] Amended May 2022 (Res. 2022-32)

geotechnical investigation and report. Any roads, trails, or driveways shall only be built in accordance with *Archuleta County Road and Bridge Design Standards*, except for purposes of forestry management or wildfire protection.

5.2.3.2 Geologic Hazard Areas: The County shall not approve any development if the proposed project is located in an identified geologic hazard area, or is suspected by the County to be in a geologic hazard area, unless the developer can submit adequate evidence, prepared by a Colorado registered professional engineer or qualified geologist, that the proposed project meets the following criteria:

(1) Provision is made for the long-term health, welfare and safety of the public from geologic hazards to life, property and improvements.

(2) The proposed development will not create an undue financial burden on existing or future residents of the area or community as a result of damage due to geological hazards.

(3) Structures designed for human occupancy or use shall be constructed so as to prevent danger to human life or property.

(4) Permitted land uses, including public facilities that serve such uses, shall avoid or mitigate geologic hazards at the time of initial construction.

(5) Man-made changes shall not initiate or intensify adverse natural conditions within a geologic hazard area.

5.2.3.3 Flood Hazard Areas: The County shall not approve any development if the proposed project is located in an identified flood hazard area or is in an area suspected by the County to be a flood hazard area, unless the developer can submit adequate evidence from a Colorado registered professional engineer or FEMA, that the proposed project is not in a flood hazard area or unless the proposed project meets the requirements of the Archuleta County Floodplain Management Regulations within said flood hazard area. Under no circumstances shall dwelling units be constructed in the floodway[9].

5.2.3.4 Wildfire Hazard Areas: The County shall not approve any development if the proposed project is located an identified wildfire hazard area, or is suspected by the County to be in a wildfire hazard area, unless the developer can submit adequate evidence, prepared by a qualified professional forester, that the proposed project meets the following criteria:

(1) Any project in which residential activity is to take place shall be designed so as to minimize significant hazards to public health and safety or to property.

(2) All projects shall have adequate roads for emergency service by fire trucks, fire-fighting personnel and firebreaks or other means of mitigating conditions conducive to fire.

[9] Amended February 2007 (Res. 2007-06)

(3) Precautions required to reduce or eliminate wildfire hazards shall be provided for at the time of initial development.

(4) The project will adhere to the Guidelines and Criteria for Wildfire Hazard Areas promulgated by the Colorado State Forest Service.

(5) Consideration shall be given to the recommendations of the Colorado State Forest Service, resulting from review of a proposed project in a wildfire hazard area.

5.2.3.5 Radiation Hazard Areas: The County shall not approve any development plan if the proposed project is in an area identified by a qualified geologist as a radiation hazard area, unless the developer can submit adequate evidence, prepared by a Colorado registered geologist, that the proposed project meets the following criteria:

(1) Provision is made for the long-term health, welfare and safety of the public from radiation hazards to life, property and improvements.

(2) The proposed development will not create an undue financial burden on existing or future residents of the area or community as a result of damage due to radiation hazards.

(3) Structures designed for human occupancy or use shall be constructed so as to prevent danger to human life or property.

(4) Permitted land uses, including public facilities that serve such uses, shall avoid or mitigate radiation hazards at the time of initial construction.

(5) Man-made changes shall not initiate or intensify adverse natural conditions within a radiation hazard area.

5.3 INFRASTRUCTURE STANDARDS

5.3.1 Access Plan Required[10]

5.3.1.1 Purpose and Authority. This Section is enacted pursuant to the authority granted under Colorado Revised Statues § 30-28-110 (3) (a). The purpose of this Section is to ensure that roads serving parcels of thirty-five (35) acres or more, which divisions are otherwise exempt from subdivision review by Archuleta County, provide adequate access, especially emergency vehicle access, to and from the public road system to such parcels. This Section shall not require any other review or approval beyond requiring adequate access and road design and construction.

5.3.1.2 Applicability. All plans, plats, and replats of land laid out in building lots and the roads, highways, alleys, or other portions of the same intended to be dedicated to a public use

[10] Amended May 2019 (Res. 2019-39)

or the use of purchasers or owners of lots fronting thereon or adjacent thereto which are not required to be reviewed pursuant to Section 4 of these Regulations, shall be reviewed pursuant to this Section.

(1) For parcels created after the effective date of these regulations (May 23, 2006), no permit application will be accepted by the Development Services (Building & Planning) Department until an Access Plan is approved.

5.3.1.3 Access Plan Required. Prior to presenting a plan, plat, re-plat or deed for recording, the Developer, property owner or authorized representative shall apply for an Access Plan approval with the Planning Department which demonstrates compliance of the proposed access with the *Archuleta County Road and Bridge Design Standards* and this section of the *Archuleta County Land Use Regulations*.

5.3.1.4 Procedure. The Development (Planning) Director shall review the Access Plan, with review and comment of the County Engineer. The application shall be forwarded to the Planning Commission and subsequently to the Board of County Commissioners for review and action for approval, approval with conditions or denial, in a public meeting with public notice as required by Table 2 in Section 2.2. Such approval of an Access Plan, once granted, may be revoked if the applicant fails to follow and comply with the approved Access Plan, including any imposed conditions.

5.3.2 Roads: [11]

Road improvements such as graveling, paving, width of surfaced roadway, grades, shoulders, culverts, bridges, signs, upgrading of existing roads (which may include County accepted and maintained roads, or upgrading of access roads to the proposed project) shall be approved by the County Engineer and shall comply with *County Road and Bridge Standards* and/or State specifications which exist at the time the roads are submitted to the County Commissioners for approval as part of the Improvements Agreement.

5.3.2.1 Adequate right-of-way shall be provided for all roads, in accordance with the County Road and Bridge Standards and/or State specifications, as applicable.

5.3.2.2 Road name signs shall be installed at all intersections in the project, according to the road names approved by the County.

5.3.2.3 Traffic signs shall be installed in the project as required by the County Engineer and the Archuleta County Road and Bridge Department.

5.3.2.4 Adequate drainage shall be provided for all roads.

5.3.2.5 Any utility lines to be located within a public road right-of-way shall be installed before any graveling or paving is done.

5.3.3 (*Reserved for future use.*)

[11] Amended May 2019 (Res. 2019-39)

5.3.4 Drainage System:

Unless waived by the County Engineer, a professional engineer licensed in the State of Colorado will conduct a drainage study of the area to be developed and adjacent areas that affect the development. The results of the study shall be used by the developer to implement the design and construction of drainage facilities necessary to the development.

5.3.4.1 Onsite detention or retention facilities will be provided and will store the difference between the one hundred (100) year historic and one hundred (100) year developed storm runoff, and shall limit the rate of runoff from the site to the one hundred (100) year historic flow rate.

5.3.4.2 The twenty-five (25) year storm shall be the criteria for the design of the interior stormwater drainage system of the development and the criteria for the design of cross culverts and bridges of major drainage ways shall accommodate the one hundred (100) year storm frequency.

5.3.4.3 The design of cross culverts and bridges of major drainage ways shall accommodate the one hundred (100) year storm frequency.

5.3.4.4 The Rational Method shall be used for the design of site developments and drainage infrastructure where the total drainage area does not exceed one hundred (100) acres. Precipitation intensity, depth and duration values used in the rational method calculations shall be obtained from current NOAA published data, or from the County Road and Bridge design standards.

5.3.4.5 The SCS Unit Hydrograph method shall be used for the design of site developments and drainage infrastructure where the total drainage area exceeds one hundred (100) acres. A Type II storm shall be used. Six (6) hour precipitation depths shall be used for all drainage infrastructures which do not involve stormwater detention, and the twenty-four (24) hour precipitation depths shall be used for all drainage infrastructures which does involve stormwater detention. All precipitation depths shall be obtained from current NOAA mapping of return frequency rainfall depths for the State of Colorado.

5.3.5 Sidewalks and Trails [12]

5.3.5.1 Public sidewalks and trails should be built to provide adequate flow of non-motorized traffic with the exception of those uses which are located in the more rural areas of the County, and where the County Engineer and the Planning Department have determined that constructing sidewalks would be unnecessary.

5.3.5.2 Public sidewalks and trails shall be designed so that they are not inundated with snow from the plowing of roads or snow shed from building roofs.

[12] Amended June 2018 (Res. 2018-18)

5.3.5.3 In residential developments, the public sidewalk or trail may be placed within the dedicated road right-of-way or set back from the road right-of-way by a median strip.

(1) Sidewalks or trails placed within the dedicated road right-of-way shall be constructed by adding a minimum of five (5) additional feet to the required paved width of the road. The road width shall include shoulder and drainage as required in the Archuleta County Road Specifications and/or the "Standard Specifications for Road and Bridge Construction," a publication of the State Dept. of Highways, Division of Highways, State of Colorado, 1986 or latest edition. The non-motorized traffic lane shall be delineated on the pavement with a solid white painted line. This lane shall be designated by signage for non-motorized vehicles only, except for emergency vehicles.

(2) Sidewalks or trails which are set back from the road right-of-way shall have a median strip of grassed or landscaped area at least two (2) feet wide, which separates the sidewalk from the adjoining road right-of-way.

5.3.5.4 Residential, commercial or industrial developments shall provide a network of public sidewalks that provide access from the public parking areas to the public buildings. Residential, commercial or industrial developments should also provide a sidewalk or trail where property is adjacent to the right-of-way. This sidewalk or trail should run parallel to the right-of-way along the entire length of the property adjacent to the right-of-way.

5.3.5.5 Public sidewalk and trail construction shall be per the Trails Plan for Archuleta County.

[*See also Section 6.2 Park and Trail Dedication.*]

5.3.6 Utility Location:

All utilities, including, but not limited to electrical lines under 25Kv, telephone, and cable television shall be located underground within appropriate easements and/or rights-of-way, in all zoning districts except the AR and AF districts. Utilities may be located above ground only in the AR and AF zoning districts.

[*See also Section 1.3.2.4 Non-Conforming Sites and Structures.*]

5.3.7 Sewage Facilities

5.3.7.1 Sufficient area shall be provided for leach fields where individual septic systems are proposed in conformance with local health department rules.

5.3.7.2 The design of all central sewage collection/treatment systems shall be by a Colorado licensed engineer, and such design shall be approved by the Colorado Department of Public Health and Environment and acceptable to the Planning Commission.

(1) Where an existing community, municipality or sanitation district is to provide collection and treatment service, a written agreement outlining the terms and conditions for service and containing a commitment for collection and treatment of

sewage for the proposed project shall be provided. If the proposed project is within an existing sewer district and a sewer system exists within four hundred (400) feet of the proposed project, the proposed project shall join that system, if that system agrees to provide service.

5.3.8 Water Supply: [13]

Applicants shall demonstrate adequate domestic water supply.

5.3.8.1 Any proposed central water system shall be approved by the Colorado Department of Public Health and Environment (CDPHE).

5.3.8.2 If well water is to be the source for a central system:

(1) The well or wells shall be permitted and test pumped to assure adequate water for the project, prior to approval.

(2) An alternate backup source of water, such as surface water rights, storage reservoir or other appropriate arrangements may be required.

(3) A suitable location for wells shall be established where individual septic systems are proposed, in conformance with local health department rules.

5.3.8.3 Where an existing community, municipal or water district system is to be utilized as a source of water, a written agreement outlining the terms and conditions for service, and containing a commitment to furnish water to the proposed project, shall be provided. If the proposed project is within an existing water district and a water system exists within four hundred (400) feet of the proposed project, the proposed project shall join that system, if that system agrees to provide service.

5.3.9 Fire Protection [13]

5.3.9.1 For a project within an existing fire protection district, written confirmation will be required that current Fire Code requirements have been met.

5.3.9.2 If outside a fire protection district, a fire protection plan shall be reviewed by the Archuleta County Sheriff, Fire Chief of a nearby Fire Protection District or other qualified individual. The County shall not approve any project without implementation of an adequate fire protection plan.

[13] Amended June 2018 (Res. 2018-18)

5.4 SITE DEVELOPMENT STANDARDS

5.4.1 Commercial Design: [14]

The *Archuleta County Community Plan* encourages conservation of the small town atmosphere, rural character, agricultural and ranching heritage, mix of cultures, and diversity of life styles in our community. The Community Plan also encourages development that is well-designed and architecturally compatible with community character, cultural heritage, and the natural environment.

5.4.1.1 Architectural Features

(1) Building design and architectural styling should represent the historic nature of Archuleta County. Among those architectural styles are "Lodge" and "Territorial" and other architectural styles as noted by the Planning Department.

(2) Architectural review is primarily a service of an Owners Association. The requirements of this Section 5.4.1 shall be minimum standards, which property owners are encouraged to exceed.

(3) Box-like structures and buildings with generic or brand name architectural design are discouraged.

5.4.1.2 Building Façades

(1) Primary Facades. Ground floor facades abutting public roads and/or parking lots shall have arcades, display windows, entry areas, awnings or other such features. Animating features such as these must total no less than sixty (60) percent of their horizontal length.

(2) Secondary Facades. Any facade, other than a primary façade, shall include an expression of architectural or structural bay through a change in plane of no less than twelve (12) inches in width, such as offsets, reveals or projecting ribs.

5.4.1.3 Building Entrances

(1) Primary facades of large retail buildings shall have clearly defined, highly visible customer entrances that feature unique architectural features including but not limited to: canopies, overhangs, recesses, arcades, peaked roof forms, arches, outdoor patios, display windows, and integral planters.

5.4.1.4 Building Materials and Color

(1) Predominant exterior building material on all sides shall be high quality material, including the following and other materials with similar appearances and characteristics: brick, sandstone, other native stone, wood and logs.

[14] Amended June 2018 (Res. 2018-18)

(2) Color shades shall be used to facilitate unifying the development. Façade colors should be low reflectance, subtle, neutral, or earth tone colors.

(3) Exterior building material shall not include smooth-faced concrete block, aluminum or vinyl siding, or prefabricated steel panels.

5.4.1.5 Building Roof

(1) Parapets concealing flat roofs and rooftop equipment, such as HVAC units, from public view are encouraged. Average height of such parapets shall not exceed fifteen (15) percent of the supporting wall.

(2) Overhanging eaves should extend no more than three (3) feet past the supporting wall.

(3) Sloping roofs that do not exceed the average height of the supporting wall is strongly encouraged.

5.4.2 Performance Standards: [15]

All non-residential development, including mining operations, industrial uses and commercial businesses, whether established as a use by right, or conditional use shall comply with the following standards.

5.4.2.1 Volume of Sound Generated

Every use shall conform to the Archuleta County Noise Ordinance (No. 2003-8A), as it may be amended, and be so operated that the volume of sound inherently and recurrently generated does not exceed fifty-five (55) decibels with a maximum increase of ten (10) decibels permitted for a maximum of fifteen (15) minutes in any one (1) hour at any point of any boundary line of the property on which the use is located.

(1) If required by Planning Commission and/or the Board of County Commissioners, data from monitoring of existing noise levels shall be gathered prior to the commencement of the use; then the area shall be monitored after establishment of the use.

5.4.2.2 Vibration Generated

Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.

5.4.2.3 Smoke Emission

Non-agricultural prescribed fire use must comply with Colorado Department of Public Health and Environment regulations. Every use shall be operated so emissions do not exceed a maximum of twenty (20) percent opacity or as required under regulation of the Colorado Department of Public Health and Environment, as verified by a Colorado Department of Public Health and Environment certified opacity reader.

[15] Amended June 2018 (Res. 2018-18)

5.4.2.4 Emission of Particulate Matter

Every use shall be operated in compliance with Colorado Department of Public Health and Environment, Air Quality Control Commission standards for particulate matter. Monitoring of certain uses may be required to establish whether compliance is being achieved.

5.4.2.5 Emission of Heat, Glare, Radiation and Fumes

Unless otherwise permitted by the Colorado Department of Public Health and Environment, every use shall be operated so that it does not emit heat, glare, radiation or fumes beyond the boundary line of the property on which the use is located.

5.4.2.6 Outdoor Storage

(1) Outdoor storage may be a Principal or Accessory use of property. A Principal use for commercial purposes (in conjunction with a commercial enterprise or for fee or payment) is restricted to zoning districts as shown in Table 3.

a. All outdoor storage must meet the requirements of the Nuisance Ordinance (No. 9-2008) as it may be amended, in addition to these Regulations.

(2) Except in the Industrial (I) zone, all outdoor storage shall be **enclosed by a fence, barn, landscaping, wall, or other screening** approved by the Director of Development, which will minimize visual contact of such storage from adjacent properties and roads.

a. Outdoor merchandise displays for retail operations may be allowed only with a Land Use Permit.

(3) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by natural causes or forces. Materials and wastes shall be stored and/or disposed of only as approved by the Planning Department, in compliance with appropriate local, state and federal waste disposal regulations.

(4) Outdoor storage of materials which might cause fumes, dust, fire hazard, or which may be attractive to rodents or insects is prohibited unless such storage is within enclosed containers and is specifically approved by the Planning Department.

(5) Outdoor storage of fuel, flammable or explosive liquids shall comply with the requirements of the adopted Fire Code.

a. The Director, Planning Commission and/or the Board of County Commissioners may deny the establishment of uses which require such storage if the location of such use would create a danger or nuisance to the surrounding area and/or the general public.

5.4.2.7 Water Pollution:

Surface water shall be retained on site, or may be eliminated by a drainage system approved by Planning Commission and/or the Board of County Commissioners, in accordance with the regulations of the Colorado Department of Public Health and

Environment and the U.S. Environmental Protection Agency. The quality and quantity of ground water shall not be negatively affected by the use, and proposed use of or effects to ground water shall be approved by all appropriate local, state, and federal agencies. All operations under this Section shall have an approved permit for non-point or point discharges from the Colorado Department of Public Health and Environment, Water Quality Control Division, if such permit is applicable to the use. Chemicals and other potential pollutants shall be disposed of only as permitted by state and federal agencies responsible for such activities. Monitoring may be required to determine compliance with state and/or federal standards.

[See also Section 5.2.1 above.]

5.4.3 Landscape Requirements

5.4.3.1 A minimum of **fifteen (15) percent of developed commercial and industrial sites shall be landscaped**.

5.4.3.2 All commercial and industrial development located along U.S. Highways 160, 84, and 151 shall be buffered by a landscaped area a minimum of forty (40) feet wide, measured from the property line.

5.4.3.3 A landscaped buffer zone of five (5) to ten (10) feet shall be created between commercial and industrial parking areas along any major arterial or major pedestrian route.

5.4.3.4 The use of native landscaping (drought-tolerant) materials is encouraged in required landscaped buffer areas as a method of reducing both water usage and nutrient runoff.

5.4.4 Outdoor Lighting:

It is the intent of these Regulations to provide outdoor lighting standards and systems which will curtail the degradation of the night time visual environment and minimize light pollution, glare, and light trespass, while, at the same time, maintaining nighttime pedestrian and vehicular safety, utility and security, consistent with the Community Plan. All exterior lighting fixtures, including without limitation commercial, industrial, residential, governmental and street lighting installed after the effective date of these Regulations shall comply. All exterior lighting fixtures installed prior to the effective date of these Regulations are exempt from the requirements of this Section for a period of five (5) years from that date. After this five (5) year period, all outdoor lighting shall comply with the Regulations. These Regulations shall not apply to interior lighting.

5.4.4.1 If a nonconforming fixture is replaced, the replacement fixture shall meet the requirements of these Regulations. Similarly, a conforming fixture shall not be replaced with a nonconforming fixture. A conforming fixture may be replaced with another conforming fixture.

5.4.4.2 Variance to these provisions of this Outdoor Lighting Section will be provided in situations where the applicant can provide written evidence that these Regulations are in conflict with OSHA requirements.

5.4.4.3 Prohibited Lighting

(1) Any fixture that is not fully shielded with opaque or translucent shielding. **Partially shielded fixtures, partial cut-off fixtures and unshielded fixtures are not permitted**.

(2) Blinking, flashing, or changing intensity lights, except for lighting required by a governmental authority such as the Federal Aviation Administration (FAA) for air traffic control, or local, state, or federal agencies for vehicular traffic control and warning purposes. (Note: blinking holiday lights are not included in this restriction.)

(3) Beacon, laser, or searchlights.

(4) Mercury Vapor fixtures and or lamps.

(5) Any fixture that impairs motorist safety by casting glare or direct light into the eyes of drivers.

(6) Any fixture that is not directed at the ground or task area or is aimed onto an adjoining property.

(7) Any fixture, or group of fixtures, that produces a light intensity, or cumulative light intensity, that exceeds one-half (0.5) foot-candle at any property line.

(8) Any compliant fixtures that are altered or installed improperly, such that they cast light in a non-compliant manner.

5.4.4.4 Special Situations

(1) Lights used for the illumination of stadium and other outdoor sports arenas must be extinguished by 10:00 p.m. or immediately after the conclusion of the final event. No new event, activity, or game may start after 10:00 p.m. The remainder of the facility lights, except for reasons of safety or security, must be extinguished at 10:00 p.m. or within one (1) hour after the conclusion of the final event.

(2) Upward flagpole lighting may be employed for government and institutional illumination of government flags after dusk. The light must be directly aimed at the flag, must be narrowly focused, and must only be sufficient to properly illuminate the flag.

(3) Airport operations lighting and aircraft navigational beacons that are required and controlled by regulations established by the FAA are permitted. All other outdoor airport lighting must conform to these Regulations.

(4) Carnivals, fairs, special events and festivals that require the use of temporary outdoor lighting fixtures are exempt from these Regulations, except that permanent installations must conform to these Regulations, and in no event shall lighting be allowed to impair motorist safety in any fashion.

(5) Light shall not be considered to be trespassing if the adjacent property owners have mutually agreed to share the illumination provided by one or more fixtures, irrespective of their shared property lines. This light must still be kept on the subject properties, and must not exceed one-half (0.5) foot-candle at other property lines leading to other uninvolved properties. Further, care must be taken to ensure that the light generated does not impair motorist safety in any fashion.

(6) Fixtures mounted on buildings or other structures shall not exceed a mounting height greater than four (4) feet higher than the tallest part of the building or structure. All other requirements shall also be met, as applicable.

(7) Downward pointing "wall-washer" (wall-mounted sconce-style) fixtures may be installed subject to the limitations of Section 5.4.4.3. Wall-washer fixtures that direct light both downward *and* upward, (or upward only), are also permitted, provided that the fixture is fully shielded horizontally, both top and bottom, and that a protruding roof (such as a porch roof or a driveway canopy) or an eave is positioned directly above the fixture, to block light from being directed into the night sky. Wall washer fixtures that upwardly direct light must be positioned no more than six feet below a roof or eave which projects out from the wall and the light fixture sufficient to prevent any direct light passing vertically beyond the roof or eave. Further, if the fixture is mounted near a building's corner, it can be no less than six feet from the vertical plane of the eave at the corner.

(8) Holiday lighting shall be exempt from the shielding requirement when utilizing 7.5 watt or smaller lamps, and is used for temporary "holiday" lighting. All other requirements shall be met, as applicable.

(9) Walking path fixtures of 9.0 watts or less each are exempt from the shielding requirement, provided that, all other requirements are met, as applicable.

(10) Camping lights that produce light directly from natural gas or propane are permitted, and exempt from the shielding requirements, provided that they are used intermittently for their intended purposes and not used as regular outdoor lighting. All other requirements shall be met, as applicable.

(11) Exposed neon lighting is exempt from the shielding requirement, provided that, all other requirements are met, as applicable.

(12) Agricultural lighting fixtures for the purpose of working livestock at night are exempt from the shielding requirement, except that they shall not project light directly into the sky, nor be illuminated when it is not necessary to be actively working with livestock. All other requirements shall be met, as applicable.

(13) Visible light sources equipped with motion detector devices that stay lit no longer than 5 minutes provided they do not impair traffic safety.

5.4.5 Parking: [16]

Areas shall be provided for off-street parking of vehicles for all development.

5.4.5.1 A minimum of two (2) surfaced off-street parking spaces shall be provided for each residential lot or dwelling unit. The minimum size of each off-street parking space shall be one hundred sixty-two (162) square feet and measuring nine (9) feet wide and eighteen (18) feet long.

(1) Appropriate additional parking shall be provided for other facilities such as clubhouses, service facilities, etc.

(2) Auxiliary parking within a multi-family residential project shall be provided at a ratio of one parking space per two lots or per two dwelling units.

5.4.5.2 Multi-family parking areas shall be paved, when required by the *Archuleta County Road & Bridge Design Standards* at the discretion of the County Engineer.

5.4.5.3 All Non-Residential projects shall provide off-street parking as necessary for the proposed occupancy of the building(s).

(1) With any Development or Change of Use of property, Applicants shall demonstrate how they have calculated minimum necessary parking, such as the Institute of Traffic Engineers (ITE) Parking Generation manual, International Code Council standards, or an original study.

(2) Handicapped parking shall be provided as required by the Americans with Disabilities Act (ADA).

(3) Additional parking for large vehicles such as trailers and recreational vehicles may be required depending on usage.

5.4.5.4 Design of Non-Residential and Multi-Family Parking Areas

(1) Parking should be located at the rear or side of a non-residential building.

(2) Large parking lots should be divided into smaller component lots by landscaping and other appropriate features. Landscaping and accent paving are recommended to provide shade and indicate pedestrian linkages.

(3) Parking lots should provide adequate security and lighting and should limit visual clutter, parking lot signs, and equipment.

(4) Complementary uses of parking lots, such as evening entertainment and daytime offices, may be allowed to share parking to reduce the number of required parking spaces and is encouraged.

[16] Amended June 2018 (Res. 2018-18); May 2019 (Res. 2019-39)

(5) Parking Area Landscaping: When a site provides parking for more than ten (10) vehicles, at least ten percent (10%) of the total area of the parking lot shall be used for landscaping and/or aesthetic treatments. In addition:

a. A minimum of one (1) tree (planted in tree islands) for each five (5) parking spaces shall be located within the parking area/lot.

b. Tree islands shall be installed intermittently, have a length equal to a parking stall, be four (4) feet by four (4) feet in dimension at a minimum to protect plantings from vehicles and foot traffic and to accommodate a tree root system.

c. All unimproved earth areas shall be planted, restored or otherwise protected from erosion.

d. Ongoing maintenance, including the replacement of dead or unhealthy plants, shall be provided by the parking area owner/leaseholder.

5.4.5.5 All Non-Residential parking areas shall be paved when required by the *Archuleta County Road & Bridge Design Standards*. Variance to those standards may be appropriate for those uses which are located in the more rural areas of the County, and where the County Engineer and the Planning Department have determined that paving would be unnecessary.

5.4.5.6 Access and parking shall be designed to assure public convenience and safety, as required by the *Archuleta County Road & Bridge Design Standards*. The parking layout and traffic flow pattern shall be approved by the County Engineer.

(1) Parking areas shall be located so vehicles need not back out onto a public road.

(2) Bicycle parking should be provided.

(3) On-street parking may be used for auxiliary parallel parking on private streets and driveways, and other roads as permitted by the County Engineer, providing the paved surface is widened by a minimum of nine (9) feet on each side where the parking is to be allowed.

5.4.6 Buffers and Screening:[17]

The perimeter of a development site may need to be buffered or screened with landscaping to create a noise and visual buffer or screening zone from the adjoining property, except for those portions used for ingress and egress. Interior buffers or screening may also be required to visibly separate one use from another.

5.4.6.1 Earthen berms, fences, landscaping and/or open space may be used for a buffer or screening mitigate adverse influence on adjacent uses.

(1) Buffering or screening shall be either a strip at least ten (10) feet wide of densely planted shrubs or shall be trees, at least four (4) feet high at the time of planting (or equivalent natural growth), of a type that will form a year-round dense screen at least six (6) feet high.

[17] Amended June 2018 (Res. 2018-18)

(2) Dumpsters shall be screened on at least three sides by an opaque fence, or by a wall within setbacks. A snow roof over dumpsters is encouraged, within setbacks.

5.4.6.2 Parking, service and utility areas, loading docks, mechanical equipment, antennas, rooftop appurtenances and outdoor storage areas should be screened.

5.4.7 Vision Clearance Area: [18]

A Sight Distance Triangle shall be provided at all intersections with the vision clearance area as specified in Section 27.1.6.3 of the *Archuleta County Road & Bridge Design Standards*.

5.4.7.1 The Corner Sight Triangle along roads shall be measured on the frontage property line(s) or edge of an access easement. The Corner Sight Triangle along driveways shall be measured along the edge of the improved surface. In all zoning districts the minimum distance shall be twenty-five (25) feet or at driveways and alleys ten (10) feet.

5.4.7.2 A vision clearance area shall contain no plantings, walls, structures or temporary or permanent obstructions exceeding three and one-half (3 1/2) feet in height measured from the existing grade.

5.5 PUBLIC ACCOMMODATIONS AND LODGING STANDARDS[19]

5.5.1 Lodging Establishment.[20] These standards apply to Lodging Establishments, including Bed and Breakfast Establishments. The standards outlined here are derived from Colorado Department of Public Health and Environment Sanitary Standards and Regulations for Public Accommodations (6 CCR 1010-14) and Colorado Retail Food Establishment Rules and Regulations (6 CCR 1010-2). See section 1.1.5.1 of these Regulations regarding how to resolve conflicts between these standards and other applicable guidance.

5.5.1.1 Grounds

(1) All grounds areas shall be well drained, graded, and surfaced, where necessary, and free from depressions in which water may stand. Traffic, pedestrian walkways, and parking areas must be improved so as to minimize the collection of mud.

(2) Premises shall be kept free from accumulations of refuse, dilapidated structures, open excavations, or other health and safety hazards constituting a nuisance.

(3) During periods of occupant use, the occupant shall maintain his premises which he occupies and controls in a safe sanitary manner. The operator shall keep that part of the building he occupies or controls, and the shared or public areas of the building and premises in a clean, safe, and sanitary condition. All garbage and refuse shall be collected and disposed of so as to prevent nuisance conditions.

[18] Amended June 2018 (Res. 2018-18)
[19] Amended June 2018 (Res. 2018-18); Amended July 2018 (Res. 2018-14)
[20] Amended May 2021 (Res. 2021-35)

(4) The operator shall be responsible for clean, safe, and sanitary condition of the building and premises prior to each occupancy.

(5) Livestock or poultry shall not be located less than fifty (50) feet from any room or lodging unit.

(6) Where electrical service is available within 300 feet of the premises, public areas and structures including roadways, paths, routes of egress, and sanitary service buildings shall be adequately illuminated at night.

5.5.1.2 Water Supply

(1) The water system shall be designed, constructed, and protected so as to assure that a safe, potable and adequate water supply is available for domestic purposes in compliance with Colorado Department of Health regulations.

(2) No surface or cistern water supply shall be used except under conditions approved by the Colorado Department of Health. When such a facility is approved for use, water shall be obtained from an acceptable source and shall contain a chlorine residual of at least 0.3 p.p.m.

(3) The water supply system shall deliver water at a normal operating pressure (20 pounds per square inch minimum) to all fixtures at least 20% of the total daily required volume needed for any one-hour peak use period. The water supply system shall deliver at least 60 gallons of water per person, per day.

(4) Water under pressure, protected from back siphoning, shall be supplied to all lodging units and to all other buildings in which cooking is permitted or which contain a toilet, bathing, laundry, or dishwashing facilities.

5.5.1.3 Sewage Facilities

(1) Facilities shall be provided and properly maintained for the disposal or treatment of excreta and liquid waste.

(2) Where a public sewer system is available, all plumbing fixtures and all building sewers shall be connected thereto. If a public sewer system is not available, a private sewage disposal system (on-site water treatment system) meeting the requirements of the Colorado Water Pollution Control Commission and applicable local regulations, shall be installed and connected to all plumbing fixtures and building sewers. Guest limits must be at a number supported by the permitted capacity of any OWTS.

5.5.1.4 Refuse Disposal – The storage, collection, and disposal of refuse shall be so conducted as to control odors, insects, rodents, and other nuisance conditions. Sufficient numbers of covered metal refuse containers shall be provided for refuse storage and located not more than 150 feet from any lodging unit. All refuse shall be collected and regularly disposed of in an approved manner.

5.5.1.5 Insect and Rodent Control

(1) Rodents and insects shall be controlled by establishing proper sanitary practices, vermin proofing of buildings, extermination, or other safe and effective control methods.

(2) All exterior openings shall be protected with fly screening of not less than 16 mesh per square inch unless other approved protective devices are provided.

5.5.1.6 Mechanical Requirements

(1) Where climatic conditions require artificial heating, all lodging units and service structures shall be provided with approved heating facilities which are properly installed, maintained in a safe working condition and which are capable of maintaining a temperature of 70 degrees Fahrenheit in all habitable spaces. If this temperature cannot be maintained, the lodging unit must only be used seasonally, as appropriate.

(2) No open flame gas or oil-fired kitchen stoves, hot plates or unvented heaters shall be approved for heating purposes.

(3) Where electrical service is available within 300 feet of the premises, structures shall be connected to the service, as follows:

a. The electrical system shall be installed and maintained in accordance with provisions of the National Electrical Code.

b. Each service room (bathroom, shower room, kitchen, etc.) shall have at least one convenience outlet and one light fixture.

c. All public hallways, stairs, other exit ways, storage, and utility areas shall have at least one supplied electric light fixture and shall be adequately lighted with light level intensities of at least ten (10) foot candles at all times.

5.5.1.7 Exits

(1) Every Lodging Establishment or Bed and Breakfast Establishment shall have at least one (1) direct and one (1) alternate safe, unobstructed means of egress leading to a safe and open space at ground level. In addition, each building in which ten (10) or more people sleep, eat, or otherwise occupy, and each building containing more than two (2) stories, shall have at least two (2) conveniently located and accessible means of egress for emergency exit from each occupied floor.

(2) A landing shall be provided beyond each exterior door opening and beyond each interior doorway opening into a stairway. Such landings shall have a width and depth of not less than a door opening. The landing over which a door does not swing, shall be located not more than seven and one-half (7 ½) inches below the

threshold level. The landing over which the door swings, shall be located not more than two (2) inches below the threshold level.

(3) All porches and balconies more than thirty (30) inches in height, and all stairs with four (4) or more risers shall be provided with a handrail, except in storage or similar type rooms.

(4) The rise of each step in a stairway shall not exceed eight (8) inches, and run (tread) shall not be less than nine (9) inches. Every stairway and doorway shall have headroom clearance of not less than six and one-half (6 ½) feet.

5.5.1.8 Household Equipment and Furnishings

(1) Basic household equipment, where provided by the operator, shall include tables, chairs, beds, and storage for clothing and personal effects which shall be easily cleanable and shall be kept clean and in good repair.

(2) Dishware, utensils, glassware, and flatware furnished for guest use, shall be untarnished, clean, with undamaged use surfaces. They shall be stored in a clean, dry sanitary place.

(3) Approved washing and bactericidal treatment shall be provided for all multi-use glassware in guest rooms after each occupancy. The use of common drinking cups or vessels is prohibited.

(4) Individual soap and towels shall be provided in all public toilet facilities and in all guest rooms. The use of common towels is prohibited.

(5) Cleaning equipment, supplies, insecticides, paints, and other toxic or hazardous chemicals or product shall be stored safely and separately from the laundry facilities, linen and other supply storage.

5.5.1.9 Sanitary Facilities

(1) Toilet, lavatory, bathing, and laundry facilities shall be installed and provided in minimum numbers as required by the provisions of the Colorado Technical Plumbing Code.

(2) Where private toilets, lavatories, and baths are not provided, required sanitary facilities shall be provided on each floor for each sex, and shall be accessible from a public hallway with toilets and baths installed in separate compartments. Sanitary facilities for different sexes will be separated by a solid wall extending from floor to ceiling and shall be clearly marked “Men” or “Women.” Entrances shall be screened so the interiors are not visible from the outside.

(3) Centralized sanitary facilities shall have a smooth, impermeable, and easily cleanable surface, sloped to drain floors. Floor drains, properly trapped, shall be provided in all shower baths, and shower rooms to remove waste water and to

facilitate cleaning. The walls and ceilings of such facilities shall be finished, and the wall shall have a smooth, non-absorbent, easily cleanable surface extending a height of four (4) feet in toilet rooms, and six (6) feet in shower rooms.

(4) Where provided, centralized toilets, lavatories, and baths shall be provided at the rate of one (1) for each sex for every ten (10) guests.

(5) Where provided, centralized sanitary service units, at least one urinal is required for every twenty-five (25) males. Urinals may be substituted for up to one-third (1/3) of the required number of toilets.

(6) No toilet space shall be less than thirty (30) inches in width, and there shall be no less than thirty (30) inches of clear space in front of a toilet.

(7) Laundry tubs, kitchen sinks, and bath tubs shall not be acceptable substitutes for lavatories.

(8) Group shower facilities are prohibited. Each shower facility must have at least nine (9) square feet of floor space and be individually partitioned and be enclosed with either a waterproof draw curtain or door. Shower and bathtub floors shall have a non-skid surface or provided with a non-slip impervious mat. Wooden racks (duck boards) over shower floors are prohibited. Where rubber or impervious mats are used, they must be cleaned, dried, and kept off the shower floor between usage.

(9) Dressing room space equivalent to the size of the shower floor area must be provided adjacent to bathing facilities.

(10) Hot and cold water under pressure shall be supplied to all required plumbing fixtures except that only cold water shall be supplied to toilets. Tempered water may be delivered to showers and sinks to conserve heat and heating equipment.

(11) Required plumbing fixtures shall be maintained in good working order and in a clean and sanitary condition.

(12) Sufficient numbers of faucets with running water shall be provided to wash walkways, courts, passage ways, and other common use areas.

(13) Service rooms and buildings housing required plumbing fixtures shall be constructed of easily cleanable, non-absorbent materials, maintained in good repair, in a clean and sanitary condition, and conveniently located at a distance of not more than 150 feet from any lodging facility.

5.5.2 Lodging Food Service Operations.[21] For Bed and Breakfast Establishments (preparing and providing meals to guests), or Lodging Establishments that make cooking facilities available for guest use, kitchen facilities must provide the following:

[21] Amended May 2021 (Res. 2021-35)

5.5.2.1 A trapped and vented kitchen sink with hot and cold running water.

5.5.2.2 Approved refrigeration and cooking appliances properly installed and maintained.

5.5.2.3 A cabinet for the storage of food, dishes, and cooking utensils.

5.5.2.4 A smooth, washable, non-absorbent finish for all sink and cabinet tops.

5.5.2.5 Adequate ventilation of the kitchen to the outside air.

5.5.2.6 A Bed and Breakfast Establishment must provide at least one meal to all guests for no additional charge other than the lodging fee.

5.5.2.7 A Bed and Breakfast Establishment must obtain and maintain an Archuleta County Liquor License if alcohol will be offered to guests, whether for payment, or included in the lodging fee.

5.5.3 Lodging Units. These standards will apply to Lodging Establishments as well as Bed and Breakfast Establishments. Where indicated below, soft-sided lodging units (tents, yurts, teepees, etc.) may be exempt from some of these requirements.

5.5.3.1 Structure Requirements

(1) Lodging units may be detached or attached, including but not limited to cabins, yurts, park model tiny homes, recreational vehicles, tents, and other types of units for short-term commercial lodging only.

(2) Lodging units shall be structurally sound, provide protection for the occupants against the elements, constructed so as to facilitate cleaning and afford privacy, and maintained in good repair in a safe and clean condition.

(3) Floors of lodging units shall be constructed of wood, concrete or other comparable materials and shall be reasonably smooth and so constructed as to prevent the entrance of ground and surface water. Soft-sided lodging units must be reasonably smooth to provide for safe movement within the unit.

(4) Every lodging unit shall be directly accessible, without passage through another lodging unit or sleeping space, to the outside or to a common hallway leading to the outside.

(5) Every lodging unit must have a smoke detector installed *inside* the room and one *outside* each separate sleeping area within fifteen (15) feet of the entrance to the room. Soft-sided lodging units may be exempt from smoke detector requirements.

(6) Every lodging unit must have a carbon-monoxide (CO) detector installed *outside* the room within fifteen (15) feet of the entrance to the room. If there is a fuel-burning appliance (wood or gas fireplace, etc.) *inside* a lodging unit or its attached

bathroom, there must *also* be a CO detector *inside* the room. Soft-sided lodging units may be exempt from CO detector requirements.

5.5.3.2 Space and Occupancy Standards

(1) Every lodging unit and sanitary facility shall have a ceiling height of not less than seven (7) feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least 50% of the room and no portion of any room having a ceiling height of less than five (5) feet shall be considered as contributing to the minimum required areas. Soft-sided lodging units are exempt from a minimum ceiling height.

(2) No lodging unit or sanitary facility shall be less than seven (7) feet in any dimension.

(3) Every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor space for the first occupant, and at least fifty (50) square feet of floor space for each additional occupant. Soft-sided lodging units that have less than 120 square feet of floor space are limited to two guest maximum per unit.

(4) Each lodging unit shall have at least one window with direct and unobstructed opening to the outside. If the emergency escape route is via a window, the opening of that window must be at least 5.7 square feet. If the window is on the second or higher floor, there must be an emergency escape ladder available for use. Soft-sided lodging units may be exempt from having a window.

(5) Each sanitary facility (bathroom, shower, etc.) shall have at least one openable window facing directly to the outside in order to provide ventilation. An approved mechanical ventilation system, vented to the outside, may be used in lieu of a window.

5.5.3.3 Sleeping Facilities[22]

(1) Mattresses and pads with covers, pillows, bed covers, and other bedding shall be of proper size, maintained in good repair, and provided in a clean and sanitary condition upon each change of occupancy.

(2) Sheets and pillow cases shall be of standard size and all sheets, pillow cases, towels, and wash cloths shall be laundered in an approved manner before they are replaced weekly, or when they are furnished to new guests. All clean linen shall be stored in a clean, dry place.

(3) In sleeping rooms where more than one bed is allowed, single beds shall be spaced not closer than 36 inches laterally or end-to-end, and double-bunk beds are to be spaced not less than 60 inches laterally or end-to-end. Triple-bunk beds are prohibited. There shall be a clear ceiling height above the mattress of not less than 36 inches and a clear space of at least 27 inches between the mattresses of a

[22] Amended October 2021 (Res. 2021-76)

double-bunk bed. Soft-sided lodging units may be exempt from these spacing requirements.

5.5.4 Dude Ranch or Wilderness Lodging

The following requirements apply to a Dude Ranch or Wilderness Lodging, as defined in Sec. 11:

5.5.4.1 A Dude Ranch or Wilderness Lodging shall be located on a parcel of at least twenty (20) acres.

5.5.4.2 A maximum of half (0.5) guests per acre is permitted.

5.5.4.3 Where activities require use of public lands or waterways the Dude Ranch or Wilderness Lodging shall about these lands or have access to them by either:

(1) A written access agreement or easement across any intervening land.

(2) A public road.

5.5.4.4 Full service cooking or dining facilities shall be provided.

(1) Central dining facilities shall be provided for all dormitory or lodging room guests.

(2) Individual cabins may be served by kitchens contained within the cabins, or by a central dining facility.

5.5.4.5 Lodging rooms or individual cabins shall not be used for occupancy by any guest for greater than ninety (90) days. Full time residents shall be limited to the Dude Ranch or Wilderness Lodging owner or manager and their immediate family, employees, or family guests.

5.5.4.6 Approval of a Dude Ranch or Wilderness Lodging may include conditions as to the location, layout and operation of facilities necessary to ensure compatibility with adjacent properties.

*See also definition of **Dude Ranch or Wilderness Lodging:** A centrally managed facility which provides full service lodging, dining or cooking facilities, and onsite recreational activities for overnight guests or members. A dude ranch or wilderness lodge shall include an organized program of activities such as hunting, fishing, nature study, arts and crafts, Nordic skiing, snowmobiling, boating, rafting, horseback riding, hiking and pack trips. A dude ranch or wilderness lodge may also include corporate or religious retreats or conference facilities. Activities shall be provided onsite to the extent possible. Adjacent public lands and waterways may be used to supplement onsite activities, but shall not be the point of origin or primary location for such activities. Motels and hotels are not considered dude ranches or wilderness lodges.*

5.5.5 Recreational Vehicle Parks and Campgrounds[23]

[23] Amended June 2018 (Res. 2018-19)

Tourism is an important part of Archuleta County's economic base. Recreational Vehicle (RV) Parks and Campgrounds offer temporary Recreational accommodations, compatible with community character and the natural environment.

5.5.5.1 Non-Conforming Recreational Vehicle Parks and Campgrounds. As provided in Section 1.3, certain sites and structures may be conforming as the use of land permitted by Table 3, but may be considered Legal Non-Conforming as to other requirements of the *Archuleta County Land Use Regulations*.

(1) RV Parks/Campgrounds conforming as to use but nonconforming as to Development Standards in Section 5 of these Regulations, may be altered or extended in accordance with these Regulations, without requiring improvements or alteration to the existing improved site and/or RV spaces or lots.

(2) Any Site Improvements, Structures or Facilities serving new RV spaces/lots or camping areas shall meet all standards of these regulations.

(3) Within the Floodplain Overlay District (FO), any development including substantial improvement of existing facilities (as defined) requires full conformance with Section 10 Floodplain Regulations.

5.5.5.2 RV Park and Campground Area. The minimum park area shall be five (5) acres, unless located in a water and sewer district.

(1) A Recreational Vehicle Park/Campground area may include all or a portion of any legal lot or parcel in an appropriate zoning district as provided in Table 3.
- **a.** Any area of a parcel made available by lease or rent for lodging use shall be considered an *RV Park* if a recreational vehicle is owned by anybody other than the owner of the parcel.
- **b.** When recreational vehicles, tents or other overnight accommodations are offered by lease or rent, owned by the same entity that owns a legal lot, the Land Use shall be considered *Commercial Lodging Units* instead of as an *RV Park*.
- **c.** Any area made available exclusively for camping in tents shall be considered a *Campground*.

(2) RV Park/Campground Setbacks and Buffers. A landscaped buffer shall be provided along the perimeter of the RV Park/Campground, as provided in Section 5.4.6:
- **a.** 50' wide along a US or State Highway or County Arterial.
  - **1.** This buffer may be waived by up to 50% for earthen berms and/or higher-quality landscaping, at the discretion of the approving body (Planning Commission or Board of County Commissioners).
- **b.** 25' wide along any public or private right-of-way or access easement.
- **c.** 20' wide along any other property line.

(3) Campsite Requirements. Campsites of at least 900 square feet may be designated on Site Plans and offered to individuals or groups for tent camping.

a. A Campground may have up to 25 campsites per acre excluding land developed for Site Improvements and required landscape buffers.

(4) RV Space Requirements. Recreational Vehicles may only be parked on an improved RV pad.
- **a.** Each recreational vehicle space or lot shall be at least 35' wide, with an RV pad improved to adequately hold an average-weight recreational vehicle.
- **b.** A minimum of 10' shall be maintained between recreational vehicles, or any recreational vehicle and any structure.
- **c.** Tent camping may be permitted accessory to each RV space or lot, where minimum separation space can be maintained.

5.5.5.3 RV Park and Campground Site Improvements

(1) Access: All RV Parks/Campgrounds shall have access to a public or private road, which meets the requirements of the *Archuleta County Road & Bridge Design Standards*, and is approved by the County Engineer.
- **a.** Internal access drives within an RV Park shall be designed and constructed to the specifications for multi-family development in the Road & Bridge Design Standards.
  - **1.** Parking shall only be allowed on internal driveways when specifically designed and approved with sufficient width for parking.
  - **2.** An internal system of sidewalks, paths or trails shall provide bike/pedestrian circulation within the RV Park.
- **b.** Each recreational vehicle space or lot shall front on an internal access driveway.
- **c.** No recreational vehicle space shall take access directly from a public road.
- **d.** Corner sight triangles shall be maintained along access drives a minimum 10' along the improved surface, as provided by Section 5.4.7 (Vision Clearance Area).

(2) Parking: Adequate parking shall be provided for guests, visitors and staff. No vehicles shall be parked outside improved RV pads and parking areas.

(3) Drainage: Grading and Drainage Plans shall be approved by the County Engineer, as provided in Section 5.3.4.

(4) Common Recreation Areas: A minimum 200 square feet of common open space per RV space/lot or campsite shall be provided, with or without facilities.
- **a.** Water surface can be no more than 10% of the total common area.
- **b.** The common area may contain social halls, swimming pools, game courts, trail system, fishing areas, etc (See Section 5.5.5.3(3) below).
- **c.** Grades above 10% shall not count toward the minimum common open space.
- **d.** All required common open space shall be landscaped with grass, trees, and/or native xeriscape.

(5) Utilities: All utility lines shall be installed underground, except where permitted as Non-Conforming Structures by Section 1.3.2.4.

a. An electrical outlet of 110/220 volts shall be provided for each recreational vehicle space or lot, in compliance with all state regulations.
b. All outdoor lighting shall follow Section 5.4.4.

(6) Refuse Disposal: The storage, collection and disposal of refuse in the recreational vehicle park shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse shall be stored in fly-tight, water-tight, rodent-proof bear-resistant containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing or blowing away. Satisfactory container racks or holders shall be provided at permanent locations no farther than 300' from each RV space/lot or campsite, in areas screened by appropriate landscaping or fencing. Collection shall be at least weekly.

(7) Fire Protection shall be provided as required by Section 5.3.9.
a. Fires are permitted only at locations designated on the approved Site Plan, in adequately maintained fire pits, braziers, grills, and similar facilities.
b. Fires will be permitted only when open burning is allowed by Archuleta County.
c. No fire shall be abandoned, left unattended, or allowed to become a hazard.

5.5.5.4 RV Park and Campground Structures

(1) Recreational vehicles, tents and similar accommodations shall be considered types of temporary structures. RVs shall be kept mobile and operating, for short-term use only.
a. Wheels shall not be removed from recreational vehicles or trailers, nor shall any fixture be added or barrier placed which shall prevent the RV from being moved.

(2) Dwelling Units: One or two Single-Family Dwelling(s) and/or Manufactured Home(s) may be located on the same legal lot or parcel as an RV Park/Campground, as allowed in that zoning district by Section 3.1, as part of the RV Park/Campground Land Use Permit.

(3) Common Area social/recreational facilities, such as swimming pools, putting greens, shuffleboard courts, etc., may be provided for the exclusive use of RV Park/ Campground guests.
a. Social/recreational facilities shall be located outside the buffers in Sec. 5.5.5.2(2).
1. Swimming pools must also meet the requirements of Section 3.2.5.2.
b. Common shower/bath/locker room facilities, or common laundry facilities, shall be for the exclusive use of guests.

(4) Storage Areas: Outdoor Storage areas shall be screened by opaque screening at least 5' in height, and shall be clearly designated on the approved Site Plan.

(5) The following structures are prohibited within individual RV Park spaces/lots and campsites:
a. Any habitable buildings.

b. Garages or carports.
c. Fences greater than 3' high.
d. Mailboxes.

5.5.5.5 RV Park/Campground Water and Sewer Service Facilities

(1) An accessible, adequate, safe and potable supply of water shall be provided to each RV space/lot or Campground in accordance with Section 5.3.8.
a. Water supply under pressure shall deliver a minimum of 100 gallons per day per RV space/lot.
1. A minimum of 50 gallons per day shall be provided for each campsite.
b. Applicants shall provide evidence of approval of water supply by the Colorado Division of Water Resources and Colorado Department of Public Health and Environment (CDPHE).

(2) An accessible, adequate and safe sanitary sewage treatment system shall be provided to each RV space/lot or Campground, in accordance with Section 5.3.7.
a. No solid or liquid waste may be discharged or otherwise disposed on the surface of the ground or into any ditch, stream or lake.
1. Recreational vehicles equipped with plumbing fixtures shall not be permitted in an RV Park/Campground unless connected to the approved sewage treatment system.
2. Each RV space/lot shall be provided with at least a four (4) inch sewer connection. The sewer connection shall be closed when not linked to a recreational vehicle and capped to prevent escape of odors. The RV drain shall be water tight and self-draining.
3. Chemical toilets shall only be used on a temporary basis to supplement permanent sanitary facilities.
b. Applicants shall provide evidence of approval of sewage and wastewater treatment systems by San Juan Basin Public Health or the Colorado Department of Public Health and Environment (CDPHE).

(3) Within the Floodplain Overlay District (FO), all facilities shall be designed and installed in accordance with Section 10 Floodplain Regulations, including quick disconnect-type utility and security devices.

5.5.5.6 RV Park/Campground Additional Provisions

(1) Recreational Vehicle Parks and Campgrounds are intended for seasonal intermittent use. Except for park management and maintenance personnel; there shall be no permanent residency in a Recreational Vehicle Park or Campground.

(2) Permanent residency for a manager or other employees in the operation of the RV Park/Campground is permitted provided they are not housed in a recreational vehicle, tent or other temporary accommodations.

(3) Pets and animals shall be allowed under the direct control of guests, as specified in Table 5 for each zoning district. Boarding of horses (or other large animals) shall be permitted as a Commercial Stable as specified in Table 3.

(4) The RV Park/Campground shall be maintained in a clean, safe and wholesome condition.

(5) The on-site sale of propane is only allowed by a commercially licensed vendor.

(6) No part of the RV Park/Campground shall be used in any way, directly or indirectly, for any purpose unrelated to a recreational vehicle park or campground.

(7) The Board of County Commissioners may, by Conditional Use Permit approval, permit any other uses which it may determine to be similar to those listed above, operated exclusively for the convenience of Recreational Vehicle Park/Campground guests or for the general public, and not more obnoxious or detrimental to the public health, safety and welfare, or to other uses permitted in the park, as provided in these Regulations. All uses shall be subject to the development standards contained herein.

5.5.6 Vacation Rental Standards[24]

Vacation Rental is a Residential Use of a dwelling—in whole or in part—on a short-term rental basis (less than 30 days at a time). Temporary structures (recreational vehicles, tents, yurts, tipis, park model tiny homes, etc.) may not be used for Vacation Rentals.

5.5.6.1 There are two categories of Vacation Rentals.

(1) Owner-occupied (OO) Vacation Rentals are any Vacation Rentals that provide a portion of the dwelling for short-term rental while another portion is used for long-term rental or permanent residency of a property owner; or where there are multiple dwellings and one dwelling is provided for short-term rental and the other is occupied as a long-term rental or as permanent residence of a property owner.

(2) Non-Owner-Occupied (NOO) Vacation Rentals are any Vacation Rentals that provide the entire dwelling for short-term rental while the property owner permanently resides elsewhere, and no portion of the dwelling or property is provided as a long-term rental.

5.5.6.2 Location. Vacation Rental is a permitted use in each Zoning District in which a Dwelling Unit or Manufactured Home is a permitted use, as shown in Table 3. This includes PUD Zone, unless a Development Plan specifies otherwise.

5.5.6.3 Performance Standards.

These standards were derived in part from Colorado Department of Public Health and Environment Sanitary Standards and Regulations for Public Accommodations, 6 CCR 1010-14.

[24] Amended July 2018 (Res. 2018-14); Amended May 2021 (Res. 2021-35)

(1) Owner/Caretaker Responsibilities. The owner of a Vacation Rental shall either be present within a distance of sixty (60) miles of the property, or shall employ a Property Manager or Caretaker within that distance who shall be on call 24 hours a day to respond to the property as needed to alleviate complaints regarding violations of these standards, County Ordinances, or neighborhood rules and covenants.

a. Contact phone numbers will be made available to the public upon request.

b. The Planning Department shall be informed within ten (10) days of any change of contact information for the manager/caretaker or owner.

(2) Code Compliance. Any person offering and dwelling offered as a Vacation Rental, in whole or in part, must be in conformance with all applicable building, zoning, and development codes, as well as nuisance ordinances (Section 1.4.3.1).

(3) Density. *(Reserved for Future Use)*

(4) Space and Occupancy. The number of short-term rental guests shall be limited by the number of bedrooms and capacity of a valid Onsite Wastewater Treatment System (OWTS). In situations where on-site parking availability is constrained, the number of guests may be similarly restricted. These limits do not otherwise apply to personal (not Short-term Rental) use by the property owner.

a. Dwelling Guest Limits. There shall be no more than two (2) overnight guests per bedroom, plus up to two (2) additional guests per dwelling.

1. These sleeping capacity limits are calculated in all sleeping facilities in the home. Any excess sleeping capacity must be removed from all advertising as a condition for approval of the VRP, as applicable. Triple-bunks are prohibited.

2. Lofts and other open spaces can be used for guest sleeping rooms. However, rooms *not originally designed for sleeping will NOT be added to the dwelling's bedroom count to increase rental capacity,* unless:

i. The room is completely enclosed (separated from the rest of the house by its own door and four (4) solid walls.

ii. The room meets all structural and fire safety requirements listed in sections 5.5.6.3(4)c below.

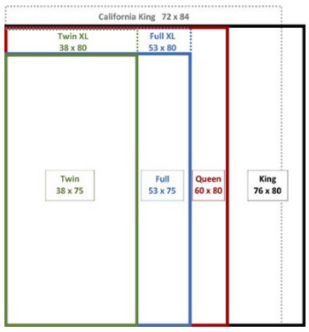
iii. The infrastructure supporting the dwelling can adequately absorb the additional occupancy generated by increasing the guest limits.

iv. Approval is received from the Development Director.

b. Sleeping Room Guest Limits. Every room occupied for sleeping must be configured/furnished according to these standards:

1. Floor Size. No Sleeping Room shall be less than seven (7) feet in any horizontal dimension, must contain at least seventy (70) square feet of floor space for the first guest, and fifty (50) square feet of floor space for each additional guest. No portion of any room having a ceiling height of less than five (5) feet shall be considered as contributing to the minimum required areas.

2. **Ceiling Height.** No room used for sleeping shall have a ceiling height less than seven (7) feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least 50% of the room and no portion of any room having a ceiling height of less than five (5) feet shall be considered as contributing to the minimum required areas.
3. **Bed Capacity.** Guest capacity per bed is calculated using the industry standard for mattress size. King-, California king-, and queen-size mattresses are calculated as having a two-guest capacity. All others, including full-, double-, single-, and twin-size are calculated as having a one-guest capacity. Triple-deck-bunk beds are prohibited. There shall be a clear ceiling height above the mattress of not less than thirty-six (36) inches and a clear space of at least twenty-seven (27) inches between mattresses of a double-bunk bed.



c. Structural and Fire Safety. The dwelling must meet safety codes.

1. **Access and Exits.**
   - **i. Access.** Every room used for sleeping must have its primary entrance directly accessible, without passing through another room or rooming unit, to the outside or to a common hallway leading to the outside.

   - **ii. Emergency Escape Route.** All rooms used for sleeping must have an emergency escape route, other than its primary entrance, that leads from the room directly to the outside of the dwelling. If the emergency escape route is via a window, the opening of that window must be at least 5.7 square feet. If the window is on the second or higher floor, there must be an emergency escape ladder available for use.

2. **Detectors.**
   - **i.** All rooms used for sleeping must have a smoke detector installed *inside* the room and one outside each separate sleeping area within fifteen (15) feet of the entrance to the room.

   - **ii.** All room used for sleeping must have a carbon-monoxide (CO) detector installed *outside* the room within fifteen (15) feet of the entrance to the room. If there is a fuel-burning appliance (wood or gas fireplace, etc.) inside a sleeping room or its attached bathroom, there must *also* be a CO detector inside the room.

3. **Extinguishers.** There must be at least one fire extinguisher in the dwelling, kept in the kitchen or food-prep area.

4. **Handrails and Guardrails.** Any stairway with four (4) or more risers must have a grip-able handrail installed with a return on both ends. Any walking surface that is higher than thirty (30) inches above grade must have a sturdy guardrail of at least thirty-six (36) inches in height.

(5) Advertisements. All ads for Vacation Rentals in all media shall follow these guidelines. Deviations from these standards will be treated as a violation of these Land Use Regulations and will be subject to the provisions of Enforcement found in Section 1.4 of these Regulations.

a. All ads must include the Vacation Rental Permit/Account Number.

b. All ads must reflect a guest limit at or below that which is reflected on their permit.

c. All ads must reflect the proper sleeping configuration as reflected in their permit and conditions.

(6) Refuse Disposal. The property owner, caretaker, or property manager shall manage storage, collection and disposal of refuse. All refuse shall be stored in fly-tight, water- tight, rodent-proof, bear-resistant containers, or be removed upon guest departure.

(7) Guest Parking. There must be at least one on-site parking space for every bedroom offered for rent. Bedroom capacity on the permit may be restricted by the number of parking spaces, if inadequate spaces are available or provided.

5.6 SUPPLEMENTARY USE STANDARDS [25]

5.6.1 Adult-Oriented Businesses

5.6.1.1 It shall be unlawful to operate or cause to be operated an adult-oriented business in any location other than a Commercial zone district. An adult-oriented business shall be deemed to be a conditional use.

5.6.1.2 It shall be unlawful to operate or cause to be operated an adult-oriented business within seven hundred and fifty (750) feet of a church, school, child-care or day-care home or facility, dormitory, health services center or hospital, public park, or residential property ("protected uses"). For the purposes of this Section, the distance between an adult-oriented business and church, school, child-care or day-care home or facility, dormitory, health services center or hospital, public park, or residential property shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure in which the adult-oriented business is conducted to the nearest property line of the premises in which a church, school, child-care or day-care home or facility, dormitory, health services center or hospital, public park, or residentially zoned property is located.

[25] Amended June 2018 (Res. 2018-18)

5.6.1.3 It shall be unlawful to operate or cause to be operated an adult-oriented business within seven hundred and fifty (750) feet of another adult-oriented business. The distance between any two (2) such businesses shall be measured in a straight line, without regard to intervening structures or objected, from the closest exterior wall of the structures in which the adult-oriented businesses are located.

5.6.1.4 It shall be unlawful to operate or cause to be operated more than one adult-oriented business in the same facility or portion thereof.

5.6.1.5 It shall be unlawful for an adult-oriented business to be open for business, or for a licensee to allow patrons on the premises, from two o'clock a.m. to noon of any day, with the exception of private rooms within an adult-oriented motel or hotel.

5.6.1.6 All minors, being persons under eighteen (18) years of age, shall be prohibited admission to an adult-oriented business; provided, however, that this prohibition shall not apply to the non-adult business portion of a business's premises, if the interior of the adult-business portion of the premises is not visible from the non-adult-business portion of the premises, and access is restricted and regulated so as to bar entrance by minors. It shall be unlawful for either a licensee or minor to violate this provision.

5.6.1.7 Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may only contain on the sign the name of the establishment. Each letter forming a word on a sign shall be of solid color, and each such letter shall be the same print-type, size and color. The display surface of a primary sign shall be of a uniform and solid color.

5.6.2 Gardening and Raising Animals as Accessory Uses[26]

5.6.2.1 Cultivation of marijuana may be conducted as an accessory use on any legal parcel.[24]

(1) No more than six (6) marijuana plants may be cultivated for personal use by a Colorado resident, 21 years of age or older, as provided in Sec. 14(4) and Sec 16(3) of Article XVIII of the Colorado Constitution, with **no more than 12 marijuana plants on a single parcel**.

(2) No more than 48 marijuana plants may be cultivated by a Medical Marijuana Caregiver, registered with the State licensing authority, with a Land Use Permit.

- **a.** Cultivation must be conducted in an enclosed, locked building, with plants screened from public view.
- **b.** Caregiver cultivation facilities shall follow all health and safety requirements of Archuleta County marijuana licensing ordinances.
- **c.** Caregiver operations shall comply with the Industrial Performance standards in Sec. 5.4.2, including sound, vibration, emissions, outdoor storage and water pollution. Any extraction must follow requirements of Colorado statutes.

(3) Marijuana operations and activities are expressly prohibited as a Home Occupation.

[26] Amended October 2016 (Res 2016-62)

5.6.2.2 The following chart identifies limitations on the number and type of animals permitted in each zoning district.

TABLE 5: ANIMAL REGULATIONS [#]

DISTRICT	ANIMALS					
	Cats, Dogs, Potbellied (Miniature) Pigs	**Horses, Cows, Llamas, Mules, Buffalo, Ostrich, Emus, Goats, Sheep, Pigs, Miniature Horses**	**Chickens, Ducks, Turkeys, Racing or Domestic Pigeons, Quail, Pheasant and other typically domesticated fowl**	**Rabbits, Chinchillas**	**Non-domestic exotic or native animals, birds, reptiles (except any venomous reptiles, or constricting snakes greater than 6 feet in length)**	**Bee Keeping**
AF AR	No Limit	No Limit	No Limit	No Limit	No Limit	No Limit
AE	4 per dwelling. No limit on kittens and puppies up to 3 months old	No limit except on parcels of land less than 10 acres, then 1 per acre	No Limit	No Limit	4 per lot: Must be kept indoors	No Limit
RR	4 per dwelling. No limit on kittens and puppies up to 3 months old	No limit except on parcels of land less than 10 acres, then 1 per acre	4 per lot up to 3 acres; then 3 per acre	4 per lot up to 3 acres; then 3 per acre	4 per lot: Must be kept indoors	1 hive per acre
R[27]	4 per dwelling. No limit on kittens and puppies up to 3 months old	Not Allowed	4 female fowl per lot	4 per lot	4 per lot: Must be kept indoors	Not Allowed
MHP	4 per dwelling. No limit on kittens and puppies up to 3 months old	Not Allowed	Not Allowed	4 per lot	4 per lot: Must be kept indoors	Not Allowed
C	4 per dwelling. No limit on kittens and puppies up to 3 months old	Not Allowed	Not Allowed	Not Allowed	4 per lot: Must be kept indoors	Not Allowed
I	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed

[#] Exempt: In Platted subdivisions in existence as of the effective date of these Regulations (May 23, 2006) recorded covenants addressing animals take precedence.

Note that Agricultural Uses may also be exempt, except for Commercial Stables and Horse Boarding, or Commercial Kennels which require a Land Use Permit.

5.6.3 Commercial Mobile Radio Systems (CMRS)

5.6.3.1 All proposed CMRS facilities shall be reviewed pursuant to the following procedures:

[27] Amended October 2016 (Res 2016-62)

(1) Building- or structure-mounted CMRS facilities shall be reviewed by the County Staff for compliance with the requirements of these Regulations.

(2) Roof-mounted and freestanding CMRS facilities must receive approval as a conditional use.

5.6.3.2 Multiple providers. No more than one (1) roof-mounted or freestanding CMRS facility may be constructed or maintained upon a property in single ownership; provided, however, that additional CMRS facilities may be approved at the same location as a conditional use, provided all other requirements of this Section are met.

5.6.3.3 Building- or structure-mounted CMRS facilities shall be subject to the following requirements:

(1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.

(2) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet.

(3) Building or structure mounted whip antennas shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.

5.6.3.4 Roof-mounted CMRS facilities shall be screened or camouflaged as appropriate from view from adjacent property lines. Such facilities are additionally subject to the following requirements:

(1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.

(2) Roof-mounted CMRS whip antennas shall extend no more than ten (10) feet above the parapet of any flat root of ridge of a sloped roof to which they are attached.

(3) Roof-mounted CMRS panel antennas shall extend no more than seven (7) feet above the parapet of a flat root or ridge of a sloped roof to which they are mounted.

(4) Roof-mounted CMRS accessory structures shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

5.6.3.5 Freestanding CMRS facilities shall be visually screened from adjacent residential development and public rights-of-way as follows:

(1) All accessory structures and equipment cabinets shall be totally screened from view from adjacent property lines.

(2) Screening, landscaping and/or exterior building finishes and colors shall be compatible with the existing character of the site and adjacent properties and shall be determined as part of the conditional use review process.

5.6.3.6 No CMRS facility shall exceed the height limit applicable to the underlying zone district in which such facility is located.

5.6.3.7 The construction and use of a CMRS facility shall not cause interference to other adjacent CMRS facilities. The County shall be held harmless if interference occurs.

5.6.3.8 CMRS facilities which are abandoned by disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the CMRS facility owner. Should the owner fail to remove the facilities, the County may do so at its option, and the costs thereof shall be a charge against the owner.

5.6.3.9 Standards for approval:

(1) Existing or approved towers cannot accommodate the telecommunications equipment planned for the proposed tower.

(2) The tower shall not constitute a hazard to aircraft.

(3) The tower shall be placed on the property to contain on site all ice-fall or debris from tower failure.

(4) The proposed tower shall provide for shared capacity, if technically practicable.

(5) The tower shall have the least practicable adverse visual impact on the environment.

(6) The proposed tower shall not emit radiation that will adversely affect human health.

(7) The proposed tower shall be the minimum height needed to accommodate the antenna.

(8) The proposed tower shall comply with all applicable federal and state regulations.

(9) The design of the proposed tower shall insure structural integrity. The proposed tower shall have adequate measures to discourage unauthorized climbing and to insure the security thereof.

(10) All reasonably possible sites for the tower have been considered, and the proposed site is the most appropriate, available site from a land use perspective.

5.6.4 *(Reserved for future use.)*

5.6.5 Home Occupations.

Home occupations are permitted as accessory uses to any conforming residential dwelling; provided, however that the home occupation shall conform to all of the following:

5.6.5.1 A home occupation shall be conducted entirely within the dwelling or accessory structure by the inhabitants thereof, with no more than one (1) on-premise employee who is not as resident of the dwelling.

5.6.5.2 A home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.

5.6.5.3 On-premises advertising, display, or other indication of the home occupation shall be limited to one sign, not exceeding two (2) square feet in total area.

5.6.5.4 A home occupation shall not generate vehicular traffic in excess of that typically generated by residential dwellings. No parking or storage of commercial vehicles shall be permitted on the site.

5.6.5.5 A home occupation shall not generate noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in any residential zone district.

5.6.6 Junk Yards

5.6.6.1 Junk yards shall be located a minimum of six hundred sixty (660) feet from any residential zoning district.

5.6.6.2 Junk yards shall be screened with an eight (8) feet high opaque, solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.

5.6.7 Mobile Home Parks

5.6.7.1 Park Area. The minimum lot area for a mobile home park shall be five (5) acres.

5.6.7.2 Park Setbacks.

(1) Each mobile home park shall set aside along the perimeter of the park setbacks which shall be landscaped according to the plan submitted for review, except for those portions used for ingress and egress. The minimum setback requirements shall be as follows:

- **a.** Abutting a state or federally designated highway or county designated major arterial – fifty (50) feet.
- **b.** Abutting any public right-of-way other than above, including alleys – twenty-five (25) feet.
- **c.** Abutting any other exterior boundary – fifteen (15) feet.

5.6.7.3 Mobile Home Space Requirements.

(1) No mobile home may be occupied in a mobile home park unless the mobile home is situated on a mobile home space.

(2) The following minimum area requirements shall apply to mobile home spaces:
- **a.** The minimum area of a mobile home space shall be two-thousand five-hundred (2,500) square feet.
- **b.** Groups or clusters of mobile homes may be placed on a combined lot, where the area of the combined lot is equal to the minimum lot area required for an equal number of mobile homes on standard spaces. Minimum setbacks are required on the combined spaces perimeter lines, as are minimum spacing requirements.

(3) All mobile homes shall be parked in such spaces so that there shall be a minimum of twenty (20) feet between mobile homes. Mobile homes parked end-to-end shall have clearance of not less than ten (10) feet and ten (10) feet from all roads. The tongue or hitch and enclosed additions to the mobile home structure shall be considered a part of the mobile home in measuring required setback distances. The required area of each mobile home space shall not include additional area required for access roads, off-street parking, service buildings, recreation areas, office and similar mobile home park needs.

5.6.7.4 Access and Interior Roadways.

(1) A mobile home park shall have at least one (1) direct access to a public road by a roadway at least thirty-two (32) feet in width.

(2) Access to each mobile home space within a mobile home park shall be provided by interior roadways not less than thirty-two (32) feet in width.

(3) Interior roadways in a mobile home park shall be surfaced with one and one-half (1 ½) minus gravel, asphalt or concrete.

(4) No part of a mobile home shall obstruct any roadway or walkway in a mobile home park.

5.6.7.5 Recreation Area. A mobile home park shall provide an amount of not less than eight (8) percent of the gross mobile home park area for private recreational areas. The area allowed for recreation shall not include any area designated as a roadway, mobile home space, storage area or any area required for setbacks, or a water surface.

5.6.7.6 Storage Areas.

(1) An outdoor storage area for boats, boat trailers, camping units and horse trailers shall be provided within the mobile home park in an amount equal to fifty (50) square feet per mobile home space.

(2) An indoor storage area, either individual or common, for the personal use of mobile home occupants shall be provided in an amount equal to fifty (50) square feet per mobile home space. Space beneath the mobile home shall not fulfill this requirement.

5.6.7.7 Skirting. All mobile homes in a mobile home park shall have a skirting of a rigid type material. Such skirting shall be in place within sixty (60) days after the mobile home is set on the mobile home space.

5.6.7.8 Fire Protection. Every mobile home park shall be provided at all times with fire extinguishing equipment in good working order of such type, size and number and so located as prescribed by the local fire prevention authority, or to satisfy reasonable fire regulations.

5.6.7.9 Water Supply. An accessible, adequate, safe and potable supply of water under pressure shall be provided in each mobile home park, capable of furnishing a minimum of five hundred (500) gallons per day per mobile home space. The number of mobile home spaces to be occupied in a mobile home park shall be limited to the quantity of water available to supply each such mobile home space with the minimum requirements. Where a public supply of water of such quality is available, connection shall be made thereto and its supply may be used exclusively. The development of an independent water supply to serve the mobile home park shall meet all state and local requirements. All plumbing in the mobile home park shall comply with state and local regulations.

5.6.7.10 Sewage Disposal. Mobile home parks shall be served by the Pagosa Area Water and Sanitation District. Each mobile home space shall be provided with at least a four (4) inch sewer connection. The sewer connection shall be closed when not linked to a mobile home and shall be capped so as to prevent escape of odors. The mobile home drain shall be water tight and self-draining. This drain shall be constructed of smooth Schedule 40 plastic pipe or of other approved material. All plumbing in the mobile home park shall comply with state and local regulations.

5.6.7.11 Electricity. An electrical outlet supplying 110/220 volts shall be provided for each mobile home space. The installation shall comply with all state and local regulations.

5.6.7.12 Underground Utilities. All electrical and communication utility lines and services and all street lighting circuits, except as hereinafter provided, shall be installed underground, and street lighting may be provided by means of the utilities standard ornamental facilities. Exceptions from the requirements of the foregoing and this section shall be the following:

(1) Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities may be placed above ground within the utility easement provided therefore, or within the road or other public place as appropriate;

(2) All facilities reasonable necessary to connect underground facilities to existing or permitted overhead or above-ground facilities;

(3) Overhead electric transmission and distribution feeder lines and overhead communication long distance, trunk and feeder lines, existing or new; and

(4) It shall not be necessary to remove or replace existing utility facilities used or useful in servicing the mobile home park.

5.6.7.13 Refuse Disposal.

(1) The storage, collection and disposal of refuse in the mobile home park shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse shall be stored in fly-tight, water-tight, rodent-proof and CDOW approved bear resistant containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing or blowing away. Satisfactory container racks or holders shall be provided at permanent locations convenient to mobile home spaces, in areas screened by appropriate landscaping or fencing.

(2) Methods of storage, collection and disposal are subject to compliance with any local laws and regulations. Collection shall be at least weekly. The mobile home park owner is responsible to provide proper garbage disposal.

SECTION 6 – DEDICATIONS, GUARANTEES AND TITLE RESTRICTIONS

6.1 GENERAL REQUIREMENTS

6.1.1 Dedication Required:

The County shall require all residential major subdivisions and PUD's to provide sites, land or cash-in-lieu of land for mitigation of the impacts of new growth on parks and trails, roads, schools and needed open space.

6.1.2 General Standards:

6.1.2.1 The purpose of the dedication and/or payment is to provide the public facilities and/or services made necessary as a consequence of the development, in an amount roughly proportional to the impact of the development upon such facilities and/or services or the increased need for them brought about by the development. The developer shall have the option, in its sole discretion, to accept the County's calculation of the required dedication, or to perform such studies as are necessary to demonstrate the actual impact of the development upon public services and facilities, and the resulting appropriate dedication or other contribution.

6.1.2.2 The County may require the dedication of areas or sites of suitable, type, size and location for public use for parks, open space, trails or other necessary public facilities, in accordance with the criteria set out in Section 6.1.3, based upon either the fair market value of a percentage of the acreage, a flat fee per lot or tract or, in the case of any other method, such basis as may be agreed upon between the County and the developer.

6.1.2.3 The County may accept a cash payment in lieu of dedicated land if the public interest will be served thereby. Such cash payments must be earmarked and used for a specified public purpose for parks, open space, trails and other necessary public facilities. Such in-lieu payment is to be applied against expenses incurred by the County in the provision of off-site facilities made necessary or desirable by the immediate or future increase in population caused by or attributable to the development. Property values shall be established by appraisal, provided in the first instance by the developer, and accepted by the Board. Minimum payment for cash in lieu of land dedication shall be one thousand dollars ($1,000) for any required dedication.

6.1.2.4 The County may accept subdivided land (lots) in lieu of cash payments equal in value to cash payment. Such land shall be used only to sell or trade for specified public purposes for schools, parks, open space, trails and other necessary public facilities.

6.1.2.5 The developer may fulfill such other arrangements or conditions, memorialized in the site improvements or PUD agreement, as may be desirable or necessary to alleviate the effects of development and to promote the public health, safety and welfare of the present and future residents and inhabitants of the County as a whole.

6.1.2.6 In those cases where portions of the sites and land areas to be dedicated are in such locations, configurations or sizes to render dedication of those portions of the sites and land areas unacceptable to the Board, the applicant at the option of the Board, shall be required to dedicate to Archuleta County those sites and land areas which will meet the needs of Archuleta County in accordance with this Section 6 and cash in lieu of the dedication of the unacceptable portions of the sites and land areas. The value of the combination of both the land dedication and the cash in lieu of land shall not exceed the full market value of the total required dedication of sites and land areas. Full market value shall be established in accordance with Section 6.1.2.3.

6.1.2.7 All moneys collected by the County under this Section shall be deposited in an interest-bearing account which clearly identifies the category, amount or fund of capital expenditure for which the moneys were collected. Each such category, account or fund shall be accounted for separately. Any interest or other income earned on such moneys shall be credited to the account.

6.1.2.8 All land to be dedicated as required by this Section shall be designated on the final approved plat as outlots, and these outlots shall not be building lots. Such outlots shall be deeded to Archuleta County at the time of recording of the final plat. Title insurance acceptable to Archuleta County provided by a title insurance company authorized to do business in the State of Colorado and a certificate of representations and warranties concerning title and usability of the property shall be required at the time of recording of the final plat.

6.1.3 Criteria for Dedications:

The County in formulating the appropriate combination of the options set forth above, shall take into consideration the following criteria:

6.1.3.1 The size of the proposed development.

6.1.3.2 The projected additional population associated with the proposed development.

6.1.3.3 The projected needed generated by the development for road, school, park and open space services and facilities, the provision of which is not covered by other requirements herein.

6.1.3.4 The impact of the proposed development on the implementation of the Community Plan and its component parts, including transportation, parks and recreation.

6.1.4 Developer Option to Conduct Study:

The developer may, in its sole discretion, elect to fund a study of the needed dedications for the project, taking into account the criteria of Section 6.1.3. The County shall consider such study in making its final decision.

6.2 PARK AND TRAIL DEDICATION

6.2.1 Trails and Sidewalks:

Residential, commercial and industrial developments shall provide a network of public sidewalks within the development and that provide access from public parking areas to buildings open to the general public. Residential, commercial and industrial developments shall also provide a sidewalk or trail where property is adjacent to the right-of-way. This sidewalk or trail shall run parallel to the right-of-way along the entire length of the property adjacent to the right-of-way.

6.2.2 Criteria for Park and Trail Dedications:

In determining which land areas are appropriate for dedication as parks and/or trails, the Board shall consider the following criteria:

6.2.2.1 The placement of park lands in such a manner as to assist in enhancing the environment, and in preserving community integrity in the most practical, attractive manner possible.

6.2.2.2 The assurance of the continuity of open space links, trails, and other major components of the recreation system.

6.2.2.3 The assurance that areas set aside for parks lands have been examined for compliance with all regional plans and particularly the Community Plan statement, if any, for park and open spaces.

6.2.2.4 The assessment of the suitability of proposed land dedications for park and recreation.

6.2.2.5 The examination of the size, shape, topography, geology, presence and condition of ground cover and timber, condition of soil, drainage, location, access and availability of water to lands proposed for park and trail purposes.

6.2.2.6 The assurance of the protection of natural and historical features, scenic vistas, watersheds, timber and wildlife.

6.2.2.7 Park lands that are intended to be used for trail rights-of-way, (linear parks for pedestrian, equestrian or bicycle use) shall conform to the following criteria:

(1) The land may either be set aside as a dedicated easement or as a deeded outlot.

(2) The minimum width for such trail easement or outlot shall be based on the particular reasonable needs of the trail, its location, the surrounding terrain and the projected usage but in no instance shall be less than twelve (12) feet in width and in all cases the easement shall be of adequate width to handle the proposed uses.

(3) There shall be adequate provision for public access to the trail easement within the subject property.

(4) The trail easement may overlap and include other property previously included in other easements such as ditch, canal or utility, public open space or other easement provided no easement compromises the functional use of any other easement.

6.2.2.8 Park land may be considered as part of the land set aside for open space or preservation as provided for in an approved subdivision or PUD's.

6.2.2.9 Land with a slope of twelve (12) percent or more shall not be considered.

6.2.3 Cash in Lieu of Trail Dedication:

6.2.3.1 If the Planning Department or County Engineer determines that a sidewalk or trail is not deemed feasible due to topographic constraints or other side conditions, or if the sidewalk or trail will not provide a continuous pathway in the near future, a "cash-out" option is available. The developer will place funds for sidewalk/trail development into an escrow fund. The amount to be placed in the escrow fund shall be equal to the amount of actual construction of said sidewalk/trail. These funds will then be used by the County or the County's designee for future trails and/or sidewalk construction with the following restrictions:

(1) Funds will be used for trails or sidewalks within a three (3) mile radius of the proposed development.

(2) Funds may be used for trails/sidewalk planning studies.

6.2.3.2 For those uses which are located in the more rural areas of the County, and where the County Engineer and the Planning Department have determined that sidewalks or trails construction would be unnecessary, and further, that there is no likelihood of sidewalks or trails being constructed within a three-mile radius of the project and within a five (5) year time period, this requirement may be waived by the Planning Department.

6.3 ROAD DEDICATIONS

6.3.1 Conditions of Approval:

6.3.1.1 All roads, streets, alleys or other public traffic ways located within the development, the benefit of which is to the current or future residents of the development, shall be dedicated as public rights-of-way unless specifically approved as private rights-of-way and so designated on the plat or other document of approval. Roads shall be conveyed to the County at the time of filing of the final approved plat or other document of approval.

6.3.1.2 The developer must comply with the *Archuleta County Road & Bridges Design Standards and Construction Specifications* (adopted by Resolution 2005-40 on November 2, 2005), including without limitation Sec. 27.7.2.1 (Requirement for Subdivision Improvements Agreement & Financial Guarantee), Sec. 27.0.5.1 (New Roads and Recreational

Pathways to be built by Applicants) and Sec. 27.0.6.1 (Upgrading Needed to Accommodate New Development)

6.4 SCHOOL LAND DEDICATION

6.4.1 Purpose:

The purposes of this section are to:

6.4.1.1 Recognize that new residences generate additional demands and burdens on the existing school system and the need for additional facilities;

6.4.1.2 Recognize that the necessity for, and cost of, new or expanded schools be properly attributed to and paid for by new residential development in accordance with the needs and burdens generated by such development; and

6.4.1.3 Provide a dedication methodology that closely approximates the additional school needs and burdens generated by new residential development, links the requirements to be imposed to the additional needs and demands upon the school systems generated by new residential development and imposes a dedication requirement that is roughly proportional to the demands and burdens created by new residential development.

6.4.2 Applicability:

The school dedication or payment in lieu requirements set forth in this section shall apply to new residential developments only.

6.4.3 School Land Dedication Criteria:

The applicant shall designate on the final plat the land that will be dedicated for future school use. The designated land shall be intended to primarily serve the needs of the future inhabitants of the development and surrounding developments. The following criteria will be used to evaluate whether land proposed for dedication is appropriate for school purposes:

6.4.3.1 Whether the size, location, and shape of the site are appropriate for a school site.

6.4.3.2 Whether the site has been approved by the appropriate school district.

6.4.3.3 Assurance that utilities will be extended by the developer or other entity to property boundaries of site and that site development will include necessary street(s), burb, gutter, sidewalks and street lighting.

6.4.3.4 Slope of land: no more than three (3) percent for a school building site.

6.4.3.5 Opportunity for shared use with other community facilities.

6.4.3.6 Whether there is direct access to a collector or local streets for elementary, middle or K-8 school or direct access to an arterial or collector streets for a high school.

6.4.4. Fees in Lieu of School Land Dedication

The County may accept a cash payment in lieu of the dedication of all or any portion of the required school land dedication. Such fees-in-lieu shall be calculated as described in Section 6.1.2.2.

6.4.5 Collection and Administration of Fee-in-Lieu and Land Dedications for Schools:

6.4.5.1 School fees paid pursuant to this section shall be made payable to the County at the time of final subdivision plat or PUD approval or issuance of building permit, whichever occurs first.

6.4.5.2 Monies collected by the County through the fee-in-lieu process shall be kept in a separate, specially designated account for each school district and shall be accounted for in accordance with C.R.S. Section 29-1-801 et seq. The school districts within the County shall be eligible to obtain the monies collected within their district, if a need is determined. Eligible uses include planning for future school sites and the purchase of land for school sites. The expansion of existing school buildings, and investments to increase school capacity, are eligible with the approval of the County.

6.4.5.3 Land reserved for school sites shall be dedicated to the County and held in ownership by the County until such time as there is sufficient student demand for a school on the site. If there is insufficient student demand and the school district and County have determined that there is not a need for a school on the site, that land may be sold by the County. The owner of the land at the time of subdivision, or assigns, shall have the right of first refusal to purchase the site at the cost of the original fee-in-lieu plus reasonable yearly interest earnings. The proceeds of the sale, minus reasonable costs incurred by the County in the ownership and sale of the site, shall be paid to the appropriate school district. The County and appropriate school district shall review any land that is held by the County for a period of ten (10) years to determine its need and viability as a school site. If it is determined that the land should not be sold, subsequent reviews shall be conducted thereafter at five-year intervals to determine need and viability.

6.4.5.4 Prior to transferring land or payment of a fee-in-lieu to the school district, the school district shall establish the need for the school site to the satisfaction of the County. The determination of need shall be based on the following criteria:

(1) Whether the school district has formally adopted a plan which designates the location as the site of a future school.

(2) The proposed location is in conformance with the Community Plan.

(3) If a fee-in-lieu is requested, the school district has a contract for the purchase of the school site.

6.5 OPEN SPACE

6.5.1 For multi-family development, a minimum of twenty-five (25) percent of the total platted area shall be devoted to open-air recreation or other common open space, available to all owners and residents of the project, either physically or visually. For single-family, commercial and industrial developments, the minimum requirement shall be fifteen (15) percent of total platted area. The County may consider the size, location and character of particular parcels in meeting this requirement.

6.5.2 The amount of open space shall be calculated exclusive of street right-of-ways, parking lots, individually owned yards, school sites, fire station sites and utility sites. Of the required open space, not more than half may be water surface such as lakes, ponds, rivers, etc. Single activity facilities such as a golf course, tennis courts, etc., shall not comprise the total required open space land area.

6.5.3 If applicable, facilities may be required for employees in higher density developments, such as outdoor picnic areas, benches, walking paths, bicycle paths, etc.

6.5.4 There shall be a method assured by deed restriction or covenant, binding the owners in perpetuity to a method of maintenance of the common open space areas and other common facilities, including private streets, grounds, sidewalks, street lighting, etc.

6.6 EASEMENTS

6.6.1 Easements for the installation and maintenance of utilities shall not be less than twenty (20) feet in total width, and shall be provided along the perimeter of the project and along lot lines where there is a minimum of ten (10) feet on each side of the lot line. A twenty (20) foot easement for utilities shall be provided along all lot or parcel boundaries adjoining a street. Advice of the various utility suppliers shall be obtained and given full consideration by the developer in this matter.

6.6.2 Easements for existing utilities shall be provided in appropriate locations.

6.6.3 Easements for runoff or storm drainage or flood control may be required as deemed necessary and appropriate.

6.6.4 If the proposed project lies within the Airport Influence Area, as identified on a map in the Planning Department, an Avigation Easement shall be required. It shall be the responsibility of the applicant to determine if any portion of the lot(s) may be unbuildable, due to the required compliance with F.A.R. Part 77.

6.6.5 Development occurring on land containing irrigation ditches, canals, or operating under legal water rights, shall comply with the following, as required by the respective ditch company or ditch owners:

6.6.5.1 Irrigation ditches and canals shall be protected through the provision of adequate right-of-way easements to provide access for equipment to clean and maintain the ditch.

6.6.5.2 No structures shall be placed within these right-of-ways or easements without written permission from the appropriate ditch company or ditch owners.

6.6.5.3 Ditch or canal right-of-way or easements shall not be used as access to projects. Gates of adequate width shall be provided for the maintenance of ditches by ditch right holders.

6.6.5.4 Fences shall be designed and placed in such a manner as to not interfere with the easement.

6.6.5.5 The number of ditch crossings, locations, and sizes shall be approved by the ditch company or ditch owners.

6.7 DEVELOPMENT PHASING

6.7.1 Phased development may be approved by the County, however, each phase developed shall be able to exist in a stable manner irrespective of the completion of the balance of the project.

6.7.2 If phased development is proposed for the project, all phases shall be clearly shown on the development plans.

6.7.3 Phased development shall be subject to any new regulations that have been adopted prior to consideration of the next phase of development.

6.7.4 Future phases, components or amendments within existing projects shall occur in accordance with the requirements of current regulations.

6.8 FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS

6.8.1 General Requirements:

All public improvements required in association with a subdivision plat must be completed to the County's satisfaction prior to final approval of the plat (See Section 4.4.3). The public improvements required shall be finally determined at the time of approval of the Preliminary Plan (See Section 4.3.3), and shall include the following, unless waived as a part of such approval: roads and associated features as required by the County's Road & Bridge Standards (See Section 6.3.1.2), sidewalks, trails, water and sewer lines, including distribution and collection lines, all drainage, detention and retention facilities and parks designed to serve project residents. The requirements of Section 6.8.2 through 6.8.9 apply to developments not requiring subdivision approval; Section 6.8.10 applies to all developments.

6.8.2 Improvements Agreement Required:

No development shall be approved by the Board of County Commissioners until the developer has submitted an improvements agreement or similar contract setting forth the plan, parties responsible and method for the construction of all required public improvements shown on the final documents of approval. The agreement or contract shall adhere to the *Archuleta County*

Road & Bridge Design Standards and Construction Specifications (Resol. 2005-40; November 2, 2005) and shall, in the judgment of the Board of County Commissioners, make reasonable provision for completion of the specified improvements in a specified time period, with appropriate phasing, as a condition for acceptance by the Board, and for satisfaction of the requirements of Section 4.

6.8.3 Security:

Suitable security in an amount stipulated in the improvements agreement shall accompany the final submission to ensure completion of the public improvements according to design and time specifications. Concurrently with the final approval, the developer shall furnish the County with, at the County's option, one of the following: cash, certified funds, a certificate evidencing good and sufficient performance and payment bond or letter of credit to secure the performance and completion of the public improvements to be dedicated to the County, in an amount equal to one hundred twenty-five (125) percent of the estimated cost of said improvements.

6.8.4 Unacceptable Security:

No letter of credit or performance bond drawn upon a company, bank or financial institution having any relationship to the developer or any principal, director, officer or shareholder of the developer (other than the relationship of depositor or checking account holder) shall be acceptable. The County may reject any security for any reason.

6.8.5 Compliance:

If the improvements required to be installed are not constructed in accordance with the required specifications, the County shall notify the developer of the noncompliance and establish schedules for the correction of the noncompliance. If the Board of County Commissioners determines that any or all of the improvements will not be constructed in accordance with the specifications, the County shall have the power to annul the final approval, either fully or in part and withdraw from the deposit of collateral such funds as are necessary to construct the improvements in accordance with the specifications previously established.

6.8.6 Inspection and Enforcement:

Should a developer not provide suitable security to ensure completion of the required public improvements, no final approval shall be accepted by the Office of the County Clerk and Recorder until security is accepted approved by the Board of County Commissioners. As the required public improvements are completed, the developer may apply in writing to the Board of County Commissioners for a partial or full release of the collateral. If the Board determines that the improvements have been made in accordance with the final approval and the improvement agreement, a portion of the security shall be released, provided that the Board of County Commissioners retains sufficient security to cover the cost of the incomplete improvement.

6.8.7 Partial Release of Security:

From time to time, as work to be performed and improvements to be constructed progress to completion, the County may, upon its inspection of and satisfaction with the completion of improvements or work, cause or request that so much of the security required hereunder be released as corresponds to the completed improvements or work, provided, however that the County shall retain twenty (20) percent of the original amount until the expiration of the two

year warranty period. Consent to release of funds or security shall not constitute acceptance by the County of such improvements or work for maintenance purposes.

6.8.8 Release of Security:

Except as may be provided in any subdivision improvements agreement, the County shall not accept responsibility for the operation or maintenance of any improvements until completion of the improvements and final acceptance thereof by the County. Upon written application by the developer for a certificate of completion, and provided that all payments and other performances herein agreed to be made and performed by the developer have been made and completed, the County shall issue a certificate of completion. Except for defects appearing within two (2) years after the date of the certificate and the retention of twenty (20) percent security required by Section 6.9.6, the County will release the developer from all further liability as to the completed improvements. Upon issuance of a certificate of completion, all improvements specified in the certificate shall be deemed approved and accepted by the County whereupon the specified improvements shall be owned, operated and maintained by the County.

6.8.9 Certificate of Occupancy:

No certificate of occupancy shall be issued for any improvements if such agreement is in default or until the remaining improvements have been installed to serve the properties for which a certificate of occupancy is sought, unless funds or a performance bond sufficient to guarantee completion and satisfactory to the County have been provided. In the event such funds are insufficient to complete the improvements, the County, in addition to any other remedy, may revoke any or all certificates of occupancy relating to the development. No application shall be further processed concerning property which is owned, in whole or in part, by a developer who is in default of any improvements agreement or contract for any development within the County, or who is in default of any agreement with the County for the payment of any fee or charge.

6.8.10 Warranty:

Prior to any County acceptance of any improvement, the developer shall provide the County with a written warranty of work in a form acceptable to the Planning Director (which warranty may be part of the improvements agreement) with respect to the improvements to be constructed, warranting that the work will be free of all defects in design, materials and construction, and will remain serviceable for a period of two (2) years after completion.

6.9 PROCEDURE FOR ACCEPTANCE OF STREETS AND ROADS

The *Archuleta County Road & Bridge Design Standards & Construction Specifications* (Res. 2005-40; November 2, 2005); as amended from time to time, shall govern acceptance of new streets and roads.

6.10 MAINTENANCE

6.10.1 Common Open Space:

6.10.1.1 In the event that the organization established to own and maintain common open space, or any successor organization fails, at any time after establishment of the project to maintain the common open space in reasonable order and condition in accordance with the plan, the County may serve written notice upon such organization or the residents of the project, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing thereon, which shall be held within fourteen days of the notice. At such hearing, the County may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured.

6.10.1.2 If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said thirty days or any extension thereof, the County, in order to preserve the taxable values of the properties within the project and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any right to use the common open space except when the same is voluntarily dedicated to the public by the owners.

6.10.1.3 Before the expiration of said year, the County shall, upon its initiative or upon the written request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the project to be held by the Board of County Commissioners, at which hearing such organization or the residents of the project shall show cause why such maintenance by the County shall not, at the election of the County, continue for a succeeding year. If the Board of County Commissioners determines that such organization is ready and able to maintain said common open space in reasonable condition, the County shall cease to maintain said common open space at the end of said year. If the Board of County Commissioners determines that such organization is not ready and able to maintain said common open space in a reasonable condition, the County may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

6.10.1.4 The cost of such maintenance by the County shall be paid by the owners of properties within the project that have a right of enjoyment of the common open space, and any unpaid assessments shall become a tax lien on said properties. The County shall file a notice of such lien in the office of the County Clerk and Recorder upon the properties affected by such lien within the project and shall certify such unpaid assessments to the Board of County Commissioners and County Treasurer for collection, enforcement, and remittance in the manner provided by law for the collection, enforcement, and remittance of general property taxes.

6.10.2 Roads:

Owner(s) of property served by new subdivision roads shall be responsible for their maintenance. See Section 4.3.2.5.

6.10.3 Covenants:

Private covenants shall be imposed upon new development for the protection and maintenance of the private open space and other common areas and amenities of the development, including private roadways, sidewalks, trails and drainage facilities. Copies of proposed covenants shall be submitted to the County for review prior to final project approval. While private covenants may address matters which are also governed by these Regulations, no such private covenants shall supersede these Regulations. To the extent these Regulations are more stringent than the covenants, the Regulations shall control. To the extent the covenants are more stringent, they may be enforced by private action, but not by the County. A private covenant may not permit what these Regulations prohibit.

SECTION 7 – SIGN REGULATIONS

7.1 SIGN PERMIT

7.1.1 Sign Permit Required:
To ensure compliance with these Regulations, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except as provided in Section 7.1.7.

7.1.2 Application for a Sign Permit:
Applications for sign permits shall be made in writing on forms furnished by the Planning Department. The application shall contain:

7.1.2.1 The location by street number and the legal description of the proposed sign structure;

7.1.2.2 Names and addresses of the owner, sign contractor and erectors;

7.1.2.3 Legible site plans which include the specific location of the sign and setbacks to adjacent property lines and buildings;

7.1.2.4 A detailed drawing indicating the dimensions, materials, and colors of the proposed sign structure. A certification by a structural engineer may be required by the Planning Department for a freestanding or projecting sign;

7.1.2.5 A graphic drawing or photograph of the sign copy;

7.1.2.6 A description of the lighting to be used, if applicable;

7.1.2.7 Proof of public liability insurance covering freestanding signs and projecting wall signs;

7.1.2.8 If the sign is to be located off the premises advertised, a written lease or permission from the property owner of the site on which the sign will be located; and

7.1.2.9 Sign permit fee and plan check fee as established by the Board of County Commissioners. The applicant shall pay all costs billed by the County relative to the review of the application.

7.1.3 Staff Review and Approval:

7.1.3.1 Within a reasonable time of the date of application submission, the Planning Department shall either certify the application is complete and in compliance of all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies.

7.1.3.2 When the Planning Department has determined the application to be complete, the Planning Department shall review the sign permit in accordance with the established review criteria and has the authority to approve, approve with conditions or deny the

sign permit. Upon the Planning Department's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.

7.1.4 Sign Permit Review Criteria:
The following review criteria will be used by the Planning Department to evaluate all sign permit applications:

7.1.4.1 Sign meets the requirements of these Regulations;

7.1.4.2 Sign conforms to the requirements of the building and electrical code;

7.1.4.3 Sign conforms to the size, height, material and location requirements for the zoning district in which it is located;

7.1.4.4 Sign would not interfere with pedestrian or vehicular safety;

7.1.4.5 Sign would not detract from the character of an architecturally significant or historic structure;

7.1.4.6 Sign would not be located so as to have a negative impact on adjacent property;

7.1.4.7 Sign would not detract from the pedestrian quality of street or area; and

7.1.4.8 Sign would not add to an over-proliferation of signs on a particular property or area.

7.1.5 Appeal of Sign Permit Denial or Approval with Conditions:
Any appeal of the Planning Department's denial of a sign permit or approval with conditions shall be made to the Board of Adjustment as provided in these Regulations.

7.1.6 Sign Variance:[1]
Any request for an increase in the maximum allowable area for a sign, or for signs not expressly permitted in these Regulations, must be approved through a variance granted by the Board of Adjustments.

7.1.7 Exemptions:
The following types of signs are exempt from permit requirements of these Regulations and may be placed in any zoning district subject to the provisions of these Regulations. Such signs shall otherwise be in conformance with all applicable requirements contained in these Regulations. All such signs (except government signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of owner's permission to install sign may be required if Archuleta County checks for the sign's compliance with these Regulations. All other signs shall be allowed only with permit and upon proof of compliance with these Regulations.

[1] Amended Oct 2021 (Res. 2021-76)

7.1.7.1 Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way shall be exempt from the provisions of these Regulations, except that such signs shall be subject to the safety regulations of the Uniform Building Code and the National Electrical Code.

7.1.7.2 Non-illuminated address signs not to exceed two (2) square feet in area which identify the address and/or occupants of a dwelling unit or of an establishment.

7.1.7.3 Banners applied to paper, plastic or fabric used to decorate or attract attention to a business establishment, provided:

(1) The signs are displayed in conjunction with a grand opening celebration for a period not to exceed thirty (30) days, or

(2) The signs are displayed in conjunction with a special sale for a period not to exceed thirty (30) days.

(3) The signs are displayed no more than two (2) times per calendar year per establishment.

(4) The banner shall be securely attached to the wall of the establishment, freestanding signs or light poles on private property.

(5) One (1) banner per street frontage per establishment shall be permitted.

7.1.7.4 Non-illuminated signs constructed of metal or masonry which are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information as approved by the Planning Department.

7.1.7.5 Bulletin board signs not exceeding fifteen (15) square feet in gross surface area accessory to a church, school, or public or nonprofit institution.

7.1.7.6 Temporary construction signs provided that:

(1) Signs in conjunction with any residential use shall not exceed eight (8) square feet each.

(2) Signs in conjunction with all other uses shall have a maximum area of thirty-two (32) square feet each.

(3) Only one (1) such sign oriented per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least one hundred (100) feet apart as measured by using a straight line.

(4) Such signs shall not be illuminated.

(5) Such signs shall only appear at the construction site.

(6) Such signs shall be removed within seven (7) days after completion of the project.

7.1.7.7 Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, state, local or religious holiday or celebration; provided that such signs shall be displayed for not more than sixty (60) days in any one (1) year; and may be of any type, number, area, height, location, illumination or animation.

7.1.7.8 On-premise directional and instructional signs not exceeding six (6) square feet in area apiece.

7.1.7.9 Signs affixed to door glass which identify the name and/or address of an establishment.

7.1.7.10 Temporary farm product signs provided that:

(1) One (1) on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet away from any side lot line. Such sign shall have a maximum area of nine (9) square feet and may not be illuminated.

(2) A maximum of two (2) off-premises signs shall be permitted. Said off-premise signs may be no greater than four (4) square feet apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way nor within ten (10) feet of a side lot line.

7.1.7.11 Flags, crests or banners of nations, or organizations of nations, or states and cities, or professional fraternal, religious, or civic organizations, except when displayed in connection with commercial promotion.

7.1.7.12 Signs which advertise a private garage or yard sale on the lot on which the sign is located; provided such signs are displayed no more than twice per year per dwelling unit for a period not to exceed three (3) days.

7.1.7.13 Temporary or permanent signs erected by the County, public utility companies, oil and gas companies, or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.

7.1.7.14 Memorial signs, plaques or grave markers which are noncommercial in nature.

7.1.7.15 Identification signs for any oil and gas operation.

7.1.7.16 Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office provided:

(1) The total area of all such signs on a lot does not exceed sixteen (16) square feet.

(2) All such signs may be erected no sooner than sixty (60) days in advance of the election for which they were made.

(3) The signs are removed within seven (7) days after the election for which they were made.

(4) The property owner upon whose land the sign is placed shall give written permission to the person placing said signs and will be responsible for violations.

7.1.7.17 Signs which identify restrooms, public telephones or provide instructions as required by law or necessity, provided the sign does not exceed two (2) square feet in area or as approved by the Planning Department and is non-illuminated, internally illuminated or indirectly illuminated. (This category shall be interpreted to include such signs as “no smoking,” “restrooms,” “no solicitors,” “self-service” and similar informational signs.)

7.1.7.18 Religious symbols located on a building or lot used for organized religious services.

7.1.7.19 Regulatory signs erected on private property, such as “no trespassing” signs, which do not exceed two (2) square feet per face or four (4) square feet in total surface area.

7.1.7.20 “Ranch Watch” and “Neighborhood Crime Watch” signs erected by the County Sheriff’s Department.

7.1.7.21 Temporary signs used to offer for sale, lease or rent the land or buildings upon which the sign is located provided:

(1) One (1) sign per street frontage advertising real estate ("For Sale", "For Rent", "For Lease" or "For Development") not greater than eight (8) square feet in area in a residential district and thirty-two (32) square feet in area in nonresidential districts may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two signs are at least one hundred (100) feet apart as measured by the shortest straight line.

(2) In addition to the on-site real estate sign(s), a maximum of three (3) directional signs, each not exceeding four (4) square feet in area, shall be permitted off the subject premises. Such signs must be placed outside all existing right-of-ways. The message of said signs shall be limited to the name of the property or development being advertised, an address, a telephone number, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale", "For Rent", "For Lease", "For Development", etc.

(3) No more than three (3) temporary directional signs advertising a specific planned commercial or mixed use development, subdivision, multi-family development, etc. may also be permitted offsite. Each such sign may have a maximum area of four (4) square feet and shall be placed outside all existing right-of-ways.

(4) All such temporary signs shall be removed within seven (7) days after the real estate closing or lease transaction.

(5) No sign allowed under this subsection shall be lighted.

7.1.7.22 Scoreboards for athletic fields.

7.1.7.23 Temporary special event signs and banners for religious, charitable, civic, fraternal or similar non-profit or not-for-profit organizations provided that:

(1) Signs shall be erected no sooner than thirty (30) days prior and removed no later than seven (7) days after the event.

(2) No such sign shall exceed thirty-two (32) square feet.

(3) No such sign shall be illuminated.

(4) All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the County or the Colorado Department of Transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (government signs, telephone poles, etc.)

7.1.7.24 No permit shall be required for text or copy changes on conforming or legal nonconforming signs specifically designed to permit changes of the text or copy; provided that no structural changes are made to the sign, and provided that the name of the business to which the sign belongs is not changed.

7.1.7.25 Signs displaying time and temperature devices provided they are not related to a product.

7.1.7.26 Signs for the control of traffic or other regulatory purposes including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his/her duty.

7.1.7.27 Motor vehicle for sale signs provided there is only one (1) sign per vehicle, the sign does not exceed two (2) square feet, and the vehicles are located in approved sales lots.

7.2 NON-CONFORMING SIGNS

7.2.1 Applicability:

Nonconforming signs shall be removed or brought into conformance with these Regulations when:

7.2.1.1 More than fifty (50) percent of the reproduction cost of the sign or sign structure has been damaged or destroyed, or has deteriorated to such an extent that the cost of repairs exceed fifty (50) percent of the reproduction cost of the sign or sign structure.

7.2.1.2 The property undergoes development or redevelopment in accordance with Section 2 of these Regulations.

7.2.1.3 There is a change in the business name.

7.3 PROHIBITED SIGNS

7.3.1 Applicability:

Any sign not specifically listed as permitted by these Regulations is prohibited, including, but not limited to the following:

7.3.1.1 Any sign or sign structure which:

(1) In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;

(2) Uses any words, phrases, symbols or characters implying the existence of danger or the need for stopping or maneuvering a motor vehicle;

(3) Creates in any other way an unsafe distraction for motor vehicle operators; or

(4) Obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.

7.3.1.2 Roof Signs.

7.3.1.3 Mechanical or electrical appurtenances, such as “revolving beacons”, that are designed to compel attraction.

7.3.1.4 Signs emitting sound, except for approved drive-up menu boards as provided for in Section 7.4.2.5.

7.3.1.5 Signs with intermittent or flashing illumination and animated or moving signs, except for time and temperature signs.

7.3.1.6 Awning mounted signs, unless painted directly on the face of the awning.

7.3.1.7 Pennants, banners, balloons, character likeness, flags, and similar displays except as provided in Section 7.7.4.

7.3.1.8 Temporary signs which advertise a business, commodity, service, entertainment, product, or attraction, except as permitted in Section 7.7.

7.3.1.9 Off-premise advertising signs, billboards or any other sign not pertinent and clearly incidental to the permitted use on the property where located, except for temporary

subdivision directional signs and political signs, and except for signs permitted in Section 7.7.

7.3.1.10 Any sign which interferes with free passage from or obstructs any downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.

7.3.1.11 Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.

7.3.1.12 Vehicle-mounted signs, including but not limited to, signs painted on or attached to semi-trailers or cargo containers when exhibited on private property adjacent to public right-of-way for the purpose of advertising the business or services offered on the property. Vehicle-mounted signs used in connection with a special event are exempted from the requirements of this section during the duration of the special event only. Upon the conclusion of the special event, such signs must be dismantled. For the purposes of this subsection, the term special event shall mean a parade, circus, fair, carnival, festival, farmers' market or other similar event that is different in character from the customary or usual activities generally associated with the property upon which the special event is to occur.

7.3.1.13 Inflatable freestanding signs or tethered balloons.

7.3.1.14 Portable signs except as provided in Section 7.7.

7.3.1.15 Signs that extend above or below the bottom of a fascia board or mansard roof.

7.3.1.16 Any sign (together with its supporting structure) now or hereafter existing which, ninety (90) days or more after the premises have been vacated, advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Building Official upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business).

7.3.1.17 Any sign or sign structure which:

(1) Is structurally unsafe;

(2) Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;

(3) Is not kept in good repair; or

(4) Is capable of causing electrical shocks to persons likely to come in contact with it.

REGULATIONS SPECIFIC TO LAND USES

7.4.1 Agricultural and Residential Uses:

7.4.1.1 General:

(1) Freestanding signs shall not exceed a height of eight (8) feet, except that arched signs over a prominent entry may be up to twenty (20) feet high. A landscaped planter area of at least twenty-five (25) square feet is required.

(2) Wall signs shall not exceed a height of fifteen (15) feet.

(3) Only indirect illumination of signs is allowed.

7.4.1.2 Identification Signs:

(1) Residence signs: One (1) or more wall or freestanding signs not to exceed a total aggregate area of three (3) square feet which may include the name of the residence, the name of the occupant, and the street address.

(2) Commercial farm or ranch signs: One (1) or more freestanding or wall signs not to exceed a total aggregate area of forty (40) square feet which may include the name of the farm or ranch and a street address.

(3) Multiple residence development, subdivision, and manufactured home park entrance signs: A maximum of two (2) freestanding signs with an aggregate area of forty (40) square feet shall be permitted at each entrance. The sign may include only the name of the development and the street address.

7.4.1.3 Non-commercial signs: On parcels less than five (5) acres, one (1) sign with a maximum area of twelve (12) square feet and a maximum height of six (6) feet. On parcels of five (5) acres or more, one (1) sign with a maximum area of thirty-two (32) square feet, and a maximum height of eight (8) feet.

7.4.1.4 Temporary signs in accordance with Section 7.7.

7.4.2 Commercial, Industrial, and other Non-Residential Uses:

7.4.2.1 General:

(1) Internally illuminated signs larger than forty (40) square feet shall have the copy in a lighter color than the background.

(2) Multi-tenant projects (two or more tenants) shall submit a coordinated sign plan showing proposed materials, colors, and locations.

7.4.2.2 Wall, fascia, mansard, parapet, awning, projecting, and shingle identification signs:

(1) Allowed only on the exterior elevation of the space occupied by the business, or, for shingle signs, immediately adjacent to the business it identifies.

(2) The maximum sign area for each business is one (1) square foot for each linear afoot of building elevation on which the sign is displayed.

(3) Projecting signs shall be a maximum of twelve (12) square feet, non-illuminated, and project not more than thirty (30) feet from the wall.

(4) The minimum clearance between the bottom of a shingle sign or a projecting sign and the nearest grade or sidewalk is seven and one half (7.5) feet.

7.4.2.3 Freestanding identification signs:

(1) One (1) freestanding sign shall be permitted per project, or integrated center, except on parcels with multiple street frontages, one (1) sign may be permitted for each street if both frontages adjacent to the site are a least three hundred (300) feet.

(2) The maximum height is fifteen (15) feet.

(3) The maximum area for each sign is forty-eight (48) square feet on projects up to five (5) acres and eighty (80) square feet for projects over five (5) acres.

(4) The base shall have an aggregate width of at least twenty-five (25) percent of the width of the sign. This may be a single support or not more than two (2) supports.

(5) The sign or sign structure shall contain similar materials and colors as the building it identifies.

7.4.2.4 Reader panel signs:

(1) Up to fifty (50) percent of the permitted freestanding sign area may be used for a reader panel sign.

7.4.2.5 Menu boards for drive-thru restaurants:

(1) One (1) preview menu board and one (1) ordering menu board is allowed per business. Such signs may be freestanding or wall mounted.

(2) The maximum aggregate area for a preview and an ordering menu board shall not exceed thirty-six (36) square feet with a maximum height of eight (8) feet.

7.4.2.6 Directional signs when required to assist the flow of traffic not to exceed six (6) square feet in area or three (3) feet in height.

7.4.2.7 Directory signs when required to identify the location of the various buildings or offices located within the project not to exceed eighteen (18) square feet and a maximum height of six (6) feet.

7.4.2.8 One (1) Non-commercial sign not to exceed twelve (12) square feet. The maximum height shall be six (6) feet for freestanding signs and fifteen (15) feet for wall signs.

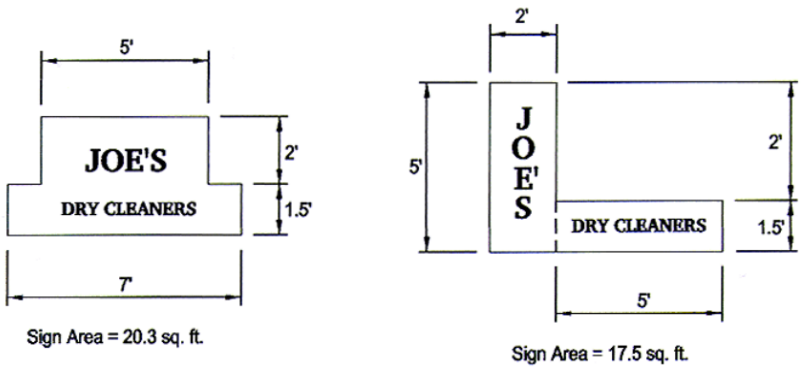
7.4.2.9 Temporary signs in accordance with Section 7.7.

7.5 SIGN MEASUREMENT

7.5.1 Sign Surface Area:

The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas. Time and temperature devices shall not be included within the measurement of maximum sign area.

FIGURE 7-1



SIGN AREA MEASUREMENT

7.5.2 Sign Support:

Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

7.5.3 Back-to-Back (Double-Faced) Signs:

Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two (2) feet at any point.

7.5.4 Three-Dimensional Signs:

Where a sign consists of one or more three-dimensional objects (i.e. balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane.

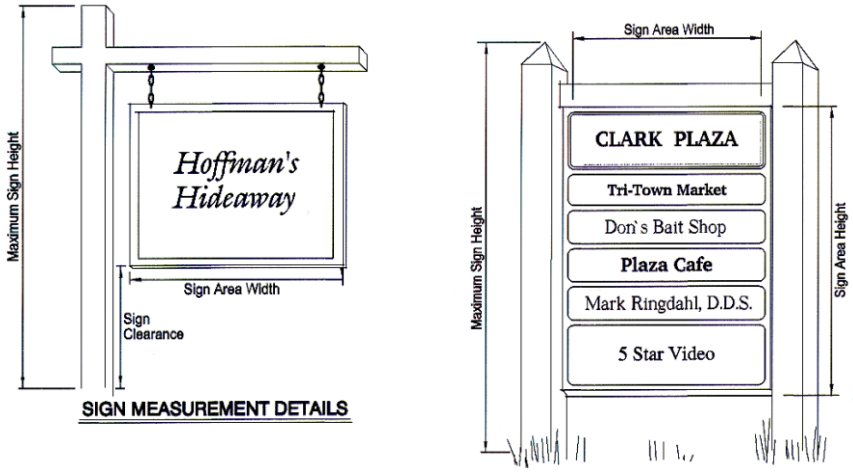
7.5.5 Wall Signs:

If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area.

7.5.6 Sign Height:

The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

FIGURE 7-2



7.6 SIGN DESIGN

7.6.1 Design compatibility:

7.6.1.1 Creative design encouraged. Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. Archuleta County encourages imaginative and innovative sign design. The creative sign is specifically designed for artistic and unusual signs that might not fit the standard sign regulations and categories.

7.6.1.2 Professional. Signs shall be made by a professional sign company or other qualified entity.

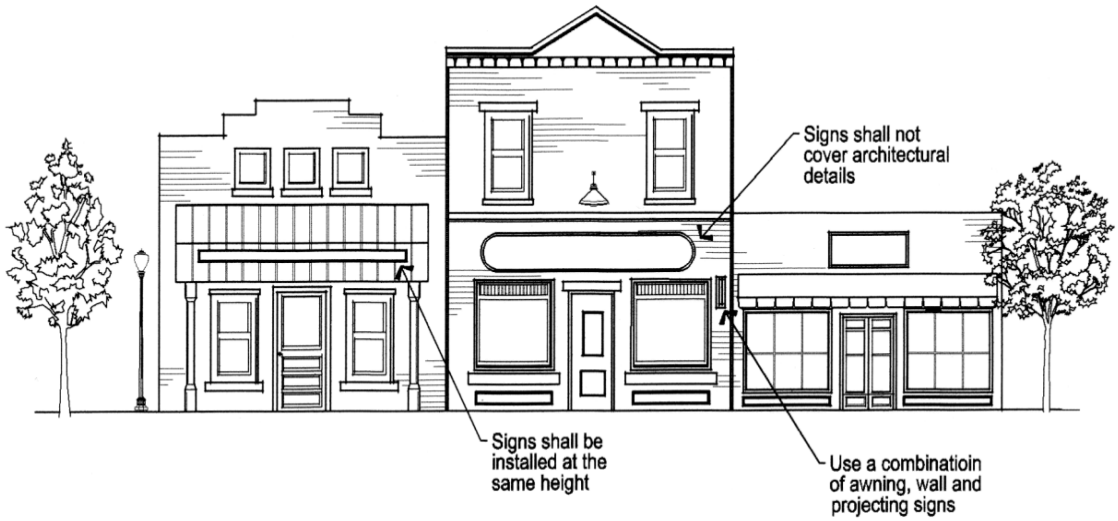
7.6.1.3 Proportionate size and scale. The scale of signs shall be appropriate for the building on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted to.

7.6.1.4 Sign location and placement

(1) Visibility – Signs shall not visually overpower nor obscure architectural features.

.

FIGURE 7-3



(2) Integrate signs with the building and landscaping – Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.

(3) Unified sign band – Whenever possible, signs located on buildings with the same blockface shall be placed at the same height, in order to create a unified sign band. Locate wall signs at the first floor level only for retail uses.

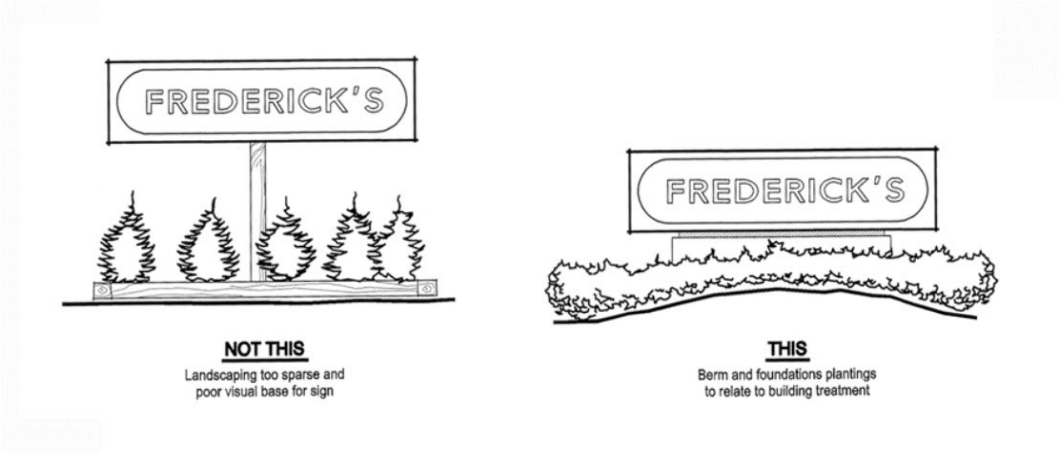
(4) Monument signs – Locate monument signs in a planter setting within a landscaped area at the primary entries to residential, commercial and industrial subdivisions to provide an overall project identity. A maximum of one (1) monument sign per entry is permitted.

(5) Pedestrian-oriented signs – Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.

(6) Road right-of-way – No sign shall be erected within the road right-of-way or near the intersection of any road(s) or driveways in such a manner as to obstruct free and clear vision of motorists or pedestrians or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Signs located at an intersection must be outside of the sight distance triangle.

7.6.1.5 Landscaping. Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer.

FIGURE 7-4



7.6.1.6 Reduce sign impact. Because residential and commercial uses generally exist in close proximity, signs shall be designed and located so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.

FIGURE 7-5

7.6.2 Color:

7.6.2.1 Select colors carefully. Colors shall be selected to contribute to legibility and design integrity. Sign colors shall complement the colors used on the structures and the project as a whole. Colors or combinations of colors that are harsh and disrupt the visual harmony and order of the street are unacceptable.

7.6.2.2 Use contrasting colors. Provide a substantial contrast between the color and the material of the background and the letters or symbols to make the sign easier to read during both the day and night. Light letters on a dark background or dark letters on a light background are most legible.

7.6.2.3 Avoid using too many colors. Colors or color combinations that interfere with legibility of the sign copy or that interfere with viewer identification of other signs shall be avoided.

7.6.3 Materials:

7.6.3.1 Signs shall be constructed of durable, high quality architectural materials. The sign package must use materials, colors and designs that are compatible with the building facade. Sign materials must be of proven durability. Treated wood, painted metal, stone, brick and stucco are the preferred materials for signs.

7.6.4 Legibility:

Signs shall be adequately legible under the circumstances in which they are primarily seen. The legibility of signs is related to:

7.6.4.1 The speed at which they are viewed;

7.6.4.2 The context and surroundings in which they are seen; and

7.6.4.3 The design, colors and contrast of the sign copy and sign face.

7.6.4.4 The design of the sign including copy, lettering size and style, and colors shall logically relate to the average speed of the traffic which will see it. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them. Symbols and logos can be used in place of words whenever appropriate.

7.6.5 Sign Illumination:

7.6.5.1 Use illumination only if necessary.

7.6.5.2 Sign illumination shall complement, not overpower, the overall composition of the site, and shall comply with Section 5.4.4, the Outdoor Lighting provisions of these Regulations.

7.6.5.3 Use a direct light source. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from pedestrians' and motorists' "lines of sight."

7.6.5.4 Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lighted only to the minimum level for nighttime readability.

7.6.5.5 All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs.

7.6.5.6 Flashing, moving, blinking, chasing or other animation effects shall be prohibited on all signs except time and temperature signs.

7.6.5.7 Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.

7.6.5.8 The use of individually-cut, back-lit letter signs is encouraged.

7.6.5.9 No commercial sign within five hundred (500) linear feet of a pre-existing residential structure may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. A residence shall be deemed "pre-existing" for purposes of this Section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of these Regulations.

7.7 STANDARDS FOR SPECIFIC SIGN TYPES

7.7.1 Real Estate Signs, Lease, or Rent Signs:

Signs shall be non-illuminated, with one (1) sign permitted for each street frontage, with a maximum of two (2) signs per parcel or building.

7.7.1.1 Agricultural and Residential Uses:

(1) Less than three (3) acres, each sign shall have a maximum area of six (6) square feet and a maximum height of five (5) feet.

(2) Three to ten (3-10) acres, each sign shall have a maximum area of twelve (12) square feet and a maximum height of six (6) feet.

(3) Over ten (10) acres, each sign shall have a maximum area of thirty-two (32) square feet, and a maximum height of eight (8) feet.

7.7.1.2 Commercial, Industrial, other Non-residential Uses:

(1) Vacant land: Less than two (2) acres, each sign shall have a maximum area of twelve (12) square feet and a maximum height of six (6) feet. Two (2) acre or larger, each sign shall have a maximum area of thirty-two (32) square feet and a maximum height of eight (8) feet.

(2) Buildings: Each sign shall have a maximum area of twelve (12) square feet and a maximum height of six (6) feet.

7.7.2 Off-site Open House or Other Directional Signs:

7.7.2.1 A maximum of two (2) signs is permitted for each open house or directional sign for the sale of property.

7.7.2.2 Each sign shall have a maximum area of six (6) square feet and a maximum height of three (3) feet.

7.7.2.3 Signs shall be posted for a maximum of forty-eight (48) hours per week.

7.7.2.4 Signs much be placed on private property and with the permission of the owner or lessee of the property.

7.7.3 Subdivision Advertising Signs:

7.7.3.1 One (1) sign is permitted at each major entry with a maximum of two (2) signs per subdivision.

7.7.3.2 Each sign shall have a maximum area of thirty-two (32) square feet and a maximum height of eight (8) feet.

7.7.3.3 Portable signs are not allowed.

7.7.3.4 No sign permit shall be issued until the Board of County Commissioners has conditionally approved a final plat or a survey map has been filed for parcels greater than thirty five (35) acres.

7.7.3.5 Such signs may be maintained until all of the lots in the subdivision are sold or for three (3) years, whichever occurs first. Signs may be renewed after three (3) years if the lots are not sold out.

7.7.3.6 A real estate agent may add their company name, agent name, and phone number(s) to a subdivision advertising sign, but shall only place real estate signs on lots that are for sale within the advertised subdivision.

7.7.3.7 No real estate sign shall be placed at the entrance to a subdivision or on the subdivision advertising sign.

7.7.4 Special Events, Grand Openings:

7.7.4.1 May be used to advertise grand openings, a change of business ownership, special sales, new products or services, customary seasonal events, and other similar promotions.

7.7.4.2 May include such displays as pennants, banners, flags, inflatable structures, character or product likeness, and other similar attention attracting media and devices.

7.7.4.3 Special event displays shall be allowed for a maximum of ten (10) consecutive days no more than four (4) times per year, except that Christmas tree sales lots may have signage from Thanksgiving to December 31.

7.7.4.4 Grand opening displays are allowed for thirty (30) consecutive days. The grand opening display requires a new business or change in business name.

7.7.4.5 There shall be a minimum of thirty (30) days between each display.

7.7.5 Seasonal Sales, Temporary Uses (with Proper Permit):
One (1) non-illuminated identification sign is allowed with a maximum area of thirty-two (32) square feet and a maximum height of eight (8) feet.

7.7.6 Construction and Development Signs:

7.7.6.1 Portable signs are not allowed.

7.7.6.2 The signs may identify the name of the project, the names of the developer, contractor, architect, subcontractor, and financier of the project, and the projected completion date.

7.7.6.3 The signs may only be installed after building permits have been issued for the project.

7.7.6.4 The signs shall be removed prior to the issuance of a Certificate of Occupancy for the project.

7.7.7 Window Signs:
May be used for business identification and advertising of any service, product, person, business, place or activity on the premises.

7.7.8 Political Signs:

7.7.8.1 Agricultural and residential uses: A maximum area of six (6) square feet and a maximum height of five (5) feet.

7.7.8.2 Commercial, Industrial and Non-Residential uses: A maximum area of thirty-two (32) square feet and a maximum height of eight (8) feet.

7.7.8.3 Political signs advocating a position for a specific candidate or measure shall not be displayed more than sixty (60) days prior to an election and shall be removed within ten (10) days following the appropriate election.

7.8 INSTALLATION AND MAINTENANCE

7.8.1 Installation:

7.8.1.1 All signs shall be mounted so that the method of installation is concealed.

7.8.1.2 Projecting signs shall be mounted so they generally align with others in the block.

7.8.1.3 All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical codes. Archuleta County may inspect any sign governed by these Regulations and shall have the authority to order the painting, repair, alteration or removal of a sign

which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

7.8.1.4 Owners of projecting signs extending over public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by Archuleta County, in which the County is named as an "other insured."

7.8.2 Maintenance:

7.8.2.1 The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in neat and orderly condition, and in a good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes.

7.8.2.2 The owner of any sign regulated by these Regulations shall be required to keep signs and supporting hardware, including temporary signs and time/temperature signs structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

7.8.2.3 Archuleta County may inspect any sign governed by these Regulations and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

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SECTION 8 – RESERVED

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SECTION 9 – MINING

9.1 SAND, SOIL AND GRAVEL MINING

9.1.1 Purpose:

It is the intent of Archuleta County to ensure that sand, soil, and gravel are available to the public and that mining and related uses for sand, soil, and gravel occur without compromising the goals and objectives of the Archuleta County Land Use Code. It is the intent of Archuleta County to assure that these requirements are addressed without duplication of, or contradiction with, pertinent state or federal requirements for such mining. Archuleta County reserves the right to assume the functions of external agencies involved with sand, soil and gravel mining if such agencies are eliminated or their operations are curtailed.

9.1.2 Applicability:

Any Resource Extraction, Processes and Sales Use is subject to review and approval by the Development Services Department. This includes: [1]

9.1.2.1 Mining of sand, soil or gravel.

9.1.2.2 Temporary borrow pits to extract sand, soil or gravel.

9.1.2.3 Project which includes any of the following:

(1) Accessory uses and structures associated with mineral extraction.

(2) Crushing, screening, stockpiling of extracted materials.

(3) Processing or batching of materials into other products such as asphalt and concrete.

(4) Outdoor storage of equipment and materials used for mineral extraction.

9.1.3 Mining Operations That Do Not Require A Permit:

If the proposed operation does not satisfy any one of the following subsections then a permit is required. In no instance will use of County Roads be allowed without a permit.[2]

9.1.3.1 The use is for an agricultural operation where no material would be exported from the parcel and is for landowner's use on his own property. The associated equipment may only operate on roads on the landowner's property within the parcel boundaries where the operation takes place. All associated operations, screening and loading must be at least 1,000 feet from the nearest residence not owned by the landowner.

9.1.3.2 The activity is approved as a mining activity by the County under separate permit, such as landfill sites, foundation excavations, building or subdivision developments, or water or road tunnel developments;

[1] Amended May 2019 (Res. 2019-39)
[2] Amended Dec 2010 (Res. 2010-10)

9.1.3.3 If for an approved building or subdivision, the disturbed area is located within and immediately surrounding the footprint of an approved building, road, or recreational facility and for sand or soil only.

9.1.4 Minor Sand and Gravel permit:

Certain small mining operations may be reviewed and approved administratively, with conditions, or denied, by the Development (Planning) Director, after consultation with the County Engineer.[3]

9.1.4.1 A project may qualify as a Minor Sand & Gravel operation when:

(1) The extraction site is adjacent to the project area for another approved Land Use Permit and is owned or controlled by the same person, company or agency; or

(2) The operation serves a specific one-time major construction project; or

(3) The site will be limited to a maximum of ten (10) acres.

9.1.4.2 A Minor Sand & Gravel operation should only be located in an area where there are no existing mining operations which could serve the project without creating significant impacts on the road system or to surrounding areas.

9.1.4.3 Specific Performance Standards for a Minor Sand & Gravel Operation:

(1) The operation will be reclaimed within one (1) year of completion of all mining activities. In the case of a multi-cell operation, reclamation of each cell will be made within one (1) year of completion of mining activities in said cell.

(2) The project site shall not be visible from adjacent residences, or will be mitigated to have reduced visibility from adjacent residences.

(3) The mine shall be located in proximity to the construction project which it is intended to serve, and will cause minimum impacts to the roads used from the mine to the project site.

(4) Roads used to access the construction site from the mine will be upgraded to withstand the additional traffic, and the permittee will prevent road damage and mitigate dust, under the supervision of the County Road and Bridge Supervisor.

(5) Flagmen and traffic control signs will be used during the construction project to assure safe traffic detours and to minimize conflicts with truck traffic serving the project.

9.1.4.4 Crushers and/or batch plants will be allowed at a site permitted under this Section 9.1.4 only under a separate Conditional Use Permit approved by the Board.

[3] Amended May 2019 (Res. 2019-39)

9.1.5 Major Sand & Gravel Permit:
Unless exempt under Section 9.1.3 or allowed as a minor sand and gravel administrative permit under Section 9.1.4, all sand, soil and gravel mining operations must obtain a Conditional Use Permit as a Major Sand & Gravel operation.

9.1.6 Performance Standards for All Operations:

9.1.6.1 Compatibility of sand, soil, or gravel mining operations with surrounding uses shall be determined by review of the following criteria:

(1) Surrounding uses are primarily agricultural, forestry, or industrial.

(2) Truck traffic will not access the mining operation through residential, recreational or commercial areas, or such traffic will be mitigated.

(3) The mining site will not be visible to adjacent surrounding residences or will be mitigated to the extent reasonably possible, to have reduced visibility. Placement of the operation a sufficient distance from public roadways, behind natural landforms and existing major vegetation, and/or away from growth centers will minimize visual contact.

(4) Equipment used for the operation will not be visible from adjacent surrounding residences or will be mitigated to reduce visual impact.

(5) The operation will not generate noise or vibration apparent to surrounding residences, or such impacts will be effectively mitigated, to the extent required by the performance standards at Section 5.4.2.1.

9.1.6.2 Air Quality:

(1) Gravel, water or chemically stabilize public and private access roads, stripped areas, and excavations to minimize dust.

(2) Increase watering operations immediately in response to periods of high wind or to dust complaints.

(3) Plant stripped areas and soil stockpiles that are planned to remain uncovered for more than one (1) season with rapid growing vegetative cover to minimize dust, erosion, and weeds.

(4) Cease aeration operations at commercial wastewater ponds during periods of high wind.

9.1.6.3 Visual Amenities and Scenic Quality:

(1) Use low profile permanent equipment, and/or permanent equipment painted to "blend with surroundings", and/or effective screening of permanent equipment. Permanent equipment shall be construed as that equipment left in place for one (1) year or more. Color selection shall be reviewed and approved by the Director of County Development.

(2) Maintain weed control and watering programs to keep landscaping and vegetation viable.

(3) Proposed landscaping, screening, fencing or other visual impact mitigation shall be approved by the Director of County Development prior to operation.

(4) New long-term (more than one (1) year) mining operations will not be visible along highways.

(5) The proposed mining operation will be located a sufficient distance from other mining operations so as not to create cumulative impacts to roads, air and water quality, or other resources and amenities.

9.1.6.4 Crushing, Processing, Batching, and Hot Mix operations shall meet the following criteria:

(1) Current Colorado Department of Public Health and Environment (CDPHE), Air Pollution Emissions permits shall be obtained for all processing equipment.

(2) Visual impacts from batch plants to adjacent and surrounding residences must be mitigated to the extent reasonably possible.

(3) Batch plants shall not be located within a one-hundred (100) year floodplain unless all requirements of the National Flood Insurance Program can be complied with.

(4) Recirculation ponds associated with batch plants or other processing equipment shall be lined with impervious material, or enclosed recirculation tanks shall be used to prevent intermingling of processing water with groundwater. Surface runoff water shall be diverted away from batch plant areas.

(5) All stationary sources shall meet current Colorado Department of Public Health and Environment emissions standards for air and water. More stringent requirements may be set by the Board of County Commissioners in certain locations.

(6) Results of relocation and annual inspections of batch plants by the Colorado Department of Public Health and Environment shall be submitted to the Planning Department.

(7) The Board of County Commissioners may approve a mining operation for a specific period of time, not to exceed twenty (20) years, with a five (5) year review by

Planning Commission and the Board. The compatibility and size of the project will be considered in determining the appropriate length of time for the mining operation. Renewals of the permit may be granted upon a new permit review, and subject to new and additional conditions.

(8) The Board of County Commissioners will require a performance guarantee in addition to the bond required by the Colorado Division of Minerals and Geology (CDMG) to insure that certain conditions of a permit will be complied with. The County will require a certified copy of the bond required by the CDMG.

9.1.7 Submittals for Sand, Soil, and Gravel Mining Operations:

9.1.7.1 Copy of application submitted to the Colorado Division of Minerals and Geology (CDMG) [*Division of Reclamation, Mining and Safety—CDRMS*], including:

(1) Site Plan

(2) Operations Plan

(3) Road Use Plan

(4) Reclamation Plan

(5) Copy of Bond

(6) Wildlife, soils, geology, hydrology, and other environmental information.

9.1.7.2 The application shall include (by reference to information submitted as part of other permit applications and copies of same) the following items:

(1) Maps and Sketches:

(2) Quadrangle Map of site and surrounding areas within a one (1) mile radius, including:
- **a.** An outline of the proposed site
- **b.** Location of adjacent residences and other buildings
- **c.** Property lines, water wells, irrigation ditches, oil/gas wells, other
- **d.** Gravel mines, and County and private access roads.

(3) Site Plan of all proposed equipment and facilities, stockpiles, and other features of the exploration operation.

(4) Grading Plan to show grading during and after the extraction operations, pre- and post- disturbance drainage, and final grading.

(5) Two (2) foot contour map of the existing site and final contours.

(6) Site Description: Written description of location of the existing site, including:
- **a.** Existing vegetative types
- **b.** Existing land use of the site and surrounding areas
- **c.** Location of extraction areas, stockpiles, topsoil and overburden piles, nearest waterways, nearest residences, proposed or existing fencing.

(7) Written description of access roads to be used, including:
- **a.** Surface type, width, geometry, structure, bridges and intersections
- **b.** Anticipated impacts, existing and proposed traffic volumes
- **c.** Residential, recreational, commercial areas along the proposed route
- **d.** Location of internal haul roads

(8) Project Description: Written description of the proposed operation, including:
- **a.** Size and timing of phased extraction areas
- **b.** Depth of topsoil and overburden
- **c.** Maximum area to be disturbed at any one time, including stripping of topsoil and overburden
- **d.** Methods of extraction, dates, days and hours of operation, number of employees.
- **e.** Expected volume of minable gravel and annual volume of materials to be removed.
- **f.** Outdoor storage and weed control plan

(9) Blasting plan and information to include:
- **a.** Type and kind of explosives to be used
- **b.** Amounts of explosives per shot
- **c.** Number of shots per blast
- **d.** Location of explosives storage magazine
- **e.** Name and address of person or company in charge of blasting (if other than permittee)

(10) Reclamation Plan describing:
- **a.** Proposed final land use
- **b.** Timing of reclamation
- **c.** Topsoil salvage, overburden salvage, topsoil and overburden redistribution and/or disposal
- **d.** Soil Conservation Service and/or Mined Land Reclamation Board recommendations for seeding and revegetation.
- **e.** Weed control plan

(11) Environmental and vicinity impact analysis to include:
- **a.** Soils information
- **b.** Visual impacts, including distances, areas, neighborhoods, and public roads from which the project will be visible
- **c.** Wildlife habitat and population information,
- **d.** Site-specific geologic, floodplain, wildfire hazards
- **e.** Potential air pollution, water pollution, noise, surrounding drainages, and water rights

f. climatological data
g. Surrounding property uses and land values.

(12) Proposed impact mitigation plan to include:
a. Visual impact mitigation plan
b. Wildlife mitigation plan
c. Plan to address geologic hazards, floodplains, hydrologic hazards
d. Air pollution emissions permit
e. Water quality and quantity protection and water augmentation plan
f. Methods of preservation of significant vegetation

(13) A Fugitive Dust Control Plan shall be submitted which shall:
a. Comply with requirements of the Colorado Air Quality Control Planning Commission
b. Be approved by the Colorado Air Quality Control Division
c. Address site-specific areas of concern, such as stockpiles and wind breaks.
d. Be implemented by the operator and/or hauling contractor at the mine and on all haul roads.

9.1.8 Mitigation for Sand, Soil, and Gravel Mining Operations:

Mitigation required by the Colorado Division of Minerals and Geology (CDMG) *[CDRMS*], and other state and federal agencies will be reviewed by the County to insure that the plans adequately address potential impacts. Archuleta County does not intend to duplicate or conflict with federal or state requirements. Where mitigation plans do not appear to address potential impacts, additional mitigation plans will be required by the Planning Department. The County maintains a list of mitigation techniques as suggestions in the Planning Department. Some or all of these techniques may be applied to the permit. Additional techniques may be required or may be proposed by the applicant. All mitigation required shall be at the operator's expense, unless otherwise approved by the Board of County Commissioners.

9.2 OIL AND GAS DEVELOPMENT PERMIT

9.2.1 General Provisions and Authority

This Section is authorized by C.R.S. §§ 29-20-101 *et seq*., 34-60-101 *et seq*., and 30-28-101 *et seq*. [4]

9.2.1.1 Purpose:

This article is enacted to protect and promote the health, safety, values, convenience, order, prosperity or general welfare of the present and future residents of Archuleta County. It is the County's intent by enacting this article to facilitate the development of oil and gas resources within the unincorporated area of the County while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under statutes of the State of Colorado the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this article and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with this article.

Should it be established by competent evidence that a proposed major or minor facility cannot be operated in compliance with this article, County land use approval for such a facility may be denied.

9.2.1.2 Jurisdiction:

Development of oil and gas facilities within the unincorporated areas of Archuleta County, except those areas where the County's legal jurisdiction has been preempted by state or federal law, shall be subject to the provisions of this Section 9 and any other applicable regulations of the County, as well as any state or federal entities or agencies having jurisdiction over such development.

(1) Oil & Gas Operations of the Southern Ute Indian Tribe (SUIT) are exempt from Section 9 by Memorandum of Understanding of the Board of County Commissioners.

(2) The State of Colorado, through the Colorado Oil & Gas Conservation Commission (COGCC), retains primary authority to regulate oil and gas development on public and private land. Archuleta County retains the right to mitigate adverse impacts of such development, to the extent accorded by federal and state law.

9.2.1.3 General Procedures:

Construction, installation and operation of oil and gas facilities shall not commence until administrative approval has been granted by the Archuleta County Development

[4] Amended May 2019 (Res. 2019-39)

(Planning) Director, or approval following public review has been granted by the Archuleta County Planning Commission and/or the Archuleta Board of County Commissioners, as applicable under this section of the *Archuleta County Land Use Regulations*. The Development Director shall serve as the authorized representative of the Board of County Commissioners for the purposes of this Section.

(1) Major and minor oil and gas facilities which comply with the applicable standards and requirements of this article shall be granted recommendation for approval by the Development Director upon the applicant's submittal of satisfactory documentation, in the manner prescribed, that the facility is in compliance with the standards set forth in this article. Special mitigation measures are required for minor facilities which do not comply with the standards set forth in this Section.

(2) The Planning Commission shall review and grant approval for minor facilities, provided that the applicant submits satisfactory documentation to County Planning Department that an appropriate mitigation plan for the facility will be implemented in accordance with this Section.

(3) Planning Commission review and recommendation, based upon a report prepared by the County Planning Department, together with the Board of County Commissioners review and approval shall be required for activities and facilities classified as major facilities.

9.2.1.4 Best Management Practices:

Archuleta County encourages and, where determined to be feasible, requires the appropriate use of directional drilling, the placement of multiple wells on a single pad, the use of closed loop ("pitless") systems, the use of non-toxic or "green chemicals" (as defined by the *Archuleta County Land Use Regulations*) in all drilling and fracturing fluids and other techniques, including current and available best management practices, designed to protect the integrity of the surface estate and subsurface water resources.

9.2.2 Minor Oil & Gas Facilities [5]

9.2.2.1 Certain small oil and gas operations may be reviewed and approved as Minor Oil & Gas operations, including:

(1) An individual well pad built with one or more wells and operated for exploration or production of liquid petroleum and/or natural gas, including any and all associated equipment located on the well pad or within 150 feet of the wellhead required for such production.

(2) Gathering lines and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.

(3) Total brake horsepower of all equipment associated with an application will not exceed 50 BHP.

[5] Amended May 2019 (Res. 2019-39)

9.2.2.2 Certain small operations may be reviewed and approved as Minor oil and gas facilities requiring special mitigation measures:

(1) An individual well site built and operated for exploration or the production of petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements specified in this section for minor facilities.

(2) Any of the facilities specified under Section 9.2.2 which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.

(3) Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six weeks.

9.2.3 Major Oil & Gas Facilities

Any of the following qualify a facility as a Major Facility: [6]

9.2.3.1 Centralized facilities.

9.2.3.2 Water injection or centralized water transfer stations and associated facilities serving multiple well pads.

9.2.3.3 Storage yards and construction staging yards, including temporary or permanent offices or housing.

9.2.3.4 Any permanent equipment, facility or structure related to the production of oil and/or gas which contains internal combustion engines with a cumulative horsepower, de-rated for elevation, of 50 BHP, or greater.

9.2.3.5 Pipelines for which the power of eminent domain is available.

9.2.3.6 Any oil and gas facility not meeting the definition of minor oil and gas facility.

[6] Amended May 2019 (Res. 2019-39)

9.2.4 Application Requirements: [7]

9.2.4.1 Pre-Application Meeting:

A pre-application meeting is required prior to submittal of an Oil & Gas permit application. In addition to the procedures in Section 2.2.4.1, the following provisions shall apply:

(1) The surface rights owner(s), home and property owners associations, improvement district members, and all other parties which must be noticed under Section 9.2.5 shall also be given the opportunity to attend the pre-application meeting.

(2) The notification of the pre-application meeting shall be done at least fourteen (14) days in advance of the pre-application meeting by certificate of mailing, and by posting of the property at all entrances by road or at the nearest County or State highway, in a prominent location, displaying the required information as indicated in this section.

9.2.4.2 The applicant shall submit a complete Archuleta County Land Use Permit application, application fee, and associated materials as determined at the Pre-Application Conference (Section 2.2.4.1).

(1) Application form completed;

(2) Narrative, including:
- **a.** Operating plan
- **b.** Estimated number of site visits by vehicles
- **c.** Estimated number of cubic yards of fill material needed to be brought to or removed from the site during the construction and drilling process. Note that use of any removed excess material may require a land use permit if transported offsite by either the surface owner or other party obtaining rights to the excess material.
- **d.** Other site specific information identified and requested at a pre-application conference.
- **e.** Engine manufacturer's verification of the site rated horsepower. Within 10 days of the installation of an engine, the operator will provide the serial number to the Department.

(3) Emergency contact (telephone, contact name)

(4) Contact Information
- **a.** The applicant shall identify all operators, the operator's parent company(ies), all corporate partners and officers, and any subsidiary companies held by the operator or any investors or investor's groups which are doing business in the State of Colorado.
- **b.** The applicant shall identify all subcontractors, the nature of their activities at the proposed location and all contact information and owners and/or corporate

[7] Amended May 2019 (Res. 2019-39)

officers for all subcontractors, as well as the amounts and source of all insurance for all subcontractors who will operate on the proposed site(s) identified in the application.

(5) Extent of Activities:
The applicant shall also identify all activities, and the size and nature of those activities, being conducted in Archuleta County and all bordering counties in Colorado and New Mexico by the applicant, its parent company, subsidiaries, investors, subcontractors and partners.

(6) Disclosure of Violations:
The applicant shall identify any and all violations for which the operator(s), parent company, subsidiaries, contractors and subcontractors identified above have been cited for by any federal, State, county, local, health, environmental, labor or other agency while doing business within the State of Colorado, as well as the date, outcome or status of said citations or notices.

(7) Site plan (map prepared for survey and location purposes by the applicant's surveyor may be used as per state and federal requirements), including:
- **a.** North arrow, appropriate scale, overlain on aerial photography
- **b.** Existing improvements within map area
- **c.** Utility easements, right-of-way
- **d.** Irrigation ditches crossing or within 100 feet of site
- **e.** Drainage plan – onsite and offsite, including proposed stormwater BMP's for access roads and facility
- **f.** Proposed facilities including temporary use area, permanent well pad, flow lines, gathering lines, pits, equipment, etc.
- **g.** Other site specific information identified and requested at a pre-application conference
- **h.** Current surface ownership of facility site

(8) Vicinity maps (County GIS maps may be used as base map), including:
- **a.** Section, township, range
- **b.** Site boundary
- **c.** North arrow and scale
- **d.** Major geographic features, to include bodies of water, roads, utility corridors
- **e.** Current surface ownership within one-quarter mile of site, to include names of platted subdivisions and approximate location of residences
- **f.** Current surface ownership of parcels adjacent to proposed site
- **g.** Existing and proposed access
- **h.** Existing pipeline routes (gathering lines, transmission lines)
- **i.** Other site specific information identified and requested at a preapplication conference

(9) Weed and disturbance plan

(10) Visual mitigation plan

(11) Wildlife mitigation procedures

(12) Noise mitigation procedures

(13) Road Impact Plan.
The applicant shall provide as part of the application a map that identifies the access route to and within the parcel, color photos of the proposed road locations to be used for accessing the property, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the identified route(s).

(14) Four color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed.

(15) Grading Plan

(16) Emergency Response Plan (see section 9.2.6.8)

(17) Information regarding right of access and use of access roads and copies of any access agreements or road maintenance agreements if applicable

(18) Certification to discharge under CDPHE general permit; storm water discharges associated with construction.

(19) Evidence of notification (see Section 9.2.5.2)

(20) Water Management Plan (see Section 9.2.7.3)

(21) Waste Management Plan (see Section 9.2.7.3)

(22) Acceptable and verifiable proof of insurance

Note: Certain submittal requirements may be waived or modified by the Planning Staff if it is demonstrated that the material to be waived or modified is not applicable to the specific application.

9.2.4.3 Pipeline Permit Submittal Requirements:[8]

(1) Completed Land Use Application and appropriate fee

(2) A current form of the following:
- **a.** Emergency Preparedness plan
- **b.** Certificate of Liability Insurance
- **c.** Performance Security for the proposed facility

[8] Amended March 2012 (Res. 2012-14) Pipeline Permit section added.

(3) Proposed facility description:
- **a.** Describe all equipment to be located or operated above ground and whether equipment is for construction or continued operation:

(4) Proposed pipeline description:
- **a.** Line size (or sizes)
- **b.** Pressure rating
- **c.** Material (steel, poly, etc.)
- **d.** Number of lines
- **e.** Product (gas, produced water)

(5) Verification or description of all easements proposed to be crossed.

(6) Reasonable evidence of written notification to the Division of Wildlife regarding the proposed pipeline.

(7) Weed management plan

(8) Status of Right-Of-Way Permit application from Road and Bridge and if available, the County-issued permit number.

(9) Attachments to be submitted:
- **a.** Written driving directions to the beginning and end of the proposed pipeline from Pagosa Springs, using bearings, tenths of miles and visible landmarks:
- **b.** Vicinity map. The vicinity map must show the entire length of the proposed pipeline.
- **c.** Site plan. You may use a surveyor to create a site plan which must show the following (multiple pages are discouraged, however acceptable. Please be sure all pages relate to each other if all elements cannot be included on a single plan):
    1. Appropriate standard scale (e.g. 1”=200’)
    2. Title block, key and north arrow.
    3. Section, Township and Range
    4. Current surface ownership of all properties with the pipeline right-of-way
    5. Existing improvements associated with this pipeline
    6. Proposed above-ground equipment
    7. Utility easements, roads, ditches, bodies of water
    8. Irrigation ditches crossing the pipeline right-of-way
    9. Staging area
    10. Existing vegetation (aerial photography may be used).

9.2.4.4 Application and other fees

The application fees to be imposed pursuant to this article are set forth in Archuleta County Fee Schedule – Building and Planning Departments, and adopted annually by resolution of the Archuleta Board of County Commissioners.

Fees to be charged in association with the provisions of this article may be amended periodically by the Board of County Commissioners without specific prior notice to applicants, other than normal requirements for posting, general publication and listing in the newspaper(s) of record . In addition, permit applications may be subject to Building Permit and Heavy Equipment Permit fees (see associated schedules as adopted and amended) as identified in associated County Building Codes and County ordinances.

9.2.4.5 Application Determination of Completeness
Archuleta County Development Services (Planning Department) staff shall review the application for completeness as provided in Section 2.2.4.3. Planning Staff will provide the applicant with written notice of any specific deficiencies within fifteen (15) business days of the initial submittal.

9.2.4.6 Review Time: Staff Review of a complete application will typically occur within twenty-one (21) business days, with allowance for referrals as provided in section 2.2.5. More time may be required for review depending on the Archuleta County Development Services work load or requests for additional information made to the Applicant. Additional time may be necessary to complete an on-site inspection, with Applicant's and the surface owner's permission.

9.2.4.7 Public Site Visit: At the request of either the Applicant, surface owner, or other landowner receiving notice pursuant to Section 9.2.5, Planning Department staff may, at the discretion of the Development Director and upon notice to the surface owner, conduct a public site visit with these parties to evaluate well locations, compliance with applicable County Codes, and mitigation that may be required under Section 9.2.7. When possible this site visit will be coordinated with site visits required by other governmental agencies.

9.2.5 Notification [9]

9.2.5.1 Notice for review of an Oil & Gas permit shall follow these procedures, rather than those in Section 2.

(1) Written notice shall be provided to surface owners for all facility applications as well as the current surface owners of those parcels of land **within one-quarter mile (1,320 feet) of the perimeter of the surface property**, as well as any and all directly impacted property owner, homeowner, subdivision, water or sewer association or road maintenance associations, whether governmental or quasi-governmental in nature, private individuals, partnerships or corporations. The applicant shall present proof of such notice by submitting a copy of the letter, a list of the land owners, corporations and associations notified, and certified mail receipts. This notice shall be mailed no less than 10 days prior to the application being submitted to the County Planning Department. Notice of the application shall be made as follows:

a. To the current surface owners of the parcels of land within which the facility is proposed to be located, as well as the current surface owners of those parcels of land within 1/4 mile (1,320 feet) of the perimeter of the property, as such

[9] Amended May 2019 (Res. 2019-39)

ownership is indicated for tax purposes in the current records of the county assessor's office.

b. The notice of the application for approval of a facility shall contain the following:

1. A description of the proposed facility site location, including a legal description, as well as a street address for the site. The identification of the applicant, and, if applicable, any designated agent(s) for the application, if any; the current business address and telephone number for the applicant and its agent, if one has been designated, and a vicinity map and brief description of the facilities and equipment proposed to be located at the site when operational.
2. The submittal date of the application to the Archuleta County Planning Department. A statement that comments on the application should be submitted to County Planning Department within ten business days of its submittal.
3. A statement concerning the County's need to enter property subject of minor facility permit as follows: For the purpose of implementing and enforcing the County's oil and gas regulations, County personnel may, from time to time, need to enter onto the property which is the subject of a minor facility application or permit upon reasonable notification to the operator who will then provide reasonable notification to the surface owner, lessee or other party holding a legal interest in the property.
4. A statement informing the surface owner and any other parties having standing that they may request written notification by the operator of the commencement of construction and drilling operations (if the application is approved). Those parties requesting notification shall advise the Department in writing of such request within fifteen (15) days from receipt of the written notice required by this section. The applicant will then provide written notice to those landowners desiring notice no less than 10 days prior to the commencement of construction and drilling operations.
5. The current mailing address, website address, telephone number for Archuleta County Planning Department and COGCC, as well as a statement that additional information on the application will be available from the Archuleta County Planning Department.

(2) Posted notice. A posted notice of a size of not less than 36 inches in width by 24 inches in height shall be placed on a prominent position of the subject property so that it may be read from the most frequented public or private right-of-way entering the property or nearest to the property. The posted notices will be in a form prescribed by the County and available at the Planning Department. The prescribed form shall include the application name, the project number, the public meeting date or comment due date whichever applies, and the contact number for the Planning Department.

(3) Notice of Public Hearing. Prior to any required public hearing by the Planning Commission or Board of County Commissioners, legal notice shall be published as provided in Section 2.2.3.1.

9.2.6 Review Process:

Oil and gas facilities shall meet the standards and policies set forth in the following documents:

- The *Archuleta County Land Use Regulations*
- The *Archuleta County Master Plan/Community Plan*;
- The *Archuleta County Road and Bridge standards* adopted in 2005 and as amended;
- The ICC International Building Code(s), and applicable elements, as adopted and amended by Archuleta County
- Plans and regulations of governmental and quasi-governmental entities in the County, where applicable;
- Other applicable local, county, state and federal plans, policies and regulations.

9.2.6.1 Duration, modifications and preexisting uses.

(1) Duration. Approval granted for minor and major facilities shall expire and be considered revoked if construction of the facility is not commenced within one year of the date of approval. Approval granted for minor facilities that are individual well sites shall expire or be considered revoked if drilling operations are not commenced within one year of the date of approval.

(2) Modifications. Where a minor or major facility has been approved and the applicant desires to modify the subject facility by changes to previously approved permanent equipment, addition of new permanent equipment, site layout, new grading activities, operating plan, etc., an amendment to the original application shall be required. Changes to permanent equipment include, but are not limited to changes of existing equipment or operations that result in greater land use impacts. Applicant shall submit a narrative, site plan, visual mitigation plan, and appropriate fees per the specifications outlined in this chapter. The activity described in the submittal may be granted administrative approval if it complies with the performance standards. (In cases where the amendment would consist of the addition of a major facility, public review shall be required as described for Major Facilities.) The applicant shall provide the County Planning Department with notification of such emergency modifications by filing a written amendment to the application, along with the appropriate fees, specifying the modifications made, within two working days of their commencement.

(3) Effective date, preexisting/nonconforming uses. This article shall become effective on the date specified in the adopting resolution of the Board of County Commissioners in accordance with state law. The provisions of this article shall apply to all major and minor facilities for which construction has not commenced or a building permit has not been issued as of the effective date. This article shall apply to all minor facilities including those subject to COGCC jurisdiction for which COGCC approval has not been obtained as of the effective date. For minor facilities which have received COGCC approval but for which construction has not commenced as of the effective date, all applicable provisions of this article shall apply.

9.2.6.2 Construction or installation of unapproved oil and gas facilities.

It is unlawful to construct, install, or cause to be constructed or installed, any oil and gas facility within the unincorporated areas of the County unless approval has been obtained pursuant to these regulations from the Archuleta County Planning Department and with the required approval, per the provisions of this article, of the Archuleta County Planning Commission and/or the Archuleta County Board of County Commissioners, as applicable.

9.2.6.3 Penalty.

Subject to the provisions of C.R.S. § 30-28-124 any person, firm, corporation or legal entity which owns, leases or operates a minor or major oil and gas facility, and which constructs, installs or uses, or which causes to be constructed, installed or used, any minor or major oil and gas facility without first receiving administrative approval from the County Planning Department for minor facilities and minor facilities requiring special mitigation, or approval from the Board of County Commissioners for major facilities, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $1,500.00 per day of violation, per violation, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. In addition, the County may also seek civil penalties and relief pursuant to the provisions of C.R.S. Section 30-28-124.5.

9.2.6.4 Civil action.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this article, the county attorney, or where the Board of County Commissioners deems it appropriate, the district attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

9.2.6.5 False or inaccurate information.

The Board of County Commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. Both the applicant and the County Planning Department shall be provided with an opportunity to be heard at the public meeting prior to the Board of County Commissioners rendering its decision.

9.2.6.6 Performance security and insurance requirements.

(1) Performance bonding

- **a.** A performance bond in the amount of $10,000 and,
- **b.** An additional, site specific performance bond which shall be 100% of the estimated actual cost of plugging and abandoning wells, removal of surface facilities and restoration of disturbed surface areas.

The required performance bond shall remain in place until all obligations contemplated by the bond have been fulfilled to the satisfaction of the County and, in the case of plugged and abandoned wells, for five (5) years thereafter.

The applicant shall provide one form of the following security to ensure compliance with mitigation requirements set forth in this article and specific conditions of approval for minor and major facilities: the actual estimated cost of reclamation and to implement any and all conditions of approval with a minimum of $10,000 performance bond (irrevocable letter of credit, or equivalent financial security acceptable to the County Attorney) for each minor facility to uncompleted conditions of approval.

Performance bond requirements for major facilities will be determined on a case by case basis, but set at an amount of not less than the minimum terms and amounts as set forth above for a minor facility.

Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners required by the applicable performance standards contained in this section with regard to the county permit.

Specific minor and major facilities will be released from the bonding requirement after the applicant demonstrates to the Planning Department that all conditions of approval have been met.

Any and all activities which fall under COGCC jurisdiction are exempted from this performance security coverage. This provision is not meant to impede or substitute for the COGCC's financial assurance requirement.

The amount of each performance bond set by this section shall be reviewed on an annual basis by the Archuleta County Planning Department and any recommended modifications determined by the Department to be appropriate shall be presented by the Director the County Planning Department to the Planning Commission within 30 days for approval.

(2) Insurance requirements.

- **a.** The applicant shall identify the amounts and source of any liability coverage for any operator(s), their parent company(ies), subsidiaries and all contractors or subcontractors operating on the proposed site(s) identified within the application.
- **b.** For any facility or operation permitted under this Section, the applicant shall submit a certificate of insurance to the Archuleta County Planning Department, showing that a policy of comprehensive general liability insurance or a self-insurance program approved by the Colorado Insurance Commissioner, in the amount of no less than $1,000,000.00 per occurrence, insuring the applicant against any and all claims or causes of action made against the applicant , the operators, and contractors or subcontractors or vendors performing work at or related to the site(s) identified in the application for damages arising out of the

drilling, maintenance, operation or other work done at, near, in conjunction with, in association with or circumstances resulting from activities associated with the proposed facilities and operations.

c. The policy shall be written by a company authorized to do business in the State of Colorado, unless the applicant is self-insured.

d. The certificate shall require at least 30 days notice to Archuleta County and the COGCC prior to termination of coverage for any reason.

e. If the insurance policy lapses or becomes void for any reason whatsoever, all approvals issued by Archuleta County and its agents shall cease to be valid until a new insurance certificate is provided and filed with the County Planning Department. All approved oil or gas or related activity shall cease, consistent with safety considerations, until the applicant provides evidence that satisfactory insurance coverage in the prescribed amount and meeting the required criteria is in effect.

9.2.6.7 Right to enter.

For the purpose of implementing and enforcing this article, the applicant shall provide notice, as provided in Section 9.2.5, to the surface owners that County personnel may need to enter onto the property which is the subject of a minor or major facility application and/or an issued permit. If the surface owner objects to entry by County personnel, the applicant shall so inform the County and, if entry is necessary to process the permit application, the County will suspend further processing of the minor or major facility application. After issuance of a minor or major facility permit, as necessary, County personnel may enter onto the property subject of such permit upon reasonable notification to the operator, who is then responsible for providing notice of such proposed entry to the surface owner. If such entry is denied, the County may, at its discretion, suspend the effectiveness of any issued permit and/or obtain an order from a court of competent jurisdiction to obtain entry.

9.2.6.8 Emergency Response Plan Required.

Each operator with facilities in the county is required to provide an emergency response plan to the County Office of Emergency Management. No applications for a minor or major facility shall be considered complete until the operator has provided such plan to the county. The plan shall be filed with the county and updated on an annual basis or within 10 working days as conditions change (responsible field personnel change, ownership changes, etc.). The emergency response plan shall, at a minimum, consist of the following information:

(1) Name, address and phone number, including all 24-hour emergency numbers and at least two persons responsible for emergency field operations.

(2) An as-built facilities map showing the name, location and description of all minor and major facilities, including the size, type and content of all pipelines, pits and tanks. The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (one inch = 2,000 feet), or digitally on the county geographic information system parcel maps. To the extent allowed by law, the as-built facilities map shall be held confidentially by the county's office of emergency management, and shall only be disclosed in the event of an emergency. To the extent allowed by law, the

county's office of emergency management shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. §24-72-204(3)(a)(IV).

(3) A written response plan for any potential emergencies that may be associated with the construction, drilling, completion or operation of the facilities. This plan shall include but not be limited to any or all of the following: explosions, fires, gas, chemical, or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.

(4) Project specific emergency response plans are required for any project (minor or major) that involves drilling or penetrating through known zones of hydrogen sulfide gas. This plan shall be coordinated with and approved by the county's office of emergency management prior to beginning field operations.

9.2.6.9 Review Procedure For Minor Oil & Gas Facilities[10]

(1) Generally

Applications for county land use approval for proposed minor facilities shall be reviewed by Development Director, to establish that (a) the proposed use complies with the minimum requirements for such facilities as set forth in this section or (b) that the proposed facility's noncompliance with this article will be mitigated in accordance with the applicable standards and requirements set forth for minor facilities requiring special mitigation. Applications for such minor oil and gas facilities shall receive approval by the County Planning Commission in a public hearing, in accordance with the procedures set forth in this section.

(2) Application Submittal Procedure

The application shall be in the form prescribed by Section 9.2.4 of this Regulation and shall include information and/or documentation establishing that the proposed minor facility is either in compliance with all applicable requirements of this article or establishing that the proposed facility's noncompliance with this article will be mitigated in accordance with the applicable standards and requirements set forth in this subcategory for minor facilities requiring special mitigation.

a. If the applicant asserts that the proposed use complies with requirements, the application shall contain a certification from the applicant or the applicant's designated agent (accompanied by a written designation of agent in the form prescribed by the County, if applicable) that the proposed facility complies with all applicable provisions of these regulations, and that the information in the application, as well as in any documentation submitted, is true and accurate.

b. If the applicant asserts that the proposed facility's noncompliance with this article will be mitigated, the application shall set forth the specific measures which will be employed at the facility to mitigate the land use impacts associated with the facility. Such identified mitigation measures shall comply with the standards and requirements for such facilities as set forth in this subcategory.

[10] Amended May 2019 (Res. 2019-39)

(3) Administrative Review and Recommendation.

Should the information in the application and any accompanying documentation establish that the proposed facility will be constructed and operated in conformance with the Regulations, or in such a manner that the land use impacts associated with the facility's noncompliance with this article are mitigated in accordance with the applicable standards and requirements, the Development (Planning) Director shall issue written recommendation of approval for the proposed minor facility.

Should the Development Director determine that the mitigation plan for the facility does not meet the applicable standards and requirements, and the applicant fails or refuses to provide satisfactory evidence that such a mitigation plan is not possible under the facility's specific circumstances, it shall issue a written recommendation of denial of the application, stating with specificity the grounds for its decision.

(4) County Planning Commission review and approval.

Archuleta County Planning Commission will review Minor Oil & Gas Permits at a noticed Public Hearing, under Review Procedures, Review Criteria and Findings for a Conditional Use Permit in Section 3.2.3, as well as Section 9.2.7 Performance Standards.

(5) Appeal of denial or approval.

Should the County Planning Commission deny approval under this section, the applicant may request county land use approval by filing a Land Use Permit Application and appropriate fee for appeal with the County Planning Department within ten (10) business days of receipt of written notification of such denial. Such an appeal shall be in writing and state with specificity the grounds of the appeal.

a. The Development Director shall schedule an appeal hearing before the Board of County Commissioners next regularly scheduled Board meeting for which proper public notice can be given.

1. Upon request of the applicant, the Board of County Commissioners shall provide an opportunity to be heard on such an appeal. The County Planning Department shall present evidence at the Board meeting.
2. Should the applicant provide satisfactory documentation that either the proposed minor facility complies with all applicable requirements of this article or that the proposed facility's noncompliance with this article can be adequately mitigated, in accordance with the applicable standards and requirements set forth in this subcategory, the Board of County Commissioners may reverse the Planning Commission’s decision and approve the application. The decision of the Board of County Commissioners is a final decision subject to appeal to the District Court.

b. All surface owners, residents, associations, government entities, improvement districts and other entities subject to notification under this section shall have standing to file an appeal of the decision regarding the siting of a minor facility. Parties subject to notice who can demonstrate a reasonable likelihood of actual injury in fact based upon operator’s failure to meet specific standard(s) shall have standing to file an appeal of the decision regarding the siting of a minor facility. The appeal shall be in writing with the appropriate fee, shall state with specificity the grounds for the appeal, and shall be filed within ten (10) working days of the decision. The Board of County Commissioners shall proceed to

consider and decide an appeal at the next regularly scheduled Board of County Commissioners hearing for planning agendas for which proper public notice, in accordance with all the terms of this section, can be given. Upon request of the applicant, the Board of County Commissioners shall provide it with an opportunity to be heard on such an appeal.

9.2.6.10 Review Procedure for Major Oil & Gas Facilities: [11]

(1) Review Procedure:
All applications for major facilities shall be scheduled for public review before the Planning Commission and the Board of County Commissioners.

a. The Planning Commission shall review such applications at a scheduled public hearing, and forward a recommendation for approval, conditional approval, or denial with appropriate findings to the Board of County Commissioners for final action.

b. The Board of County Commissioners' action on an application for a major facility shall be scheduled for a regularly scheduled Board of County Commissioners public hearing for which proper public notice may be given. Final actions of the Board of County Commissioners shall contain appropriate findings based upon competent evidence in the record before the Board of County Commissioners.

(2) Submittal Procedure:
The major facility application shall consist of all items identified in Section 9.2.4. Prior to formal submittal of the application, the County Planning Department shall conduct a Pre-Application Conference to discuss and identify any additional information required to adequately review the proposed facility.

(3) Notice upon request.
Public notice shall be provided as required in Section 9.2.5. Notice shall also be sent to any other person, agency or organization that has filed a request with County Planning Department to receive notice of major facilities undergoing public review; such notice to be sent by County Planning Department at the applicant's expense.

(4) Planning Commission review.
The Planning Commission shall conduct a noticed public hearing for review of the proposed major facility. On the basis of competent evidence received at such a public hearing, the Planning Commission shall make its recommendation to the Board of County Commissioners regarding approval, conditional approval or denial of the application. Such Planning Commission actions shall contain appropriate findings or reasons in support of the recommendation concerning the facility's compliance with applicable standards and requirements, as well as the appropriateness of the facility in the location proposed in accordance with the review criteria set forth in Section 9.2.6.10(6).

a. The Planning Commission may continue a public hearing on an application to a date certain in order to receive additional testimony or information. The applicant may request a continuation of the public hearing for good cause

[11] Amended May 2019 (Res. 2019-39)

shown satisfactory to the Planning Commission. The Planning Commission shall render its verbal decision regarding a recommendation on the proposed facility forthwith after the evidentiary phase of the public hearing on the application has been closed.

(5) Board of County Commissioners' review.

The Board of County Commissioners shall conduct a public hearing for review of the major facility at the next Archuleta Board of County Commissioners' hearing for planning agendas for which proper public notice may be given after the date of issuance of the Planning Commission's recommendation.

(6) Review criteria.

The Board of County Commissioners' decision to approve or deny an application for a major facility shall be made and determined based upon its compliance with all applicable performance standards and other requirements of the *Archuleta County Land Use Code*, the requirements of this article, and by applying the following evaluative criteria to the evidence in the record of proceedings before the Board of County Commissioners:

- **a. Need.** The demonstrated need for the facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements.
- **b. Suitability**. The suitability of the location proposed for the proposed facility; given its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in accordance with applicable state, county and federal standards and criteria.
- **c. Adequacy of existing roads and access to the site**. Factors for consideration are: existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.
- **d. Site characteristics**. Factors to be considered are topography, natural hazards (landslides, flooding, and wildfire), cultural and historical uses on the proposed site and in the notice area and current resource values (open space corridor, prime farmland as designated by Natural Resource Conservation Service (NRCS) and wildlife habitat).
- **e. Compatibility**. Compatibility with existing uses and those which can be projected, based upon present subdivision and land use approvals and planning district plans for properties located within the surrounding affected area, as determined by the Board of County Commissioners, based upon competent evidence in the record. A facility's compatibility with land uses in the surrounding area, which the Board of County Commissioners finds will be affected by its operation, shall be determined by the facility's estimated or projected ability to mitigate the impacts which it generates, as set forth in the facility operational plan, and in accordance with applicable county, state and federal rules, regulations and standards.

9.2.7 Performance Standards

9.2.7.1 Compliance.

All oil and gas facilities granted administrative approval by the County Planning Department, recommended for approval by the County Planning Commission, and/or approved by the Board of County Commissioners must comply with the standards contained in this Section. For major facilities, the County Planning Department shall determine the level of detail required in a submittal based on the potential adverse impacts of the proposed facility on the unique characteristics of the proposed site and activity.

9.2.7.2 Land use coordination standards.

(1) Purpose. The purpose of this section's standards for land use coordination is to minimize conflicts between differing land uses.

(2) Setbacks.

- **a.** A setback of at least 450 feet shall be required between the well head and the closest existing residential structure or platted building envelope, unless verified written consent is obtained from the affected surface property owner to a waiver of this standard.
- **b.** A setback of at least 150 feet shall be required between the well head of a minor facility and the closest property line, unless verified written consent is obtained from the affected property owner.
- **c.** Where site conditions or State or Federal regulations make it technically impractical for the applicant to meet the setbacks of this section, and a waiver is not obtained from the affected property owner, the applicant shall not be required to fully meet the above-described setbacks. The applicant shall, however, meet setbacks to the maximum extent possible and may be required to implement special mitigation measures as described in this article.
- **d.** Setbacks between a major facility and the closest existing residence or property lot line shall be determined on a site specific basis, based on the major facility review criteria identified in section 9.2.6, as applicable, but not less than those required for a minor facility.
- **e.** Setback requirements for flow lines, gathering lines, and transmission lines from general residential, commercial, and industrial buildings shall be a minimum of 50 feet. The setback distance shall be measured from the nearest edge of the pipeline(s) right-of-way or easement. The County Planning Department may require an applicant for a pipeline to provide a risk-based engineering study for all or part of its proposed pipeline right of way that may require the implementation of more stringent construction or operation standards or greater setbacks.

(3) Platted subdivisions.

In those instances where applicant accesses facilities through a private road or roads, applicant will use best efforts to negotiate a fair and reasonable road maintenance or road improvement agreement with the private entity or entities that access off the road for the purpose of paying or making in-kind contributions

for its pro rata share of the cost of maintaining or improving the affected road(s). An applicant that fails to reach an agreement shall document its actions to the county and the existence, or lack thereof, of such executed agreements shall be noted in the application.

(4) Sound emissions.

a. The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest existing residences or platted subdivision lots.

b. All minor facilities with engines or motors (excepting well head compressor engines) shall be **electrified if located within 1,320 feet of distribution voltage**. Applicant may provide information demonstrating that such electrification is infeasible. The County Planning Department shall review this information and may provide a waiver of this requirement. If distribution voltage is not currently within 1,320 feet of the proposed minor facility, applicant will contact and provide the surface owner an opportunity at the surface owner's cost to extend distribution voltage to within 1,320 feet of the proposed facility. Internal Combustion powered artificial lift equipment may be used prior to the time that a site facility is electrified. All minor and major facilities which are not electrically operated shall be equipped with quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent. Such equipment mufflers shall be properly installed and maintained in proper working order.

c. All mechanized equipment associated with minor and major facilities shall be anchored so as to minimize transmission of vibration through the ground.

d. Special mitigation measures:

1. Where a minor or major facility does not comply with the required setback or other portions of the performance standards, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
    i. Nature and proximity of adjacent development (design, location, type).
    ii. Prevailing weather patterns, including wind directions.
    iii. Vegetative cover on or adjacent to the site.
    iv. Topography.
2. Based upon the specific site characteristics set forth in this section, the nature of the proposed activity and its proximity to surrounding development, and the type and intensity of the noise emitted, additional noise mitigation measures may be required. The level of required mitigation may increase with the proximity of the facility to existing residences and platted subdivision lots, and/or the level of noise emitted by the facility. One or more of the following additional noise abatement measures, including but not limited to the following, may be required:
    i. Acoustically insulated housing or cover enclosing the motor or engine.
    ii. Vegetative screen consisting of trees and shrubs which may be placed within a fenced enclosure.

iii. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
iv. Acoustically insulated building enclosing the installation.
v. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted; and proposed mitigation measures.

e. Sound emissions shall at minimum be in accordance with the standards as adopted, and amended from time to time by COGCC. In all instances a major or minor facility must comply with sound emission standards designated for residential land uses unless a specific exemption is granted by County Planning Department, the County Planning Commission or the BOCC.

f. Other special mitigation measures. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts non-mitigatable because of proximity, density and/or intensity of adjacent land use.

(5) Security and Safety.

a. Security fencing and a locked gate for minor and major facilities shall be required in the following locations:
1. Where there are four or more existing residences within 660 feet of the facility site perimeter; or
2. Where there is a public or private school within 660 feet of the facility site perimeter; or
3. Subject to a written waiver by the surface owner, where there is any other existing structure with commercial occupancy as defined by the Building Code within 660 feet of the facility site perimeter; or
4. Subject to a written waiver by the surface owner, where there is an existing recreational facility designated by an appropriate federal, state or local authority within 660 feet of the facility site perimeter.

b. Safety practices in accordance with state and federal law, including the Occupational Safety and Health Act of 1970, Public Law 91-596 84 Stat. 1590 91st Congress, S.2193, December 29, 1970, as amended through January 1, 2004, shall be used at all times during site development, drilling, and production to minimize the danger to the general public.

c. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the facility site is unattended and/or accessible to the general public.

d. All land within 25 feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.

e. Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply pursuant to County Planning Department review.

9.2.7.3 Environmental quality standards.

(1) Location on private property. Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to determine land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities on private property:

a. The siting of a minor and major facility shall adhere to the standards outlined in this section to the maximum extent practical.

b. The standards in this code shall not cause the operator to site the facility in: a geologic hazard area or an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer.

c. The County recognizes that in some instances, existing minor oil and gas facilities which initially met the requirements of this section would not meet the requirements if a current application were filed due to (i) the encroachment of other development into the setback area, (ii) because the regulation was not in effect when the original installation occurred or (iii) because a waiver previously was obtained. In those instances, where the setback requirements of this section cannot be met currently, the use of the existing well pad site will be considered a legal nonconforming use not subject to the requirements of this section, provided that land use performance standards are not in any way superseded by the placement of the new well on the existing or expanded well pad.

d. For minor oil and gas facilities not covered by a memorandum of understanding, the **number of well pads shall not exceed four (4) within any single six hundred and forty (640) acre governmental section** of real property. However, to the extent reasonably practicable, operators shall share existing well pads and shall expand the well pads only as necessary to accommodate additional minor facilities. Preference shall be given wherever possible to the use of directional drilling from existing wellpads over establishing new wellsites.

Special exceptions to this section may be granted when one or more of the following factors apply in a manner such that use of only four well pads per governmental section is rendered impractical:

1. Topographic characteristics of the site;
2. Natural resource constraints (e.g. wetlands);
3. The location of utilities or similar services;
4. Demonstratively insurmountable technical issues related to the development or management of the mineral resource;
5. Other site conditions beyond the control of the applicant; or
6. Demonstrable safety concerns.

e. The following criteria shall be used to site an oil and gas facility. Facilities that cannot comply with the following criteria may be denied according to section 9.2.6.9(3) or 9.2.6.10(6) or may be required to mitigate the site as outlined in subsections 9.2.7.3(2) [*Visual Mitigation Plan*] and 9.2.7.3(4) [*Wildlife*].

1. The mitigation requirements may be waived by the County Planning Director if existing topography and vegetation mitigate the land use impacts of the site. The county shall determine the compliance of the proposal using the following standards. Standards are ranked according to importance. Where conflicts between standards occur the higher ranked standard will be used.
    i. Minor facilities shall be constructed using existing infrastructure, including the use of only existing roads, pipeline routes and well pads. This designation shall not apply if the use of existing

infrastructure would impact an area 50% or greater of the property which is the subject of the minor facility unless both the Archuleta County Planning Department and the surface owner consent in writing.

ii. Minor facilities shall adhere to the setback and location requirements found in Section 9.2.7.2.

iii. Minor and major facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.

iv. Minor and major facilities shall be sited to minimize the impact to agricultural operations.

v. Minor and major facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.

vi. Minor and major facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation to screen or background and the construction of the facility in canyons or behind ridges and natural rock formations.

vii. Minor and major facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.

viii. Minor and major facilities shall be sited to avoid crossing hills and ridges or silhouetting.

ix. Minor and major facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.

x. The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a minor or major facility.

(2) Visual mitigation plan.

a. A visual mitigation plan shall be required for all minor and major facilities. The plan shall incorporate the appropriate design elements of visual impacts subsections of this section and include the design information in subsection visual mitigation plan of this section. The Visual Mitigation Guidelines for Oil and Gas Facilities in Archuleta County (or equivalent guidance document cited by applicant and approved by the County Planning Department) shall be used for guidance in the creation of the visual mitigation plan.

b. The visual mitigation plan minimum requirements are as follows:

i. Compliance with the design elements of visual impacts subsection 9.2.7.3(3)

ii. Scaled drawing.

iii. Site boundary dimensions and descriptions.

iv. Existing and proposed contours and pad elevations.

v. Existing conditions and site features that incorporate and surround such site to be developed.

vi. Existing and proposed access.

vii. Visual mitigation techniques to be employed at the facility.

viii. Orientation and dimensions of facilities and equipment that will be used once the facility is operational.
ix. Description of existing and proposed vegetation.
x. Location, height and extent of perimeter berms, if applicable.
xi. Type, location and amount of mulch materials, if applicable.
xii. Type, location and height of fencing, if applicable.
xiii. Delineate drainage and runoff patterns and mitigation.
xiv. Direction and type of lighting, if applicable.
xv. Written maintenance and irrigation plan for at least one year after re-vegetation.
xvi. Title block:
1) Name of development;
2) Name of applicant or developers;
3) Project number;
4) Date of preparation; and
5) Section, township and range.
xvii. Performance security. For sites requiring a visual mitigation plan, performance security shall remain in place for at least two years after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvements or the amount required by section 9.2.6.6, whichever is greater.

(3) Visual impacts.

a. To the maximum extent possible, the applicant shall use structures and surface equipment of minimal size to satisfy present and future functional requirements.
b. When clearing trees and vegetation for construction of minor and major facilities, the applicant shall feather and thin edges of vegetation.
c. The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
d. To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
e. Minor and major facilities shall be colored as follows:
1. Uniform or camouflaging, non-contrasting, non-reflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system.
2. Color matched to land, not sky, slightly darker than adjacent landscape.
f. The applicant shall minimize damage to existing trees and vegetation.
g. Pad dimensions for a minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance. This section may be waived by the Archuleta County Planning Department if well pad dimensions are related to a visual mitigation plan proposal to blend with the natural topographical conditions.
h. Within six months after well completion, the pad area (except the main access road and the immediate areas within 25 feet of the aboveground facilities) shall be reseeded with native grasses or existing vegetation acceptable to the surface owner and the Natural Resource Conservation Service (NRCS). At all times Best

Management Practices will be used to prevent storm water discharges from impacting surface water quality.

i. One or more of the following landscape practices shall be applied, on a site specific basis as required by the Code or a specific permit:
1. Establishment of berms, ground covers, shrubs and trees.
2. Shaping slopes (cuts and fills) to appear as natural forms.
3. Cutting rock areas to create irregular forms.
4. Designing the facility to utilize natural screens.
5. Construction of fences such as woven wood or rock for use with or instead of landscaping.

j. Exterior lighting, when required, shall comply with any lighting criteria of the Archuleta County Land Use Code, including the County Dark Skies Ordinance, and be directed away from residential areas, or effectively shielded from such areas.

(4) Wildlife.

a. Referral to Colorado Division of Wildlife and Site Specific Mitigation Conditions. Standard Operating Practices (SOP's) shall be developed by the County, in concert with the CDOW and the Southwest Land Alliance (SLA), or other State DoW and Archuleta County approved land conservation and/or wildlife protection organization for the protection of wildlife resources in the County during oil and gas development activities, as well as the potential for the placement of surface rights into conservation and/or open space easements, agreements, or surface management agreements, for which the applicant may be granted special considerations by the County in the form of the waiver of fees, priority processing and other waivers.

The SOP's shall provide for a written consent of the surface owner(s) in order to address, where applicable, the agricultural production needs of the surface owner and timing of oil and gas development activities on the surface owner's agriculturally producing property. The SOP's shall be incorporated into the County Land Use Code by reference, and shall become part of the performance standards for any minor or major facility approval. The SOP's may be included as conditions of approval to address site specific wildlife mitigation measures for a minor or major facility. The applicant shall notify CDOW in the form described in Sec. 9.2.5.3 and shall identify in the notification the SOP's recommended by CDOW that apply to applicant's proposed facility in Archuleta County. If applicant is unable to comply with the SOP for the protection of wildlife resources in Archuleta County due to conflicts with other provisions of the County Land Use Code, the inability to obtain the land owner's consent, or if there is no applicable SOP, applicant shall identify the conflict and propose alternate site-specific mitigation or best management practices for the protection of wildlife resources. If applicant proposes an alternate plan or best management practices to protect wildlife resources, the alternate site-specific mitigation or best management practices shall be approved by CDOW, and may be included as conditions of approval to address site specific wildlife mitigation measures for a minor or major facility.

b. Multiple sites. In lieu of a site-specific mitigation review for each facility, the applicant may submit to the Archuleta County Planning Department a multi-site

plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under subsection (3) of this section.

c. Non-mitigable impacts. Any and all impacts from oil and gas facilities which threaten endangered species (as defined by the state division of wildlife), shall be considered non-mitigable and shall result in denial.

(5) Water.

a. Water Management Plan. The applicant shall provide as part of its application a detailed plan and all relevant data on the projected use of water, its quantity, current availability (including the status of obtaining any water rights required and confirmation and status of any and all applications to appropriate and required reviewing and regulatory agencies) and source, and a plan for the disposal, re-use or disposal of source water from dewatering operations, water used in processing operations or other used or disposed of water by source, quantity, frequency of use and end disposition after the use.

b. The Water Management Plan shall include the identification of irrigation ditches and other water structures within [1] miles and any watersheds, water sources (including rivers, streams, marshes, wetlands, aquifers, and recharge areas) that will or could be affected by the operation, as well as any ownership of water rights appurtenant thereto, and evaluation of any impacts to the structures, water rights or water quality.

c. The Plan shall also include an element to describe all prevention and mitigation efforts that will be taken to avoid contamination or negative impacts on the identified water resources, including a water conservation plan to minimize the use or artificial stress of these water resources in the exploration and production processes identified in the application, including de-watering of methane coal beds in the extraction process.

d. The amount of water used, extracted and disposed of will be identified by both anticipated amounts and the potential maximum upper thresholds for the project annually, as well as the source of where the by-product water will be disposed of, the method and daily and annual anticipated rate.

1. If fresh or potable water is required for minor and/or major facility operation, the applicant shall identify the proposed amounts and source(s) of such water and legal right to access and utilize such sources and amounts.
2. Onsite containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal, State or County requirements. Any and all run-off created by the activities or development and improvements at the site, whether generated naturally or by use in construction or production activity, must be captured and contained on the site and removed, treated or otherwise disposed of properly and may not be released into any subsurface aquifer, surface wetlands, streams, ponds, rivers or other sources of drinking water or wildlife habitat.

(6) Waste and Waste Water

a. Waste Management Plan. The applicant shall provide a plan for the handling and storage, transportation, treatment, recycling and disposal of waste generated by the operation, including exploration and production (E & P) waste.

b. Operators shall ensure that all waste generated on-site, including exploration and production waste, is properly stored, handled, transported, treated, recycled or disposed of to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources.

c. All human waste shall be fully contained and disposed of off the site at an appropriately licensed facility in accordance with all County and State health regulations, as demonstrated by a letter of approval of the waste disposal plan by the regional San Juan Basin Health Department.

(7) Storage and Containment Requirements.

a. Prevailing Requirement. Unless otherwise directed by the COGCC, all tanks used for storage shall conform to the following:

1. Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet all A.P.I. standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit.
2. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into an aboveground self-contained tank or, after authorization by the COGCC, a lined pit. All disposals must be in accordance with the rules of the COGCC and any other applicable local, state or federal agency.
3. Unless otherwise directed by the COGCC, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than one (1) time every thirty (30) days. Water stored in on-site tanks shall be removed as necessary.
4. All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, this article, and any other applicable ordinance of the County, San Juan Basin Health and all other applicable regulatory and monitoring entities.

(8) Air Quality.

a. Air Contaminant Emissions. Emissions shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program and any Air Quality regulations if and when the County adopts such regulations.

b. No oil and gas operation shall cause significant degradation to air quality, as measured against appropriate State and federal regulatory standards. Specifically, all standards and requirements under the Clean Air Act and Organic Act for the preservation of the Class 1 air shed for applicable public lands shall be met. Where air quality standards and regulations are in conflict, the stricter standard shall apply.

(9) Mosquito Control.

The applicant shall be held responsible for monitoring and treating any pit containing

water with Bti (Bacillus thuringiensis v. israelensis), commonly known as Mosquito dunks, or take other effective approaches to control mosquito larvae that may spread West Nile Virus to wildlife.

(10) Electric Lines.

All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

(11) Fracture Stimulation Operations.

The following requirements shall apply to all fracture stimulation operations performed on a well:

- **a.** at least forty-eight (48) hours before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence;
- **b.** "flowback" operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the County Permit approves such operations during non-daylight hours;
- **c.** a watchperson shall be required at all times during such operations; and
- **d.** at no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank. All formation fracturing operations shall be conducted during daylight hours unless the operator has notified and received authorization from the (county) oil and gas inspector that fracturing operations will occur before or after daylight hours to meet safety requirements.

(12) Dust, vibrations, odors.

All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas, and other hydrocarbon substances. All equipment used shall be so constructed and operated so that vibrations, dust, odor, or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

(13) Hazardous Material.

A copy of the hazardous materials management plan as required by the Archuleta County/Pagosa Springs Fire District Fire Marshal's office. In addition to the hazardous materials management plan, all material safety data sheets (MSDSs) for all hazardous materials that will be located, stored, transported, and/or temporarily used on the drilling site shall be provided to the County Planning Department and the Archuleta County/Pagosa Springs Fire District Fire Marshall.

(14) Chemical Products Health-related disclosure requirements, confidentiality and limitations.

All entities holding a permit issued under this Section of the Archuleta County Land Use Code or operating under the auspices of said permit shall make and keep appropriate records pertaining to chemical products covering their operations in the County, from which they may be able to make and substantiate the reports required by the COGCC, its Director or, in the absence of state laws or regulations on this topic, as may be required by Archuleta County, as set forth herein. The operator, or its vendor(s) or service provider(s), shall provide the chemical constituents of a Chemical Product to any health professional as may be required under state law or regulation. In the event that no state law or regulation so provides, the operator, or its vendor(s) or service provider(s), shall provide the chemical constituents of a Chemical Product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and a written confidentiality agreement. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such proprietary Chemical Product will assist in such diagnosis or treatment. The confidentiality agreement shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor(s) or service provider(s) may request a written statement of need, and a confidentiality agreement from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

(15) Chemical Products:

- **a.** Onsite containment, disposal, and disclosure and retention of information related to Chemical Products associated with minor and major facilities shall be in conducted accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:
- **b.** All entities holding a permit issued under this Section shall make and keep appropriate records pertaining to chemical products covering their operations in the County, from which they may be able to make and substantiate the reports required by the COGCC, its Director or, in the absence of State or federal laws or regulations on this topic, as may be required by Archuleta County.

c. Beginning January 1, 2009, Owners or Operators shall maintain material safety data sheets for any Chemical Products brought to a well-site for use down-hole during drilling, completion, and work-over operations; including fracture stimulation.

d. Beginning January 1, 2009, Owners or Operators shall maintain a Chemical Inventory by well-site for each Chemical Product used downhole or stored in an amount exceeding 500 pounds during any quarterly reporting period and the maximum capacity of fuel stored on the oil and gas location during drilling, completion, and work-over operations including fracture stimulation. Entities maintaining Chemical Inventories under this section shall update these inventories quarterly throughout the life of the well-site. These records must be maintained in a readily retrievable format. A County health department may obtain information provided to the Department or Director in a Chemical Inventory upon written request to the Director.

e. Where the composition of a Chemical Product is considered Trade Secret by the vendor or service provider, Owners or Operators shall only be required to maintain the identity of the Trade Secret Chemical Product and shall not be required to maintain information concerning the identity of chemical constituents in a Trade Secret Chemical Product or the amounts of such constituents. The vendor or service provider shall provide to the Department a list of the chemical constituents contained in a Trade Secret Chemical Product upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release of a Trade Secret Chemical Product or a complaint from a potentially adversely impacted landowner regarding impacts to public health, safety, welfare or the environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a Trade Secret Chemical Product shall be disclosed by the vendor or service provider directly to the County planning engineer or his or her designee. The County Planning Director, Engineer and/or designee may disclose information regarding those chemical constituents to additional County staff members to the extent that such disclosure is necessary to allow the staff member receiving the information to assist in responding to the spill, release or complaint, provided that such individuals shall not disseminate the information further. In addition, the County Planning Director or County Engineer may disclose information regarding those chemical constituents to a County public health department's director of environmental programs upon request by that individual. Any information so disclosed to the County planning engineer, a County staff member, or to a County public health department's director of environmental programs shall at all times be considered confidential and shall not become part of the Chemical Inventory nor shall it be construed as publicly available. The County public health department's director of environmental programs, or his or her designee, may disclose information regarding the chemical constituents contained in a Trade Secret Chemical Product to health department staff members under the same terms and conditions as apply to the County Planning Director or County Engineer.

f. The vendor or service provider shall also provide the chemical constituents of a Chemical Product to any health professional as may be provided under state law or regulation. In the event that no state law or regulation so provides, the

vendor or service provider shall provide the chemical constituents of a Chemical Product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and a written confidentiality agreement. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such proprietary Chemical Product will assist in such diagnosis or treatment. The confidentiality agreement shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement of need, and a confidentiality agreement from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

g. Such books, records, inventories, and copies of said reports required by the Department or the Director shall be kept on file and available for inspection by the Department for a period of at least five years except for the Chemical Inventory, which shall be kept on file and available for inspection by the Department for the life of the applicable oil and gas well or oil and gas location and for five (5) years after plugging and abandonment. Upon the Director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the Director with the requested information within three (3) business days in a format readily-reviewable by the Director, except in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the Director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain

the confidentiality of said information. The Director shall notify the owner, holder, or beneficiary of any such protected information at least one business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

h. In the event that the vendor or service provider does not provide the information required under subsections (f) and (g) directly to the Department, the owner or operator is responsible for providing the required information.

(16) Pits and Pit Liners.

All pits shall be constructed in accordance with applicable State and federal laws and regulations. If, however, a State and/or federal law or regulation does not exist, the owner and/or operator (as applicable) shall comply to the following:

a. All pits shall be fenced in order to prevent access by persons, stock or wildlife unless the applicant provides alternate mitigation measures that are deemed satisfactory to the County, and which achieve the same goal(s) of protecting against entry into pits by unauthorized persons, stock, or wildlife.

b. All pit liners and any materials not meeting the standards set forth in 2 CCR 404-1 Section 910 (inclusive of Table 910-1) shall be removed from the property upon completion of construction and disposed of at an approved facility.

(17) Geologic hazard areas; floodplains.

a. Major facilities shall not be located in geologic hazard areas (as defined on the adopted county geologic hazard maps).

b. Major facilities shall comply with the adopted county floodplain ordinance when they are located in a 100-year floodplain area.

9.2.7.4 Surface disturbance standards.

(1) Purpose of section. The purpose of this section is to encourage minimal damage to surface activities and surface conditions.

(2) Agricultural resources. Minor and major facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land. This standard may be waived if verified written consent is obtained from the surface owner.

(3) Roads and access. Installation of major facilities which are accessible by non-maintained roads included in the County road system, which the County Engineer determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, shall be permitted only if such roads are improved and maintained by the applicant to a level which the county engineer determines is necessary to allow such traffic to use such roads in accordance with applicable state and county standards. Notwithstanding the above:

a. Applicant will remove or require the removal of chains from its heavy equipment before entering a County road. All new roads shall have gravel access and well pads with a minimum of four inches (4") of Class 6 Aggregate Base Course as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction over a stabilized base, both of which shall be maintained throughout permanent operations of the well pad; and if mud and/or debris is tracked onto the county road by applicant's equipment, applicant shall remove same and restore the condition of the road as promptly as is reasonable under the circumstances.

b. Applicant shall provide written documentation demonstrating that it has the right to use access roads located between the parcel on which a facility is to be located and the applicable county road or state highway.

(4) Waste disposal.

a. When a minor or major facility becomes operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation.

b. No burning of trash shall occur on the site without prior authorization of the surface owner and fire district. All burning of trash shall be done within a container such as a wire cage or excavated pit covered with wire. All residual material from burning shall be removed from the site for proper disposal.

(5) Weed control.

a. The applicant shall be responsible for ongoing minor and major facility sites and access road weed control during construction and operation of the facility, until abandonment and final reclamation is completed per county or other applicable agency regulations.

b. The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by the Archuleta County Noxious Weed Control Program in coordination with the requests of the surface owner.

(6) Minimization of disturbance.

a. Where minor and major facilities reduce or destroy existing vegetation, the applicant in consultation with the NRCS shall develop a re-vegetation plan for the remainder of the facility site, for approval by the Archuleta County Planning Department. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related activities.

(7) Restoration and re-vegetation.

When a well is completed for production, all disturbed areas no longer reasonably needed for production operations or for subsequent drilling operations will be reseeded and re-vegetated as soon as practicable in accordance with any and all State and federal laws and regulations. If, however, there is no applicable law of regulation, the owner or operator shall complete restoration and re-vegetation in accordance with the following:

a. Reseeding of disturbed areas shall occur immediately after disturbed areas have been graded to return contours as nearly as practical to their original relative

positions, unless extenuating circumstances are present. In any event, seeding shall be completed within thirty (30) days after completion of grading.

b. Re-vegetation of crop lands. All segregated soil horizons removed from crop lands shall be replaced to their original relative positions and contour, and shall be tilled adequately to re-establish a proper seedbed. The area shall be treated if necessary and practicable to prevent invasion of undesirable species and noxious weeds, and to control erosion. Any perennial forage crops that were present before disturbance shall be re-established to the same plant density as undisturbed adjacent cropland, unless otherwise agreed by the surface owner.

c. Re-vegetation of non-crop lands. All segregated soil horizons removed from non-crop lands shall be replaced to their original relative positions and contour as near as practicable to achieve erosion control and long-term stability, and shall be tilled adequately in order to establish a proper seedbed. The disturbed area then shall be reseeded in the first favorable season. Reseeding with species consistent with the adjacent plant community is encouraged. In the absence of an agreement between the operator and the affected surface owner as to what seed mix should be used, the operator shall consult with a representative of the NRC to determine the proper seed mix to use in re-vegetating the disturbed area. In an area where an operator has drilled or plans to drill multiple wells, in the absence of an agreement between the operator and the affected surface owner, the operator may rely upon previous advice given by the NRC in determining the proper seed mixes to be used in re-vegetating each type of terrain upon which operations are to be conducted.

d. Interim reclamation of all disturbed areas no longer in use shall be considered complete when all ground surface disturbing activities at the site have been completed, and all disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized in such a way as to permanently prevent erosion, or when all of the following criteria have been met:

1. A uniform vegetative cover has been established with total non-noxious percent plant cover of at least eighty (80) percent of average surrounding area levels. Non-noxious plant cover is defined as the vertical projection of non-noxious plant canopies (including herbaceous and shrub species) when viewed from above. Non-noxious plant cover shall be measured or estimated using a valid and reliable method, such as point-intercept. Sufficient data shall be collected to allow the operator to estimate the mean total non-noxious plant cover to within 10% of the true mean with 80% confidence.
2. Vegetative cover is such that the disturbed area for shrub, and grass cover is expected to develop through plant successional processes. Expectation of plant succession shall be deemed adequate when the number of species having between three (3) and fifty (50) percent of relative plant cover is at least half that of the average surrounding area.
3. The total cover of noxious weeds (including species designated as “undesirable” by the County) is no greater than that which exists in the average of the immediately surrounding area.

9.2.7.5 Special exception requests.

(1) Special exceptions to this division may be requested by the applicant. All applications where a special exception is requested will be processed as a major facility. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:

a. Topographic characteristics of the site;
b. Duration of use of the facility;
c. Proximity of occupied structures to the facility;
d. Ownership status of adjacent and/or affected land;
e. Construction of adequate infrastructure to serve the project; and
f. Planned replacement and/or upgrading of facility equipment.

(2) Archuleta County strongly encourages all applicants to work with affected residents to the greatest extent possible to minimize disruption to pre-existing surface activities, including ranching, farming, wild life a wild life habitat preservation, on-site residences, etc., as well as to mitigate impact on roads, dust, noise, water , air quality and the surface users enjoyment of their rights. Additionally the County advocates and supports a vigorous approach to the preservation of open space, scenic vistas, open range land, recreational open space, and conservation and believes that the multi-purpose use of such lands by surface and sub-surface owners can present a unique opportunity for all parties to benefit. Toward this end, oil and gas permit applicants will be given special consideration in terms of waivers or easing of related regulatory requirements, related fees, and priority consideration in processing where it can be demonstrated by the applicant and affected parties that;

a. the applicant has worked to mitigate all use-related and environmental-related impacts to the maximum degree possible, and/or,
b. the applicant has entered into a surface management, conservation easement, ranch, farm, conservation or open space agreement with a governmental entity or a non-profit organization recognized by the County and State.

(3) The County strongly encourages applicants who have obtained surface rights or who wish to negotiate surface rights agreements to explore the advantages, such as State and federal tax credits, in addition to special consideration(s) by the County that such opportunities can provide. Further, the County stands willing to facilitate such contacts and assist in the securing of such agreements.

(4) If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with the regulations of this division is impractical, a special exception may be granted by the Board of County Commissioners permanently or for a period of defined duration. Upon completion of the defined duration, the application shall receive additional review by the county in accordance with sections 9.2.6.11(6) through 9.2.6.11(7) of this Code.

a. The Board of County Commissioners, upon showing of good cause by the applicant, may:
1. Further extend the special exception;
2. Require that the facility be brought into compliance with the performance standards; or

3. Revoke the special exception approval.

9.2.7.6 Operational conflicts special exception.

(1) Special exceptions to this division may be granted where the actual application of requirements of this division conflicts in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed as a major facility and heard in a noticed public hearing by the Board of County Commissioners acting in a quasi-judicial capacity. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this division and those of the COGCC in the context of a specific application. For purposes of this section, an operational conflict exists where actual application of County condition of approval or regulation conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the COGCC's goals of fostering the responsible, balanced development and production and utilization of the natural resources of oil and gas in the State of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources. Additional county requirements in areas regulated by the COGCC, which fall within county land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant and which do not materially impede the State's goals, shall be presumed not to present an operational conflict. If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this division shall result in an operational conflict with the state statutory and regulatory scheme, a special exception to this division may be granted, in whole or in part, but only to the extent necessary to remedy the operational conflict. The Board of County Commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval. Any such condition shall be designed and enforced so that the condition itself does not conflict with the requirements of the COGCC.

(2) If the applicant or any interested party wishes to seek judicial review of a final Board of County Commissioners' decision on the exception request, appeal to the district court shall be pursuant to C.R.C.P. Rule 106(a)4.

9.2.7.7 Informal dispute resolution. At the discretion of the Planning Director, any complaint related to an alleged non-compliance with the provisions of this chapter by an applicant, operator, surface owner, or an adjacent landowner as identified in sec. 9.2.5 may be referred to an informal dispute resolution process. The process shall be administered by Archuleta County Planning Department staff in an attempt to reach a resolution of the complaint that is satisfactory to all interested parties. Where a resolution is reached, the resolution shall be reduced to writing and shall be binding on all participating parties.

SECTION 10 – FLOODPLAIN REGULATIONS

10.1 GENERAL PROVISIONS

10.1.1 Applicability

10.1.1.1 The flood hazard areas of Archuleta County, Colorado are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

10.1.1.2 These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed elevated, or otherwise protected from flood damage also contribute to the flood loss.

10.1.2 Authority

These Regulations are adopted pursuant to Title 29, Article 20, Section 101, *et seq*., and Title 30, Article 15, part 4 of the 1973 Colorado Revised Statutes.

10.1.3 Purpose

The intent and purpose of these Regulations is to promote the public health, safety and general welfare and to minimize losses due to flood conditions in specific areas by provisions designed to:

10.1.3.1 Prohibit within a floodplain any obstruction which would cause a foreseeable damage to others, wherever located;

10.1.3.2 Minimize or eliminate infiltration of, or discharge to, floodwaters with respect to new or replacement water supply and waste disposal systems;

10.1.3.3 Prohibit within a floodplain substantial solid debris capable of being carried downstream by floodwaters;

10.1.3.4 Protect the public from the burden of avoidable financial expenditures for flood control projects, flood relief measures, and damages to public utilities, streets and bridges;

10.1.3.5 Prevent avoidable business and commerce interruptions;

10.1.3.6 Ensure that potential buyers are on notice that property is subject to flood hazard and the mitigation requirements which must be met for use of such property;

10.1.3.7 Facilitate the administration of flood hazard areas by establishing requirements which must be met before construction in such areas is permitted;

10.1.3.8 Facilitate the County's participation in the Federal Flood Insurance Program;

10.1.3.9 Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

10.1.3.10 To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions;

10.1.3.11 Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and,

10.1.3.12 Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in areas of special flood hazard.

10.1.4 Methods

In order to accomplish its purposes, these Regulations include methods and provisions for:

10.1.4.1 Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

10.1.4.2 Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

10.1.4.3 Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

10.1.4.4 Controlling filling, grading, dredging, and other development which may increase flood damage; and,

10.1.4.5 Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

10.1.5 Lands to Which These Regulations Apply

These Regulations shall apply to all areas of special flood hazard in the unincorporated portions of Archuleta County, as shown on the Flood Insurance Rate Maps (FIRM) and the Flood Insurance Studies adopted pursuant to these Regulations, and areas removed from the floodplain by issuance of a FEMA Letter of Map Revision Based on Fill.[1] These regulations shall also apply to lands adjoining watercourses within the County, for which no FEMA FIS or FIRM panels have been developed, but which do pass floodwaters in excess of a calculated one hundred (100) year peak flow rate of fifty (50) cfs. Inclusion of these other areas into the requirements of this Section shall be determined by the County Engineer, pursuant to engineering calculations submitted by the applicant's engineer.

[1] Amended August 2015 (Res. 2015-52)

10.1.6 Adoption of Maps and Studies

10.1.6.1 Designation of Flood Insurance Rate Maps and Flood Insurance Studies to be used in application of these Regulations shall be by official resolutions of the Board of County Commissions after a public hearing. Notice of such hearing shall be published once, in a newspaper of general circulation in the County at least ten (10) days, but not more than thirty (30) days, prior to the hearing. The published notice shall include the time and place of the hearing, and shall designate the County office where information shall be available for public inspection. Within thirty (30) days of the conclusion of the hearing, the Commissioners will make a decision as to the floodplain designation.

10.1.6.2 Prior to the designation of official studies and maps by the Board of County Commissioners, the Planning Commission and the Colorado Water Conservation Board shall review the proposed studies. Recommendations shall be presented to the Board of County Commissioners by the above named agencies for the adoption, rejection or adoption with modification of the studies and/or maps.

10.1.7 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) is a scientific and engineering report entitled "The Flood Insurance Study for Archuleta County, Colorado", dated July, 1978, as amended, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of these Regulations. The Flood Insurance Study is on file at the Planning Department.

New map effective date 9/25/09. New flood insurance study effective date 9/25/09[2]

10.1.8 Amendments

Any changes or amendments to these Regulations shall be adopted pursuant to the procedure set forth in § 30-15-401 *et seq*., C.R.S. 1973, as the same may from time to time be amended.

10.1.9 Warning and Disclaimer of Liability

The degree of flood protection required by these Regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These Regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These Regulations shall not create liability on the part of Archuleta County, Colorado, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on these Regulations or any administrative decision made thereunder.

10.1.10 Interpretation

In the interpretation and application of these Regulations, all provisions shall be:

10.1.10.1 Considered as minimum requirements;

10.1.10.2 Deemed neither to limit nor repeal any other powers granted under State statutes;

[2] Amended Sept 2009 (Res. 2009-50)

10.1.10.3 Liberally construed in favor of the governing body.

10.1.11 Validity of Prior Regulations

Nothing herein shall be deemed to affect the validity of prior regulations and all actions taken thereunder.

10.1.12 Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these Regulations and other applicable regulations.

10.1.13 Abrogation and Greater Restrictions

These Regulations are not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where these Regulations and other regulation, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

10.2 ADMINISTRATION

10.2.1 Designation of the County Planning and Building Departments

The Development Services—Planning and Building Departments are hereby appointed to administer and implement these Regulations by granting or denying development permit applications in accordance with its provisions.[3]

10.2.1.1 Interpret Floodplain Boundaries:

(1) Where interpretation is needed as to the accurate location of the boundaries of floodplains and floodways, Planning Department personnel shall make the necessary interpretations.

(2) If available, the base flood elevations as shown on the profiles and tabulations for the point or points in question shall be the governing factor in determining accurate boundaries and shall take precedence over the boundaries shown on the maps.

(3) When base flood elevation data has not been provided in accordance with Section 10.2.1.1(2) above, the Planning Department shall obtain, review, and reasonably utilize any base flood elevations and flood way data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements or other development in Zone A, in order to administer these Regulations.

(4) Any person contesting the location of a floodplain boundary shall be given a reasonable opportunity to appeal the floodplain designation. Any boundary appeal must be substantiated by technical engineering data of sufficient detail to allow a determination to be made.

[3] Amended August 2015 (Res. 2015-52)

(5) Review all development permits to determine that the permit requirements of these Regulations have been satisfied.

(6) Review all development permits to determine that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required.

(7) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions are met.

10.2.1.2 Information to be Obtained and Maintained

(1) Maintain for public inspection all records pertaining to the provisions of these Regulations.

(2) Obtain and record the actual elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(3) For all new or substantially improved flood proofed structures:
- **a.** Verify and record the actual elevation (in relation to National Geodetic Vertical Datum to which the structure has been flood proofed), and
- **b.** Maintain the flood proofing certifications required herein.

10.2.1.3 Notification

Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

10.2.1.4 Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

10.2.2 Application Requirements:

10.2.2.1 Information Submittals

In addition to the regular development review requirements, a Development Permit shall be obtained before construction or development begins within any area of special flood hazard, as established in these Regulations. Application for a Development Permit shall be made on forms furnished by the Planning Department and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Location of site (distance upstream as per floodplain studies).

(2) Building site elevation (in relation to National Geodetic Vertical Datum).

(3) Difference between building site elevation and streambed elevation

(4) Elevation in relation to National Geodetic Vertical Datum, of the lowest floor (including basement) of all structures.

(5) Elevation in relation to National Geodetic Vertical Datum to which any structure has been flood proofed.

(6) Description of any construction activity, which would affect the hydraulic capacity of the base, flood perimeters.

(7) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet with flood proofing criteria, as described in Specific Standards, and,

(8) Other information requested by the Planning Department.

(9) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

10.2.2.2 Preparation of Submittals

The above information shall be prepared and certified by a Professional Engineer, registered in the State of Colorado. A registered Land Surveyor may provide required elevation data.

10.2.2.3 Information to be Kept on File

Whenever an applicant is required to prepare and submit base flood elevation data in areas designated on the FIRM on an approximate A-zone, the applicant shall also submit all underlying data and engineering calculations. Such information shall be kept on file for use pursuant to Section 10.2.1.

10.2.3 Variance Procedure

10.2.3.1 Appeal Board

(1) The Board of Appeals *[Board of Adjustment]* shall hear and decide appeals and requests for variances from the requirements of these Regulations.

(2) The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made in the enforcement or administration of these Regulations.

(3) Those aggrieved by the decision of the Board of Appeals may seek judicial review of such decision pursuant to C.R.C.P. 106(a)(4).

(4) In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, and standards specified in other sections of these Regulations; 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 the 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 of a waterfront location, where applicable;
- **f.** The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- **g.** The compatibility of the proposed use with existing and anticipated development;
- **h.** The relationship of the proposed use to the Community plan and floodplain management program of that area;
- **i.** The safety of access to the property in times of flood for ordinary and emergency vehicles;
- **j.** The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters;
- **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.

(5) Upon consideration of the above factors and the purposes of these Regulations, the Board of Appeals may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these Regulations.

10.2.3.2 Conditions for Variances

(1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, with regard to the procedures set forth herein.

(2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:

- **a.** A showing of good and sufficient cause;
- **b.** A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- **c.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create

nuisances, cause fraud on or victimization of the public or conflict with existing local laws or regulations;

(5) Any applicant to whom a variance is granted shall be given written notice that the structure may be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) The Planning Department shall maintain the records of all appeal actions, including technical information, and report any variances to FEMA.

10.3 PROVISIONS FOR FLOOD HAZARD REDUCTION

10.3.1 Compliance

10.3.1.1 No building permit shall be issued for any building or structure, including a manufactured home or a mobile home, which is proposed to be located within an area of special flood hazard or Floodplain Overlay District without the full compliance with the terms of this Section, and *the Rules and Regulations for Regulatory Floodplains in Colorado*.

EXCEPTION: The Development Services—Planning Department may accept certification from a professional engineer or surveyor, registered in the State that natural ground at a building site in a designated floodplain is above the base flood level.[4]

10.3.1.2 No subdivision or other development proposed within any designated floodplain area, including a Floodplain Overlay District, shall be granted final approval without full compliance with the provisions of this Section.

10.3.2 General Standards

10.3.2.1 Anchoring

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and to withstand hydrodynamic loads.

(2) All manufactured and mobile homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements shall be that:

a. Over-the-top ties be provided at each of the four (4) corners of the manufactured or mobile home with two (2) additional ties per side at

[4] Amended August 2015 (Res. 2015-52)

intermediate locations, with manufactured and mobile homes less than fifty (50) feet long requiring one (1) additional tie per side;

b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;

c. All components of the anchoring system shall be capable of carrying a force of forty eight hundred (4,800) pounds; and

d. Any additions to the manufactured or mobile home shall be similarly anchored.

10.3.2.2 Construction Materials and Methods

(1) All new construction and/or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

10.3.2.3 Utilities

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into systems and discharge from the systems into flood waters.

a. New and replacement sanitary sewage systems crossing stream courses with a one hundred (100) year peak flow in excess of fifty (50) cfs, shall be buried beneath the stream bed a minimum of three (3) feet, and the entire pipe crossing shall be encased in concrete with a minimum concrete cover over the pipe of six (6) inches in all directions. For stream channels which meet or exceed the criteria described above, and which also are located within the WO District, the minimum burial depth shall be increased to four (4) feet, and stabilization o f the streams bed and banks may also be required, as determined by the County Engineer.

b. No portion of a new or replacement sanitary sewage on-site disposal system shall be located nearer than fifty (50) feet to a stream course with a one hundred (100) year peak flow in excess of fifty (50) cfs. For stream channels which meet or exceed the criteria described above, and which also are located within the WO District, the minimum setback distance shall be increased to seventy five (75) feet.

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Plumbing opening into areas required to be flood proofed shall be equipped with backwater valves as provided in the plumbing code.

(5) Electrical wiring shall be entirely within the flood proof space. The electrical service and meter shall be above the base flood level in a location approved by the serving utility.

10.3.2.4 Subdivision and Other Development Proposals

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(4) Base flood elevation data shall be provided for all subdivision or other development proposals, which contain at least fifty (50) lots or five (5) acres, whichever is less.

(5) No building sites shall be approved in any determined floodway area.

(6) Any contemplated floodplain encroachment or channeling shall be thoroughly analyzed and its effect on stream flow determined before it is undertaken. No encroachment of a floodway area shall be allowed which would result in any increase in flood levels during the occurrence of a base flood.

10.3.2.5 Enclosed Areas

(1) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement which is subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters in accordance with the specifications in 60.3(c)(5) of the NFIP Regulations.[5]

10.3.3 Specific Standards

In all areas of special flood hazards, the following provisions are required. In determining compliance with this Section, available base flood elevation data shall be utilized.

10.3.3.1 Residential Construction

New construction and substantial improvements of any residential structure shall have the lowest inhabited floor, including basement, elevated to one (1) foot above the base

[5] Amended Sept 2009 (Res. 2009-50)

flood elevation. Un-inhabited levels of the building may occupy space below the base flood elevation, provided that the structure allows for the passage of floodwaters in conformance with FEMA guidelines, including foundation vents, structural piers or other FEMA approved methods. Plans for buildings which are intended to pass flood flows beneath or through the structure shall be prepared a Colorado registered professional engineer. No electrical or mechanical equipment may be located below the base flood elevation.

10.3.3.2 Non-Residential Construction

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;[6]

(2) Have structural components capable of resisting hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

10.3.3.3 Manufactured and Mobile Homes

(1) Manufactured and mobile homes shall be anchored in accordance with standards above, (Anchoring and Definitions).

(2) All manufactured and mobile homes or those to be substantially improved shall conform to the following requirements:

a. Require that manufactured and mobile homes that are placed or substantially improved on a site (i) outside of a manufactured or mobile home park or subdivision, (ii) in a new manufactured or mobile home park or subdivision, (iii) in an expansion to an existing manufactured or mobile home park or subdivision, or (iv) in an existing manufactured or mobile home park or subdivision on which a manufactured or mobile home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured or mobile home is elevated to one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

b. Require that manufactured and mobile homes to be placed or substantially improved on sites in existing manufactured and mobile home parks or subdivisions that are not subject to the provisions in (a) above be elevated so that either (i) the lowest floor of the manufactured or mobile home is one (1) foot above the base flood elevation, or (ii) the manufactured or mobile home chassis is supported by reinforced piers or other or other foundation elements

[6] Amended August 2015 (Res. 2015-52)

that are no less than thirty six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Require that recreational vehicles either (i) be on the site for fewer than one hundred eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

10.3.3.4 Properties Removed From the Floodplain by Fill[7]

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

(1) Residential Construction:

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

(2) Nonresidential Construction:

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

10.3.3.5 Standards for Critical Facilities[8]

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

(1) Classification of Critical Facilities:

It is the responsibility of the Archuleta County Board of County Commissioners to identify and confirm that specific structures in their community meet the following criteria. Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

[7] Amended August 2015 (Res. 2015-52) Subsection added.
[8] Amended August 2015 (Res. 2015-52) Subsection added.

a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

c. At-risk population facilities include medical care, congregate care, and schools.

d. Facilities vital to restoring normal services including government operations.

Specific exemptions are specified in Rule 6 of the *Rules and Regulations for Regulatory Floodplains in Colorado*.

(2) Protection for Critical Facilities:
All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

a. Location outside the Special Flood Hazard Area; or

b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

(3) Ingress and Egress for New Critical Facilities:
New Critical Facilities shall, when practicable as determined by the Archuleta County Board of County Commissioners, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

10.3.4 Floodways

Located within areas of special flood hazard are areas designated as floodway. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

10.3.4.1 All encroachments within flood way including fill, new construction, substantial improvements, and other development are prohibited unless a technical evaluation by a registered professional engineer demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

10.3.4.2 All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 10.3.

10.3.4.3 Until a regulatory floodway is designated, no encroachment may increase the Base Flood level more than ½ foot.[9]

[9] Amended Sept 2009 (Res. 2009-50); Amended August 2015 (Res. 2015-52)

10.4 ENFORCEMENT

10.4.1 Violations – Penalties

Violations of any provision of these Regulations shall be punishable as provided in Section 30-15-402, C.R.S. 1973, as the same may from time to time be amended.

10.4.2 Separate Offenses

Where a development as defined herein, is in violation of any provision of these Regulations, each violation of any provision and day that such development is in violation shall be deemed a separate offense.

10.4.3 Other Remedies

The Board of County Commissioners may institute an appropriate action for injunction mandamus, or to prevent, enjoin, abate or remove development not in compliance with these Regulations.

SECTION 11 – DEFINITIONS

11.1 ABBREVIATIONS

11.1.1 The following abbreviations are defined as follows: [1]

ADA	Americans with Disabilities Act (1990 and as amended)
BHP	Break Horsepower
BOA	Board of Adjustment
CC&Rs	Covenants, Codes & Restrictions
CDMG	Formerly Colorado Division of Minerals and Geology
CDOT	Colorado Department of Transportation
CDOW	Formerly Colorado Division of Wildlife
CDPHE	Colorado Department of Public Health and Environment
CDPS	Colorado Discharge Permit System
CFS	Cubic Feet per Second
COGCC	Colorado Oil & Gas Conservation Commission
CPW	Colorado Parks & Wildlife
C.R.S.	Colorado Revised Statutes
FAA	Federal Aviation Administration
FBFM	Flood Boundary-Floodway Map
FEMA	Federal Emergency Management Agency
FHA	Federal Housing Administration
FIRM	Flood Insurance Rate Map
HUD	Department of Housing and Urban Development
ITE	Institute of Traffic Engineers
NFIP	National Flood Insurance Program
NGVD	National Geodetic Vertical Datum
NRCS	Natural Resource Conservation Service
OHWM	Ordinary High Water Mark
PDF	Portable Document Format or equivalent electronic file
PUD	Planned Unit Development
WQCD	Water Quality Control Division

11.2 WORDS AND TERMS

11.2.1 Definitions. The following specific words and terms are defined as follows:

Abandonment: The permanent abandonment of a well and shall be based on the operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC).[2]

Abutting: Adjoining with a common boundary line except where two or more lots adjoin only at a single point, such as a corner.

[1] Amended June 2018 (Res. 2018-18); May 2019 (Res. 2019-39)
[2] Amended December 2008 (Res 2008-81)

Acre: A unit of area used in the measurement of land equal to one hundred sixty (160) square rods, four thousand and eight hundred forty (4,840) square yards, or forty-three thousand and five-hundred sixty (43,560) square feet.

Access: The way by which pedestrians and vehicles enter and leave property.

Accessory Structure: Any structure, not intended for permanent occupancy that is permanently affixed to the ground, not attached to a principal structure, and intended for an Accessory Use. [3]

Accessory Structure, Portable: An Accessory Structure that is not affixed to the ground nor attached to a principal structure. [3]

Accessory Use: A subordinate use incidental to any principal use of land.

Accommodations: A room, group of rooms, building or structure for overnight occupancy. [4]

Adjacent: Meeting or touching at some point, or separated from a lot or parcel by one of the following: a street, alley, or other right-of-way, lake, stream or open space.

Adjacent Property Owner: An owner of record of any estate, right or interest in real property, abutting and/or within five hundred (500) feet of the subject property.

Adjoining: In contact at some point or line; located next to another, bordering, contiguous.

Adult-Oriented Use: A use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises. The term "adult-oriented business" includes, but is not limited to, bookstores, video stores, gift stores, cabarets, motels, hotels, theaters, nightclubs, and similar establishments.

Agent: One authorized to make binding representations on behalf of the applicant. [5]

Agricultural: Currently in use for farm or ranch purposes, including pasture and assessed in the Archuleta County Assessor's records as agricultural land. [5]

Agricultural Uses: Those farm or ranch uses which primarily involve raising, harvesting, producing or keeping plants or animals, including agricultural structures which house farm or ranch implements, hay, grain, poultry, livestock or other horticultural products. An agricultural structure shall not be a place of human habitation. Agricultural uses exclude any business whose primary function is to provide on-site services or retail sales of non-agricultural products. Agricultural Uses excludes any use governed by the Colorado Medical Marijuana Program (CRS §25-1.5-106 *et seq*), Colorado Medical Marijuana Code (CRS §12-43.3-101 *et seq*) or Colorado Retail Marijuana Code (CRS §12-43.4-101 *et seq*).[6]

[3] Amended February 2011 (Res 2011-9); June 2018 (Res. 2018-18)
[4] Amended June 2018 (Res. 2018-18)
[5] Amended December 2008 (Res 2008-81)
[6] Amended December 2008 (Res 2008-81); March 2015; October 2016 (Res 2016-62)

Airport Influence Area: An area bounded by imaginary lines parallel to and one (1) mile from each side of every existing or proposed runway centerline and perpendicular to and one (1) mile from every existing or proposed runway end, as shown on the official map on file in the County Planning Office.

Alley: A specialized road which provides secondary access to property.[7]

Alteration: Any change, addition or modification in construction, occupancy or use.

Amendment: A change in the wording, context or substance of an official document, including related maps, illustrations, concepts, or plans.

Animal Hospital or Animal Clinic: *See Veterinary Facility*.

Animal Shelter: A facility usually operated by a public agency where licenses for domestic pets are issued and stray animals are housed until claimed by their owners, adopted or euthanized. [8]

Antenna: A device, dish or array used to transmit or receive signals for telecommunication purposes.

Apartment: A dwelling unit within a multi-family building, intended for lease or rent rather than individual purchase as a Condominium.[7]

Applicant: The owner of land or the owner's authorized representative or the optionee of the land, as well as mineral estate owners and lessees. For mining permits, the person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question.[9]

Archeological Resource, Cultural Resource, or Historical Resource: Those resources that have been designated by the County or are recognized or historically known to the County, or that are on the National Register of Historic Places (National Register), and/or that may be considered under the National Historic Preservation Act.

Area of Shallow Flooding: A designated AO district on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

Area of Special Flood Hazard: The land in a floodplain subject to a one (1) percent or greater chance of flooding in any given year. See "base flood".

Automobile/Motor Vehicle Service Station: A building or lot having pumps and storage tanks where fuels, oils, or accessories for motor vehicles are dispensed, sold or offered for sale, and where repair service is secondary.

[7] Amended May 2019 (Res. 2019-39)
[8] Amended May 2014 (Res 2014-22)
[9] Amended December 2008 (Res 2008-81); May 2019 (Res. 2019-39)

Auto/Equipment Sales Lot: A building or open lot used for the display, sale or rental of new or used motor vehicles, boats, trucks, trailers, recreational vehicles, equipment, or manufactured homes in operative condition and where no repair work is done. [10]

Auxiliary Parking: Parking that functions in a subsidiary or supporting capacity to a use or structure.

Bar or Tavern: An establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary.

Base Flood: A flood having one (1) percent chance of being equaled or exceeded in any year. The term is used interchangeably with the intermediate regional flood, the one hundred (100) year flood, and the one (1) percent flood.

Base Flood Elevation (BFE):[11] The elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement: Any area of the building having its floor sub grade (below ground level) on all sides.

Bed and Breakfast: An establishment operated in a private residential dwelling or portion thereof, which provides temporary accommodations to overnight guests for a fee, including meals and typical accessory uses such as special events, and which is occupied by the operator of such establishment. [12]

Best Management Practices: Proven techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health and the environment, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. BMP's are dynamic and intended to promote excellence in the conduct of operations. [13]

Billboard: *See Sign, Billboard.*

Block: A unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands, or other rights-of-way other than an alley, waterways or any barrier to the continuity of development, or land which is designated as a block on any recorded subdivision tract.

Board or Board of County Commissioners: The Board of County Commissioners of Archuleta County, Colorado.

Boundary Line Adjustment: The moving of property lines without creating any new parcels, for parcels not in a subdivision.[14]

[10] Amended June 2018 (Res. 2018-18)
[11] Amended September 2009 (Res 2009-50)
[12] Amended July 2018 (Res. 2018-14) effective 1 October 2018
[13] Amended December 2008 (Res 2008-81)
[14] Amended May 2021 (Res. 2021-35)

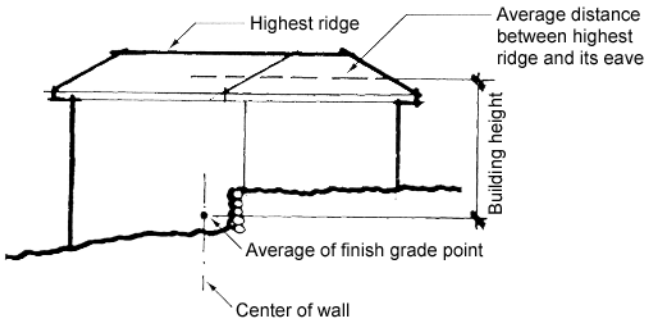
Buffer/Natural Screening: Land, berm, or planted vegetated area and/or naturally vegetated area used to visibly separate one use from another. This area is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

Building: A structure with more than one wall and a roof, designed to be used as a place of occupancy, storage or shelter. [15]

Building, Accessory: A minor building that is located on a lot in addition to the principal building(s), both of which are located on the same parcel and which is designated for accessory use. [15]
[*See also definition of Accessory Structure.*]

Building Area: The sum in square feet of the area of the horizontal projections of all buildings on a lot, excluding open pergolas, steps, chimneys, eaves, buttresses, cornices, unenclosed and unroofed terraces, and minor ornamental features projecting from the walls of the building that are not directly supported by the ground.

Building Height: Measured from the average of grade at the center of all walls of the building to the top of the parapet or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deck level (whichever is higher) of a mansard roof, or the average distance between the highest ridge and its eave of a gable, hip, or gambrel roof. See also *Roof Types.*



Building Height Measurement Example

Building, Principle: The primary building on a parcel intended for principle use as defined herein.

Building Contractors and Equipment: Offices of builders or contractors with associated Outdoor Storage; offices on Residential property with no Outdoor Storage may qualify as Home Occupations. [15]

Butcher Shop: A type of specialized Retail use supplying meat, poultry or seafood, with limited indoor processing of carcasses.[15]

[15] Amended June 2018 (Res. 2018-18)

Caliper: The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six (6) inches above the ground for trees up to and including four (4) inch caliper size, and as measured at twelve (12) inches above the ground for larger sizes.

Campground: An area made available by lease or rent for lodging use of tents and similar temporary structures on a short-term basis. [16]

Campsite: Any specific area within an organized campground or other lodging site which is used for overnight stays in a tent or similar temporary structure, by an individual, a single camping family, group or other similar entity. [16]

Car Wash: A site for washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment. [16]

Cash-in-lieu: The payment of money instead of land dedication in those cases where the dedication of land is not the preferred alternative.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with, and within the boundaries of, such cemetery.

Centerline: The linear centerline of a right-of-way or access easement, as recorded with the Archuleta County Clerk and Recorder.[17]

Centralized Facility: A facility serving multiple well pads consisting of one or more compressors, generators and / or water, gas or oil treatment equipment. **[18]**

Change of Use: A change from one principal use of a building or land to another principal use of the building or land when there is no increase in the size of the existing building or extent of the use of the land. [16]

Chemical(s): Shall mean any element, chemical compound or mixture of elements and/or compounds.[18]

Chemical Inventory: Shall mean a list of the Chemical Products (including Material Safety Data Sheets) brought to a well site for use down hole during drilling, completion and workover operations including fracture stimulations and the maximum capacity of fuel stored on the oil and gas location during those operations. The Chemical Inventory shall state the amount of the Chemical Product used, the manner in which it was used or applied and the dates on which it was used. [18]

[16] Amended June 2018 (Res. 2018-19)
[17] Amended May 2019 (Res. 2019-39)
[18] Amended December 2008 (Res 2008-81)

Chemical Product: Shall mean any product consisting of one or more constituent chemicals that is marketed or sold as a commodity. Chemical Products shall not include substances that are known to be entirely benign, innocuous or otherwise harmless, such as sand, walnut shells and similar natural substances. [19]

Child Care Center: A facility, by whatever name known, which is maintained for the whole or part of a day for the care of six (6) or more children under the age of sixteen (16) years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give twenty-four (24) hour per day care for dependent and neglected children, but specifically excludes any family child care home as defined in these Regulations. Child care centers are also those facilities for children under the age of six (6) years with stated educational purposes which are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades so long as the school system is not also providing extended day services. (CRS 26-6-102 (1.5)).

Church: A place of public worship containing a hall, auditorium or other suitable room or room used for the purpose of conducting religious or other services or meetings of the occupants of such structure. Church shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.

Clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Clubs and Lodges: Organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

Cluster Development: The grouping of a development's structures on a portion of the available land, reserving a significant amount of the site as protected open space.

CMRS Facility: All telecommunication devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation, within the range of frequencies from one hundred (100) KHz to three hundred (300) GHz, and operating as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, mounted on poles, other structures, light posts, power poles or buildings. CMRS facilities include radio, television, telephone and microwave towers or antennas for commercial transmission to consumers.

Code: The *Archuleta County Land Use Regulations*, as amended. [20]

[19] Amended December 2008 (Res 2008-81)
[20] Amended December 2008 (Res 2008-81); June 2018 (Res. 2018-18)

Commercial: Refers to the activity of a non-agricultural business, industry, or trade in commerce with the sole or chief emphasis on salability, profit, or success.

Commercial Stables or Horse Boarding: An Agricultural equestrian use, such as boarding, training or exhibitions, but not including breeding, for horses and other large animals. [21]

Common Open Space: Parcels of land, areas of water, improvements and other facilities, or a combination of these within the site designated for a subdivision or PUD, and designed and intended primarily for the use or enjoyment of all residents, occupants, and owners of the subdivision or PUD.

Community Plan: The *Archuleta County Community Plan*, adopted in 2001, as amended, serving as the County Master Plan per C.R.S. 30-28-106.

Conceptual Development Plan: A plan intended to be submitted for preliminary, conceptual review by the Board of County Commissioners. Such plan shall consist of a draft Development Agreement and a map depicting the conceptual plan for the property under consideration. Conceptual Plan or Conceptual Development *Plans do not warrant* any land use rights nor guarantees above and beyond those already vested with the property. These Plans are not subject to any voting or decision-making that would in any way grant vested rights or other land use rights that would normally be obtained through other land use processes. [22]

Conditional Use: A use allowed in the indicated zoning district only upon satisfactory demonstration that all pertinent conditions and requirements imposed by the County regarding that particular use will be observed.

Condominium: An individual air space dwelling unit together with an undivided interest in common elements appurtenant to each dwelling unit.

Conservation Easement: A right of the owner of the easement to prohibit certain acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance. (NOTE: For a conservation easement to create tax benefits for the donor at the federal or state level, it must meet either or both of the Internal Revenue Service or State of Colorado definitions).

Consolidation: The combining of two (2) or more lots, tracts or parcels within the same unit of a platted subdivision, which actually deletes the common boundary lines, and results in fewer lots remaining than were started with.

Construction: Any and all activity incidental to the erection, demolition, assembling, altering, installation or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

Contiguous: Sharing an edge or boundary; touching.

[21] Amended June 2018 (Res. 2018-18)
[22] Amended November 2009 (Res 2009-58)

Convalescent Home: Group quarters type facility for either short or long term individual care, medical treatment, rehabilitation or recuperation from disability or illness.

Convenience Retail Store: A retail store containing less than five thousand (5,000) square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs and sundries.

Corridor: The tracts of land within which a pipeline right-of-way is located.

County: Shall refer to Archuleta County. [23]

Covenants: A private written agreement outlining regulations specific to a development. As private restrictions, they are not enforced by Archuleta County. In the event of conflict between the covenants and these Regulations, these Regulations control.

Critical use hours: That time of day when disturbance is most likely to increase stress to and negatively impact wildlife. [23]

Critical use period: That portion of the year (weeks or months) when disturbance is most likely to increase stress to and negatively impact wildlife.[23]

Critical Facility: A structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during or after a flood. [24] *See Section 10.3.3.5.*

Day Care Center: See Child Care Center or Family Child Care Home.

Decision Making Body: Any person, entity or Board that has authority to make decisions pursuant to these Regulations.

Dedication: Any grant by the owner of a right to use land for the public in general, involving a transfer of property rights, and an acceptance of the dedicated property by the appropriate public agency.

Department: The Archuleta County Planning Department, or its successor. [23]

Designated Agent: An agent designated by the applicant, owner or lessee. [23]

Developer: Any person, firm, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer, seller or agent in the planning, platting, development, promotion, sale or lease of a development.

[23] Amended December 2008 (Res 2008-81)
[24] Amended August 2015 (Res 2015-52)

Development: The division of a parcel of land into two or more lots; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or use; any mining, excavation, land fill or land disturbance; any new use or extension of a permitted use; or the extension or alteration of the scope of a use, as well as the storage of equipment or materials.[25]

Development Plan: The written and graphical documents that detail the provisions for development of a PUD development. These provisions may include, and need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities; common open space, and other public facilities.

Directly Impacted: Any property or homeowner, or legally established association or district of property or homeowners, including private road improvement districts (not including public roads) whose surface property is to be the subject of drilling, a pipeline, construction, storage or improvements related to the permitted activity; or privately held lands or roads that must be traversed by the applicant in accessing the permit site, or those carrying out activities under the permit must traverse to gain access to the permit site. **[26]**

Director: The Director of Development Services (County Planning Director) or other responsible staff member designated by the County Administrator.[26]

District: A portion of the total area within the boundaries of Archuleta County within which specific zones and associated requirements apply (i.e. RR is the rural residential district).

Drainage plan: A written description and depiction on a site plan for the collection, transport, treatment and discharge of storm water runoff. [26]

Drilling Operation: Any work or actual operation undertaken for the purposes of carrying out any of the rights, privileges or duties of a lessee for drilling of an oil well, gas well , or cathodic protection well, and by the actual operation of drilling in the ground. [26]

Drive-in/Drive-thru Use: An establishment which by design, physical facilities, service or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles. [27]

Driveway: A constructed vehicular access other than a road serving one (1) or more properties and abutting a public or private road. [28]

[25] Amended August 2015 (Res 2015-52)
[26] Amended December 2008 (Res 2008-81)
[27] Amended June 2018 (Res. 2018-18)
[28] Amended May 2019 (Res. 2019-39)

Dude Ranch or Wilderness Lodging: A centrally managed facility which provides full service lodging, dining or cooking facilities, and onsite recreational activities for overnight guests or members. A dude ranch or wilderness lodge shall include an organized program of activities such as hunting, fishing, nature study, arts and crafts, Nordic skiing, snowmobiling, boating, rafting, horseback riding, hiking and pack trips. A dude ranch or wilderness lodge may also include corporate or religious retreats or conference facilities. Activities shall be provided onsite to the extent possible. Adjacent public lands and waterways may be used to supplement onsite activities, but shall not be the point of origin or primary location for such activities. Motels and hotels are not considered dude ranches or wilderness lodges.

Duplex: A Single-Family Attached Dwelling with two units in one building on one legal lot, and each unit has primary ground floor access to the outside and which are attached to each other by party walls without openings.[29]

Dwelling: A building used exclusively for residential occupancy, with complete living facilities including kitchen, bathroom and sufficient living area to meet the minimum requirements of the adopted residential building code. **[29]**

Dwelling group: A group of two or more detached buildings used for residential dwelling purposes, located on a parcel of land in one ownership and having any yard or court in common.

Dwelling, Multi-Family: A dwelling containing two (2) or more dwelling units, on one parcel or a condominium, but not including Single-Family Attached Dwellings such as a Duplex or Townhouse, and not including hotels, motels, and similar group accommodations. [29]

Dwelling, Single-Family: A building designed exclusively for occupancy by one (1) family, but not including mobile home, otherwise provided herein.

Dwelling, Single-Family Attached: A residential building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended for such dwelling types as townhouses and duplexes.

Dwelling, Single-Family Detached: A single-family dwelling which is not attached to any other dwelling or building by any means, excluding mobile homes and manufactured housing.

Dwelling, Two-Family: A multi-family residential building occupied by two (2) families living independently of each other, not including a Single-Family Attached Dwelling such as a Duplex or Townhouse. [29]

Dwelling Unit: One (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate living quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

[29] Amended May 2019 (Res. 2019-39)

Easement: A right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses, or authorization by a property owner for the use of a designated portion of his property by another, for a specified purpose. [30]

Eave: The overhanging lower edge of a roof.

Electric Power Distributed Generation: Any electric energy generating facility with capacity between ten (10) kWh and ten (10) megawatts, and any appurtenant facilities thereto.[31]

Electric Power Distribution Line: Any power line designed for or capable of distribution of electricity of less than Transmission voltage, generally originating at a substation and terminating at point of service.[32]

Electric Power Generation Facility: Any electric energy generating facility with capacity of ten (10) megawatts or more, and any appurtenant facilities thereto.

Electric Power Onsite Generation: A typical Accessory Use, electric energy generating facility with capacity of ten (10) kWh or less, and any appurtenant facilities thereto. [33]

Electric Power Transmission Line: Any power line designed for or capable of the transmission of sixty-nine (69) kilovolts of electricity or greater and which emanates from an electrical power plant or electric substation and terminates at a substation.

Elevation: The external vertical plane of a building. Elevations are considered different if they have different roof lines, building materials, details, color and overall stylistic expression

Employees: The total number of persons to be employed in a building during normal periods of use.

Entertainment Facilities and Theaters: A building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.

Environmentally Sensitive Areas: Aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, and ridge lines.

Equipment: Bulky items such as but not limited to tools and machinery, and agricultural or construction implements not intended for on-road use. For Oil & Gas purposes, machinery or structures located on well pads or right-of-ways including, but not limited to, wellheads, separators, dehydration units, heaters, meters, storage tanks, compressors, pumping units, internal combustion engines, and electric motors. [34]

[30] Amended December 2008 (Res 2008-81)
[31] Amended June 2018 (Res. 2018-18)
[32] Amended April 2017 (Res 2017-13)
[33] Amended June 2018 (Res. 2018-18)
[34] Amended December 2008 (Res 2008-81); June 2018 (Res. 2018-18)

Excavation: The process of removing earth to create a cavity or hole in the ground.[35]

Facility: A site and any and all equipment associated with a site used for the production, transportation, treatment, and/or storage of oil and gas and waste products, regardless of the permanency or period for which the vehicles or equipment are on the site. [36]

Family Child Care Home: A facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four (24) hour care for children under the age of eighteen (18) years who are not related to the head of such home. Family child care home may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types of family child care homes designated by rules of the Colorado Department of Human Services.

Farm/Ranch Stand: A structure used for the display and sale of primarily raw farm or ranch products, produced principally upon the farm or ranch on which the stand is located.

Farm and Ranch use: Agricultural use of land for the purpose of obtaining a profit from the production and sale of agricultural products, animals or animal products, including accessory uses. [37]

Fence: A structure which serves as a barrier intended to prevent escape or intrusion, to mark a boundary, to shield or screen view, or to serve any similar purpose constructed of materials other than vegetation.

Fence, Sight-Obscuring: Sight-obscuring fence means a fence constructed in such a manner or of such materials as to obstruct vision.

Firewood Related Wood Product Sales: A site for cutting, storing and selling firewood to the public. [38]

Fixture: The assembly that houses the lamp or lamps, which can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Fixture, Fully Shielded: A fixture that does not project light in an upward direction, and in which shielding is provided to (or below) the plane of the bottom of the light-producing portion of the light bulb (lamp). The shielding that extends to or beyond the bottom plane of the lamp may be opaque (no light passes through) or translucent (only diffused light passes through.) Examples of opaque shielding would include solid metal or plastic, while translucent would include alabaster glass, smoked glass, or glass tinted darkly enough to block all of the details, including outline, of the lamp from view while turned on, but that still allows some light to pass through.

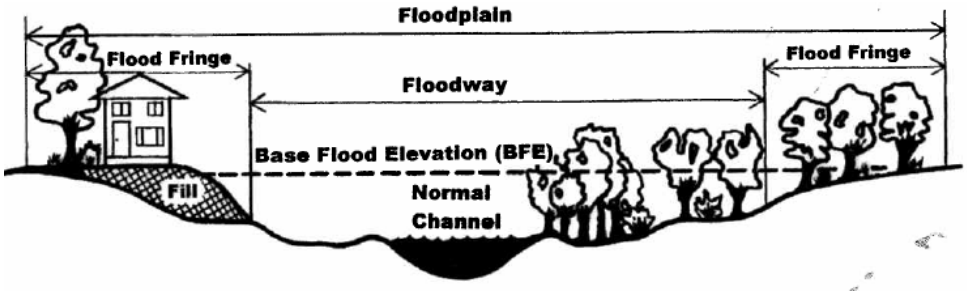
[35] Amended May 2022 (Res. 2022-32)
[36] Amended December 2008 (Res 2008-81)
[37] Amended October 2016 (Res 2016-62); June 2018 (Res. 2018-18)
[38] Amended June 2018 (Res. 2018-18)

Fixture, Partially Shielded (or Partial Cut-off): A fixture that does not project light in an upward direction, and in which shielding is provided to (or below) the plane of the centerline of the light-producing portion of the light bulb (lamp). Fixtures constructed in this manner will not allow more than ten percent (10%) of the light produced to be directed above the horizontal plane at the lowest point of the light emission source (which is the light bulb or lamp). The shielding that extends to or beyond the centerline plane of the lamp may be opaque (no light passes through) or translucent (only diffused light passes through.)

Fixture, Unshielded: A fixture that projects light in an open, unrestricted fashion both above and below the horizontal plane at the centerline of the light bulb (lamp) of the fixture. Light is typically directed in every direction, (including upward), by this type of fixture. This type of fixture has no shielding at all, or it has transparent (totally see-through) shielding. Examples of transparent shielding would be clear glass, including clear beveled or dimpled glass.

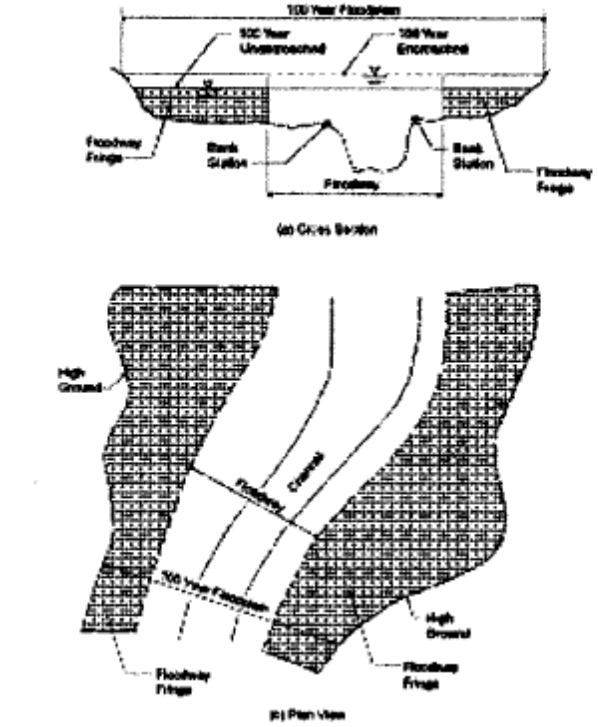
Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, river, or other inland water, or (b) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Fringe: That area of the floodplain exclusive of the floodway area; plus that portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the base flood more than one-half (½) foot at any point.[39]



(image: Washington Dept. of Ecology)

[39] Amended August 2015 (Res 2015-52)

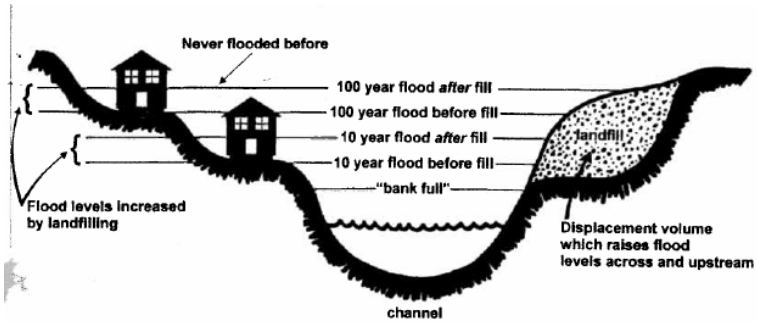


(image: G. Dyehouse, *Floodplain Modeling Using HEC-RAS*)

Flood Hazard Area: Areas subject to being flooded by a base flood as identified by the Federal Insurance Administration report entitled "Flood Insurance Study, Town of Pagosa Springs, and Unincorporated Areas of Archuleta County, Colorado" dated July 1978, as amended, with accompanying FIRM and FBFM maps dated January 3, 1979 as amended, and May 2, 1991 as amended.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zone applicable to the community.

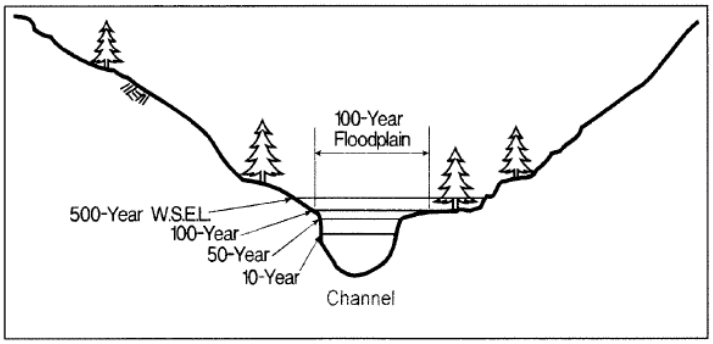
Flood Insurance Study: The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.



(image: Washington Dept. of Ecology)

Floodplain: Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir, and which area thus is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. [40]

Floodplain, Cross-Section: A cross section is a graphical description of the stream and the floodplain at a particular point along the stream. It is taken at right angles to the flow of the stream. At each cross section, the engineer has accurate information on the size and geometry of the channel, the shape of the floodplain, and the changes in the elevation of the ground. Cross sections are taken of the floodplain at locations along the stream that are representative of local conditions. Cross sections are taken at each bridge or other major obstruction and at other locations, depending on how much the stream or adjacent floodplain conditions change. The more changes there are in topography (perhaps steep riverbanks changing to large flat overbank areas), the more cross sections are needed to define the floodplain accurately. [41]

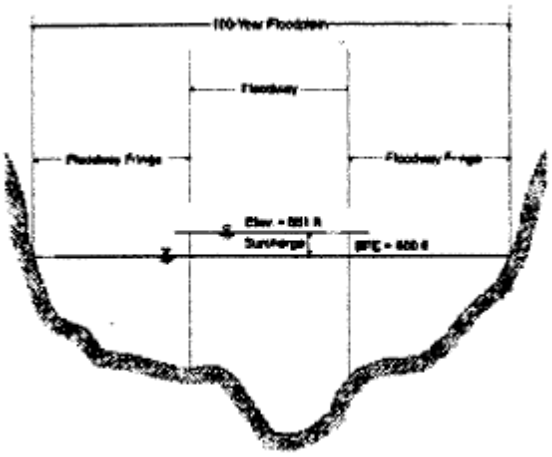


Cross –Section with Flood Elevations (image: FEMA)

Floodplain, Fill: By nature, floodplains are low-lying areas which seem to invite filling activities. Filling is included under the NFIP definition of "development" and therefore requires a floodplain development permit. Care should be taken to ensure that the fill will not alter drainage or divert flood waters to other properties. [42]

Floodplain, Flood Surcharge: The water surface elevation difference between the 100-year base flood elevation and the floodway elevation at any cross-section. For the computed floodway, the surcharge normally varies from cross section to cross section.

[40] Amended September 2009 (Res 2009-50); June 2018 (Res. 2018-18)
[41] Amended September 2009 (Res 2009-50)
[42] Amended September 2009 (Res 2009-50)



(image: G. Dyehouse, *Floodplain Modeling Using HEC-RAS*)

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents. [43]

Floodway (Regulatory Floodway): The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six inches). Letters of Map Revision (LOMR) to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation. [44]

Floor area: The sum in square footage of all floor space on each floor of a building, contained within the exterior walls of all buildings on a specific lot.

Floor Area, Gross: The total area of a building measured along the outside dimensions of the building, including each floor or level used for occupancy and storage.

Floor area ratio (FAR): A mathematical ratio determined by dividing the total floor area of a building or buildings by the area of the lot on which it (or they) is (are) located.

Flowline: A pipeline connecting an individual well to production equipment or a pipeline connecting individual production equipment to a gathering line that transports gas, oil, or produced water. [45]

Food Truck. A temporary structure used for preparation and sales of food, whether self-propelled or designed to be towed; considered a type of Restaurant. [46]

[43] Amended September 2009 (Res 2009-50)
[44] Amended August 2015 (Res 2015-52); June 2018 (Res. 2018-18)
[45] Amended December 2008 (Res 2008-81)
[46] Amended June 2018 (Res. 2018-18)

Foot-candle: The amount of visual light over a specific area as measured by a light meter. One foot-candle equals one lumen/square foot.

Forestry Operation: Forestry practices involving the removal of saw logs, firewood, poles and various other wood products, as well as forest improvement practices such as non-commercial thinning, pruning, brush reduction and planting.

Frontage: That portion of a lot which abuts a dedicated access easement road or highway. [47]

Functional Classification: Categories of roads (such as arterial, collector, or local) as established in the *Archuleta County Road & Bridge Design Standards*. [46]

Gable: The triangular portion of wall enclosing the end of a pitched roof from cornice or eaves to ridge.

(image source: http://architecture.about.com)

Garage: A fully enclosed detached accessory building or portion of a main building, designed for the shelter or storage of a motor vehicle.

Gardening: An accessory use of land which involves raising, harvesting, producing or keeping plants or animals for personal, non-commercial use. [48]

Gasoline Station: Any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning may be conducted. Gasoline station shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body fender work are conducted.

Gathering line: A pipeline receiving produced gas, oil, or produced water from more than one well pad and thereafter transporting gas, oil, or water to a transmission line or centralized facility. [49]

General Development Plan: The same as a Site Specific Development Plan in that it shall consist of a Development Agreement and a map substantially depicting the development parcels or tracts, road system, open space. Either the Development Agreement or the Map shall identify the maximum number of dwelling units, non-residential square footage, and types of uses allowed in each development parcel or tract. These depictions shall be the maximum numbers for build-out of the entire project. [50]

Glare: Direct or reflected intense light striking the eye and dazzling or blinding the viewer.

[47] Amended May 2019 (Res. 2019-39)
[48] Amended October 2016 (Res 2016-62)
[49] Amended December 2008 (Res 2008-81)
[50] Amended November 2009 (Res 2009-58)

Grade: The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line; when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Grade, Finished: The final elevation of the ground surface after development.

Grade, Natural: The elevation of the ground surface in its natural state, before man-made alterations.

Grading plan: A plan view and cross section of existing and proposed contours, cuts and fills, topsoil storage location and stabilization methods, and maximum slopes. [48]

Green Chemicals: Environmentally benign, chemically inert, water-based drilling fluids. Chemicals used in the oil and gas exploration and production process that are identified by government and private studies to be preferred and deemed to be environmentally friendly, including, but not limited to: low toxicity glycols, synthetic hydrocarbons, polymers, and esters. **[48]**

Grocery Store: [51] *See Retail/Service.*

Group Care Facility: A facility providing custodial care and treatment in a protective living environment for persons with a disability or handicap, residing voluntarily or by court placement including homes for the aged, drug or alcohol abuse centers, and temporary custody facilities. A Group Home is a limited Residential type of Group Care Facility. [50]

Group Home: A Residential Group Care Facility similar to a single-family dwelling, as provided by CRS §30-28-115(2), for the exclusive use of: [50]

- Up to 8 persons with intellectual and development disabilities (also known as Community Residential Homes) with a state license; or
- Up to 8 persons sixty years of age or older (for the aged);
- Up to 8 persons with behavioral or mental health disorders, with a state license.

Golf Courses and Driving Ranges: A recreational facility for playing golf (except miniature golf) including any customary accessory facilities such as a clubhouse, restaurant, meeting rooms, golf-related retail/service uses, and/or golf-support buildings. [50]

Guesthouse: An accessory building designed and used for the purpose of providing temporary living accommodations for guests or for members of the same family as that occupying the main building, and containing no kitchen facilities.

Half Street: A street shared with other platted subdivisions or property outside of a platted subdivision

[51] Amended June 2018 (Res. 2018-18)

Health and Athletic Club: A commercial or non-profit establishment for passive or active exercise, including indoor or outdoor facilities. [52]

Heavy equipment: Drilling rigs, completion rigs, construction equipment, water or other tank trucks, road or facility maintenance vehicles, individual truck/trailer combination vehicles, or any vehicle with a gross vehicle weight exceeding 5 tons. **[53]**

Hedge: A series of plants, shrubs, or other landscape material, so placed as to act as a buffer or to form a physical barrier or enclosure.

Hemp, Industrial: As defined by the Colorado Constitution, the plant of the genus cannabis and any part of such plant, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis.[54]

Hip Roof: A roof having sloping ends and slides meeting at an inclined projecting angle.

Historic Site: A structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status and protection.

Home Occupation: An occupation or business activity which results in a product or service and is conducted entirely within a dwelling unit which is incidental and secondary to the use of the dwelling for dwelling purposes, and which does not change the residential character thereof.

Illegal Lot: Any parcel of land or lot that is smaller than 35 acres, either inside or outside of a subdivision, that was created or modified after the adoption of these Regulations on May 23, 2006 without approval of the Board of County Commissioners.[55]

Improperly Divided Parcel: Any parcel of land outside of a subdivision that is less than 35 acres in size and was created after September 1, 1972, and before the adoption of these Regulations on May 23, 2006, unless approved by Board of County Commissioners via Subdivision Exemption Review.[54]

Improvement: Any new construction activity or the addition of equipment, utilities, structures, fencing or materials to a site, or anything done to, erected, or placed on land which did not naturally exist thereon. [52]

Improvements Agreement: An agreement including a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Board of County Commissioners to ensure that all improvements will be completed in a timely, quality and cost-effective manner. Improvement agreements shall run with and be a burden upon the land.

[52] Amended June 2018 (Res. 2018-18)
[53] Amended December 2008 (Res. 2008-81)
[54] Amended October 2016 (Res. 2016-62)
[55] Amended May 2021 (Res. 2021-35)

Industrial, Heavy: Uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. Heavy industrial shall also mean those uses engaged in the maintenance of vehicles; cleaning of equipment or work processes involving solvents; brewery, distillery or winery; and transport terminals (truck terminals, public works yard, container storage), including any industry conducted outdoors. [56]

Industrial, Light: Uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, light industrial shall mean uses such as the manufacture of electronic instruments, preparation of food products (except typical retail grocery food preparation), micro-brewery producing less than 15,000 barrels annually, pharmaceutical manufacturing, research and scientific laboratories, or the like, conducted entirely indoors. [55]

Junk Yard: An industrial use contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof. Junkyard shall not include a recycling facility.

Kennel: Any premises where five or more dogs, cats, or other small animals or any combination thereof are kept commercially or permitted to remain for board, propagation, training or sale, not including veterinary clinics and animal hospitals.

Kitchen: An area in a dwelling or dwelling unit used to prepare food that contains all of the following elements: 1. kitchen sink (larger than 12” x 12”), 2. refrigeration, 3. cooking appliances (microwaves and counter-top appliances are exempt). If any one of these elements is not present, it is not considered a kitchen.[57]

Landscaping: Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains or the like. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection and replacement of existing trees.

Land Use Change: Zoning or rezoning of property, subdivision of land, substantial clearing, grading, filling or excavation, construction, alteration or moving of buildings or roads, or any action listed as an "approval requested" in the Review Process Chart, Section 2.2.2.

Large Retail Establishment: A retail establishment, or any combination of retail establishments in a single building, occupying more than twenty-five thousand (25,000) gross square feet of floor area, except that no supermarket shall be deemed to be a large retail establishment.

[56] Amended June 2018 (Res. 2018-18)
[57] Amended May 2021 (Res. 2021-35)

Legal Lot: A Lot, Parcel or tract of land created prior to **September 1, 1972**; or after that date by Subdivision Review or exempted from Subdivision Review by the Board of County Commissioners. [58]

Lessee: The entity entitled under an oil or gas lease to drill and operate wells. The lessee may also be the applicant for purposes of this article. **[59]**

Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. [60]

Light Pollution: Any adverse effect of man-made light including sky-glow, glare, light trespass, and light clutter.

Limited Impact Use: Limited Impact Uses are transitioning to either a Use-By-Right or a Conditional Use.

Limited Indoor Recreation Facility: A place where recreation activities occur completely within an enclosed structure including but not limited to bowling alleys, skating rinks, pool halls, video and pinball parlors.

Limited Outdoor Recreation Facility: A place with outdoor activities including but not limited to miniature golf, batting cages, water slides, skateboard parks, driving ranges, and go-cart tracks.

Lodging Establishment: A facility intended and used for occupancy as ~~a~~ temporary accommodations for individuals who are lodged with or without meals, in which there are typically two (2) or more Lodging Units, including typical accessory uses such as meeting rooms and special events. [57]

Lodging Unit: A temporary accommodation other than a Vacation Rental, which is subject to Colorado state sales tax under CRS 39-26-704. Lodging units may be detached or attached, including but not limited to cabins, yurts, Park model RVs (tiny homes), recreational vehicles, tents, and other types of units for short-term commercial lodging only. Does not include units used for permanent residency as exempted by State law (39-26-704(3)). Lodging units, regardless of type must meet the applicable building code(s) in effect at the time of permitting. **[61]**

Logging Operation: Lands owned, leased or managed by commodity-producing forest products companies for the primary purpose of generating profit through the processing and sale of forest products

Lot: A designated parcel, tract or area of land established by plat or exemption from subdivision review of at least a sufficient size to meet minimum requirements for use, frontage, coverage, and area, and to provide required yards and other open spaces in the zoning district in which the lot is located, and which has direct access onto a public or private road. **[62]**

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[58] Amended June 2018 (Res. 2018-18); May 2021 (Res. 2021-35)
[59] Amended December 2008 (Res 2008-81)
[60] Amended August 2015 (Res 2015-52)
[61] Amended July 2013 (Res 2013-42); June 2018 (Res. 2018-19); July 2018 (Res. 2018-14); May 2021 (Res. 2021-35)
[62] Amended December 2008 (Res 2008-81); May 2019 (Res. 2019-39)

Lot Area: The total area within the boundary lines of a lot, exclusive of any road rights-of-way. [63]

Lot, Corner: A lot situated at the intersection of two or more streets, which have an interior angle of intersection of not more than one hundred thirty-five degrees.

Lot Coverage: The percentage of the lot area, exclusive of rights-of-way, that is covered by structures or buildings, including accessory buildings.

Lot Depth: The average distance between the front lot line and the rear lot line.

Lot, Double Frontage: Lots which front on one (1) road and back on another (not including an Alley). [62]

Lot, Flag: A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

Lot Line, Front: A property line dividing a lot from a road. On a corner lot the shorter frontage shall be considered the front line for measurement of setbacks. [62]

Lot Line, Rear: The line opposite the front lot line.

Lot, Reverse Corner: A corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot Line, Side: Any lot lines other than the front lot line or rear lot line.

Lot Size: The total horizontal area within the lot lines of a lot; synonymous with area of lot.

Lot Width: The distance parallel to the front lot line, measured at the front building setback line. Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

Lumen: The unit used to measure the actual amount of visual light produced by a lamp.

Lowest Floor: The lowest floor of the lowest enclosed area (including a basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of requirements. [64]

Maintain: To cause or allow to continue in existence. When the context indicates, the word means "to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable and carries out the purpose for which it was installed, constructed or required."

[63] Amended May 2019 (Res. 2019-39)
[64] Amended September 2009 (Res 2009-50)

Major Extension of an Existing Water or Sewer System: Either the expansion of existing water treatment plant capacity or sewer treatment plant capacity; or any extension of existing water supply systems or sewer lines, with the **exception** of line extensions located within either: [65]

(a) The Pagosa Area Water & Sanitation District (PAWSD) boundary as amended.
(b) Areas where annexation petitions have been submitted to the Town of Pagosa Springs and pre-annexation agreements concerning land use have been approved and fully executed by the Town of Pagosa Springs.
(c) The district boundary of the San Juan River Village Metropolitan District as amended.

Major New Sewer System: A new sewage treatment system and collector system capable of treating the wastewater generated by ten (10) or more residential dwelling units, or the equivalent thereof in other uses.

Major New Water System: A new water treatment facility; or a system, for provision to the public, of piped water for human consumption; or a system for the provision to the public of piped water which will be treated for human consumption; if such systems are proposed to serve a total development density of ten (10) or more dwelling units, or the equivalent thereof in other uses.

Major oil and gas facilities: Oil and/or gas sites that include at least one of the following: [66]

(1) Centralized facilities.
(2) Water injection or centralized water transfer stations and associated facilities serving multiple well pads.
(3) Storage yards and construction staging yards, including temporary or permanent offices or housing.
(4) Any permanent equipment, facility or structure related to the production of oil and/or gas which contains internal combustion engines with a cumulative horsepower, de-rated for elevation, of 50 BHP_{ι} or greater.
(5) Pipelines for which the power of eminent domain is available.
(6) Any oil and gas facility not meeting the definition of minor oil and gas facility.

Manufactured Home: Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body beet (2438 body mm) or more in width or 40 body feet (12 192 body mm) or more in length, or, when erected on site, is 320 square feet (30 m square) or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a **certification required by the secretary (HUD)** and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile shall be considered a manufactured home.[65]

[65] Amended June 2018 (Res. 2018-18)
[66] Amended December 2008 (Res 2008-81)

Manufactured (Mobile) Home Park or Subdivision, Existing: A manufactured (mobile) home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured (mobile) homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or before December 31, 1974, or before the effective date of the community's initial FIRM, whichever is later. [67]

Manufactured (Mobile) Home Park or Subdivision, Expansion to Existing Site: The preparation of additional sites by the construction of facilities for servicing the lots on which manufactured (mobile) homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). [66]

Manufactured (Mobile) Home Park or Subdivision, New: A manufactured (mobile) home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured (mobile) homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after December 31, 1974, or on or after the effective date of the community's initial FIRM, whichever is later. [66]

Manufacturing: A business which makes products by hand or by machinery.

Marijuana: As defined by the Colorado Constitution, all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate; does not include Industrial Hemp.[68]

Marijuana Caregiver: A person, other than a medical patient or the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition, as defined by CRS §25-1.5-106(2)(d.5).[67]

Master Plan: The *Archuleta County Community Plan*.

Medical and Dental Offices: A specialized establishment operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination and/or treatment. [69]

Medical Clinic: Medical offices or hospital where in-patient care and lodging may be provided overnight. [68]

Medical Marijuana Establishment: Means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation licensed pursuant to the Archuleta County Marijuana Licensing Regulations as amended from time to time.[70]

[67] Amended September 2009 (Res 2009-50)
[68] Amended October 2016 (Res 2016-62)
[69] Amended June 2018 (Res. 2018-18)
[70] Amended March 2015

Meeting Place and Place for Public Assembly: A hall, auditorium or other suitable room or rooms used for the purpose of conducting meetings of the membership and guests of the owner of such structure. The same shall not include commercial endeavors such as commercial movie picture houses, stage productions or the like.

Mile: A unit of length equal to five thousand and two hundred eighty (5,280) feet or one thousand and seven hundred sixty (1,760) yards (1,609 meters).

Mineral Estate: a mineral interest in real property that is shown by the real estate records of the Archuleta County Clerk & Recorder. [71]

Mineral Estate Owner: the owner or lessee of a Mineral Estate underneath a surface estate. [70]

Mini-storage Warehouse: A building or a group of buildings containing separate, individual self-storage units divided from the floor to ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage or personal goods, materials and equipment.

Minor Lot Line Adjustment (MLLA): A re-plat amending existing legal lots within a subdivision and involving no more than three (3) lots or parcels. No new lots or parcels are created. [72]

Minor oil and gas facilities: Oil and gas sites that do not exceed the following: [73]

(1) An individual well pad built with one or more wells and operated for exploration or production of liquid petroleum and/or natural gas, including any and all associated equipment located on the well pad or within 150 feet of the wellhead required for such production.
(2) Gathering lines and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.

Minor oil and gas facilities requiring special mitigation measures: A minor oil and gas site as described above with the following special conditions: [74]

(1) An individual well site built and operated for exploration or the production of petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements specified in this article for minor facilities.
(2) Any of the facilities specified under subsection (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.
(3) Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six weeks.

Mixed Use Development: The development of a lot, building, or structure with two (2) or more different uses including but not limited to, residential, office, manufacturing, retail, public, or entertainment.

[71] Amended May 2019 (Res. 2019-39)
[72] Amended May 2019 (Res. 2019-39); May 2021 (Res. 2021-35)
[73] Amended December 2008 (Res 2008-81)
[74] Amended December 2008 (Res 2008-81)

Mobile Home Subdivision: A parcel or contiguous parcels of land divided into two or more lots for the purpose of placing mobile homes on the lots.

Modular Home: Similar in construction to manufactured homes except modular homes must comply with local building and zoning codes including a Certificate of Occupancy and once transported to their foundation not intended to be transported again.

Natural Areas: Floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, and any wetland greater than one-quarter (¼) acre in size.

Natural Gas Transmission Pipeline: Any pipeline and appurtenant facilities that are capable of transporting natural gas from a gathering line or storage facility to a distribution center or storage facility.

Neighborhood Commercial Center: [75] *See Shopping Center, Neighborhood*.

National Geodetic Vertical Datum (NGVD): The national standard reference datum for elevations; formerly referred to as Mean Sea level (MSL) of 1929. NGVD is used as the reference datum on most Flood Insurance Rate Maps. [76]

Net Residential Area: The area devoted to residential uses, and the term shall not include streets and parking areas, or required useable open space areas.

New Construction: Structures for which the start of construction began on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structures. [75]

Nonconforming Structure: A structure, or portion thereof, that does not conform to these Regulations, but that was lawfully constructed under the Regulations in force at the time of construction.

Non-Conforming Use: A use that does not conform to these Regulations, but that was lawfully established under the Regulations in force at the time the use was established and has been in regular use since that time.

Nuisance: A facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this article after being ordered to do so by the Board of County Commissioners.

Offices: A room, set of rooms or building where the business of a commercial or industrial organization or of a professional person is transacted.

[75] Amended June 2018 (Res. 2018-18)
[76] Amended September 2009 (Res 2009-50)

Off-Street Parking Area: All off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a "recreational vehicle, boat or truck storage" use, storage areas for landscaping and other bulk items or public streets and rights-of-way.

Oil and Gas Operation: Any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines. [77]

Oil or Gas Transmission line: See Transmission Line (oil or gas).

Oil or Gas Well: A well capable of producing and for which the principal production at the mouth of the well crude petroleum oil or gas. [76]

Operating plan: A general description of a facility identifying purpose, use, typical staffing pattern, equipment description and location, access routes, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, and any other information related to regular functioning of that facility. [76]

Ordinary High Water Line: The line on the shore of a water body established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Ordinary High Water Mark (OHWM): The line between the bed and banks of a stream or lake that persists through successive changes in water levels, generally where vegetation is marked. On a water impoundment controlled by a dam structure, OHWM shall be considered the elevation of the spillway. [78]

Outdoor Shooting Range: A commercial facility for the firing of rifles and hand guns.

Outdoor Storage: The keeping, in an unroofed area, of any equipment, goods, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.[79]

Out lot: A measured piece of land contained within subdivided land that is not a building lot. An out lot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision, or be conveyed to an owner's association.

Owner: The person or entity that owns the property under consideration.

Owner or Operator: Shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced there from either for such owner or operator or others. [80]

[77] Amended December 2008 (Res 2008-81)
[78] Amended June 2018 (Res. 2018-18)
[79] Amended October 2016 (Res 2016-62)
[80] Amended December 2008 (Res 2008-81)

Owners Association: The association set up to enforce the covenants and maintain all common areas and buildings for a development.

Parapet: A low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall, fire wall, or party wall that rises above the roof.

Parcel: A tract or plot of land outside of a recorded subdivision which was deeded separately and has continuously had a separate deed, with the same legal description, prior to the effective date of Senate Bill 35; also, a lot or tract delineated as part of a recorded subdivision plat.

Park: An area that is open to the general public and reserved for recreational, educational or scenic purposes.

Parking Lot: Off-street Parking Area or vehicular use area.

Permanent equipment: Equipment located onsite for a duration of time greater than six months effective one year after the drilling and completion of a well. [81]

Permanent Monument: Any structure of masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference.

Personal and Business Service Shops: [82] *See Retail/Service.*

Personal Use: Any use that is operated or conducted solely for the enjoyment of the owner or operator and not for profit, payment, or donation. [83]

Pets: Those animals which are normally and reasonably kept as household pets, not including any animals that are considered wild or vicious, or other creatures which, if not contained, would be considered dangerous to the public health or safety.

Phase: A portion of property that is being platted and engineered for development at the same time.

Planned Unit Development (PUD): A project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses, or industries and associated uses. Planned as a single entity, the project is subject to development and regulations as one (1) land-use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire tract; and is designed to provide variety and diversity through the variation of normal zoning and subdivision standards so that maximum long-range benefits can be gained, and the unique features of the development or site preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing and recording a plat.

Pit: Subsurface earthen excavation (lined or unlined) or subsurface open top tank used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

[81] Amended Dec 2008 (Res. 2008-81)
[82] Amended June 2018 (Res. 2018-18)
[83] Amended October 2021 (Res. 2021-76)

Planning Commission: The duly appointed Planning Commission for Archuleta County, Colorado.

Plant Nursery and Greenhouse: Any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting.

Plat: A map of certain described land prepared as an instrument for recording of real estate interests with the Archuleta County Clerk and Recorder.

Platted building envelope: An area of land within a buildable lot within which all site structures, buildings and other hardscape elements shall be contained, except driveways. [84]

Platted subdivision lot: Any lot created pursuant to state law, which has received subdivision approval by the Board of County Commissioners since September 1, 1972. [81]

Principal Structure: A structure (generally inhabitable) intended for a Principal Use of a property. [85]

Principal Use: The main use of land or of a structure as distinguished from a subordinate or accessory use.

Private School: A school that is established, conducted and primarily supported by a non-governmental agency.

Professional Office: An office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

Proof of Ownership: Ownership as specified in a current title insurance commitment or policy, or certification of title, issued by a title insurance company licensed by the state of Colorado.

Property Line: The boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

Public Hearing: A meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

Public Highway: A state or county road as defined in CRS §43-2-201.

Public School: A free, tax supported school that is controlled and operated by the Archuleta School District 50 Joint.

[84] Amended December 2008 (Res 2008-81)
[85] Amended June 2018 (Res. 2018-18)

Public Use: Uses which are owned by and operated for the public, such as the Town of Pagosa Springs, Archuleta County, metro district, state or federal governments, or by public school districts. [86]

Public Utility: A common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same, or wireless telecommunication facilities.

Receiving Area: Areas designated by description or on a zoning map to which development rights may be transferred.

Recreational Facility: A facility used for a pastime, diversion, exercise, or other resource affording relaxation and enjoyment to restore or refresh one's physical or mental being.

Recreational Vehicle: An automobile, travel trailer, camp-car, camper, bus, motor home, or other vehicular or portable unit, with or without motor power, designed and constructed for travel and intended for human occupancy as temporary living quarters for recreational, vacation, or travel purposes.

Recreational Vehicle Park: An area made available by lease or rent for lodging use of recreational vehicles on a short-term basis. [83]

Recreational Vehicle Subdivision (RV Subdivision): A parcel or contiguous parcels of land divided into two or more lots for the purpose of placing recreational vehicles on the lots.

Recycling Facility: A site used for the collection and/or processing of recyclable material. Processing shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. [83]

Re-Plat: Changing the boundaries of a platted subdivision or changing the property lines within a platted subdivision.

Residential: A property having an existing residence or platted subdivision lot within one-quarter mile of a site. [87]

Resource Extraction, Processes and Sales: Removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged. [84]

[86] Amended June 2018 (Res. 2018-18)
[87] Amended December 2008 (Res 2008-81)

Restaurant: Any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages, and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation includes one (1) or both of the following characteristics:

(a) Customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or
(b) Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.

Restaurant, Drive-Through: Any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

Restaurant, Fast Food: Any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, and in which the design or principal method of operation includes the following characteristics.

(a) Food and beverages are usually served in paper, plastic or other disposable containers;
(b) The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building, or for carry-out; and
(c) Drive-through facilities are allowed, subject to review of traffic patterns, vehicle stacking areas, and entrance and exit locations.

Retail/Service: A commercial enterprise to supply goods and services to customers on the premises including, but not limited to, stores, shops, butcher shops, grocery stores (with food prepared on-site or off-site), art studios, and personal and business services, including accessory offices. [88]

Retail Marijuana Establishment: Means a retail marijuana center, and/or retail marijuana cultivation facility licensed pursuant to the Archuleta County Marijuana Licensing Regulations as amended from time to time.[89]

Right-of-Way: An area of land legally separate and distinct from adjacent lots or tracts of land, designated for public use including public or privately-owned roads, walkways, and utility lines. The term "Right-of-Way" may also be used in specialized contexts to refer to easements for uses such as electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. [90]

Roads: For purposes of this regulation, a general term denoting a public or private way for purposes of vehicular travel, including the entire area within the right-of-way and/or access easement. [91]

Roadway: That portion of a right-of-way or access easement, not including a driveway, improved for vehicular traffic. [88]

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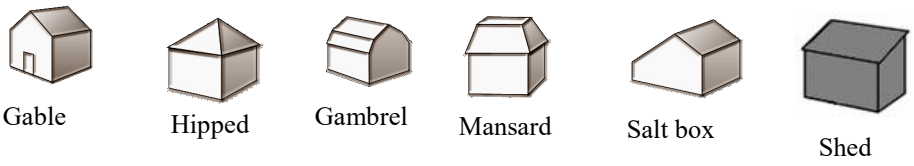
[88] Amended June 2018 (Res. 2018-18)
[89] Amended March 2015
[90] Amended December 2008 (Res 2008-81); May 2019 (Res. 2019-39)
[91] Amended May 2019 (Res. 2019-39)

Roof types:



Sanitary Landfill or Waste Transfer Station: An area of land or an excavation where solid wastes are received and sorted, including Recycling, then placed for final disposal that conforms to all applicable State and Federal requirements.[92]

School: A place, institution, or building where instruction is given.

Section: A land unit equal to one (1) square mile (2.59 square kilometers), six hundred forty (640) acres, or one thirty-sixth ($^1/_{36}$) of a township.

Security fencing: A six-foot chain link fence topped by three strands of barbed wire, or the equivalent, with a gate that can be secured. [93]

Sending Area: Areas designated by description or on a zoning map from which development rights may be transferred.

Setback: The minimum distance between a structure and the nearest property line, edge of road right-of-way or access easement (whichever is closer);
For mining regulations, also including any permitted facility, wellhead, flow line, gathering line or a major facility boundary. [94]

Setback, Front Yard: The distance a building or structure must be placed from the front lot line.

Setback, Rear Yard: The distance a building or structure must be placed from the rear lot line.

Setback, Side Yard: The distance a building or structure must be placed from the side lot line.

Shopping Center: A multi-tenant group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property**.** [89]

Shopping Center, Neighborhood: A shopping center which contains a limited number of businesses that are intended to provide goods and services to the immediate neighborhood (within a one-quarter [¼] mile radius). [95]

Sidewalk: The hard surface path within the street right-of-way for use by pedestrians and/or bicyclists.

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[92] Amended June 2018 (Res. 2018-18)
[93] Amended December 2008 (Res 2008-81)
[94] Amended December 2008 (Res 2008-81); May 2019 (Res. 2019-39)
[95] Amended June 2018 (Res. 2018-18)

Sight Distance Triangle: The area at the four corners of an intersection forming a triangle in which visibility is maintained. Distance along the legs of the triangle shall be measured from the corner or intersection point along the right-of-way lines, access easements, or along edge of driving surface for driveways. See also *Archuleta County Road and Bridge Design Standards and Construction Specifications*. [96]

Sign: Any device used for visual communication which is intended to attract the attention of the public and is visible from the public rights–of-way or other properties. The term "sign" shall not include any flag, badge or insignia of any governmental unit nor shall it include an item of merchandize normally displayed within a show window of a business.

Sign, Awning: Signs which are placed on or integrated into a fabric or other material canopies which are mounted on the exterior of a building.

Sign, Billboard: A sign which is intended to advertise a business, commodity, service, entertainment, product, or attraction sold, offered, or existing elsewhere than on the property where the sign is located.

Sign, Construction and Development: A temporary sign providing information about future development or current construction on a site, and the parties involved in the project.

Sign, Directional: An on-premise sign that includes information assisting in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way.

Sign, Directory: A sign, other than an identification sign, listing the names, uses or locations of the various businesses or activities conducted within a building or group of buildings, which is centrally located and intended to provide on-site directions.

Sign, Fascia: A sign that is mounted against the horizontal piece covering the joint between the top of a wall and the projecting eaves of the roof.

Sign, Freestanding: A sign which is erected on its own self-supporting permanent structure, detached from any supporting elements of a building.

Sign, Identification: A sign that is designed and intended to identify only the business, place, organization, building, street address, or person on the property on which it is located.

Sign, Mansard: A sign permanently affixed to a wall or surface designed to protect the edge of a roof, such surface being no more than thirty (30) degrees from vertical.

Sign, Menu Board: A permanently mounted sign displaying the menu and prices for a drive thru restaurant.

Sign, Noncommercial: A sign that does not contain information or advertising for any business, commodity, service, entertainment, product, or attraction.

[96] Amended May 2019 (Res. 2019-39)

Sign, Nonconforming: A sign lawfully erected and maintained prior to the adoption of this ordinance which does not conform with the requirements of this ordinance.

Sign, Political: A sign which supports any candidate for public office or urges action for or against any other matter on the ballot of primary, general, or special elections.

Sign, Portable: Any sign not affixed to a structure or ground mounted on a site.

Sign, Projecting: A sign attached to a building or other structure and extending in whole or in part more than fourteen (14) inches beyond the building.

Sign, Reader Panel: A sign designed to permit immediate change of copy either manually or electronically.

Sign, Roof: A sign erected on a roof, or signs that project above the highest point of the roof line, parapet, or fascia of the building.

Sign, Shingle: A sign suspended from, and located entirely under a covered porch, covered walkway, or awning.

Sign, Temporary: A sign not intended or designed for permanent display.

Sign, Wall: A sign mounted flat against and projecting less than fourteen (14) inches from, or painted on the wall of a building with the exposed face of the sign parallel to the face of the wall.

Sign, Window: A sign affixed to the interior or exterior of a window, or placed immediately behind a windowpane so as to attract the attention of persons outside the building.

Significant Wildlife Habitat and Migration Corridors: Areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source (www.ndis.nrel.colostate.edu) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

Single Family Dwelling: A freestanding dwelling intended for occupancy by an individual, family, or group of persons sharing living arrangements.

Site: Any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease. [97]

Site Plan: A scale drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

[97] Amended December 2008 (Res 2008-81)

Site Specific Development Plan: Shall have the same meaning as set forth in C.R.S. 24-68-102(4) as amended from time to time. [98]

Special Event: A temporary commercial use of property. [99]

Special Flood Hazard Area (SFHA): An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs. [100]

Spot Zoning: Zoning of a particular piece of land without regard for the zoning of the larger area surrounding the land. Zoning inconsistent with the Community Plan and that would benefit single landowners rather than the community at large can be considered spot zoning.

Standard Operating Practices: Criteria developed by the County and the Colorado Division of Wildlife for the protection of wildlife resources in the County during oil and gas development activities. Standard Operating Practices may be referred to herein as "SOPs". [101]

Start of Construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [97]

Street: A type of Road. [102]

Structure: Anything constructed, assembled, erected or built on a lot.

Subdivider or Developer: Any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

[98] Amended November 2009 (Res. 2009-58)
[99] Amended June 2018 (Res. 2018-18)
[100] Amended September 2009 (Res 2009-50)
[101] Amended December 2008 (Res 2008-81)
[102] Amended May 2019 (Res. 2019-39)

Subdivision: Any parcel of land which is divided into two (2) or more parcels, separate interests or interests in common, including land to be used for condominiums. Unless the method of disposition is adopted for the purpose of evading these Regulations, these Regulations shall not apply to any division of land:

(a) Which creates parcels of land each of which comprises thirty-five (35) or more acres of land and none of which is intended for use by multiple owners;
(b) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest;
(c) Which could be created by any court in the state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the Board of County Commissioners of the county in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this part 1 prior to entry of the court order; and, if the board does not file an appropriate pleading within twenty (20) days after receipt of such notice by the court, then such action may proceed before the court;
(d) Which is created by a lien, mortgage, deed of trust, or any other security instrument;
(e) Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;
(f) Which creates cemetery lots;
(g) Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;
(h) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this subsection as only one interest;
(i) Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five (35) acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five (35) acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph.
(j) Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this article and any applicable county regulations, the land which he is to acquire pursuant to the contract.

See CRS §30-28-101; also definition of Legal Lot above.

Subdivision, Single Transaction Large Lot: Any division of land done for the purpose of changing the form of ownership of a previously subdivided parcel, provided that the change does not alter the overall existing density of the parcel being subdivided.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred. [103]

[103] Amended September 2009 (Res 2009-50)

Substantial Improvement: Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction. [100]

Surface Estate: A fee title interest in the surface of real property that may or may not include mineral rights as shown by the real estate records of the Archuleta County Clerk & Recorder. [104]

Surface owner: The owner of the Surface Estate and any person with rights under a recorded contract to purchase all or part of the Surface Estate. [105]

Sustainable and/or Restoration Forest Practices: To practice sustainable forestry to meet the needs of the present without compromising the ability of future generations to meet their own needs by practicing a land stewardship ethic that integrates reforestation and the managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, biological diversity, wildlife and aquatic habitat, recreation and aesthetics.

Temporary equipment: Equipment located onsite for a duration of time less than six months. [106]

Temporary use area (oil and gas): Disturbed lands immediately adjacent to the well pad or right of way used by an operator during the construction or maintenance of a well, pipeline or other facility that will be reclaimed for permanent operations. [105]

Temporary Uses: Uses established for limited duration at a specific location, with the intent to discontinue such use upon the expiration of a set time period established by these Regulations. Temporary uses are land uses that do not require any new permanent structures or improvements for their operation, may use existing buildings or improvements, shall not include continuing a nonconforming use or building, and do not result in any long-term impact on surrounding properties.

Tent: A temporary structure at least partially made from fabric or other soft-sided material and intended primarily for short-term uses, including teepees and yurts.[107]

Title Commitment: Formal documentation from a title company listing the name of the owner of the property under consideration, the legal description of the property and any legal holdings on the property such as easements, rights-of-way or liens.

Townhouse: A single family, attached residence with individual exterior entries that will never have units above or below, and does not have more than two (2) walls in common.

[104] Amended May 2019 (Res. 2019-39)
[105] Amended December 2008 (Res 2008-81); May 2019 (Res. 2019-39)
[106] Amended December 2008 (Res 2008-81)
[107] Amended October 2021 (Res. 2021-76)

Transmission Line (oil or gas): Any pipeline and appurtenant facilities that are capable of transporting oil, natural gas or any other products derived from oil and gas production from a gathering line or storage facility to a distribution center or storage facility, or as defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended. [108]

Trade Secret: Any confidential formula, pattern, process, device, information or compilation of information that is used by an owner, operator or vendor , and that gives the owner, operator or vendor an opportunity to obtain an advantage over competitors who do not know or use it. [104]

Trade Secret Chemical Product: Shall mean a chemical product, the composition of which is a trade secret. [104]

Tree Farm: A registered trademark of the American Forest Foundation, involving small-scale forestry operations on a minimum of ten (10) acres of land by certified members of the American Tree Farm System.

Truck Stop: An establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

Use-By-Right: A use allowed by right in conformance with the particular Zoning District. Uses by right are not required to show need for their location.

Useable Public Open Space: An open area developed and designed for use by the occupants of the development, or by others for uses including, but not limited to, recreation, courts, gardens, parks, playgrounds and walkways. The term shall not include space devoted to streets, parking, loading areas and accessory structures.

Utility Substation: Any facility designed to provide switching, voltage transformation or voltage control, required for the transmission of electricity sixty-nine (69) kilovolts or greater.

Vacation Rental: Residential use of a dwelling unit, or any portion thereof (including any legal dwelling) as a short-term rental accommodation for no more than thirty (30) days, subject to Colorado state sales tax under CRS 39-26-704, where no meals are served or provided to renters. [109]

Variance: A grant of relief from the requirements of these Regulations which permits development in a manner that would otherwise be prohibited by these Regulations.

Vegetation: Plants growing in a place, including, but not limited to trees, shrubs, vines, grasses and groundcover.

[108] Amended December 2008 (Res 2008-81)
[109] Amended July 2018 (Res. 2018-14); May 2021 (Res. 2021-35)

Vehicle Major Repair, Servicing and Maintenance: Any building, or portion thereof, where heavy maintenance activities such as engine overhauls, automobile/truck painting, body or fender work, welding or the like are conducted. Such use shall not include the sale of fuel, gasoline or petroleum products.

Vehicle Minor Repair, Servicing and Maintenance: The use of any building, land area, premises or portion thereof, where light maintenance activities such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like are conducted.

Vested Property Right: The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan, including any approved amendments thereto, pursuant to Section 2.3 of these Regulations.

Veterinary Facility: Any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases, with overnight care only when necessary in the medical treatment of the animal. [110]

Walkway: A right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path, or any portion of a parking area restricted to the exclusive use of pedestrian travel.

Warehouse and Distribution: A use engaged in storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Warehousing: A business which stores or stocks merchandise or commodities.

Water Body: A perennial or intermittent river, stream, lake, reservoir, or pond, whether natural or artificial, but does not include irrigation or roadway drainage ditches, or artificial lakes or ponds which are created and used for the primary purpose of agricultural activities. A "perennial" river, stream, lake, reservoir, or pond is one that normally holds water or flows continuously during all of the calendar year as a result of ground-water discharge or surface runoff. An "intermittent" river, stream, lake, reservoir, or pond is one that normally holds water or flows continuously for at least sixty (60) days of the calendar year as a result of ground-water discharge or surface runoff.

Water Impoundment: An impoundment of water, including surface runoff, stream flow, extracted ground water and water as a by-product of extraction or processing of mineral resources, energy generation or agricultural, municipal, or industrial water supply or sewage treatment installation that is designed to contain at least one (1) acre foot of water, or a number of smaller impoundments on one (1) lot with an aggregate capacity of at least one (1) acre foot. Water impoundments described in the January 1989, “Preliminary Engineering Study of Pagosa Area Water and Sanitation District for Domestic Water Supply Facilities” (prepared by Davis Engineering Service, Inc., as amended), shall be specifically excluded from this definition.

[110] Amended June 2018 (Res. 2018-18)

Water Storage Facility: Any enclosed impervious structure, capable of holding five thousand (5,000) gallons or more, either above or below ground and that is used to store water for public consumption or for fire protection.

Well head: The equipment attached to the casing of an oil, gas or injection well above the surface of the ground. [111]

Well Pad: The area in which permanent operations for the well takes place and shall always include, at a minimum, that portion of the pad area occupied within the drilling rig anchors. Well pads may contain one or more well heads and associated equipment. [107]

Workshop and Custom Small Industry: A facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques, production of art objects, or other similar uses. [112]

Yard: That portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zoning district in which the lot is located.

Yard, Front: A yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

Yard, Front Setback: The distance a building or structure must be placed from the back of the front property line.

Yard, Rear: A yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

Yard, Rear Setback: The distance a building or structure must be placed from the back of the rear property line.

Yard, Side: A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

Yard, Side Setback: The distance a building or structure must be placed from the back of the side property line.

Zoning District: A zoning district of Archuleta County as established in Section 3 of these Regulations, unless the term is used in a context that clearly indicates that the term is meant to include both the zoning district(s) of Archuleta County and the zoning district(s) of an adjoining governmental jurisdiction.

Zoning Map: The official zoning map adopted by Archuleta County, as amended.

[111] Amended December 2008 (Res 2008-81)
[112] Amended June 2018 (Res. 2018-18)