

Chapter Five

USE AND DIMENSIONAL STANDARDS

5.1. USE TABLES

5.2.3. Purpose

The purpose of the use tables in this Chapter are to summarize what uses may be made of lots, tracts or parcels within each base zoning district in conformance with the requirements of this Code.

5.2.3. Types of Uses and Limit on the Number of Uses per Lot or Parcel

Each base zoning district regulates land uses as either a principal use or an accessory use. Only one principal use is allowed per lot or parcel, except in the A-35 zoning district and in commercial and industrial zoning districts where more than one principal use may be established subject to the requirements and limitations of this Code, or where special use approval or variance of use approval has authorized additional uses. An accessory use requires that a principal use is established on the same lot or parcel as the accessory use before the accessory use is established and that the principal use continue on the lot or parcel so long as the accessory use continues, unless otherwise provided by this Code. Multiple accessory uses may be allowed on a lot or parcel subject to the requirements and limitations of this Code.

5.2.3. Principal Use Table Described

Principal uses are organized into three categories for purpose of regulation: allowed uses, special uses, and temporary uses. Table 5-1 identifies principal uses which may be located on a lot or parcel in each base zoning district. Base zoning districts are shown on the horizontal axis and specific uses or categories of land uses are shown on the vertical axis. The following symbols shall be used to interpret the list of uses and means by which they may be located on a lot or parcel within each base zoning district:

- If the symbol “A” appears in the box at the intersection of the column and row, the use is allowed subject to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If the symbol “S” appears in the box at the intersection of the column and the row, the use is allowed subject to the Special Use provisions of this Code and to applicable

development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).

- If the symbol “T” appears in the box at the intersection of the column and the row, the use is allowed subject to the Temporary Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).

If no symbol appears in the box at the intersection of the column and the row, the use is not allowed as a principal use in that zoning district. The table also identifies whether or not specific use standards are provided for the use in this Code and whether a site plan review or site development plan review shall be approved prior to establishing the use.

5.2.3. Accessory Use Table Described

Table 5-2 identifies accessory uses which may be located on a lot or parcel within each base zoning district. Base zoning districts are shown on the horizontal axis and specific accessory uses or categories of accessory land uses are shown on the vertical axis. The following symbols shall be used to interpret the list of accessory uses and means by which they may be located on a lot or parcel within each base zoning district:

- If the symbol “A” appears in the box at the intersection of the column and row, the use is allowed subject to the Accessory Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If no symbol appears in the box at the intersection of the column and the row, the use is not allowed as an accessory use in that zoning district.

The table also identifies whether or not specific use standards are provided for the use in this Code and whether a site plan review or site development plan review shall be approved prior to establishing the use.

5.2.3. Applicability of Multiple Use Types

The specific use shall control the general use.

5.2.3. Unlisted Uses

The PCD Director is authorized to classify any unlisted use based on similar uses. If no similar use can be identified by the PCD Director, the PCD Director may initiate an amendment to the text of this Code to clarify where the unlisted use is allowed, or the applicant for an unlisted use may file an application to amend this Code following the prescribed procedures.

Table 5-1. Principal Uses.

Table 5-2. Accessory Uses

5.2 USE-SPECIFIC DEVELOPMENT STANDARDS

The use-specific development standards provided in this Section are those specific requirements that shall be met when establishing a use or conducting an activity within a particular zoning district. Specific uses may be subject to more than one set of standards.

5.2.1 Accessory Use and Structure Standards, General

(A) Accessory Use to Conform to Zoning District Standards

Unless otherwise indicated within this Code, accessory structures or uses shall conform to the development standards specified in the zoning district in which the building or use is located. The area of the accessory structure shall be included in the lot coverage calculation.

(B) Accessory Uses Do Not Include Allowed or Special Uses

Allowed uses or special use listed in any zoning district in Table 5-1 shall not be considered accessory uses, unless otherwise provided by this Code.

(C) Secondary Uses Now Considered Accessory Uses

For purposes of administration of this Code, after the effective date of adoption, those uses previously classified as Secondary Uses are now classified as Accessory Uses.

(D) Accessory Use to Be Located on Same Lot, Parcel or Tract as Principal Use

An accessory use or structure shall be located on the same lot, parcel or tract as the principal structure or use. The accessory use or structure may be located on a contiguous lot or parcel under the same ownership, upon the recording of a use or combination agreement that binds the use or structure to the lots, parcels, or tracts in common ownership.

(E) Building Permit Required

Any accessory structure exceeding 200 square feet shall obtain a building permit. All accessory structures shall comply with the Building Code.

(F) Principal Structure Required

No building permit for construction of an accessory structure, where a building permit is required, shall be authorized prior to construction of the principal structure except in the A-35 zoning district.

(G) Accessory Uses and Structures to Meet Setbacks

Accessory uses and structures shall meet the setbacks shown in Table 5-4 and Table 5-5, and shall not be located within any easement unless specifically allowed in accordance with this Code.

(H) Accessory Uses to Meet Development Standards

Accessory uses shall meet all applicable development standards in Chapter 5 and Chapter 6.

(I) Storage Buildings as Accessory Uses

Semi-trailers with attached running gear (i.e. axles, wheels) and mobile homes shall not be used as storage buildings after the effective date of this Code, except in the A-35 Zoning District. Existing semi-trailers and mobile homes being used as storage buildings in conformance with County rules and regulations on the effective date of this Code shall be considered nonconforming uses.

(J) Structures or Uses Not Considered Accessory Uses a Violation

Any building, structure or use that does not qualify as an accessory structure or use and that is not identified as an allowed use, approved as a special use, or granted a use variance is a violation of this Code and subject to zoning enforcement.

(K) Square Footage of Accessory Structure and Use Limited

The building footprint of accessory structures and accessory uses in all residential zoning districts shall not exceed the building footprint of the primary use (residence) to which they are subordinate, with the following exceptions:

- When the lot or parcel is 2.5 acres or greater the accessory structure building footprint may not exceed two (2) times the size of the building footprint of the primary use (residence).
- Structures and accessory uses classified as agricultural are exempt from the square footage limitation.
- Accessory structures on lots or parcels 35 acres or greater are exempt from the square footage limitation.

5.2.2 Agricultural Accessory Structures and Uses

The following structures and uses as further detailed in Table 5-2 are considered accessory to any agricultural use defined as agricultural by this Code:

- Agricultural, farming, ranching and dairy vehicles, equipment and material, barns, sheds, etc;
- Domesticated livestock and pets, subject to the requirements of this Code;
- Any residential accessory structure, or use;
- Outside storage incidental to and necessary for uses allowed on the property (but not junk yards);
- Fence, wall or hedge;
- Fuel storage for the farming, ranching, or dairy vehicles and equipment, subject to any Fire District or Fire Marshal Requirements;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code;
- Solar energy systems and wind-powered generator; and

- Airplane hangar for personal use on property 2.5 acres or greater, where the property owner can demonstrate authority to utilize an adjacent or nearby airport or private airport.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6. Agricultural accessory structures are subject to the building permit exceptions in Chapter 1 of this Code:

Pursuant to BoCC Resolution 12-276, compliance with the Building Code, as amended is required in all unincorporated areas where the County has land use jurisdiction, with only the following exceptions:

- Buildings or structures specifically exempted in the Building Code, as amended, or which are otherwise exempted by State statute or federal law;
- Agricultural buildings or structures; and
- Accessory buildings or structures in the A-35 Zoning District which are not classified as habitable; are not for residential occupancy; are not intended to be normally or customarily open to public use; or which are not necessary to support and protect a non-exempted building or structure. (Examples of accessory buildings or structures that require a building permit include, but are not limited to: a guest house or mother in law apartment; a rural home occupation where the public is invited or allowed within the structure; a retaining wall necessary to protect a residential structure; a wind powered generator supplying power to a residential structure, or to the power grid.)

5.2.3 Agricultural Stand

All products offered for sale shall be raised, grown or made within the same ownership on which they are sold.

5.2.4 Agritainment

(A) General Standards

Events and activities include, but are not limited to: pumpkin patch, hay ride, corn maze, hay maze, petting zoo (farm animals only), historical farm, farm tour, vineyard, agricultural festival, community garden, and other similar uses as determined by the PCD Director. Supplemental uses to an Agritainment use may include a gift shop, chuck wagon dinners, farmers markets, and other similar uses as determined by the PCD Director.

(B) Person Conducting Agritainment

The Agritainment use shall only be operated by the owner or leasee of the property on which it is located.

(C) Temporary Use Not Considered Agritainment

An event or activity occurring one (1) time per year, not exceeding five (5) days in duration, shall not be considered Agritainment and shall be required to obtain a temporary use permit prior to holding the event or initiating the activity.

(D) Conducted in Accordance with Laws

Agritainment shall be conducted in compliance with all applicable county, state and federal laws.

(E) Vehicles Limited

The total number of vehicles at any given time shall not exceed fifty (50) unless otherwise approved by the PCD Director. The total vehicle count applies to all vehicles parked on the site, including, but not limited to, all employee, customer, and vendor vehicles associated with the use.

(F) Building Permits Required

Buildings or structures that are open to the public or employees shall be subject to the requirements of the building code.

(G) Excluded Uses

The following uses, among others, shall not be considered Agritainment:

- Business event center
- Indoor and outdoor amusement center
- Outdoor theater
- Race track
- Auction and flea market
- Carnival or circus
- Recreation camp
- Rodeo
- Shooting range
- Any activity related to or associated with medical marijuana as defined in C.R.S 12-43.4-101, or retail marijuana as defined in C.R.S 12-43.3-103.

(H) Overnight Accommodations Not Allowed

Overnight accommodations shall not be allowed as part of the Agritainment use.

(I) Agritainment As a Special Use

Any proposed agritainment use which does not comply with the provisions of this section shall require special use approval.

(J) Other Applicable Standards

Agritainment shall meet all other applicable standards in this Code unless specifically modified by this Section or as otherwise modified by special use approval.

5.2.5 Animal Keeping**(A) Dogs and Cats**

The keeping of more than 4 dogs or cats, in any combination, over 4 months of age on the same property shall be considered a kennel and shall meet the standards for kennels.

(B) Horses

The keeping of horses shall be considered a private or commercial stable and shall meet the standards for private or commercial stable. No horses shall be kept in any zoning district that does not allow a private or commercial stable.

(C) Livestock

Livestock is allowed in any agricultural zoning district, and in association with a hobby farm.

(D) Hen Chickens

In a residential zone district allowing less than 2.5 acres, a reasonable number of hen chickens are allowed per ownership, provided the standards of Section E below are met. No roosters are permitted. In zoning districts where a hobby farm is allowed there is no maximum allowed number of chickens, hen or rooster.

(E) Beekeeping, Residential**(1) Hives**

All bee colonies shall be kept in hives with removable combs, which shall be kept in sound and usable condition.

(2) Setbacks

All hives shall be located in the rear yard and at least 5 feet from any adjoining property with the back of the hive facing the nearest adjoining property. If hive is located next to a sidewalk or any other public gathering place a six foot tall privacy fence will be required to minimize interaction with passers-by.

(3) Water Required Onsite

Each property owner or beekeeper shall ensure that a source of water is available at all times to the bees so that the bees will not congregate at swimming pools, birdbaths, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained as not to become stagnant.

(4) Queens

In any instance in which a colony routinely exhibits aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition toward swarming, it shall be the duty of the beekeeper to requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.

(5) **Hive Density**

It shall be unlawful to keep any hive on a multi-family zoned parcel or to keep more than the following number of hives on any parcel within El Paso County, based upon the size or configuration of the parcel on which the apiary is situated:

- Less than one-half (1/2) acre parcel size: Two (2) hives;
- One-half (1/2) acre or more but less than one (1) acre parcel size : Four (4) hives;
- One acre or larger parcel size: Six (6) hives; or
- Regardless of parcel size, where all hives are situated at least two hundred feet in any direction from all property lines of the parcel on which the apiary is situated, there shall be no limit to the number of hives.

(B) **Other Domesticated Animals**

In addition to dogs, cats, horses, and livestock, other types of domesticated animals may be kept as a pet in a residential zoning district allowing less than 2.5 acres provided:

- The animals do not exceed 100 pounds in weight each;
- The animals are thoroughly secured within the boundaries of the ownership;
- The animals produce no sounds or smell that may be reasonably regarded as offensive;
- The animals are not exotic, wild or ordinarily considered dangerous; and
- The animals are properly maintained to remain healthy and to prevent the accumulation of wastes.

No more than 2 other domesticated animals shall be located on any ownership except where the other domesticated animals are fish, small reptiles and amphibians, small rodents, or small birds kept within a dwelling unit where there shall be no restriction on the number kept.

(C) **No Other Animals Allowed**

The keeping of animals, including exotic animals, not qualifying in any of the above categories shall not be allowed.

5.2.6 Animal Day Care Facility

Overnight indoor boarding and outdoor exercise areas may be provided as an accessory use, but outdoor holding facilities are prohibited. Where overnight boarding occurs, animals shall not be allowed unsupervised outdoor access.

5.2.7 Auction, Auction Facility

Auctions shall be considered an accessory use when:

(A) **Frequency and Duration**

The auctions will be conducted no more than 3 times within an ownership during a year and no auction will exceed 5 days.

(B) Material Storage

Materials for auction are not owned by the landowner and will not be stored on the site for more than 30 days.

(C) Classification as Auction Facility

When the standards for frequency and duration or material storage are exceeded the use will be classified as an auction facility as identified in Table 5-1.

5.2.8 Automobile and Boat Storage Yards

Automobile and boat storage yards shall comply with the outdoor storage standards of this Chapter.

5.2.9 Batch Plant, Temporary

A temporary batch plant associated with a federal, State, or local construction public improvement project is subject to the following requirements.

(A) Adjacent to Project

The plant shall be located on, adjacent to, or in the immediate proximity of the right-of-way being improved.

(B) Hours of Operation Limited

A temporary batch plant shall only be operated between 7 a.m. to 7 p.m.

(C) Repair of Road Damage

Damage to any roads that provide access to the temporary batch plant that may be attributable to the use of the site for a temporary batch plant shall be repaired by the temporary batch plant owner or operator to the satisfaction of the ECM Administrator. Financial Assurance may be required by the ECM Administrator to cover potential repair costs.

(D) Other Permits Required

A construction permit, work in the right-of-way permit, and ESQCP shall be obtained from the ECM Administrator prior to the issuance of a temporary use permit authorizing the use of the subject property for a temporary batch plant.

(E) Hauling Routes

The ECM Administrator may limit hauling routes and the size of loads to protect the general welfare of the citizens in accordance with the ECM.

(F) Duration of Use

The duration of time the batch plant is operated shall be limited to the duration of the associated public improvement project.

(G) Use of Asphalt or Concrete

The use of any asphalt or concrete produced at the temporary batch plant shall be limited to the public improvement project described in the temporary use permit.

5.2.10 Bed and Breakfast Home

A bed and breakfast home shall comply with the standards for home occupations and the following additional standards:

- (A) Maximum Number of Guest Rooms**
A maximum of 2 guest rooms may be rented on a nightly basis.
- (B) Owners to Reside on Subject Property**
The owner of the bed and breakfast home shall reside on the subject property.
- (C) Meals Served to Guests Only**
Meals shall be served to overnight guests of the bed and breakfast home only.
- (D) Smoke Detectors**
Each guest room shall be provided with a smoke detector.
- (E) Licenses Required and Sales Tax Collected**
The bed and breakfast home shall obtain all required licenses and pay applicable sales tax.

5.2.11 Bed and Breakfast Inn

A bed and breakfast inn shall comply with the following standards.

- (A) Resident Innkeeper Reside on Subject Property**
A resident innkeeper shall reside on the subject property.
- (B) Meals Served to Guests Only**
Meals shall be served to overnight guests of the bed and breakfast inn only.
- (C) Maximum Length of Stay**
The maximum length of stay for overnight guests is limited to 30 days.
- (D) Character of Inn**
The character and exterior appearance of the bed and breakfast inn shall be residential in nature and consistent with the surrounding area.
- (E) Signage**
Signage shall meet the requirements of this Code except as otherwise modified or limited by this Section. One sign is allowed. The sign area shall not exceed 8 square feet. A freestanding sign shall not exceed 4 feet in height. The sign shall be located at least 5 feet from all lot, parcel or tract lines. The sign may be indirectly illuminated. If the sign is attached to the bed and breakfast inn, no part of the sign may extend above the wall of the bed and breakfast inn.
- (F) Parking**

Parking shall meet the parking requirements of this Code. The parking area surface shall meet the standards specified for rural areas, regardless of the bed and breakfast inn's location in a rural or urban area.

(G) Smoke Detector and Emergency Lighting

Each guest room shall be provided with a smoke detector. Emergency lighting for emergency exits shall also be installed.

(H) Required Licenses and Sales Tax Collected

The bed and breakfast inn shall obtain and maintain all required licenses and pay applicable sales tax.

5.2.12 Car Wash

A car wash shall be serviced by a central sewer system.

5.2.13 Caretaker's Quarters

(A) Number of Caretaker's Quarters

One caretaker's quarters is allowed per ownership.

(B) Type of Structure

A caretaker's quarters may be a detached single-family dwelling, manufactured home, apartment-type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home may be used as a caretaker's quarters.

(C) Occupancy Limited

A caretaker's quarters may be occupied only by a caretaker and their immediate family.

(D) Other Applicable Standards

A caretaker's quarters shall meet all standards for a principal dwelling unit of the same type and the accessory dwelling standards in this Chapter unless specifically modified by this Section.

5.2.14 Carnival or Circus

A carnival or circus shall not be operated more than 3 times during a year within any ownership. No operation of a carnival or circus shall exceed 14 days in length.

5.2.15 Cemetery, Personal

A document, identifying the existence and location of a personal cemetery which may consist of an official survey or other type of map, shall be recorded against the subject property.

5.2.16 Child Care Centers, Family Care Homes, and Group Homes

The following standards apply, subject to the provisions and limitations of the County and State Department of Human Services and Department of Public Health and Environment.

(A) Separation Requirements

No family care homes, child care centers, or group homes, excluding group homes for handicapped or disabled persons, shall be located on an adjacent lot or parcel or within 500 linear feet along the same road from the lot or parcel boundary lines as another family care home, child care center, or applicable group home except for those facilities that: (1) qualify as a single-family dwelling and have an occupancy in the family care home, child care center, or group home of fewer than 6; or (2) where the family care home, child care center, or group home is located within a commercial zone district.

(B) Parking, Screening and Buffering

The facility shall comply with the parking standards of the Land Development Code. All commercial components, such as parking lots and playgrounds, shall be screened and buffered from neighboring residences and uses. For family care homes, child care centers, or group homes, excluding group homes for handicapped or disabled persons, the County may request a transportation plan showing how the operators of the facility intend to meet the transportation needs of the residents of the facility. The sufficiency of the transportation plan may be considered by the County in reviewing an application but may not, by itself, constitute grounds for denying the application. See, C.R.S. § 30-28-115(2.5).

(C) Facility Allowances and Applicable Review Processes

- (1) A family care home, child care center, or group home shall be considered an allowed use or may require a special use permit depending on the specific facility type and number of residents/enrollment as shown in Table 5.3 when located within a forestry, agricultural, and residential zone district, and shall not be considered a second principal use when operated in conjunction with or within a residence on the property. Additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons are allowed.
- (2) A family care home, or group home shall not include any person required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as amended, unless related by blood, marriage or adoption or in foster care.
- (3) A family care home, child care center, or group home shall maintain compliance with any building codes, fire codes, and health codes based upon the occupancy classification and number of residents and necessary persons for care of the residents.
- (4) Copies of any applicable current state or local certifications, licenses or permits for the group home shall be maintained on the premises.
- (5) All existing family care homes, child care centers, and group homes shall meet these standards, except separation requirements at Section 5.2.2(A),

by December 31, 2014, regardless of pre-existing circumstances, and no nonconforming rights are hereby established.

(D) Standards Applicable Only to Group Homes

The Colorado General Assembly has declared that state-licensed group homes for no more than 8 intellectually and developmentally disabled persons is a matter of statewide concern and is a residential use of property for zoning purposes, specifically including single-family residential zoning. C.R.S. § 30-28-115(2)(a). The Colorado General Assembly has declared that state-licensed group homes for no more than 8 persons with mental illness is a matter of statewide concern and is a residential use of property for zoning purposes. C.R.S. § 30-28-115(2)(b.5). The following standards apply to group homes for handicapped or disabled persons and state-licensed group homes for mentally ill or intellectually and developmentally disabled persons, all with six or more occupants/enrollees:

- (1) A group home for handicapped or disabled persons shall quarterly (by March 31, June 30, September 30 and December 31 of each year), and otherwise upon request by the County, provide evidence and/or demonstrate to the Planning and Community Development Department that the residents in the group home are handicapped individuals and entitled to protection under the FHAA, ADA, or the Rehabilitation Act.
- (2) Meetings or gatherings on-site at a group home for handicapped or disabled persons that are consistent with a normal residential family setting shall be allowed and shall only be for residents, family of residents, and necessary persons required for the support, care and supervision of the handicapped or disabled persons. This does not permit conducting ministerial activities of any private or public organization or agency or permit types of treatment activities or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in the particular zoning district. See, C.R.S. § 30-28-115(2)(c).
- (3) A group home for handicapped or disabled persons and state-licensed group homes for mentally ill or intellectually and developmentally disabled persons, all with six or more occupants/enrollees, may apply for a special use, which is considered as a request for reasonable accommodation pursuant to the following process:
 - a) Pursuant to the Fair Housing Amendments Act ("FHAA"), discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford disabled or handicapped persons equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B). Therefore, a reasonable

accommodation is required whenever it may be necessary (or indispensable or essential) to achieving the objective of equal housing opportunities between those with disabilities and those without.

- b) Reasonable accommodation requests will follow the applicable special use process and procedures pursuant to Sections 2.2.4, 5.3.2.G except that if the PCD Director elevates the application to a public hearing, that hearing shall be exclusively before the BOCC, and except that such requests will follow review criteria based on the FHAA for reasonable accommodations as follows rather than special use review criteria:
 - i. An accommodation request must be reasonable and necessary. A necessary accommodation is reasonable unless it requires a fundamental alteration in the nature of a program or imposes undue financial and administrative burdens on the County. For example, an applicant could show that the group home is one way of ameliorating the effects of disabled persons' disabilities and that the request to locate in a given location is reasonable. Whether a requested accommodation is reasonable requires balancing the needs of the parties involved.
 - ii. In order to impose special restrictions on either a special use or a reasonable accommodation approval, the County must show either: (1) that the restriction benefits the protected class or (2) that it responds to legitimate safety concerns raised by the individuals affected, and is not based upon stereotypes.

Table 5-3. Use Table and Occupancy Limits for Family Care Home, Group Home and Child Care Facilities in Forestry, Agricultural, and Residential Zone Districts

Use Type	Allowed Use (Max. Occupancy/ Enrollment)	Special Use (Occupancy/ Enrollment)
Family Care Home		
Family Foster ²	8	NA
Day Care Home ²	12	NA
Adult Day Care	8	9-12
Specialized Group Facility ²	8	9-12
Child Care Center¹		
Large Day Care Center ²	NA	13 or more
Small Day Care Center ²	NA	12 or fewer
Nursery ²	NA	As Limited by State
Day Camp ²	NA	As Limited by State
Center for Developmentally Disabled ²	8	9 or more
Crisis Center ²	8	9 or more
Residential Camp ²	NA	5 or more
Trip Camp ²	NA	5 or more
Day Treatment Center ²	8	9 or more
Residential Child Care Facility ²	8	9 or more
Group Homes		
Persons with Mental Illness ²	5	6-10 ³
Developmentally Disabled ²	5	6-10 ³
Aged (Assisted Living Residence) ²	8	9 or more
Group Home for Handicapped or Disabled Persons	5	6-10 ³
Notes:		
¹ Child care centers are allowed as an accessory use when operated in the same building as a religious institution.		
² As defined by State law and rules and regulations.		
³ To the extent non-handicapped or disabled family members are resident within the group home, such persons count toward the maximum occupancy/enrollment limits. Special use applications are to be considered as requests for reasonable accommodation and shall be processed pursuant to Section 5.2.2.D.(3).		
The enrollment or occupancy numbers in this table do not include additional necessary persons required for the care and supervision of the enrollees or occupants. Enrollment or occupancy numbers may be affected by licensing or building code requirements.		

5.2.17 Commercial and Industrial Accessory Structures and Uses

The following structures and uses are considered accessory to commercial and industrial use:

- Onsite parking garage or lot that provides required parking for a structure or commercial/industrial use;
- On-premise signs;
- Totally enclosed facilities for storing merchandise or materials needed for commercial/industrial use;
- Fuel storage;
- Fence, wall and hedge;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code; and
- Any accessory structure, structure or related use expressly designated as accessory in a commercial or industrial zoning district established under this Code.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

5.2.18 Commercial Mobile Radio Service Facility (CMRS) Facilities

(A) General

(1) Purpose

The purposes of this Section are:

- To facilitate the provision of wireless telecommunication services, including personal wireless services, throughout the unincorporated area of El Paso County;
- To allow the location of commercial mobile radio service facilities (CMRS facilities) in El Paso County subject to certain standards;
- To encourage co-location of CMRS facilities; and
- To prevent unreasonable discrimination among providers of functionally equivalent services.

(2) Applicability

The standards in this Section apply to all CMRS facilities located, constructed or modified after the effective date of this Code.

(3) Relationship to Other Provisions

A CMRS facility shall comply with all applicable provisions of this Code. Where a conflict exists between the requirements of this Section and another applicable standard in this Code, the most restrictive standard shall control.

(B) General Standards

(1) Co-Location

Co-location of CMRS facilities is encouraged when feasible to minimize the number of CMRS facility sites. To further the goal of co-location:

- No CMRS facility owner or operator (other than a private residence) shall unreasonably exclude a telecommunications competitor from using the same facility or location. The owner or operator of CMRS facility or location shall provide evidence and a written statement to explain why co-location is not possible at a particular facility or site at the request of the PCD Director;
- If a telecommunications competitor attempts to co-locate a CMRS facility on an existing or approved CMRS facility or location, and the parties cannot reach an agreement, the County may require a third-party technical study to be completed at the expense of both parties to determine the feasibility of co-location; and
- All facilities shall be designed and constructed to allow for co-location of a minimum of 2 users unless specifically exempted by the BOCC.

(2) Compliance with FCC Standards

At the request of the PCD Director, which request shall occur no more than once per year, CMRS facility owners and operators shall certify that:

- The CMRS facility complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and
- The CMRS facility complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

In adopting this requirement, the County is not attempting to regulate radio frequency power densities or electromagnetic fields, which regulation is controlled by the FCC.

(3) Abandonment and Expiration

If the CMRS facility ceases operation for any reason for a period of one year:

- The owner or operator shall remove the CMRS facility within 6 months of the expiration; and
- Any permit or approval authorizing the CMRS facility shall be considered expired.

(4) Change in Ownership

In the event there is a change in either the owner or operator of a CMRS facility, the new owner or operator shall notify the PCD of the change in identity of the owner or operator within 15 days after the date the change becomes effective by providing the name and business address of the new owner or operator and verifying in writing that the new owner or operator has fully reviewed the applicable permit or approval and is familiar with its terms; and shall ensure that any required financial assurance is transferred. After receipt of notification of a change in the owner or operator of a CMRS facility, the PCD may inspect the property to make certain that the new owner or operator is complying with all of the terms and conditions of the permit or approval. The PCD may charge the owner an inspection fee authorized in the adopted fee schedule.

(5) Application Approval or Denial

In considering an application for a CMRS facility, the County shall base its decision as to the approval or denial of the application on whether the proposed CMRS facility meets the design standards set forth in this Section and any approval criteria associated with the applicable application or review process.

(6) Facility Inventory

The first proposed CMRS facility by a provider shall include a detailed inventory of all the provider's existing and approved facilities in the County, including those facilities which will connect into the proposed CMRS.

(7) Standards for Freestanding CMRS Facilities

(a) Financial Assurance

Prior to commencing construction of a CMRS facility, the owner of a freestanding CMRS facility shall be required to provide the County with adequate financial assurance to cover removal of the facility if abandoned. The form of financial assurance shall be approved by the PCD Director.

(b) Minimum Setbacks for Freestanding CMRS Facilities

(i) Located Within 250 Feet of Residential Zoning District

A freestanding CMRS facility located within 250 feet of any property zoned for residential use shall be set back

from any residential property line one foot of distance for every foot of facility height (as measured from grade elevation), plus an additional 10 feet.

(ii) Located Over 250 Feet from Residential Zoning District

A freestanding CMRS facility located greater than 250 feet from property zoned for residential use shall meet the minimum setback requirements for structures and structures of the underlying zoning district and located in a manner to contain any freefall or icefall on the same property.

(c) Maximum Height for Freestanding CMRS Facilities

A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the zoning district unless otherwise specifically authorized as a part of the special use approval. In no case shall a freestanding CMRS facility exceed 120 feet in height.

(d) Design Standards for Freestanding CMRS Facilities

A freestanding CMRS facility shall adhere to the following design standards to minimize impacts:

(i) Compatible with Surrounding Area

A freestanding CMRS facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area, subject to any applicable FAA regulations.

(ii) Existing Vegetation

Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in with the surrounding environment, to the extent practicable. Existing vegetation shall be preserved or enhanced, where feasible.

(iii) Landscaping

The facility shall be landscaped in accordance with the requirements of Chapter 6.

(iv) Equipment Storage Shelters

All equipment storage shelters shall be located within the lease area for the CMRS facility. No equipment storage

shelter shall exceed 15 feet in height. Equipment storage shelters shall be grouped as closely together as practical, so as to minimize impact on adjoining properties.

(v) No Lighting

The facility antennae shall not be lighted unless required by the FAA and authorized by the permit or approval.

(vi) Dangerous Equipment and Attractive Nuisance

Any equipment that could be dangerous to persons or wildlife shall be adequately fenced. The attractive nuisance potential shall be minimized through fencing and methods to discourage unauthorized climbing.

(vii) Dish Diameter Limited

The diameter of a microwave dish antenna shall not exceed 4 feet.

(8) Design Standards for Building Roof or Wall-Mounted CMRS Facilities

(i) Wall-Mounting Preferred

Because wall-mounted CMRS facilities on buildings generally have less visual impact than building roof-mounted CMRS facilities, the County's goal is to encourage the use of wall-mounted CMRS facilities on buildings as opposed to roof-mounted facilities. In furtherance of this goal, any application to locate a roof-mounted CMRS facility shall include a statement explaining why the use of a wall-mounted CMRS facility is not feasible.

(ii) Accessory Equipment Enclosed

Accessory equipment for a roof or wall-mounted CMRS facility shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely as technically possible, and the total area of all accessory equipment, including storage shelters, shall not exceed 400 square feet per CMRS facility.

(iii) Wall-Mounted CMRS Facility Design Standards

Wall-mounted CMRS facilities shall adhere to the following design standards to minimize impacts:

- The facility shall be screened from view of adjacent properties or passersby, and colored to match the building or structure to which it is attached.
- If the roof of the building is pitched, the facility shall not extend above the roof line of the building. For purposes of this Section, the roof line does not include already existing facilities and equipment on the roof.
- If the roof of the building is flat, the facility shall not extend above the roof line of the building. For purpose of this Section, the roof line includes already existing facilities and equipment on the roof.

(iv) Roof-Mounted CMRS Facility Design Standards

A roof-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

- The maximum allowable height of each roof-mounted CMRS facility shall be planned in consultation with County staff on a case-by-case basis; however, in no case shall a building roof-mounted CMRS facility extend more than 10 feet above the roof line of the building. For purposes of this Section, the roof line includes parapets and equipment already existing on the roof, but does not include other CMRS facilities. When determining the maximum allowable height for the facility, staff shall consider the purpose of and technological constraints affecting the facility, the topography and location of other structures and obstructions in the area, the height of the building, height and appearance of other appurtenances on the building, if any, and the distance between the location of the proposed facility and the edge of the building. The County's goal is to encourage the location

of roof-mounted CMRS facilities as far from the edge of the roof or parapet as possible.

- The facility shall be screened from view and colored to match the building or structure to which it is attached.
- Antennae, support structures, screening, accessory equipment and all other roof-mounted appurtenances shall not exceed a total of 25% of the total surface area of the roof per facility.
- The diameter of a microwave dish antenna shall not exceed 4 feet.

(9) **Design Standards for Pole-Mounted CMRS Facilities**

A pole-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

(i) Compatible with Surroundings

The facility shall be designed to be compatible with surrounding buildings, structures, or trees and existing or planned uses in the area.

(ii) Colored to Match Pole

The facility shall be colored to match the pole to which it is attached.

(iii) Height Limit

The facility shall not extend more than 10 feet above the height of the existing pole.

(iv) Accessory Equipment and Shelters

The total area of all accessory equipment, including equipment storage shelters, shall not exceed 400 square feet per CMRS facility. Equipment storage shelters shall be screened from view by landscaping, vegetation, fencing, or comparable method of screening.

(10) **Stealth CMRS Facility Design Standards**

A stealth CMRS facility shall meet the same design standards and maximum height allowance as a freestanding CMRS facility.

5.2.19 Construction Equipment Storage, Accessory

(A) General Standards

The storage of vehicles, materials, equipment, field offices associated with a federal, state, or local public improvement project, public or special district utility

project, or private development-related project construction project, occurring on the same lot, parcel or tract as the project, is allowed as an accessory use, provided construction equipment storage shall cease and the subject property shall be restored within 30 days after the project is completed. The same lot, parcel, or tract shall include all lots, parcels, and tracts within a subdivision when the project is for the purposes of construction of the subdivision.

(B) Construction Trailers and Field Offices

Construction trailers and field offices shall comply with required zoning setbacks and dimensional standards, and all other applicable requirements of this Code.

(C) Storage within Right-of-Way

Construction equipment storage within a County right-of-way is not regulated or authorized by this Section, and is subject to a work in the right-of-way permit pursuant to the requirements of the ECM.

5.2.20 Construction Equipment Storage, Temporary

(A) General Standards

The storage of vehicles, materials, equipment, field offices associated with a federal, state, or local public improvement project, public or special district utility project, or private development-related project construction project and occurring on a lot, parcel or tract adjacent to or in immediate proximity to the project may be allowed, as a temporary use provided construction equipment storage shall cease and the subject property shall be restored within 30 days after the project is completed.

(B) Construction Trailers and Field Offices

Construction trailers and field offices shall comply with required zoning setbacks and dimensional standards, and all other applicable requirements of this Code.

(C) Storage within Right-of-Way

Construction equipment storage within a County right-of-way is not regulated or authorized by this Section, and is subject to a work in the right-of-way permit pursuant to the requirements of the ECM.

5.2.21 Dwelling, Additional

In the A-35 District, one additional single-family dwelling unit is allowed per lot or parcel. The additional dwelling unit may be occupied by the immediate family of the owner or tenant of the property or used for rental purposes.

5.2.22 Dwelling, Single-Family Attached

(A) Standards that Apply in RS-6000 and RS-5000 Districts

The following standards apply to single-family attached dwellings in the RS-6000 and RS-5000 zoning districts.

(1) **Limited Number of Contiguous Units**

No more than 2 dwelling units may be attached. Structures containing 3 or more attached dwelling units are prohibited in the RS-6000 and RS-5000 zoning districts.

(2) **Lot Area to Meet Minimum Standards**

Each single-family attached dwelling shall be on a lot that complies with the lot area and width standards for new lots in the zoning district. Single-family attached dwellings shall not be placed on lots with a nonconforming lot area.

(3) **Side Setbacks Modified**

The minimum required side setback on the side of the dwelling unit containing the common wall is reduced to zero. The minimum required side setback on the side of the dwelling unit opposite the common wall shall be at least double the side setback standard of the zoning district.

(4) **Corner Lot Setbacks**

On corner lots, either the rear setback or side setback on the side of the dwelling unit containing the common wall may be reduced to zero; however, the remaining side or rear setback shall comply with the rear setback standard of the zoning district.

(5) **Front Facade**

The front facade of a single-family attached dwelling shall not be comprised of more than 40% garage wall area, and all garage doors shall be recessed at least 5 feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.

(6) **Easements Remain In Force**

While setbacks may be reduced to zero, any easements remain in force and shall be vacated or an encroachment granted prior to construction.

(B) Standards that Apply in the RM-12 and RM-30 Zoning Districts

The following standards apply to single-family attached dwellings in the RM-12 and RM-30 zoning districts.

(1) **Limited Number of Contiguous Units**

No more than 8 dwelling units may be attached. Structures containing 9 or more attached dwelling units are prohibited in the RM-12 and RM-30 zoning districts.

(2) **Density and Lot Size**

The density and lot size (area and width) requirements of the zoning district apply. Commonly-owned areas, including commonly-owned open space, driveway, or parking areas apply toward the overall density standard.

(3) **Setbacks Around Perimeter**

The front, side, and rear setback standards of the zoning district apply around the perimeter of the property.

(4) **Side Setback Modified**

The side setback on the side containing a common wall is reduced to zero.

(5) **Corner Lot Setbacks**

On corner lots, either the rear setback or side setback on the side of the dwelling unit containing the common wall may be reduced to zero; however, the remaining side or rear setback shall comply with the rear setback standard of the zoning district.

(6) **Front Facade**

The front facade of a single-family attached dwelling may not be comprised of more than 40% garage wall area, and all garage doors shall be recessed at least 5 feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.

(7) **Roof-Lines**

The roof of each single-family attached dwelling shall be distinct from the others through separation of roof pitches or direction, or other variation in roof design.

(8) **Common Accesses**

A common access to the rear of the lots for common or individual parking is allowed and may take the form of an easement. Common access drives shall be at least 12 feet wide if designed for one-way traffic and at least 20 feet wide if designed for two-way traffic. When the access drive abuts residentially-zoned property that is not part of the single-family attached dwelling project, it shall be buffered by a screening fence meeting the requirements of Chapter 6

(9) **Easements Remain In Force**

While setbacks may be reduced to zero, any easements remain in force and shall be vacated or an encroachment granted prior to construction.

5.2.23 Farm/Ranch Residence

(A) **Minimum Qualifying Acreage**

A farm/ranch residence shall only be allowed as an accessory use where the ownership in the farm or ranch operation includes a minimum of 35 acres.

(B) Number of Farm/Ranch Residences

The total number of residences (including any principal dwellings, farm/ranch residences, caretaker's quarters, or other dwelling units) within a farm or ranch ownership shall not exceed one unit per 5 acres.

(C) Type of Structure

A farm/ranch residence may be a detached single-family dwelling, manufactured home, apartment type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home may be used as a farm/ranch residence.

(D) Occupancy Limited

A farm/ranch residence may be occupied only by a person principally employed at or engaged in the operation of the farm or ranch and their immediate family, and may not be leased or rented. The request to allow additional dwellings or mobile homes in the operation of a farm, ranch, dairy, or fur farm, may be substantiated by verification of employment necessary to the operation of the site. The verification may consist of tax records, employment agreements or other documentation as determined suitable by the PCD. This verification shall substantiate the need for the employee and on-site living quarters to the operation of the farm, ranch, dairy, or fur farm

(E) Other Applicable Standards

A farm or ranch residence shall meet all standards for a principal dwelling unit of the same type.

5.2.24 Fireworks Sales**(A) Sales Period Limited**

Fireworks sales are limited to the period from May 31st to July 6th each year.

(B) Fire Department Approval Required

The fireworks sales area shall be located within an area provided with fire protection by a fire department. Fire department approval is required prior to the approval of a temporary use permit.

(C) Driveway Permit Required

A driveway permit shall be issued to allow access to the fireworks sales area prior to the approval of a temporary use permit.

(D) Required Signage

A fireworks sales area shall post signage noting it is illegal to shoot fireworks within all towns and cities in El Paso County and violators will be prosecuted. Each fireworks sales area shall provide either one sign, with minimum 3 inch

letter size, or 4 signs of 8½ by 11 inches, placed in a conspicuous location easily readable by the public, noting the language as stated or similar language approved by the PCD Director.

5.2.25 Family Care Homes (See Adult Care Homes)

5.2.26 Garden Supplies and Nursery Stock

When the sale of garden supplies and packaged nursery stock is conducted outside, the activity shall be contained within a fenced area. The fenced area shall comply with the minimum setback requirements of the zoning district.

5.2.27 Group Homes (See Adult Care Homes)

5.2.28 Guest House

(A) Number of Guest Houses

One guest house is allowed per lot, parcel, or tract.

(B) Type of Structure

A guest house may be within the principal structure, in a garage, or in an accessory structure, or as a tiny house meeting the use specific standards found in Section 5.2.51.

(C) Kitchen Allowed

A guest house shall not have a kitchen unless an affidavit signed by the owner is filed for recording with the Clerk and Recorder acknowledging that the guest house may not be leased or rented.

(D) Size

A guest house shall be no larger than the total square footage of the primary residence, excluding any garage area, up to a maximum of 1500 square feet in floor area.

(E) No Separate Meter for Utilities

All electric, gas, central or municipal sewer and water services to the guest house shall be interconnected to and indistinguishable from that of the principal dwelling unit and shall not have separate meters, service lines or billings.

(F) Occupancy Limited

A guest house shall only be utilized for occasional, no-paying guests or visitors, and may not be leased or rented. An occasional occupant may not receive mail, enroll in k-12 school, or establish permanent residency at the guest house. This provision does not prohibit an immediate family member utilizing the guest house as extended family housing from receiving or establishing permanent residency

at the guest house, provided the appropriate permit of special use is obtained as set forth in more detail in subsection H, below.

(G) Other Applicable Standards

The guest house shall meet all other applicable standards in this Code unless specifically modified by this Section. Any guest house proposal which does not comply with the provisions of this section shall require special use approval and the application fee shall be 20% of the fee for administrative special use. Where the use does not qualify as a guest house or constitutes a second dwelling on the property dues to lease or rental, variance of use approval is required.

(H) Special Provisions for Extended Family Housing (Administrative Special Use)

A permit may be authorized as an administrative special use to provide for temporary living arrangements to house immediate family members whom are elderly, disabled, or exhibit a family need, or whom are immediate family providing for the needs of the residents of the primary residence on the property. The approval of the permit shall be based upon a finding that the following standards and conditions have been met:

- There is a legitimate family hardship or need that justifies the request for the extended family housing.
- The special use standards of Chapter 5.3.2 of the Land Development Code are complied with.
- The extended family housing shall be removed within 3 months after the need no longer exists or 3 months after the date of the expiration of the permit, if one is specified, unless an application for unless an application to legalize this use is submitted or an application to subdivide the property is submitted.

In conjunction with an approval for extended family housing, an affidavit signed by the owner is filed for recording with the Clerk and Recorder acknowledging that the extended family housing may not be leased or rented and that removal of the structure may be required for failure to comply with the terms of approval.

The application fee for extended family housing shall be 20% of the fee for administrative special use.

5.2.29 Home Occupations

There are two categories of home occupations: residential home occupation and rural home occupation. Separate standards and criteria apply to each category. This Section is not meant to regulate a small home lawn mowing service, lemonade stand, magazine

sales, cookie sales, or other traditional small-scale businesses or business-like activities operated by a child residing in the dwelling, which are considered exempt from the provisions of this Code; however in no instance may a medical marijuana land use qualify as a home occupation. A site plan and/or home occupation permit may be necessary to verify compliance with the home occupation standards.

(A) Residential Home Occupation

(1) Intent

It is the intent of this Section to provide clear standards for home occupations in zones that allow residential use which will ensure compatibility with the residential purposes of those zones and that there are no adverse effects on the residential character of those zones, and which will not allow in residential zones those uses allowed in commercial and industrial zones except as specifically authorized by this Section.

(2) Allowed Residential Home Occupations

The following home occupations shall be allowed in a zoning district where residential uses are allowed, subject to the standards and requirements of this Section:

- Any principal or sideline occupation or trade or any hobby which results in the sale or trade of any products manufactured by the resident on the premises or the preparation or provision of any service by the resident on the premises;
- Any professional or business office, whether the resident's principal or occasional work place;
- Any educational or training service requiring pupils, students or trainees to come to the premises for instruction by resident (e.g., music or art studios);
- Any non-profit, civic, or religious organization or association for which the resident is employed, works, serves, or represents, whether or not the resident is remunerated for the services; and
- Any bed and breakfast home, which operates in conformance with specific-use and all other applicable development standards of this Code.

(3) Excluded Uses

A residential home occupation shall not include the following uses:

- Auto repair garages, auto re-conditioning (detailing), or auto body/paint shops;
- Any form of food service (restaurants, catering, etc.);
- Any form of vehicle/trailer sales or rental storage;
- Contractor's equipment yard or equipment rental or sales;
- Funeral parlor;
- Any form of hospital (other than doctor's office);
- Any form of pet boarding or veterinary hospital;
- Any form of rental warehousing;
- Commercial stables;
- Any trucking, hauling, bussing, taxi, or limousine dispatch service which would require the parking of vehicles on site between jobs or service calls; or
- Any industrial or heavy commercial use.

(4) **General Standards for Residential Home Occupations**

(a) Accessory in Character

The residential home occupation shall be clearly subordinate to the use of the lot as a residence, and the use of the dwelling or detached accessory structure for the home occupation shall not result in any visual or other essential change in the residential character of the property.

(b) Person Conducting Occupation Resides on Lot

The residential home occupation shall be conducted only by a person or persons residing on the lot or parcel and only so long as contained entirely within the dwelling or a detached accessory structure. No more than two (2) vehicles, excluding customer parking, associated with a home occupation, may be parked or stored outdoors on any property and shall meet the use specific standards for Parking, Storage and Repair of Vehicles and Machines, Personal found in Chapter 5 of this Code.

(c) Limit on Area

The total area used for the home occupation shall not exceed 25% of the existing dwelling and/or more than 500 square feet of any accessory structure. The operation of a home occupation shall not result in the elimination of the dwelling's kitchen or all of its bedrooms.

(d) Signage and Advertising

There shall be no advertising of the home occupation visible outside the dwelling except in accordance with the signage provisions in Chapter 6. Except by customary exterior residential lighting, no sign illumination is allowed.

(e) Outside Storage Prohibited

There shall be no outside storage or display on the premises of material, tools or equipment used as part of the home occupation or any products manufactured as part of the home occupation.

(f) Sales Limited

No sale of goods, supplies, or other inventory shall be allowed unless the sales are clearly incidental and related to providing a service (e.g., sale of hair care products at a beauty shop; occasional sale of a firearm by a gunsmith; incidental retail sales where the home occupation is a mail order, internet, or delivery business, brokers of firearms where inventory is not maintained on site except for specific transactions) or unless the items are produced, constructed or assembled on the premises or are clearly incidental and related to the sale of the homemade items. Nothing in this Section shall limit the ability of the home occupation to sell products mail order via the internet or by telephone.

The home occupations operator shall be required to obtain and maintain all applicable licenses and pay applicable sales tax.

(g) Limit on Visitation by Clients

The occupation will ordinarily not bring more than 3 clients or customers to the lot or parcel at any one time.

(h) Customer Parking Required

If the home occupation will result in any clients or customers coming to the property, no less than 2 parking spaces shall be available. All required parking spaces must be located onsite and shall comply with the Parking, Loading, and Maneuvering Standards found in Chapter 6 of this Code.

(i) Nuisances and Hazards Avoided

Any mechanical, electrical or electronic equipment or machinery used in the home occupation shall be operated in a fashion so

that no noise, vibration, glare, fumes, odors, heat, or electrical interference are detectable to the normal senses beyond the boundary line of the lot or parcel. In no case shall any equipment be allowed which involves the use of hazardous, explosive or highly flammable (other than fuel needed to power the equipment) substances or which produces hazardous, explosive or highly flammable wastes or products.

(j) Conducted In Accordance with Laws

The occupation is conducted in compliance with all applicable building, fire, health, and environmental laws, codes, and regulations.

(k) No Visual Impacts

No activity associated with a home occupation shall be allowed which results in detrimental visual impacts to the surrounding neighborhood.

(l) More than One Home Occupation Allowed

More than one home occupation may be conducted on any property provided that aggregate impacts are limited to those allowed by this Code.

(m) Deliveries Limited

Deliveries other than standard parcel services are prohibited when associated with a home occupation.

(B) Rural Home Occupation

(5) Rural Home Occupation Defined

A rural home occupation is an accessory use of property, a dwelling, or a detached accessory structure which otherwise meets the requirements of a residential home occupation except as specifically modified and expanded by this Section.

(6) Intent

The intent of the more broadly defined rural home occupation is to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

(7) Allowed Home Occupations

The following types of uses, in addition to those allowed as a residential home occupation, may qualify as rural home occupations, if the general standards of a rural home occupation are met:

- Contractor's equipment yards, construction businesses, welding shops;
- Trucking and hauling businesses;
- Vehicle storage or repair businesses; and
- Other small businesses which primarily serve a rural agricultural or ranching clientele.

(8) Excluded Uses

The following types of businesses, among others do not qualify as a rural home occupation:

- Any heavy industrial, solid waste disposal, solid waste transfer, scrap tire recycling or mineral extraction use;
- Commercial uses or businesses which do not primarily serve a rural agricultural or ranching clientele.
- Any use involving significant public occupancy or overnight accommodations other than those uses specifically allowed in the zoning district;
- Any commercial tower or utility use, not otherwise allowed; and
- Any outdoor concert, shooting range, race track or comparable use.

(9) General Standards for Rural Home Occupation

Rural home occupations shall conform to the requirements and standards of a residential home occupation with the following specific allowances.

(a) Outside Storage and Work Areas Allowed

Outside storage, parking and work areas are allowed provided these are set back a minimum of 50 feet from all property lines and are limited in combination to one acre or 5% of the total lot or parcel area, whichever is less. The screening standards of Chapter 6 of this Code shall apply to outside storage areas located on parcels less than 35 acres, and to all outside storage greater than 5000 square feet.

(b) Employees

A maximum of 2 employees are allowed, who are not family members or principally employed in a use which is otherwise allowed on the lot or parcel.

(c) Trips Generated by Home Occupation Limited

The total number of one-way vehicle trips generated by the rural home occupation shall not exceed an average of 20 per day.

(d) Inoperable Vehicles

A maximum of 10 inoperable non-agricultural vehicles shall be allowed in conjunction with the rural home occupation.

(e) Environmental Impacts

The rural home occupation shall not result in any generation of solid waste or hazardous substances or petroleum or excessive noise, vibration, dust, glare, drainage, erosion or other environmental impacts to surrounding lot or parcel owners.

(f) More than One Home Occupation Allowed

More than one rural home occupation is allowed on a single property, provided that aggregate impacts are limited to those allowed by this Code.

(C) Rural Home Occupations as a Special Use

(1) Intent

The intent of allowing a rural home occupation as a special use is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential or agricultural property in manner that protects neighboring properties from extreme or unreasonable impacts.

(2) Where Allowed

A rural home occupation is allowed as a special use on any parcel or lot that is 5 acres (including a legally-created 4.75-acre parcel or lot along a section line road) or more in area and is located in a residential or agricultural zoning district.

(3) General Requirements

A rural home occupation by special use shall conform to all standards for locating and operating a rural home occupation except as otherwise modified by these standards and the special use approval.

(4) Special Provisions and Allowances

(a) Special Use Approval Required

Where a special use approval is required to locate and conduct a rural home occupation, the special use may be approved administratively except where an adjacent property owner objects. In the case where a written objection is filed, the special use shall be referred to the Board of County Commissioners for consideration.

(b) Limit of Administrative Approval

A rural home occupation which receives administrative special use approval shall expire 5 years from the date of approval. The special use may be renewed following the same procedure as the original application.

(c) Special Use Fee

A rural home occupation by special use shall be subject to an application fee of 20% of the standard application fee for a special use.

(d) Employees and Traffic

A rural home occupation approved by special use may be approved to employ a maximum of 10 employees and generate a maximum of 50 daily trips.

5.2.30 Light Manufacturing, Accessory Use

Light manufacturing as an accessory use shall be conducted in conjunction with a retail use and shall not exceed a maximum of 600 square feet in gross floor area.

5.2.31 Mineral and Natural Resource Extraction

(A) Commercial Mineral and Natural Resource Extraction Operations

(1) Purpose

To establish specific standards for commercial mineral and natural resources extraction operations to minimize impacts to the community while providing for the efficient removal of commercially-viable minerals and natural resources.

(2) Applicability

These standards are applicable to any new or expanding commercial mineral and natural resources extraction operation.

(3) General Requirements

(a) Compliance with this Section

In addition to compliance with the special use permit standards, any other applicable requirements of this Code, and any conditions imposed by the BoCC, a commercial mineral and

natural resource extraction operation shall also comply with the standards, requirements and conditions required by this Section.

(b) Valid Mining Permit Required

A commercial mineral and natural resource extraction operation shall have a valid mining permit from the Colorado Mined Land Reclamation Board prior to beginning or expanding operations, and during the entire period of operation.

(c) Written Notice of Filing for Permit with MLRB

Written notice of the filing of an application for a reclamation permit or renewal of an existing mining permit to the Colorado Mined Land Reclamation Board shall be provided to the PCD by the applicant concurrent with the placement of a copy of the application or renewal for public inspection at the office of the Clerk and Recorder in accordance with C.R.S. §34-32-112 (10)(a).

(d) Proof of Publication Required

The applicant shall provide copies of the proof of publication of any notice required by C.R.S. §34-32-112 (10)(b) to the PCD.

(e) Comply with Construction Permit and Erosion and Sediment Quality Control Permit

Mineral and natural resource extraction operations shall comply with ECM and any required permits.

(4) Local Approval and State of Colorado Discharge Permits

Approval of a special use permit does not relieve the applicant from compliance with discharge requirements of the State of Colorado.

(D) Additional Standards

A mineral and natural resource extraction operation shall, in addition to meeting the special use standards, demonstrate conformance with the following standards:

(1) Consistent with Master Plan

The operation shall be consistent with the Master Plan for Extraction of Commercial Mineral Deposits.

(2) No Adverse Long-Term Visual Impacts

The operation shall have no adverse long-term visual impact either from adjacent properties or major transportation corridors.

(3) Reclaimed to a Compatible Use

The land on which the operation is located shall be reclaimed to a use and character compatible with surrounding uses and zoning.

(4) Operation to Result in Efficient Use of Resource

The operation shall result in an efficient use of the mineral deposit.

(5) Disturbance of Sensitive Environment Limited

The operation shall not substantially disturb uniquely sensitive environmental features including but not limited to wetlands, riparian habitats, wildlife habitats, threatened or endangered species habitat, high priority land for conservation, and rare or unusual natural features.

(6) Disturbance of Historic Resources Limited

The use shall not substantially disturb identified historical, archaeological or paleontological sites.

(7) Buffering Required

The site and associated special use operations shall be adequately buffered from surrounding properties and uses.

(8) Water Supply Adequate for Operations and Reclamation Uses

Adequate water supplies shall be available for drinking, dust control, landscaping, general operations and effective reclamation. Proof of approved water supply shall be provided to PCD.

(9) Mitigation of Impacts to Adjacent Properties

Adverse impacts from vibration, noise, glare, blowing or flowing materials, or odors shall be mitigated to ensure minimal impacts to adjacent properties and travelers.

(10) Commercial Mineral Deposit Required

A commercial mineral deposit as defined by State Statute shall exist on the land on which the operation will be located.

(11) Site Security and Safety

Adequate site security and safety plans shall be provided at all times.

(12) Hours of Operation

Hours of operation shall be compatible with neighboring uses, traffic volumes, affected transportation corridors and school bus operations, and designated pedestrian crosswalk activity over the lifetime of the operation.

(13) Reclamation of Visual and Environmental Impacts

Reclamation of adverse visual and other environmental impacts shall take place within a reasonable and specified time frame.

(14) Mineral Processing

Mineral processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of the special use. If processing is to occur on the property where a special use is requested for mineral extraction, then the special use cannot be approved administratively, and the public hearing process to review the special use will be triggered.

(E) Construction-Related Mining**(1) Construction-Related Mining Limitations**

Construction-related mining as a temporary use shall be limited to the following types of mining operations:

- A sand, gravel, or quarry aggregate operation which is to be operated for the sole purpose of obtaining materials for road, utility, or similar public construction projects under a federal, State, or local government, or special district contract where the contract calls for the work to be commenced within 90 days of contract approval and which will affect 10 acres or less. The administrative approval shall last only so long as the contract or any supplement thereto is in effect but no longer than 24 months.
- Any sand, gravel, or quarry aggregate operation the primary purpose of which is to level, excavate, or otherwise prepare land for road or building construction and which: (1) Involves the removal from the site of less than 50,000 cubic yards of product, whether or not said product is sold; (2) Can be completed within 4 months of initial earthmoving activity; (3) Does not involve crushing or processing of the mineral product on site; and (4) Is not located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and Section 404 permits have been obtained.

(2) Standards**(a) Grading**

Interim and final grading shall be designed to protect adjacent lands from damage associated with storm drainage including concentrated flows or ponding, or collapse. A grading plan for the proposed site on completion of the mining activity shall be approved as part of the special use permit.

- (b) Erosion and Sediment Control**
All operations and activities shall conform to the ECM and any permitting requirements including the requirement to obtain an ESQCP.
- (c) Noxious Weed Management Plan**
A noxious weed management plan (including re-vegetation or restoration of the site) conforming to the requirements of this Code shall be prepared approved by the County, and implemented.
- (d) Fugitive Dust and Air Quality**
No special use permit shall be approved until a copy of the fugitive dust and any other required air or water quality permits are submitted to the PCD Director.
- (e) Hours of Operation Limited**
Construction-related mining shall only be conducted between 7 a.m. to 7 p.m.
- (f) Repair of Road Damage**
Damage to any roads that provide access to the construction-related mining site that may be attributable to the use of the site for construction-related mining shall be repaired by the construction-related mine owner or operator to the satisfaction of the ECM Administrator. Financial assurance may be required by the ECM Administrator to cover potential repair costs.
- (g) Other Permits Required**
A construction permit, work in the right-of-way permit, and ESQCP shall be obtained from the ECM Administrator prior to the issuance of a special use permit authorizing the use of the subject property for construction-related mining.
- (h) Hauling Routes**
The ECM Administrator may limit hauling routes and the size of loads to protect the general welfare of the citizens in accordance with the ECM.
- (i) Duration of Use**
The duration of time the construction-related mine is operated shall be limited to the duration of the associated project.

(j) Mineral Processing

Mineral processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of the special use.

(k) Conditions of Approval

The PCD Director may impose any condition or requirement deemed necessary to protect the health, safety, and welfare of the public; to prevent a nuisance or hazard to property; and to ensure proper completion of the project, including but not limited to:

- Mitigation of adverse environmental and visual impacts;
- Fencing or other protection needed to avoid hazardous situations;
- Dust, erosion, sediment, and noise control, water quality protection, blasting, hours of operation, minimal weather conditions for operation, access roads and haul routes, and times of hauling; and
- Reimbursement to the County or other governmental entity for damage to public roads and highways caused by truck hauling of mineral products.

5.2.32 Mixed Use Residential

Mixed use residential uses shall comply with the following standards:

(A) Residential Use to be Subordinate to Commercial Use

Mixed-use residential units shall be subordinate to the commercial use of the mixed use building.

(B) Lot Area Required Per Residential Unit

The following minimum gross lot area requirements apply to all mixed use buildings:

- 7,000 square feet of lot area for the first 2 dwelling units; and
- 2,500 square feet of additional lot area for each additional dwelling unit.

In calculating minimum lot area requirements, the entire area of the lot or parcel shall be counted.

(C) Parking Area Reduction

The parking requirements in Chapter 6 shall be reduced by 15% for mixed use buildings that include 5 or more residential dwelling units. This parking reduction will be applied against both the residential and nonresidential components of the mixed use buildings.

5.2.33 Mobile Homes

Mobile homes shall be placed on a permanent foundation or shall have skirting installed to obscure the chassis prior to occupancy.

5.2.34 Model Home/Subdivision Sales Office

The use of a model home as a model and subdivision sales office shall cease within 30 days of build out of the subdivision.

5.2.35 Mother-in-Law Apartment

A mother-in-law apartment shall meet the following requirements:

(A) Exterior Appearance Single-Family in Character

The exterior appearance of the resulting structure shall be that of an architecturally-integrated single-family dwelling unit

(B) Interior Connection with Unit

The apartment shall include the ability to access the main dwelling unit through interior connections, which may include through the garage.

(C) Size

A mother-in-law apartment shall be no larger than the total square footage of the primary residence, excluding any garage area, up to a maximum of 1500 square feet. A basement area of the principal residence utilized as a mother in law apartment is not subject to this size limit and may occupy the entire basement area.

(D) No Separate Meter for Utilities

All electric, gas, sewer and water service to the apartment shall be interconnected to and indistinguishable from that of the main dwelling unit and shall not have separate meters, service lines or billings.

(E) Use Limited to Family Members or Employees

The apartment shall be used exclusively by family members or an employee of a person residing in the main dwelling unit and not otherwise rented or leased.

(F) Kitchen Allowed

A mother-in-law apartment shall not have a kitchen unless an affidavit signed by the owner is filed for recording with the Clerk and Recorder acknowledging that the mother-in-law apartment may not be leased or rented.

(G) Other Applicable Standards

The mother-in-law apartment shall meet all other applicable standards in this Code unless specifically modified by this Section. Any mother-in-law proposal which does not comply with the provisions of this section shall require special use approval and the application fee shall be 20% of the fee for administrative special use. When the use does not qualify as a mother-in-apartment, or constitutes a second dwelling unit or two-family dwelling on the property due to rent or lease, variance of use approval shall be required.

5.2.36 Oil and/or Gas Operations

(Adopted 1/31/2012, Clarified 2/21/2012 by Resolution 12-69)

(A) General**(1) Purpose**

The intent of this section is to facilitate the exploration and production of oil and/or gas resources within the unincorporated areas of the County in a responsible manner, which includes ensuring the potential land use and environmental conflicts will be avoided or appropriately mitigated. The following regulations are enacted in order to preserve the rights and privileges of surface and mineral estate owners and lessors, while ensuring the health, safety, and general welfare of the present and future residents of El Paso County and the preservation and protection of environment and wildlife resources.

(2) Applicability

All oil and/or gas operations, including exploration and production activities, are subject to the requirements of this section. In the event that the provisions of this section conflict with any other provisions of the Code, this section shall supersede as it applies to oil and/or gas operations.

(3) Authority

This section is adopted pursuant to C.R.S. §§ 29-20-11 et seq., 34-60-101 et seq., and 30-28-101 et seq., These standards are not intended to supersede state laws, regulations, and rules pertaining to oil and/or gas development, but rather are meant to supplement those requirements where appropriate.

(4) Waivers**(a) General**

The Board of County Commissioners (BOCC) or the PCD Director may grant a waiver for one or more of the requirements of this section.

(5) Right to Enter

The empowerment of the PCD Director to enter and inspect a property is authorized under Section 11.1.4 of this Code. If entry is denied, the County shall have the authority to discontinue application processing, revoke approved permits and applications, or to obtain an order from a court of competent jurisdiction to obtain entry.

(6) Notice of Application and Public Hearing

Notice to surface property owners and affected residents of the County shall follow the provisions of the Procedures Manual pertaining to special use applications for oil and/or gas operations. At a minimum, written notice shall be provided by the applicant to any adjoining property owner at the time of special use application to the County. In addition, notice shall be provided by the County to any adjoining property owner a minimum of 14 days prior to a decision on an application by the PCD Director or a minimum of 14 days prior to a hearing on the application by the Planning Commission or the BoCC.

(7) Local Government Designee

(a) General

The COGCC rules establish a process for consultation with local governments on certain state applications pertaining to the location of roads, production facilities, and well sites. To facilitate this process, the COGCC rules allow local governments to appoint a Local Government Designee (LGD), to which copies of all applicable documents are sent by the COGCC for consultation on behalf of the local government.

(b) Consultation

By enacting the regulations of this section, the BoCC hereby acknowledges that the LGD for El Paso County shall be authorized to provide consultation on behalf of El Paso County on any notifications received from the COGCC and that such consultation shall be based upon the requirements of this section and the relevant provisions of the Procedures Manual.

(B) Definitions

The application of the following terms and associated definitions shall be limited to those applications submitted under this section of the Land Development Code (LDC). These terms and definitions do not modify, alter, or replace any other terms or definitions included within other sections of this Code, including, but not limited to, those terms and definitions contained within Chapter 1.

Oil and/or Gas Facility

Equipment or improvements used or installed at any location for the exploration, production, withdrawal, gathering, treatment, or processing of oil and/or natural gas.

Oil and/or Gas Operations

Exploration for oil and/or gas, including the conduct of seismic operations and the drilling of test bores; the sitting, drilling, deepening, recompletion, reworking, or abandonment of an oil and/or gas well, underground injection well, or gas storage well; production operations related to any such well including the installation of pipelines, flowlines, and gathering systems; any construction, site preparation, storage and/or staging, or reclamation activities associated with such operations; a centralized facility for oil and/or gas production, water injection, water transfer or recycling, or water pumping, and associated facilities; or any other related activity.

Operator

The person or entity who has the legal right to drill into and produce from a pool and to appropriate the oil or gas produced there from either for such operator or others.

Site

Any lands, including the surface of severed mineral estates, on which exploration for, or extraction and removal of oil or gas is authorized pursuant to a lease agreement.

Surface Owner

The owner of the surface property on which the facility will be constructed or any owner of a surface estate within one mile of an oil and/or gas facility or within one-half (1/2) mile of the terminus of any directional well bore.

Wellhead

The equipment attached to the casing of an oil, gas, or injection well above the surface of the ground.

All other terms used in this article, which are not otherwise defined by this Code, shall be given their usual, customary, and accepted meaning.

(C) Application Review and Approval Process**(1) Required Applications****(a) Special Use Application**

Approval of a special use application is required for oil and/or gas operations in all zoning districts.

(2) Processing of Applications for Oil and/or Gas Operations

(b) Special Use Applications for Oil and/or Gas Operations

Special use applications for oil and/or gas operations may be reviewed and approved administratively by the PCD Director. The PCD Director shall make a decision on a special use application within 30 days of the day that a complete application is submitted. The final decision on the application by the PCD Director shall be based upon a determination by the PCD Director that all necessary information has been received, which may include receipt of any applicable waiver requests, and upon consultation with the Engineering Criteria Manual (ECM) Administrator and El Paso County Public Health (ECPH). An appeal of any decision made by the PCD Director shall be heard by the Board of County Commissioners. The Director, at his or her sole discretion, is authorized to elevate any special use application for review by the Planning Commission and for final action by the BoCC. All complete special use applications for oil and/or gas operations shall be to the El Paso County District Court.

(c) Specific Procedural Requirements

The specific application submittal, review, notification, and final decision processes for special use applications for oil and/or gas operations shall follow the relevant provisions of this section and section P-AR-034-11 Oil and/or Gas Operations of the Procedures Manual.

(D) Specific Development and Performance Standards

(1) Transportation Impact Analysis and Mitigation

(a) Purpose

This section is meant to ensure that oil and/or gas facility operators plan, manage, and mitigate impacts to County roadways and bridges that result from facility construction, facility operation, and ongoing new traffic generation. In order to protect the health, safety, and welfare of the existing and future residents of El Paso County, mitigation of potential transportation impacts shall be required.

(b) Transportation Impact Study

Applications for all oil and/or gas operations may be required to include a transportation impact study, which shall clearly identify and distinguish the impacts to County roads and bridges related to facility construction, operations, and ongoing new traffic generation. All required studies shall be prepared in accordance with the Engineering Criteria Manual (ECM) or other guidelines as provided by the ECM Administrator. The process for mitigation of transportation impacts typically includes a plan for roadway maintenance, and improving or reconstructing County roads, including providing financial assurance.

(i) Traffic Control Plan Required

A traffic control plan shall be prepared for each phase of construction where County roads will be utilized for transportation of materials in support of site construction and/or operations. The plan shall include the following components:

- Method for Handling Traffic (MHT)
- Haul Route Plan
- Detour Plan
- Existing Conditions Survey

(ii) Construction Drawings Required

In the event that public road improvements are required to accommodate an oil and/or gas operation, drawings prepared by a Colorado licensed civil engineer shall be approved prior to permitting work in the right-of-way. Such drawing shall be in substantial conformance with the ECM, as determined by the ECM Administrator. Financial assurance shall be required for the construction or reconstruction of all public roads. The following permits are typically required prior to construction of public improvements:

- Construction Permit
- Work in the Right-of-Way Permit
- Erosion and Stormwater Quality Control permit
- Special Transport Permit

(iii) Maintenance

In the event that the activities of a facility operator cause any roadway to become substandard, the County may require the operator to provide ongoing maintenance of the applicable substandard County roadways. Such roadway improvements such as graveling, shouldering,

and/or paving as determined in the transportation Impact Study.

(iv) Site Access

Any access to a property from a County roadway requires a County-issued access permit. Access permits to the County road system are issued through either the PCD private driveway permit process or through the Department of Public Works (DPW) temporary access permit process. Both permits are revocable upon issuance of a stop work order or if other permit violations occur. The permitting and construction of site accesses shall comply with the standards of the ECM.

(v) Financial Assurance Required

The transportation impact study, along with the associated construction drawings and cost estimate, shall determine whether to require the operator to enter into an Oil and/or Gas Operations Impact Mitigation Agreement with the County and any other applicable jurisdiction. Such agreement shall be supported by an acceptable form of financial assurance, as outlined in this section under the Financial Assurance subsection.

(2) **Emergency Response Plan**

(a) Required Plan

All oil and/or gas facility operators shall provide an emergency response plan to the El Paso County Sheriff's Office, Fire Marshal, and the fire protection jurisdiction having authority. No application for oil and/or gas operations shall be considered complete or be approved until and unless the operator has provided such plan to the Sheriff's Office, Fire Marshal, and the fire protection jurisdiction having authority. The plan shall be filed with the Sheriff's Office, Fire Marshal, and the fire protection jurisdiction having authority and updated on an annual basis. Each annual update is to be provided for each calendar year by February 1 of the same year.

(b) Required Plan Content

The emergency response plan shall, at a minimum, consist of the following;

- (i) Name, address, and phone number, including 24-hour emergency numbers for at least two persons responsible for emergency field operations.
- (ii) 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. To the extent allowed by law, the as-built facilities map shall be held confidentially by the El Paso County Office of Emergency Management (OEM), and shall only be disclosed in the event of an emergency. To the

extent allowed by law, the County OEM 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).

- (iii) 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.

(3) Water Quality Assessment, Monitoring, and Mitigation Plan*
(See Resolution 12-69 approved 2/21/2012)

(a) Groundwater Quality Monitoring Plan

Applications for oil and/or gas operations shall include a groundwater quality monitoring plan if well drilling activities are proposed. Well drilling activities include the drilling of any wells for exploration, production, and/or reinjection. The purpose of a monitoring plan is to ensure the preservation and protection of those groundwater resources that could be affected by oil and/or gas operations. The requirements of a groundwater monitoring plan include:

- (i) Establishing a monitoring network of existing water well, seeps, and/or springs in order to evaluate the potential effects of oil and gas drilling on groundwater,
(ii) Determining baseline conditions for naturally occurring constituents, and
(iii) Providing mitigation measures to be implemented if monitoring results indicate significant impacts to groundwater quality as a result of oil and gas operations.

(b) Existing Well Monitoring Network

A monitoring network of existing wells, seeps, and/or springs shall be included in the groundwater quality monitoring plan. A minimum of four (4) existing water wells, seeps, and/or springs within a one-half (1/2) mile radius from the wellhead shall be included in the monitoring plan, if available. The PCD Director and/or the BoCC, in consultation with EPCPH, may require the inclusion of additional wells, seeps, and/or springs into the monitoring plan, subject to availability. The inclusion of any well, seep, and/or spring into a monitoring network requires documented landowner consent, which should include right of entry for the County to enter the site in the event of execution of the financial assurance for the groundwater monitoring plan.

(c) Water Quality Samples

Groundwater samples shall be collected prior to the commencement of any drilling activities for the purpose of establishing baseline water quality. Subsequent to the

completion of drilling activity, all water wells within the respective monitoring network shall be tested at years one (1), three (3), and six (6) from the date of drilling completion. The monitoring network shall also include any future water wells drilled within the ½ mile radius subsequent to the oil and gas well drilling, subject to EPCPH determination and landowner consent. All samples shall be collected by a qualified independent contractor experienced in water quality sampling and shall be sent to a State of Colorado certified laboratory for analysis. The groundwater samples shall be analyzed for the following;

- (i) pH unites (EPA Method 150.2 or calibrated field instrument),
- (ii) Total dissolved solids (TDS),
- (iii) BTEX compounds (benzene, toluene, ethylbenzene, total xylene),
- (iv) Methane,
- (v) Major ions, including but not necessarily limited to, chloride, sulfate, sodium, calcium, potassium, bromide, arsenic, barium, chromium (total), and cadmium.

Testing results shall include the analysis for the above listed parameters, location of the water well, seep, and/or spring (to the nearest 10 feet), location of the oil or gas well site (to the nearest 10 feet), depth of any included water well, depth and identification of aquifers (if identifiable), and date of sampling. Such results, upon prior approval by the respective landowners, shall be submitted to the COGCC, PCD, EPCPH, and any applicable water district and/or central water provider within 90 days of the date of sample collection.

(4) **Noxious Weed Management**

(a) **Purpose**

The purpose of this section is to ensure that oil and/or gas facility operators assess, manage, and mitigate the potential spread of noxious weeds, pursuant to Section 6.3.7. of this Code, the Colorado Noxious Weed Act C.R.S. § 35-5-5 et. Seq., and the El Paso County Weed Management Plan adopted by Resolution 09-106 on March 24, 2009.

(b) **General**

Oil and gas facility operators shall be responsible for ongoing site and access road noxious weed control during construction and operation of the facility. The selection of a reseeding mix and the method(s) for appropriate weed control shall be determined through documented consultation with El Paso

County Environmental Division, the Natural Resources Conservation Service (NRCS), and the Colorado Department of Agriculture, as applicable.

(E) Financial Assurance

(1) Financial Assurance for Road Damage and Construction

The applicant may be required to provide financial assurance in favor of El Paso County, in an amount to be determined by the ECM Administrator, which is sufficient to ensure restoration of any damage to County roads caused by the applicant's permitted activities and/or to ensure construction of any required public roadways to appropriate design standards. The form of the financial assurance must be acceptable to the County. If a commercial bond is provided, the bonding company must be currently authorized to provide bonds for federally funded projects.

(F) Review Standards

(Clarified by Resolution 12-69 approved 2/21/2012)

In approving special use applications for oil or gas facilities, the following findings shall be made.

- The special use is consistent with the applicable Master Plan;
- The special use is in compliance with the applicable requirements of the Land Development Code;
- The special use is in compliance with the applicable requirements of the Engineering Criteria Manual and the Drainage Criteria Manual;
- The special use conforms or will conform to all other applicable County rules, regulations, or ordinances;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create undue traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
- The special use will avoid land use and environmental conflicts or, at a minimum, includes mitigation measures and applicable financial assurance in order to ensure that any mitigated to the maximum extent practicable;
- The special use will not be otherwise detrimental to the public health, safety, and welfare of the present or future residents of El Paso County;

- The financial burden of compliance with special use is practical and does not outweigh the benefit of such compliance; and
The technical requirements for compliance with the special use are technically feasible and commercially available.

5.2.37 Outside Storage

(A) Applicability

All outside storage is subject to the requirements of this Section.

(B) Outside Storage Standards

Outside storage shall meet the following standards.

(1) Materials to be Stored and Principal Use Required

Outside storage may include vehicles, raw materials, supplies, finished or semi-finished products or equipment used in conjunction with, and specifically accessory to, an allowed principal use conducted on the premises unless listed as a principal use. Outside storage of inoperable vehicles or equipment in a location other than the salvage yard is only permitted to the extent allowed in Section 6.2.11, provided the standards of that section are met. Employee or customer parking or merchandise display areas shall not be considered outside storage.

(2) Materials Screened by Solid Fence or Vegetation

Outside storage shall be enclosed and concealed by a solid fence or wall at least 6 feet in height or any combination of berming, shrubs, trees fencing or walls which will provide at maturity a minimum of 6 feet of height and 100% opaque screening for the area utilized for outside storage.

(3) Outside Storage Not to Exceed Height of Screening

Outside storage or stacked materials shall not exceed the height of the screening fence except for operable vehicles, trailers, or other equipment designed to be towed or lifted as a single component.

(4) Storage of Equipment and Vehicles Exceeding Height of Fence

All equipment and vehicles exceeding the height of the fence shall be stored on the rear $\frac{1}{3}$ of the property except when adjacent to a residential zoning district, in which case the equipment or vehicles shall be a minimum 50 feet from the residential zoning district boundary.

(5) Storage Adjacent to Road

Outside storage is allowed within the required setback area from a road provided that the storage area does not occupy more than 50% of the lineal frontage at the right-of-way.

- (6) No Storage in Required Landscape Area**
Outside storage shall not be allowed within any required landscaped area.
- (7) Screening Fence Waived Between Adjacent Storage Areas**
When outside storage areas abut each other and are not visible from public areas, administrative relief may be sought from the requirement for a solid fence between the outdoor storage areas.
- (8) Salvage Yards and Solid Waste Landfills**
Salvage yards and solid waste landfills are not regarded as outside storage, but salvage yards are required to meet the screening standards of this Section.
- (9) Temporary Storage**
Administrative relief from the outside storage standards may be sought in association with approved temporary uses.
- (10) Landscaping Requirements to be Met**
Outside storage shall comply with the landscaping requirements in this Chapter.

(C) Relationship to Site Development Plan

Outside storage areas shall be so identified on the site development plan prior to the establishment of the outside storage use.

5.2.38 Parking, Storage and Repair of Vehicles and Machines, Personal

(A) Standards Applicable in all Zone Districts

- (1) Allowed Vehicles**
Boats, trailers, recreational vehicles, stock automobiles, ski mobiles and all-terrain vehicles owned by a property's owner or occupant may be stored or parked outdoors in any zone district provided the storage or parking meets the standards listed in this Section.
- (2) Parking on Public Right-of-Way**
Any parking or storage of vehicles on the public right-of-way shall conform to the requirements of the Sheriff's Office, this Code and any ordinances adopted by El Paso County.
- (3) Occupancy of Vehicles Prohibited**
No person shall occupy or reside within any vehicle and/or recreational vehicle. Recreational vehicles may be occupied when located within a RVP district or used as temporary housing subject to the standards of Chapter 5 of this Code.
- (4) Collectors' Vehicles**
The owner or occupant of any lot, parcel or tract may park or store outdoors on such property any inoperable vehicle, or parts thereof, described in this subsection provided the storage standards of this subsection are met. Any

inoperable vehicle not described in this subsection is subject to the provisions generally applicable to inoperable vehicles below.

Inoperable vehicles permitted under this subsection must be (i) a self-propelled vehicle designed primarily for travel on the public highways and generally and commonly used to transport persons and property over the public highways; (ii) owned by the owner or occupant of the property; and (iii) of historical or special interest and acquired for the purpose of restoration and maintenance of a vehicle of historical or special interest also owned by the property owner or occupant.

Inoperable vehicles meeting the criteria of paragraph (b) above, and parts thereof, may be stored outdoors provided that the storage area is maintained in such a manner as does not constitute a health, safety or fire hazard, is screened from ordinary public view by means of a solid fence, trees, shrubbery, or other appropriate means, and is kept free of weeds, trash and other objectionable items.

(B) Standards Applicable in Residential and Agricultural Zone Districts

(1) Prohibited Vehicles

No vehicles with a gross vehicle weight rating of 13,001 lbs or greater shall be kept, stored or parked on private property in a zoning district where a residential use exists, except in the A-35 zoning district. This shall include, but is not limited to, tractor trailers, over-the-road semi trucks, road cleaners, motor graders and similar maintenance or construction equipment. This provision does not apply to recreational vehicles. Notwithstanding the above, one tractor trailer or over-the-road semi truck may be parked in a fully enclosed building in association with a residential use on a lot or parcel greater than 2 ½ acres in area.

(2) Inoperable Vehicles and Vehicle Parts

The outdoor storage or parking of any inoperable vehicle or recreational vehicle and the outdoor storage of any vehicles parts, shall be prohibited on any lot or parcel used for residential purposes or within a Residential or Agricultural Zoning District, except within the A-35 zoning district where a maximum of ten (10) inoperable non-agricultural vehicles shall be allowed as part of a rural home occupation pursuant to Chapter 5 of this Code.

(3) Vehicle and Machine Repair

Vehicles and/or machines owned by and for the sole use of persons residing on a lot, tract or parcel may be repaired, excluding painting or welding, only within an enclosed structure. Vehicles and/or machines owned by others may be repaired in the A-35 zoning district or as a rural home occupation as a special use in conformance with this Code.

5.2.39 Peddler Sales

Parking lots may be used for peddler sales provided the following standards are met:

(A) Adequate Parking Available

The area occupied by the temporary sales does not reduce the number of available parking spaces below the minimum number of parking spaces required by Chapter 6.

(B) Safe Ingress and Egress

Adequate and safe ingress and egress is provided.

(C) No Sales Areas or Parking In Right-of-Way

Sales areas or parking for customers shall not be located within a right-of-way.

(D) Temporary Use Permit Required

When sales occur in the same place or parking lot for more than 3 times in a year or will exceed 5 days in duration in the same place or parking lot, a temporary use permit is required.

5.2.40 Marijuana, Personal Cultivation of**(A) Accessory to a Residential Use**

Personal cultivation of marijuana shall only be an accessory use to a dwelling unit, and may only occur in those zone districts where a residential use is allowed.

(B) Located in Primary Residence

Personal cultivation of marijuana may only occur in the primary residence of the patient, caregiver or person over 21 years old, or in an accessory structure on the same property.

(C) Location within Primary Residence

All personal cultivation of marijuana must occur in a separate, enclosed, locked space, not to exceed 150 square feet for a single-family dwelling or 100 square feet for all other dwelling units, within the dwelling unit or accessory structure.

(D) Plant Limits

No more than 12 marijuana plants, with ½ or fewer being mature, flowering plants can be grown in a single dwelling unit, regardless of the number of patients, caregivers or persons over 21-years old, or any combination thereof, that reside in the dwelling unit.

(E) Extraction

No compressed, flammable gas or volatile solvent may be used in the extraction of THC or other cannabinoids. For purposes of this paragraph, “volatile solvent” means a liquid that is capable of dissolving other material and vaporizes at room temperature.

- (F) **Cannot be Considered a Home Occupation**
In no instance may personal cultivation of marijuana qualify as a home occupation.
- (G) **Cannot be Perceptible**
The odor of marijuana shall not be detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit. Personal cultivation of marijuana shall not be perceptible from the exterior of the dwelling unit or accessory structure visually or as a result of undue parking or vehicular or foot traffic.
- (H) **Enforcement**
The El Paso County Sheriff's Office is specifically authorized to enforce the provisions of this section upon coordination with the DSD Director or his/her designee. The requirement for a show cause hearing found in Section 11.3.2 of this Code shall not apply to the enforcement of standards related to personal cultivation of marijuana.

5.2.41 Pigeon Keeping

The keeping of pigeons is subject to the following requirements:

- (A) **Clean and Sanitary Condition**
The pigeon loft shall be of sufficient size, design, and construction that it can be easily maintained in a clean and sanitary condition.
- (B) **Meets Health Regulations**
The pigeon loft shall be in compliance with all applicable EPCPH regulations.
- (C) **Setbacks**
The pigeon loft shall be setback from all lot or parcel boundary lines in accordance with the applicable accessory structure setbacks.
- (D) **Feeding within Loft**
All pigeons shall be fed within the confines of the pigeon loft.
- (E) **Time Outside Pigeons Lofts Limited**
All pigeons shall be confined to the pigeon loft, except for limited periods necessary for exercise, training and competition. At no time shall pigeons be allowed to perch or linger on the buildings or property of individuals other than the owner of the pigeons.

5.2.42 Public Building, Project, Way, Place, or Space

A public building, project, way, place or space or expansion thereof, including jail or prison facility or a public park and open space, is an allowed use in any zoning district but may require approval of location prior to implementation.

5.2.43 Residential Accessory Structures and Uses

The following structures and uses are considered accessory to a residential use, as further detailed in Table 5-2:

- Detached private parking garage or carport;
- Storage shed;
- Gazebo;
- Deck (attached or detached, covered or uncovered);
- Pets;
- Barn;
- Swimming pool, hot tub, tennis court or similar private recreational facility;
- Private greenhouse;
- Personal cultivation of marijuana;
- Fence, wall and hedge;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code;
- Yard sales;
- Solar energy systems and wind-powered generator; and
- Airplane hangar for personal use on property 2.5 acres or greater, where the property owner can demonstrate authority to utilize an adjacent or nearby airport or private airport

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

5.2.44 Retail Sales, Accessory

Retail sales located in industrial zoning districts shall be conducted within the same structure and in conjunction with a principal use allowed in the zoning district. The retail sales may not occupy more than 20% of the gross floor area of the principal structure, unless special use approval is granted.

5.2.45 Salvage Yards

- (A) General**
- (1) Purpose**

The purpose of this Section is to: (1) achieve visual screening from public roads and adjacent residences for existing and proposed salvage yards; (2) facilitate compliance with all federal, State, and local environmental regulations governing the use, storage, generation, and disposal of hazardous substances and hazardous wastes within the salvage industry; and (3) prevent the release of hazardous substances to the environment resulting from leaks, fugitive air emissions, accidents, or improper disposal.

(2) Applicability

(a) Establishing a Facility

The requirements of this Section shall apply to all development applications to establish a salvage yard, automobile recycling center, scrap and waste recycling facility, junkyard or other similarly classified use.

(b) Existing Facilities After January 1, 2010

Effective January 1, 2010, the requirements of this Section shall apply to all existing salvage yards, automobile recycling centers, scrap and waste recycling facilities, junk yards, or other similarly classified uses, whether conforming or nonconforming, sited or nonsited.

(c) Not Applicable to Solid Waste or Recycling Facilities

This Section does not apply to those solid waste or recycling facilities regulated under Chapter 5 or under the CDPHE Solid Waste Regulations unless expressly stated.

(3) No Amortization Intent

This Section is not intended to amortize out of existence, uses which lawfully exist at the date of adoption, but is intended to establish performance and operational standards for all facilities subject to this Section.

(4) Not Intended to Supersede Other Environmental Regulations

This Section is not intended to supersede any federal, State or local requirement or regulation regarding environmental compliance which is applicable, or which is subsequently adopted or imposed.

(B) General Requirements

(1) Notice and Requirement of Owner to Comply with Regulations

PCD will attempt to notify existing facilities and facility owners of these requirements or changes to these requirements. The owner is responsible for complying with all applicable requirements of the federal, State, and local environmental laws and regulations

(2) Maintain Records of Hazardous Substances

The owner is responsible for identifying all hazardous substances used, processed, stored or handled at the facility and for maintaining updated qualitative and quantitative records of these materials at the facility.

(3) Reporting Requirements Not Relieved

Compliance with this Section does not release any facility from the reporting requirements of the Local Emergency Planning Committee or any federal, State, or local environmental law.

(C) Operational Standards for All Facilities**(1) Screening****(a) Require to Comply with Screening Standard**

All storage areas, processing areas and parts removal areas shall be screened from public roads and adjacent residential use in conformance with the screening standards of Chapter 6, or located within an enclosed structure.

(b) Berms Allowed

The use of berms is allowed in conjunction with the fencing and landscaping requirements of this Code to achieve effective screening.

(2) Landscaping**(a) Landscaping to Conform to Landscaping Requirements**

The facility shall be landscaped in conformance with the requirements of Chapter 6, except that landscaping may be concentrated on the road frontage area where screening is required.

(b) Relief for Pre-Existing Facilities

Existing facilities not previously subject to the landscaping requirements of this Code may request administrative relief from the landscaping requirement, but not the screening or fencing requirements.

(3) Fencing**(a) Require to Comply with Fencing Standard**

The facility shall be fenced in accordance with the requirements of Chapter 6 of this Code. The facility shall be fenced with the equivalent of a 6 foot chain link fence.

(b) Fencing and Screening Requirements Combined

The fencing and screening requirements may be combined.

pans, secondary containment, or other steps are taken to prevent any release.

(6) **Vector and Mosquito Control**

(a) **Approved Vector Control Plan Required**

The facility shall provide and implement a vector control plan approved by the EPCPH.

(b) **Approved Mosquito Control Plan Required**

The facility shall provide and implement a mosquito control plan approved by the EPCPH.

(7) **Environmental Controls**

(a) **Automotive Waste Controlled**

All automotive waste generated during the recycling processes shall be removed, collected, stored, transported and recycled according to all federal, State and local regulations.

(b) **Seeps or Leaks of Automotive Waste**

Automotive waste shall not be allowed to seep or leak on soil.

(c) **Hazardous Substance Containers Product Tight and Labeled**

All primary containment and individual storage containers of hazardous substance or hazardous waste shall be product tight, maintained, and labeled in compliance with federal, State and local regulations

(d) **Hazardous Substance Areas Secure**

Any area where hazardous substances are stored shall be fenced in, and measures shall be taken to prevent anyone but facility personnel or other authorized persons from entering these areas.

(e) **Onsite Wastewater System Designed by Professional Engineer**

An OWTS serving a facility shall be designed by a professional engineer.

(f) **Floor Drains Not Connected to Drainfield**

Any floor drains in a parts removal area or hazardous substances handling, usage or storage area shall not be connected to a drainfield, septic tank, or stormwater system.

(g) **Hazardous Substances and Secondary Containment**

All drums containing hazardous substances and hazardous wastes shall only be stored within a secondary containment area or in a structure or other secure area which meets the requirements of secondary containment. The secondary containment area shall be protected from weather and maintained in accordance with all applicable fire codes.

(h) Flammable Liquids

Flammable liquids shall be stored in accordance with applicable fire department regulations.

(i) Hazardous Substance Disposal

Any disposal of hazardous substances shall be in accordance with federal, State, and local regulations.

(8) Stormwater Permitting

All facilities are subject to the requirements of the CDPHE and the ECM regarding stormwater quality and erosion control permits.

(9) Noise Ordinance

Facilities shall comply with the provisions of Ordinance 02-1 Concerning Noise Levels in Unincorporated El Paso County. For purposes of the noise ordinance, a legally existing salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use is considered an industrial area.

(10) Noxious Weed Plan

A development application to establish or expand a salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use shall be accompanied by an approved noxious weed management plan when noxious weeds are identified by either the Noxious Weed Map or the Forestry and Noxious Weed Manager as being located on the subject property.

(11) Fire Control Plan

A development application to establish or expand a salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use shall be accompanied by a fire control plan, which shall be reviewed and approved by the fire department having authority, or in the event there is no applicable fire department, by the El Paso County Fire Marshall.

(12) Drainage Report

A development application to establish a salvage yard, automobile recycling center, scrap and waste recycling facility, junkyard or other similarly classified

use shall be accompanied by a drainage report in conformance with this Code and the ECM.

(13) **Signage**

All signage shall conform to the requirements of Chapter 6.

(D) Recordkeeping

(1) Hazardous Substances Records

An up-to-date inventory list of hazardous substances and hazardous wastes generated, used, stored, handled, processed, or disposed shall be maintained on site in accordance with federal, State, and local regulations including hazardous waste manifests, bills of lading, or other equivalent manifesting for all hazardous substance disposal.

(2) Vehicle Records

An up-to-date inventory list of vehicles on site and salvaged during the year shall be maintained on site.

(E) Annual Reporting

All facilities shall provide the PCD an annual report by April 15 of each year that includes, at a minimum, the following information:

- Owner, including address and phone number;
- Operator, including address and phone number;
- Sales tax number and collection amount;
- Inventory of vehicles at the start of the year and at the end of the year;
- Total number of vehicles that came in and went;
- Information to determine whether a yard remains active;
- Business and sales tax license;
- Fire, release, and emergency events, include date and time, and resulting action and report reference number;
- Quantity of automobiles in storage waiting to be crushed;
- Verification of stormwater validity and ID numbers;
- Name and contact information of contractor for hazardous waste removal; and
- Any required LEPC reporting.

(F) Inspections

All facilities governed by the requirements of this Section shall be open to inspection by County staff. Annual inspections programs may be implemented to ensure compliance with the standards.

(G) Closure**(1) Notification of Closure**

Any facility governed by this Section shall notify the PCD if they cease to operate for more than a 60-day period.

(2) Operation Nonconforming Operations

Any facility that operates as a nonconforming use and ceases to operate is subject to the nonconforming use discontinuance of use provisions of this Code.

(3) Evaluation of Vacated or Closed Areas

If any operational area is vacated, the owner shall provide an evaluation of potential environmental impacts for the vacated or closed area. Environmental mitigation may be required by State and federal regulations.

5.2.46 Seasonal Produce Sales

Seasonal produce sales shall comply with all requirements of the EPCPH.

5.2.47 Sexually-Oriented Businesses**(A) Separation Between Sexually-Oriented Businesses**

No structure may be used for a sexually-oriented business if the structure is located within 1,000 feet of any other structure which is used for a sexually-oriented business as defined by the jurisdiction where it exists. The measurement is a linear measurement from the nearest wall of the structure proposed for the sexually-oriented business, to the nearest wall of the structure used for any existing sexually-oriented business. Measurements are not affected by municipal boundaries.

(B) Separation Between Sexually-Oriented Business and Other Uses

No structure may be used for a sexually-oriented business if the structure is located within 1,000 feet of any property: (1) where residential uses are identified as a principally allowed use; (2) a public or private K-12 school; (3) a public park; or (4) a religious institution. All minimum distances shall be measured as linear measurements from the zoning district boundaries or from the property line of any residential use, public or private K-12 school, public park, or religious institution to the nearest wall of the structure in which the sexually-oriented business is to be located. Measurements are not affected by municipal boundaries.

5.2.48 Solar Energy System**(A) Property Served**

The solar energy system shall be designed to only provide energy for the ownership on which it is located; however, excess energy may be sold as allowed by State and federal law.

(B) Maximum Height of Attached Panels

Solar panels attached to a roof shall not exceed the maximum height allowed in the zoning district for the structure type by more than 5 feet.

(C) Maximum Height of Detached Solar Panels

The maximum height of a detached solar panel is 15 feet.

(D) Location of Detached Panels

Detached solar panels are prohibited within any setback area or between the front or side corner lot, parcel or tract boundary line and the front structure line of the principal structure.

5.2.49 Stables and Corrals, Private

Stables and corrals shall meet the following standards:

(A) Not Located Over Onsite Wastewater System

A horse corral and stable shall not be located over any portion of an OWTS.

(B) Maintained in a Clean Condition

Horse corrals and stables shall be kept in a clean and orderly manner. Horse manure shall be picked up on a regular basis and disposed of in a manner acceptable to the EPCPH.

(C) Limit on Number of Horses in RR-0.5 Zoning District

No more than 2 horses over the age of one year are allowed per ½ acre in RR-0.5 Zoning District. In the RR-0.5 Zoning District, one acre is required to keep horses (private stable). No specific restriction on the number of horses shall apply in other zoning districts allowing private stables and corrals.

(D) Location of Stables and Corrals

Stables and Corrals shall meet the following minimum setbacks:

(1) Corrals

All corrals shall be located at least 25 feet from the front, 25 feet from the side, and 25 feet from the rear lot, parcel, or tract boundary line. All corrals shall be situated at least 35 feet from a residential structure on adjoining lots, measured in a straight line from nearest point to nearest point.

(2) Stables (Barns) on Corner Lots

All stables located on corner lots shall be located at least 25 feet from the front, 25 feet from the side and 25 feet from the rear lot, parcel or tract boundary line.

(3) Stables (Barns)

All stables shall be located at least 25 feet from the front, 25 feet from the side and 25 feet from the rear lot, parcel or tract boundary line.

(E) Stables Open to Interior of Lot

Open-ended or open-sided stables shall be oriented to the interior of the lot, parcel or ownership unless located more than 100 feet from the nearest property line.

(F) Drainage and Erosion Control

Drainage facilities and erosion control measures shall be established on the site to protect adjacent properties from runoff.

(G) Boundaries of Corral

On lots or parcels less than 2½ acres in size without an identified stable or corral area, the outer boundaries of any fenced area shall be considered the corral.

5.2.50 Temporary Housing

Manufactured homes, post-1976 mobile homes, pre-1976 mobile homes, recreational vehicles, or tiny houses where the zoning allows may be used to provide temporary housing for the owner of a lot or parcel during the construction of a permanent dwelling on the lot or parcel, subject to temporary use permit requirements. The duration of the temporary housing shall not exceed 12 months unless a renewal is granted. The temporary housing shall be removed from the site at the end of the 12 month period or following completion of the construction, whichever comes first. An extension of time may be granted by the PCD Director following a finding that significant progress has been made in the construction of the permanent dwelling or there have been circumstances beyond the control of the property owner that have delayed construction. A recreational vehicle or tiny house shall only be used as temporary housing as defined in Chapter 1 of this Code with a temporary use permit if a building permit has been issued and remains active for a permanent dwelling. Tiny houses must also meet the prohibition of interior storage of water and wastewater outlined in the Tiny House, Single Lot section of this Code.

5.2.51 Tiny House, Recreational Vehicle Park**(A) Applicability**

The following standards apply to tiny houses within the Recreational Vehicle Park zoning district.

(B) Minimum Construction Standard

Tiny houses shall be constructed to ANSI RVIA standards. Tiny houses not constructed to ANSI RVIA standards shall be allowed with certification by a

licensed professional structural engineer certifying that, at a minimum, the unit and support structure has been designed in accordance with all applicable horizontal and vertical loads as required by the local authority having jurisdiction.

(C) Exterior Appearance Single-Family in Character

Tiny houses shall be finished on all sides with finished wood panel siding, vinyl siding, brick or stone veneer siding, stucco finish siding, other architecturally finished veneer, or with other similar types of siding as approved by the PCD Director.

5.2.52 Tiny House, Single Lot

(A) Applicability

The following standards apply to tiny houses used as a guest house or as a principle use on an individual lot or parcel. This section does not apply to tiny houses located in a Recreational Vehicle Park zoning district.

(B) Number of Tiny Houses per Lot or Parcel

One tiny house shall be allowed as a principle use on an individual lot or parcel, except in the A-35 (Agricultural) zoning district where two tiny houses may be allowed. One additional tiny house may be allowed on an individual lot or parcel where a guest house is permitted.

(C) Minimum Construction Standard

Tiny houses shall be constructed to ANSI RVIA standards. Tiny houses not constructed to ANSI RVIA standards shall be allowed with certification by a licensed professional structural engineer certifying that, at a minimum, the unit and support structure has been designed in accordance with all applicable horizontal and vertical loads as required by the local authority having jurisdiction.

(D) Exterior Appearance Single-Family in Character

All tiny houses shall be designed and constructed so as to comply with the following:

- Be finished on all sides with finished wood panel siding, vinyl siding, brick or stone veneer siding, stucco finish siding, other architecturally finished veneer, or with other types of siding as approved by the PCD Director;
- Have no attached motor as the means of propulsion;
- Have premanufactured insulated residential grade exterior doors;
- Have premanufactured insulated residential grade windows; and
- Have residential style/type roofing materials.

Tiny Houses shall have a minimum of four of the following design features:

More than one type of exterior siding listed above in subsection D.1 on a single side in an integrated manner;

- Upgraded entry feature, such as transom or side windows around an exterior door;
- Exterior accessories, such as permanent shutters, or fixed sunshade devices, or gutters/downspouts;
- Pitched roofline (3:12 pitch or steeper);
- Dormers;
- Premanufactured skylights;
- Built-in porch or deck;
- Exterior residential light sconces or downcans; or
- Other features as otherwise approved by the PCD Director.

The provision of more than one item within the same category of design features may be counted independently towards the overall minimum requirements (e.g., including both a sunshade and shutters).

(E) Screening

Tiny house wheels, running gear, and hitch components shall be either:

- Removed and the tiny houses set on a platform;
- Screened from view with skirting of the same exterior siding and materials as the tiny house;
- Screened from view via placement on a subsurface pad serving as a foundation and with integrated plantings and landscaping; or
- Screened with other methods as otherwise approved by the PCD Director.

(F) Interior Storage of Water Prohibited

No interior water storage tank, unless otherwise approved as an integrated water system by the PCD Director in consultation with El Paso County Public Health, shall be allowed within a tiny house.

(G) Storage of Wastewater Prohibited

No interior storage of wastewater, unless approved by the PCD Director in consultation with El Paso County Public Health, shall be allowed within a tiny house.

(H) Proof of Utilities

Proof of electric, natural gas, and/or propane availability is required. Proof of water and wastewater service is required unless otherwise approved by the PCD Director pursuant to subsections F and G above. Electrical, natural gas, propane, water, and wastewater connections must meet the requirements of the utility provider and/or El Paso County Public Health, as appropriate. Individual wells and on-site wastewater treatment systems (OWTS) shall be permitted in accordance with state and local regulations. A permit from the local jurisdiction having authority is required for electrical, gas, propane, and plumbing connections.

(I) Tiny House Site Plan Review Required

A tiny house site plan application shall be applied for and approved prior to the placement of the tiny house on an individual lot or parcel. Tiny house residential site plan applications shall, at a minimum, consist of the following:

- Proof of ANSI RVIA construction or certification by a licensed professional structural engineer;
- Elevation drawings of the tiny house to include the method of screening/skirting and identification of the type of siding material(s);
- Floorplan of the tiny house;
- Proof of utilities;
- Applicable landscaping plan with subsurface pad; and
- Additional documentation as required by the PCD Director that may be necessary, in his or her opinion, to approve the site plan.

(J) Accessory Structure Allowances

Accessory uses to a tiny house used as a principle use are limited to residential accessory uses. Accessory structures exceeding the allowance of two times the size of the footprint of the tiny house may be approved by the PCD Director with the residential site plan review. Accessory structures exceeding the size limitation of the zoning district shall not exceed 500 square feet. An accessory structure exceeding this allowance shall require an application for relief from the dimensional standards.

5.2.53 Tower, Commercial (Non-Commercial Mobile Radio Service Facility)

(A) General

(1) Purpose

The purposes of this Section are to establish standards for the location of commercial towers in the County.

(2) Applicability

The standards in this Section apply to all commercial towers after the effective date of this Code.

(3) Relationship to Other Provisions

A commercial tower shall comply with all applicable provisions of this Code. Where a conflict exists between the requirements of this Section and another applicable standard in this Code, the most restrictive standard shall control.

(B) Design Standards for a Commercial Tower

A commercial tower shall adhere to the following design standards to minimize impacts:

(1) Compatible with Surroundings

The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area, subject to any applicable FAA regulations.

(2) Existing Vegetation and Landforms

Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment, to the extent practicable.

(3) Landscaping

The facility shall be landscaped in accordance with the requirements of Chapter 6.

(4) Location on Property

The tower shall be located on the property to contain onsite all ice-fall or debris from tower failure.

(5) Height Limitations

A commercial tower shall be exempted from the structural height restrictions of the zoning district in which the facility is located.

(6) No Lighting

The facility antennae shall not be lighted unless required by the FAA and identified in the special use approval.

(7) Attractive Nuisance

The attractive nuisance potential shall be minimized through fencing and methods to discourage unauthorized climbing.

(8) Accessory Uses Restricted

Accessory uses to a commercial tower may not include offices, broadcast studios, or long-term vehicle storage.

5.2.54 Tower, Private (Non-CMRS)**(A) Attached Private Towers****(1) Maximum Height of Facility Attached to Principal Structure**

Private towers constructed on or attached to a principal structure are considered to be accessory structures and shall satisfy all location and bulk restrictions of the zoning district. The height of the devices shall be limited to 1½ times the maximum height allowed in the zoning district, unless otherwise provided. To be considered attached, the facility shall not only be attached to the principal structure, but shall be located within 5 feet of the principal structure.

(2) Exceeding Height Allowance

Private towers in excess of the maximum height allowed for the facility are considered to be a special use.

(3) Number of Private Towers Allowed

One private tower is allowed per lot or parcel, unless additional towers are approved through a special use approval.

(B) Detached Private Towers**(1) Height Limited**

Unless otherwise approved as part of the special use, no private tower, including the main structure and any retractable, non-retractable extension, or antenna, may extend higher than the following:

- F-5, A-5, and Residential Zoning Districts: The maximum height of a detached private tower shall be 2 times the maximum height allowed in the zoning district.
- A-35 (Agricultural) District: The maximum height of a detached private tower shall be 100 feet.
- Commercial or Industrial Zoning Districts, and the MHP, MHS, and RVP Zoning Districts: The maximum height of a detached private tower shall be 1½ times the maximum height allowed in the zoning district.

(2) One Private Tower Per Lot

Unless otherwise approved as part of the special use, only one private tower may be constructed on a lot or parcel. One private tower may include up to two supporting structures in the event that it is necessary to support one antenna.

(3) Not Located in Setback Area

A private tower shall not be located within the setbacks prescribed for principal structures by the zoning district.

- (4) Supporting Devices in Setback Area**
Supporting devices such as guy wires and support poles shall be located on the same lot or parcel as the tower and may not be located in the front setback area. A zero foot setback for guy wires from the side and rear property lines is permissible. In no event, however, may the supporting devices be located within any utility or drainage easement.
- (5) Setback from Electrical Transmission Lines**
A private tower shall not be located closer than a distance of one horizontal foot for every vertical foot of tower and antenna height, plus 10 feet, from any electrical transmission line. This does not include the service line for the lot or parcel where the private tower is to be located.
- (6) Setback from Property Lines**
The private tower shall maintain a setback from all property lines based upon a ratio of one horizontal foot for every vertical foot of tower and antenna height, for protection from free fall or ice fall. The setback may be modified if the applicant provides a certified engineer's or qualified expert's report substantiating that any free fall of the tower or ice fall from the private tower can be contained totally upon the applicant's lot or parcel and the modified location is certified by the applicant's engineer or expert as safe.
- (7) Anti-Climb Apparatus**
Adequate measures, such as anti-climb apparatus or removal of climbing ladder, are required in order to discourage unauthorized climbing.
- (8) Compliance with Federal Laws**
No private tower may be constructed in violation of FAA or FCC laws or regulations.
- (C) Special Use for Private Tower Exceeding Allowances**
- (1) Special Use Approval Required**
Special use approval is required in the event that:
- Any private tower, facility, or any extensions thereto exceed the height limit; or
 - More than one private tower is proposed on the lot or parcel.
- (2) Review Standards**
In addition to the special use standards, the Planning Commission and BoCC shall consider and apply the following standards and criteria in reviewing a proposed private tower:

- Compliance with the general standards of this Code and mitigation of any other legitimate health, safety and welfare matters raised by federal, State and local authorities and the neighboring public;
- The visual impact and other aesthetic factors of the proposed private tower considered in light of: (1) The availability of landscaping and other adequate screening; (2) The environmental uniqueness of the property site or the general vicinity; (3) The visual block that would be caused by the addition of the proposed private tower in an area already subject to multiple private towers or commercial towers, whether in existence or approved but not constructed; (4) The documented need for a particular height or location for the private tower in order to achieve effective reception or transmission; and (5) In the case of an amateur radio facility, the general public service provided by amateur radio activity; and
- The need to accommodate, as much as practicably possible, the rights of the licensed amateur radio operator, as expressed by the FCC's regulations and ruling, 47 C.F.R. Part 97 and PRB 1, 50 F.R. 38,813, and to balance the legitimate zoning goals, requirements and restrictions of this Code with the federal interest in amateur radio operations.

5.2.55 Vehicle Repair Garage, Commercial (Including Truck and Recreational Vehicle Repair)

(A) Enclosed Building Required

Repairing or dismantling of vehicles and storing of parts and accessories shall be conducted within an entirely enclosed structure. Any vehicles awaiting repair stored outside shall be stored in accordance with the outdoor storage standards in this Chapter.

(B) Inoperable Vehicles and Vehicle Parts

Except for temporary storage in an authorized area for automobile and trailer sales, auto repair garage, gasoline filling station or similar repair or short-term vehicle facility, and except as permitted by subsection (B) (3) above, no inoperable vehicle shall be kept or stored outside on any lot, tract or parcel within a commercial or industrial zoning district. Any vehicle stored on a lot, parcel, or tract in excess of 6 months will be presumed not to be temporary storage and will be subject to zoning enforcement. Areas permitted to be used for temporary storage of inoperable vehicles under this section shall be maintained so as not to constitute a health, safety or fire hazard, shall be effectively screened from

ordinary public view by means of a solid fence, berm, trees or shrubbery, and shall be kept free of weeds, trash and other objectionable items.

5.2.56 Waste Disposal, Hazardous Waste, and Recycling Facilities

(A) General

(1) Authority

This section is adopted pursuant to the following authorities:

- The Solid Wastes Disposal Sites & Facilities Act, C.R.S. §§30-20-101, et seq.
- C.R.S. §§25-15-401, et seq., "Infectious Waste".
- CDPHE "Regulations Pertaining to Solid Waste Disposal Sites & Facilities", 6 C.C.R. 1007-2 (hereinafter referred to as "State Solid Waste Regulations").
- The Local Government Land Use Control Enabling Act of 1974, C.R.S. §§29-20-101, et seq.
- Sections 1008, 4004, and 4010 of the Resource Conservation and Recovery Act (RCRA) of 1976 as modified by the Hazardous and Solid Waste Amendments of 1984 (commonly referred to as "Subtitle D of RCRA").
- 40 C.F.R. Part 257 "Criteria for Classification of Solid Waste Disposal Facilities and Practices" and 40 C.F.R. Part 258 "Criteria for Municipal Solid Waste Landfills" (hereinafter referred to as "RCRA Subtitle D Regulations").
- 40 C.F.R. Parts 260-270, 273, and 279, known as RCRA Subtitle C.

(2) Applicability

This Section shall apply to waste disposal and recycling facilities as each is defined by this Code and State Statute or regulation, including:

(a) Recycling or Transfer Station Facilities

- Trash transfer facility
- Intermediate processing facility
- Infectious waste transfer station
- Recycling facility (material recovery facility)
- Composting facility (not requiring Certificate of Designation (CD))
- Yard waste recycling facility (material recovery facility)

- Waste tire recycling facility
 - Inert material disposal site
- (b) Certificate of Designation Facilities**
- Solid waste disposal site and facility
 - Waste tire disposal (monofill) facility
 - Infectious waste disposal facility
 - Composting facilities requiring a CD
 - Hazardous waste facility
- (c) Other Facilities or Operations Involved with Solid Wastes**
- Other types of facilities or operations involving the collection, storage, treatment, utilization, processing or final disposal of solid wastes, which is not expressly exempted from regulation by State statute and which is not expressly covered by this Section shall not be sited until additional regulations specific to the type of facility or operation proposed have been enacted by the BoCC. This shall not include garbage hauling trucks or businesses that are subject to regulation under C.R.S. §30-15-401(1)(a).
- (d) Recycling or Transfer Station Facilities**
- Those recycling or transfer station facilities which exceed the allowances or do not comply with the general requirements, conditions and standards for the facility type are required to secure a Certificate of Designation. If a facility with a recycling activity fails to comply with Section 8 of the State Solid Waste Regulations, that activity shall be subject to all other applicable provisions of the State regulations (6 CCR 1007.2), which may require additional County approvals.
- (3) Exceptions**
- (e) General Exceptions**
- A person may dispose of their own solid waste on their own property, as long as the solid waste disposal site and facility complies with the rules and regulations of the State Board of Health and does not constitute a public nuisance. The determination of compliance with the State regulations rests with the CDPHE after input from El Paso County. The minimum standards of the State regulations require, in this instance:

- Taking reasonable measures to collect, contain and dispose of litter;
- Ensuring that noise, dust and odors do not pose a health threat;
- Managing the site so that birds, insects, rodents, and other vectors do not pose a health hazard;
- Providing adequate cover so that water does not pond on the site, and that wind erosion and water pollution does not become a problem;
- Submittal of a design and operations report;
- Submittal of closure plans; and
- Notice of disclosure to prospective purchasers in the form of a recorded document of the site that solid waste has been disposed of on the property.

(f) Disposal Subject to Construction Permit

A site plan identifying the location of the waste disposal shall be provided. The requirements for obtaining a Construction Permit and special requirements of the ECPH may be applicable.

(g) Site Restrictions or Conditions Applicable

Conditions may be placed on any approval or acknowledgement of the site in order to restrict access from unauthorized individuals and to prevent nuisance conditions from occurring.

(4) Interrelationship with CDPHE

(a) No Application Reviewed Until CD Approved

No application for a Certificate of Designation shall be considered complete until it has received a recommendation of approval from the CDPHE. The BoCC may not review any request that has been disapproved by the CDPHE. When reviewing an application recommended for approval by the CDPHE, the BoCC retains the right to impose more stringent technical standards and requirements on any approval, or to deny any application found geologically problematic or technically deficient by the BoCC after further scientific or engineering study.

(b) Referral of Special Use or Site Development Plan to CDPHE

Any special use or site development plan application for a waste disposal or recycling facility may be referred in writing to the CDPHE for review and comment, or for the determination as to whether the Certificate of Designation requirements of the State Solid Waste Regulations are applicable, and for technical review of the site, facility and operation plan documents. The applicant is responsible for payment of any review fees established by the CDPHE.

(c) CDPHE Notified of County Approval

The CDPHE shall be notified by the County when a development permit approving a facility is issued.

(5) Interrelationship with the ECPH

Applications for approval of waste disposal and recycling facilities and amendments thereto will be referred to the ECPH for review and comment.

(B) General Development and Operation Standards

(1) Requirement for Special Use or Site Development Plan

Approval of a site development plan is required for all waste disposal and recycling facilities, unless otherwise provided. Approval of a special use may be required in specific zoning districts. Waste disposal sites subject to a CD are not allowed to use the administrative special use process.

(2) Compliance with Standards of this Code

The development standards of this Code shall apply to all waste disposal and recycling facilities.

(3) Conditions of Approval

In the review of a special use for a facility governed by this Section, the BoCC retains the right to impose any technical requirements it considers appropriate in order to reasonably protect the environment and the public health and safety.

(4) Concurrent Submittals and Time Limits

A facility requiring a Certificate of Designation requires special use approval. The applications should be processed concurrently, however since CDPHE review is required, and involves time frames not within the control of the County, concurrently submitted applications are not subject to any mandatory processing time frames or time limitations to proceed to a hearing.

(5) Requirement to Pay Tipping Fees

(a) Tipping Fees to be Paid by CD Facilities

Certificate of Designation facilities are considered solid waste disposal sites and facilities and shall participate in the collection

of a solid waste tipping fee to fund solid waste planning and other solid-waste-related activities in the County as provided in the El Paso County Solid Waste Disposal Site and Facility Fund ("Tipping Fee") Resolution.

(b) State Fees Not Required to be Paid for Recycled Materials

Those facilities classified as recycling facilities or facilities where a Certificate of Designation is not required are not required to collect the fees in C.R.S. §25-16-104.5 for those wastes that are recycled.

(c) Local Tipping Fees Not Required to be Paid for Recycled Materials

Those facilities classified as recycling facilities or facilities where a Certificate of Designation is not required are not required to collect or remit to the County the fees identified in the El Paso County Solid Waste Disposal Site and Facility Fund ("Tipping Fee") Resolution for those wastes that are recycled.

(6) Construction and Stormwater Requirements

A facility approved under this Section shall comply with the requirements of the ECM and applicable federal, State, and local requirements.

(7) Outdoor Processing and Storage of Untreated or Unprocessed Waste Prohibited

Solid waste processing facilities or recycling facilities operations shall take place completely enclosed within a structure unless otherwise specifically provided for in the approved plan. Storage of untreated or unprocessed waste shall not exceed the time limits described in the approved plans, conditions of approval, or as otherwise required by the CDPHE.

(8) Odor, Animal and Vector Control

At no time shall a waste disposal site or waste processing facility create malodorous conditions or allow the harborage of animals or provide conditions allowing vectors, including the breeding of mosquitoes and flies.

(C) Operations Plan

(1) Requirement to Prepare an Operations Plan

The operational plans for facilities shall address or provide, at a minimum, the following, to the extent applicable. Additional requirements may be applicable by the State to specific types of facilities.

- Name, address, and work telephone number of the onsite operator and a brief description of his or her qualifications and responsibilities for the management and safe operation of the facility;
- Days and hours of operation;
- Tipping fee schedule, to be updated as needed;
- List of all equipment on site along with number and job descriptions of personnel on site;
- Any provision for a small (non-commercial) vehicle tipping area or recycling center;
- Depiction of the proposed sign at the facility entrance identifying the wastes the facility can and cannot accept, the hours of operation, business and emergency telephone numbers, the posted location of the Certificate of Designation, the operational plan and the site development plan, and any other pertinent information;
- Record-keeping and reporting practices, acceptable to the CDPHE and El Paso County;
- Safety and access control, including fencing, road and driveway maintenance, vehicular inspections, control of public activity, locked gates, etc., acceptable to El Paso County;
- Drinking water and sanitary provisions, acceptable to the EPCPH;
- Any provision for showers and dressing room and similar facilities for employees;
- Control of nuisance situations, including regular policing of litter in and around the facility, including adjacent roadways, and controls in relation to high winds, unsecured loads, vectors (insects, rodents, etc.), odor, dust, noise, lights, illegal dumping and minor fire, acceptable to El Paso County;
- Contingency plan to be followed in the event of essential equipment (compactor, bailer, tire shredder, etc.) breakdown, including prospect of temporary closure;
- Waste screening, including procedures and practices, recognized by the industry and federal government, for hazardous, radioactive and explosive wastes identification or detection and for isolation and removal along with requirements for a certified or EPCPH

approved instructional program for employees for handling hazardous, radioactive and explosive wastes situations and establishment of proper notification and reporting procedures to appropriate federal, State and local agencies;

- Contingency plan for short-term and long-term closure in the event of a hazardous, radioactive, explosive wastes or other emergency;
- Storage standards and spill response procedures for fluids such as oil, gasoline, and solvents used at or received by the facility, acceptable to the Sheriff's Office, local fire department, and the CDPHE and EPCPH;
- Fire control and emergency response procedures and training, including the handling of hot loads delivered to the site, fires originating within a structure, any tire piles or landfill area, fires caused by on site equipment, etc. Said procedure is to indicate specific provisions to control fires acceptable to the County Fire Marshal and the fire department;
- Medical response capabilities, including onsite first aid and availability of ambulance service, for employees, trash haulers, and customers;
- Methods of monitoring and abating potentially explosive gases and subsequent recording and reporting, acceptable to the CDPHE and El Paso County;
- Methods and procedures for monitoring groundwater quality and subsequent recording and reporting, acceptable to the CDPHE and El Paso County;
- Methods by which liquids, including leachate, associated with the facility will be monitored, captured and properly disposed along with subsequent recording and reporting, acceptable to the CDPHE and El Paso County;
- Procedures for conducting and reporting any studies, tests and inspections, including the quality assurance and quality control program, required by the CDPHE and El Paso County;
- Inclusion of any other provisions in compliance with the conditions and requirements applicable to the specific type of facility;

- Inclusion of any other provisions in compliance with any operational requirements mandated by federal or State law or regulation or local requirements; and
- Other elements, components and procedures which may be unique to the type of facility proposed.

(2) Operations Plan to Conform to CDPHE Requirements

The operations plan or design and operations plan shall comply with the applicable CDPHE requirements.

(3) Requirement to Maintain an Approved Operations Plan

A copy of the approved operations plan shall be maintained at the facility. Copies of the approved operations plan shall be placed on file at the PCD and with the local fire department.

(D) Closure Plan

(1) Requirement to Prepare and Implement a Closure Plan

Facilities shall prepare and implement a closure plan in accordance with applicable CDPHE regulation and the requirements of this Section.

(E) General Requirements Waste Disposal and Recycling Facilities Not Requiring a Certificate of Designation

(1) Trash Transfer Facility or Intermediate Processing Facilities

(a) Receive Only Household, Commercial and Industrial Wastes

Unless otherwise specifically considered and approved, a trash transfer facility or intermediate processing facility shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations and State regulations) including construction and demolition materials (containing no asbestos). Acceptance of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumping, friable asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other "special wastes" that are not classified as hazardous, toxic or highly flammable by federal or State regulation, shall not be allowed unless acceptance is allowed by State regulations, deemed appropriate by the BoCC and expressly approved, and the facility is specifically designed and approved for these wastes. All composting, co-composting, recycling, soil stripping, and incineration programs on site or

associated with the facility shall likewise require specific consideration and approval.

(b) No Radioactive Materials

No radioactive materials or materials contaminated by radioactive substance shall be disposed of at any trash transfer facility or intermediate processing facility. Detection devices and procedures shall be required to assure compliance.

(c) Transfer Standards

Refuse may be transferred from one type of containerized collection receptacle, processed by shredding, baling, or compaction to another receptacle. All solid waste received at a transfer station shall be transferred as soon as practicable. All solid wastes arriving at the transfer station that are not transferred within 24 hours of receipt shall be placed in closed containers or in totally enclosed structures, structures, or other means of cover acceptable to the CDPHE, that deter water, birds, insects, rodents and other vectors from reaching wastes. All structures where solid wastes are dumped or stored shall be equipped with doors that close or roll down.

(d) Transfer Stations Comply with Regulations

Transfer stations shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.

(e) Comply with State Design Criteria and Operations

The facility shall comply with the design criteria and operations standards of the State.

(f) Issues to be Addressed by Operational Plan

The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of all solid wastes awaiting transport to a solid wastes disposal site and facility and all materials to be recycled;

- Information regarding the proposed acquisition, location, and operation of any heavy equipment or machinery to be used in the operation;
- The parking location of any temporarily parked trash trucks or trash transfer vehicles;
- All methods of cleaning the facility and equipment;
- A detailed building plan showing the operational design of the facility;
- Information relating the primary means of selling or disposing of recycled materials and the proposed site for final disposal of the residual solid wastes; and
- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed.

(g) Solid Waste Structure Location

All structures where solid wastes are dumped or stored or areas where containerized solid wastes are stored shall be setback at least 100 feet from all property lines, and the facility site shall be fenced, landscaped, or otherwise buffered so as to minimize impacts on neighboring property. Where deemed appropriate, setback requirements may be varied.

(h) No Dumping or Storage of Waste in Open Areas

Non-containerized solid wastes shall not be dumped or stored in open areas.

(i) Additional Findings

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a trash transfer facility or intermediate processing facility:

- The facility will comply with the special use standards;
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility;
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the landfill which will be receiving its solid wastes, will adequately serve the needs of El Paso County; and

- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

(j) Closure Plan

A closure plan for a transfer station shall include a plan for the removal of all stored solid wastes and wash down liquids. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the transfer station.

(2) Infectious Waste Transfer Facilities

(a) Receipt, Storage and Transfer of Contained Infectious Waste Only

Infectious waste transfer facilities shall be limited to the receipt, storage and transfer of contained infectious waste only. No treatment or processing of infectious waste shall be sited. Non-incident solid waste functions which are not related to infectious waste transfer shall require approval by the BoCC.

Onsite, occasional and household generators are exempted from these requirements as provided by Section 13.2 of the State Solid Waste Regulations and C.R.S. §25-115-404.

(b) Applicants Required to Comply with this Section

Any applicant for an infectious waste transfer facility shall comply with the procedures, requirements, conditions and standards of this Section with the following modifications:

- The application shall specifically be processed in accordance with and maintain compliance with applicable portions of Section 13, "Infectious Wastes Disposal" of the State Solid Waste Regulations;
- All applications shall specify what general types of infectious wastes shall be accepted at the facility. This list is subject to review and approval by the BoCC;
- All applications and operational plans shall specifically identify the proposed treatment or final disposal facility to which the wastes will be transferred; and
- Operational data requirements shall be limited to those necessary to minimize any land use concerns, to assure that adequate services exist on site, to adequately address all

health, safety and security concerns, and to make certain that the disposal site accepts no other materials than those authorized.

(c) Operational and Location Standards

- (i) 200 Foot Setback from Residential Use
The facility shall be located a minimum of 200 feet from the boundary of the nearest zoning district which allows residential uses.
- (ii) Security
Fencing, signage, lighting and other security measures shall be sufficient to preclude unauthorized access and disposal. Access to the facility shall be controlled at all times to preclude unauthorized access or disposal.
- (iii) Customers Limited
The facility shall not be open to the general public, and an updated list of all customers using the facility shall be maintained by the operator.
- (iv) Transport and Handling of Infectious Waste
Transport, storage, handling and manifesting of infectious wastes shall be in accordance with Sections 13.7.5 and 13.8 of the State Solid Wastes Regulations except as more stringent requirements may be provided for in these local regulations.
- (v) Back-Up Power Supply Required
A back-up power supply shall be provided for refrigeration and a contingency plan shall be prepared to address refrigeration or other failures.
- (vi) Daily Inspection Records
Daily inspection records shall be maintained and made available pursuant to Section 13.7.7 of the State Solid Waste Regulations.
- (vii) Spill Incident Reports
Spill incident reports required in Section 13.8.5 of the State solid waste regulations shall also be provided to the EPCPH.
- (viii) Truck Washing and Disinfection

Trucks or other storage facilities shall not be washed prior to adequate disinfection. All wastewater from the washing operation shall be collected and treated in an approved and adequate central sewer system.

(ix) No Temporary Storage on Non-Designated Sites

Mobile storage units which contain transferred infectious waste shall not be temporarily stored at non-designated sites within El Paso County except under emergency conditions as defined in the facility's operational plan.

(x) Refrigeration of Wastes Stored for 48 Hours

Infectious waste to be stored longer than 48 hours shall be stored inside an enclosed structure maintained at 45°F or less which provides a minimum of 3 days storage, considering both volume (cubic yards) and weight (tons). Untreated waste may not be stored longer than 2 weeks without written permission of the CDPHE.

(d) Additional Findings

In addition to the applicable standards of review and findings, the following additional findings shall apply to an infectious waste transfer facility:

- The facility will comply with the special use standards;
- Primary and back-up power supplies are adequate;
- Refrigeration failure and other incident response plans are adequate;
- Adequate and properly trained personnel will be available;
- Access to the facility will be sufficiently controlled to preclude unauthorized access and disposal at all times;
- Facility capacity and contingency plans are adequate to address weather-related and other ordinarily anticipated disruptions in transportation to final treatment or disposal sites; and
- Radiological and hazardous waste detection and screening procedures are adequate.

(e) Closure Plan

Closure plans for final closure of the infectious waste transfer station shall include a plan for the removal of all stored wastes

and wash down liquids. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the transfer station.

The facility shall be closed in accordance with regulations in effect at the time of closure and with the closure plan, which if amended, shall be submitted for review and approval by the CDPHE 60 days prior to closure.

(3) Recycling Facilities Including Material Recovery Facilities

These requirements are applicable to a facility which qualifies as a recycling facility under Section 8 of the CDPHE regulations pertaining to solid waste disposal sites.

(a) Exemptions

The following activities and facilities are not subject to regulation by this Section:

- Drop-off or buy-back centers for recyclable materials, including household hazardous waste facilities;
- Recycling facilities that are located on the same site where the waste is generated, and that recycle or store only waste from that site (examples are: an office building that stores materials for routine pick-up by a recycler or a construction project that is processing materials derived from the project);
- Businesses that recycle materials only as a sideline or by-product of their normal business activities (examples are: a gravel operation that brings in concrete or asphalt rubble for eventual grinding into recycled aggregate or highway construction projects that process concrete and asphalt as part of the overall project);
- Composting facilities that are separately regulated under Section 14 of the State Solid Waste Regulations; and
- Facilities that collect and process automobiles, appliances or scrap metal components.

(b) Receive Only Household, Commercial and Industrial Solid Wastes

Unless otherwise specifically considered and approved, Recycling Facilities including Material Recovery Facilities shall receive only household, commercial and industrial solid wastes

(as these terms are defined by Part 258, RCRA Subtitle D Regulations) including construction and demolition materials (containing no asbestos). Acceptance of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, friable and non-friable asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other special wastes that are not classified as hazardous, toxic or highly flammable by federal or State regulation, shall not be allowed.

(c) No Radioactive Materials

No radioactive materials or materials contaminated by radioactive substance shall be accepted, transferred, or processed at any recycling facility including material recovery facilities station. Detection devices and procedures shall be required to assure compliance.

(d) Materials Recovery Facilities to Comply with Regulations

Material recover and recycling facilities shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.

(e) Comply with State Design Criteria and Operations

The facility shall comply with the design criteria and operations standards of the State.

(f) Issues to be Addressed by Operational Plan

The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of all solid wastes awaiting transport to a Solid Wastes Disposal Site and Facility and all materials to be recycled;
- Information regarding the proposed acquisition, location, and operation of any heavy equipment or machinery to be used in the operation;
- The parking location of any temporarily parked material trucks or material transfer vehicles;

- All methods of cleaning the facility and equipment;
- A detailed building plan showing the operational design of the facility;
- Information relating the primary means of selling or disposing of recycled materials and the proposed site for final disposal of the residual solid wastes; and
- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed.

(g) Solid Waste Structure Location

All buildings where solid wastes are dumped or stored or areas where containerized solid wastes are stored shall be located at least 100 feet from all property lines, and the facility site shall be fenced, landscaped or otherwise buffered so as to minimize impacts on neighboring property. Where determined to be appropriate, location requirements may be varied in the approval of a facility.

(h) Fencing Required

The facility shall be adequately fenced with a minimum of 6 feet chain link fence or equivalent, so as to prevent all loose waste material and debris from escaping and to provide security from unauthorized access to the facility. Loose materials and debris shall not be allowed to accumulate along the fence line.

(i) Minimum Site and Facility Standards

(i) Minimize Dust

Recycling facilities shall be operated and managed to minimize the potential for release of contaminants to groundwater and to minimize the creation of dust and odors or other nuisance conditions.

(ii) Operations Subject to Blowing Operated Indoors

Where a recycling facility processes paper waste, all unloading, processing, baling, or otherwise consolidating of paper waste that is subject to blowing shall be located completely indoors. Outdoor storage of bales is allowed.

(j) Recycling Plan

The recycling plan shall include, but not be limited to:

- Items to be recycled may include but not be limited to: glass, plastic, paper, cardboard, aluminum and other metals, tires, oil and batteries;
- Detail of recycling process, beginning with initial disposition at the facility to final recovery point;
- Conceptual floor plan outlining process;
- Methods of recycling (mechanical vs. non-mechanical). If mechanical, list number and type of equipment;
- Number of employees and work stations of employees;
- Storage and disposition of recycled products; and
- Estimate of quantities/volumes of recycled products.

(k) Reporting

The County shall be included in any reporting required by CDPHE regulations

(l) Additional Findings for a Recycling Facility

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a recycling facility:

- The facility will comply with the special use standards;
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the materials will adequately serve the needs of El Paso County; and
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

(m) Closure

At the termination of a recycling activity, a facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the recycling facility.

All solid waste and all other materials shall be removed from the facility prior to closure and potential nuisance conditions shall be

addressed. All wastes shall be taken to an appropriate solid waste site and facility for proper management or disposal.

(4) Composting Facilities, Yard Waste Recycling Facilities

These requirements are applicable to all facilities that compost, incorporate into compost, or utilize in a composting process any organic solid waste that can be biologically decomposed, including, but not limited to, food and green waste, manure, animal products, sawdust, and paper.

(a) Exceptions

The regulations of this Section do not apply to:

- Backyard composting, processing yard or landscaping waste into mulch, or a business that accepts finished compost for bagging or handling;
- Agricultural composting if: (1) compost materials are derived from onsite agricultural activities by the generator only; and (2) the facility only imports other compatible materials in quantities necessary for effective composting as part of a standard agriculture practice; and (3) composting activities that occur at the site of generation or contiguous property owned or leased by the generator; and
- The composting of biosolids with other materials under regulations promulgated pursuant to C.R.S. §25-8- 205 (1)(e).

(b) Regulatory Applicability

All composting facilities shall comply with the minimum standards as defined herein, and shall be in compliance with all applicable federal, State or local statutes, regulations, requirements or ordinances.

(c) Minimum Standards of Operation for Composting Facilities

All composting facilities shall operate in a manner to:

- Control surface water flowing onto the site and prevent surface water from leaving the site;
- Control onsite and prevent off-site nuisance conditions such as noise, dust, odors, vectors and windblown debris;
- Prevent water pollution at or beyond the site boundaries; and
- Control access to prevent illegal dumping.

(d) Additional Findings for a Composting Facility

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a composting facility:

- The facility will comply with the special use standards of Chapter 5.
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility.
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the materials, will adequately serve the needs of El Paso County.
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

(e) Closure Plan

If at any time a composting facility ceases operation, including the discontinued receipt, processing and sale of materials, for more than 180 days or otherwise approved by the PCD and the BoCC, the owner or operator shall begin implementation of its closure plan. Closure activities shall not exceed 90 days in length. Extension of the closure period may be granted by the BoCC if the owner or operator demonstrates that closure will of necessity take longer than 90 days and all measures necessary to prevent threats to human health and the environment will be taken. On implementation of the closure plan, the facility shall provide written notification to the CDPHE and the BoCC.

(f) Post-Closure Care and Maintenance

Following closure of the facility, a notation shall be placed on the deed notifying any potential purchaser that the property has been used as a composting facility.

The post-closure care and maintenance period shall be for a minimum of 5 years and shall consist of:

- Continued monitoring and sampling of groundwater or surface water; and
- Inspection and maintenance of any cover material or vegetation.

(5) Waste Tire Recycling Facilities

These requirements are applicable to all facilities that accept waste tires for recycling, including shredding, splitting, baling, or whole tire storage where the tires are not being landfilled.

(a) Exceptions

The use of a portable shredder, splitter, or baler at the site of a retail or wholesale tire store is not subject to these requirements unless the recycled tire materials are to be stored on site for a period longer than one week. Waste tire recycling at a approved solid waste disposal site requires no special approvals provided the recycling activity is identified in the approved operations plan.

(b) Regulatory Applicability

Waste tire recycling facilities shall comply with the minimum standards as defined herein, and shall be in compliance with all applicable federal, State or local statutes, regulations, requirements or ordinances.

(c) General Requirements and Limitations

(i) Accept Whole, Split, Baled, or Shredded Waste Tires

These facilities may only accept whole, split, baled, or shredded waste tires, including reusable whole tires, unless specifically approved by the BoCC to accept other materials.

(ii) No Retail Sales

No retail sales shall be allowed from these facilities unless sited by zoning and specifically allowed by the BoCC.

(iii) Comply with Regulations

Waste tire recycling facilities shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission,

and all other applicable local laws, ordinances and regulations.

(iv) Comply with State Design Criteria

The facility shall comply with the design criteria and operations standards of the State.

(v) No Storage of Excess Tires

The quantity of tires stored above-ground on site will not exceed that amount necessary for the effective conduct of business.

(vi) No Tipping Fees for Recycled Material

A waste tire recycling facility is not required to pay tipping fees to El Paso County because the waste is recycled.

(d) Operating Plan

The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of waste tires to be recycled, including provisions limiting sizes of individual tire piles to a height and width that allows for sufficient fire lanes and proper control and management as specified by the County Fire Marshal and the pertinent fire department;
- Information regarding the proposed acquisition, location, and operation of any tire shredding machine or other heavy machinery to be used in the tire recycling operation;
- Information regarding the sale or disposition of tires or tire products;
- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed; and
- All of the operational requirements contained in or imposed through Section 8 of the State Solid Waste Regulations.

(e) Site Conditions and Operating Standards

(i) Stockpiling of Tires Limited

The stockpiling of reusable tires at either of these facilities shall not exceed that minimally necessary for the conduct of the applicant's tire resale business, and in

- no case more than 10,000 tires unless justified by the applicant and specifically approved by the BoCC. All stockpiles shall be stacked no more than 6 feet high.
- (ii) Control of Drainage
- Any surface drainage entering into or originating in the facility shall be controlled so that it does not flow into the storage areas, and any surface flows leaving these areas shall be minimized and controlled so as to create no significant degradation as to water quality. Surface flows in any area where tire shredding activity or shredded tire storage is occurring shall be fully retained, and all tire-pollutants shall be removed to the maximum extent practicable or as otherwise prescribed by federal or State Statutes. No tires shall be placed within any drainage way or in any storage area below groundwater level.
- (iii) Disturbed Soils
- The design and operation of the facility shall be such as to minimize the quantity of disturbed surface area on the site. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.
- (iv) No Storage of Tires in Floodplain
- No storage of waste tires shall occur within any regulated floodplain or within any drainage way or wetland without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of the drainage way or wetland.
- (v) Fencing and Landscaping
- Fencing, landscaping and berming shall be installed as necessary for appropriate buffering to visually screen the operation from surrounding properties and nearby roads.
- (vi) Cell Size of Stockpiles

In no case shall storage piles of whole tires, tire bales, or tire shreds that are stored on open ground or in cells be larger than 50 feet in width, 250 feet in length. If stored in below grade cells, tires shall not exceed 30 feet in depth. If stored above grade, tire height shall not exceed 10 feet. Any required berming between cells or piles shall equal the depth or height of the adjoining cells or piles. An approved field measurement system shall be employed to facilitate estimates of pile dimensions.

(vii) Separation of Stockpiles

A minimum of 40 feet shall be maintained between piles of whole, shredded, or baled tires to allow access for firefighting equipment.

(viii) Clear Area Between Stockpiles and Buildings

A minimum distance of 50 feet of clear area is to be maintained from all buildings and property lines when surface level tire piles are utilized.

(ix) Location of Excavated Storage Areas

Any excavated areas for storing waste tires shall be at least 100 feet from all buildings and property lines.

(x) Location of Processing

Any tire shredding, splitting, baling, or processing equipment shall be situated at least 200 feet from all property lines or onsite hydrants or cisterns used for fire control, and at least 500 feet from any whole tire storage cells.

(xi) Variation in Setback Requirements

Setback requirements may be varied in the approval of the site development plan and operating plan after recommendation by the fire department, where deemed appropriate.

(xii) All Weather Access Roads

The facility shall maintain all-weather access roads to those areas of active operation and as necessary to meet the obligations of the fire control plan.

(xiii) Litter and Vegetation Control

- The facility shall collect litter in order to avoid a fire hazard or a nuisance and control the growth of vegetation to minimize potential fuel sources.
- (xiv) Security
- Adequate fencing, natural barriers or other security measures to preclude public entry shall extend around the entire perimeter of the facility and shall include a lockable gate or gates.
- (xv) Facility to be Signed
- Prominent signs shall be posted in public view at the entrance to the facility with the name of the facility, the hours which the facility is open for public use, a listing of the wastes accepted at the facility, and a phone number for a 24-hour emergency contact.
- (xvi) Telephone Required
- The operator shall maintain a working telephone at the facility.
- (xvii) Vector Control Plan
- The operator of a waste tire facility shall have a written vector control plan that shall be submitted to the BoCC. If pesticides are used in vector control efforts, they shall be used in accordance with the Pesticide Applicator's Act, C.R.S. § 35-10-101, et seq.
- (xviii) Attendant
- During all stages of operation the facility shall have an attendant who is responsible for site activities.
- (f) Fire Protection**
- (i) Fire Control Plan
- The operator shall submit a fire control plan specifying the facility's fire lane locations and widths, the means that are assumed to be used to extinguish fires, and designation of a facility emergency coordinator.
- (ii) Plan to Conform to Fire Department

The fire control plan shall be in accordance with local fire codes and the plan shall be written by a qualified professional and submitted to and approved by the Fire Marshall and the applicable fire department prior to beginning operations. A copy of the local fire control authority approval shall be forwarded to the CDPHE.

(iii) Equipment to Suppress Fire Available

Adequate heavy equipment for the purposes of suppressing a tire fire shall be kept available within the vicinity of these facilities. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-tire fires shall be maintained at the facilities, and with any operating equipment such as shredders, balers, etc. The applicant shall make other arrangements for the fighting and prevention of fires at the facilities as are satisfactory to the Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

(iv) Design to Reduce Spread of Fire

Measures will be incorporated into the design of the request to adequately reduce the spreading of any potential tire fires.

(g) Reporting Requirements

(i) Annual Report Submitted by May 1

An annual report shall be submitted by the facility by May 1 of each year. The report shall state the amounts of waste tires received at the facility, processed, disposed of onsite, and shipped off-site for the preceding calendar year.

(ii) Inventory

Inventory of waste tires shall be tracked by the operator of the facility in and out of the facility, with the inventory including a precise correlation of quantities of the tires

with their identified source and final destination. Copies of these reports shall be submitted to the PCD and EPCPH on at least an annual basis or more frequently if so directed by the BoCC.

(iii) Notification of Emergency

The facility shall immediately notify the EPCPH and the CDPHE in the event of a fire or other emergency. Within 2 weeks of this notification, the facility shall submit a report on the emergency to the Department and the BoCC. This report shall describe the origins of the emergency, the actions that have been taken, actions that are currently being taken or are planned, results or anticipated results of these actions, and an approximate date of resolution of the problems generated by the emergency.

(h) Additional Findings for a Waste Tire Recycling Facility

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a waste tire recycling facility:

- The facility will comply with the special use standards of Chapter 5.
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility.
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the recycled tires will adequately serve the needs of El Paso County.
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

(i) Closure Plan

At the termination of a recycling activity, a facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal. The CDPHE

and the County shall be notified, in writing, of temporary or permanent closure of the recycling facility.

All solid waste and all other materials shall be removed from the facility prior to closure and potential nuisance conditions shall be addressed. All wastes shall be taken to an appropriate solid waste site and facility for proper management or disposal.

(6) Inert Material Disposal Sites

These requirements are applicable to all facilities that are considered an inert material disposal site.

(a) Special Use Permit Required

Any person desiring to operate an inert material solid waste disposal site which does not qualify for exception below as a minor inert material disposal site shall make application for special use approval to PCD.

(b) Minor Inert Material Disposal Site Exception

(i) Applicability and Exemption

A minor inert material disposal site that satisfies the requirements of this Section is not required to secure a special use permit or comply with the general waste disposal and recycling facility requirement.

(ii) Compliance with Other Applicable Laws

A minor inert material disposal site shall satisfy all other federal, State, and local regulations and requirements, including those pertaining to floodplains, wetlands preservation, water quality protection, and dust and erosion control.

(iii) Limits on Type of Inert Material

The only inert material being disposed of is earth, sand, gravel, rock, hardened concrete, or masonry.

(iv) Filled with Landowner Consent

The disposal site is being filled, with the knowledge and consent of the landowner, for the primary purpose of leveling, raising, or otherwise preparing land for road or building construction or other allowed land use that requires a leveled, raised, or prepared surface.

(v) Limit on Amount of Material

The total amount of inert material to be placed on the site is less than 100,000 cubic yards and covers 10 acres or less of land, and the disposal site is not adjacent to another property which was filled pursuant to this exception during the past 18 months.

(vi) **Covered and Revegetated**

The filling operation, including compacting and leveling of all disposed material, is covered with at least 6 inches of soil and revegetated in accordance with the ESQCP, or road or building construction is commenced and will be completed within 12 months of initial disposal activity.

(vii) **Filling Activity Complies with ECM**

The filling operation shall be in compliance with the ECM and any applicable permit.

(viii) **Filling Activity Complies with Noxious Weed Plan**

The filling operation shall be in compliance with the noxious weed management plan requirements of this Code.

(ix) **Failure to Comply with Standards**

Failure to comply with any of these requirements, as determined by the PCD Director, either before or after starting the activity, requires compliance with the special use permit provisions of this Code and any applicable general waste disposal and recycling facility requirements.

(c) Disposal Limited

Disposal of inert material at any approved site shall be limited to earth, sand, gravel, rock, hardened concrete, masonry, asphalt paving fragments, scrap lumber and plywood, waste or diseased trees, drywall, shingles, and other demolition or construction wastes approved through this review process. It does not include, among other things, asbestos or anything containing hazardous or toxic wastes or materials, yard clippings or other organic wastes, waste tires, junked vehicles, sludge or industrial wastes or by-products, or petroleum or other contaminated soil.

(d) Conditions and Standards

Any applicant for an inert material disposal site shall be required to comply with the procedures, requirements, conditions and standards of this Code, with the following modifications:

- (i) **Applications to Specify Materials to be Disposed**

All applications shall specify what types of inert materials are proposed to be disposed at the proposed site. This list is subject to review and approval by the BoCC.
- (ii) **Reports Required**

The following reports are required in addition to any special use requirements: operational plan, visual impact analysis, traffic impact analysis, noxious weed management plan, ultimate land use analysis, and drainage and erosion control plan. Appropriate geological, hydrological, and engineering information also may be required by the PCD Director, when considered necessary. Operational data requirements will be limited to those necessary to minimize any land use compatibility concerns, to assure that adequate services exist on site, and to make certain that the disposal site accepts no other materials than those authorized. A satisfactory reclamation plan, including sufficient evidence of ability and intent to complete said plan on closure, shall be submitted with the application.
- (iii) **Not Located in Floodplain**

No inert material solid wastes disposal site shall be located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and Section 404 (Federal Clean Water Act) permits have been obtained. Any proposed inert material disposal that will likely have a significant negative impact on water quality or drainage flow patterns will be regarded unfavorably.
- (iv) **Limited Excavation and Mounding**

An inert material solid wastes disposal site shall be designed such that no significant excavation is needed to create room for the disposed materials and such that there is not a "mound" of disposed material that creates

a significant grade and height difference with the surrounding terrain, unless the ultimate, use of the property (as allowed by zoning) would establish a need for a mound. A site development plan detailing the size, configuration, and final reclamation and use of the disposal site shall be submitted to the PCD with the application.

(v) Notation on Property Title

The existence and extent of the inert material disposal site shall be duly noted on the title of the property where it is located and recorded with the Clerk and Recorder prior to the commencement of dumping activity.

(e) Closure Plan

At the termination of acceptance of inert material the facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal.

(G) Certificate of Designation Facilities

(1) Applicability

These requirements are applicable to all facilities that are considered a solid waste disposal site and facility, including:

- Solid Waste Landfill
- Waste Tire Disposal (Monofill) Facilities
- Infectious Waste Disposal Facilities
- Composting Facilities requiring a CD

(2) Minimum Standards for Certificate of Designation Facilities

(a) General Requirements and Conditions

(i) Allowed by Zoning

A Certificate of Designation shall only be considered and approved in those zoning districts where the specific is allowed by use subject to special review.

(ii) Comments from CDPHE Required

A request for Certificate of Designation will be forwarded to the CDPHE for review based on the standards and criteria as outlined in the "Regulations Pertaining to Solid Wastes Disposal Sites and Facilities". A submittal will be not be deemed complete and scheduled for hearings before the Planning Commission when a final set of

review comments have been received from the CDPHE, provided the applicant has complied with all previous information requests and submittal requirements of the PCD, EPCPH and CDPHE.

(iii) CDPHE Recommendations Binding

The conditions and binding recommendations of the CDPHE review shall be adopted as minimal conditions of approval. Other conditions may be imposed by the BoCC in addition to conditions and binding recommendations of the CDPHE. A petition shall not be scheduled for the BoCC hearing until all State recommendations have been satisfied that are a condition precedent to the approval of the Certificate of Designation.

(iv) Comply with All Other Regulations

The operator or owner of the facility shall comply with the laws, standards, rules, regulations and orders of the EPA, the CDPHE, the Colorado Water Quality Control Commission, and all applicable zoning and other laws and regulations of El Paso County.

(v) Right of Entry

Personnel from the EPCPH , PCD, and other involved County departments shall have a right to enter this property during regular business hours, without notice, for the purpose of inspecting for compliance with the terms and conditions of the Certificate of Designation. During the inspections, the EPCPH and County employees may take samples of the waste, soil, air or water and analyze said samples in order to detect the nature and concentration of any contaminants and may test or otherwise check any environmental monitoring equipment on site. Inspections will be performed by the EPCPH and by County employees in conformance with recognized health and safety procedures. The County will allow the facility owner or operator the opportunity to be present during any sampling activity. On request by

the owner or operator at the time of inspection, the County employees will provide split or duplicate samples of materials they collect. The collection and analysis of any waste, soil, air, or water samples will be performed following standard operating procedures and quality control and quality assurance standards.

(vi) Owned and Operated by Applicant

The facility and the facility site shall be solely owned and operated by the applicant. If the applicant is a corporation or partnership, all stockholders and interest holders owning or controlling rights in 20% or more of the total interests in the corporation or partnership, along with managing partners and corporate officers, shall be identified. Any parent corporations or other controlling entities shall likewise be identified. The holder of any Certificate of Designation has an ongoing duty to comply with this requirement and to notify the BoCC as to any changes in this regard.

(vii) No Transfer of CD

A Certificate of Designation is personal to the specified owner and operator of the approved facility and may not be transferred or assigned without the consent of the CDPHE and the BoCC, which action may include a review and modification of the terms and conditions of approval for the facility in accordance with then existing laws and regulations.

(viii) Proof of Adequate Financial Resources

Proof may be required that the applicant has adequate financial resources or is sufficiently capitalized and has adequate material resources and experience (including a past record of quality performance in solid wastes operations) to properly operate the facility and comply with all conditions and requirements. In the event the BoCC determines based on evidence in the record that an applicant does not have the resources or abilities in this regard, additional guaranties or financial assurance from a parent or other closely related corporation,

individual stockholder or interest holder, or other source may be required.

- (ix) **Obtain All Permits Before Operation**

Prior to commencement of operation of the facility, all required construction, air and water quality permits shall be obtained and copies provided to the PCD. A final determination by the appropriate enforcement agency as to noncompliance with any air or water quality permit by the owner or operator may be considered as cause by the BoCC for revocation or suspension of a Certificate of Designation. A determination to suspend or revoke a Certificate of Designation shall be made by the BoCC based on the evidence in the record following appropriate notice and during a public hearing conducted in the same manner as an original approval
- (x) **Compliance with All Criteria and Restrictions**

The facility shall be subject to and comply with all criteria, specifications, procedures, and restrictions contained in the Certificate of Designation application as submitted or amended by the applicant unless said criteria, specifications, procedures, and restrictions are inconsistent with or have been modified by the conditions and requirements imposed by the CDPHE or the BoCC. As a condition of approval, the BoCC may require that the applicant revise its application documents and plans to be consistent with all conditions and requirements imposed and to serve as a legally controlling document for the operation of the facility
- (xi) **Most Restrictive Provisions Apply**

Any federal or State statute, regulation or other authority which is more restrictive or specific than those requirements and conditions imposed under this Section shall be applicable.
- (xii) **CD Only Valid in Accordance with Financial Assurances**

The Certificate of Designation shall only be valid as long as any financial assurances as required by statute or the CDPHE are valid.

(xiii) Only Household, Commercial and Industrial Solid Wastes

Unless otherwise specifically considered and approved, a solid wastes disposal site and facility shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations) including construction and demolition materials (containing no asbestos). Disposal of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other "special wastes" that are not classified as hazardous, toxic, or highly flammable by federal or State regulation, shall not be allowed unless disposal is allowed by State regulation and expressly approved after conformance with all applicable federal, State and local laws and regulations. All composting, co-composting, recycling, soil stripping and incineration programs and leachate impoundments on site or associated with the facility shall likewise require specific consideration and approval.

(xiv) Application to Provide Sufficient Evidence

The application for the Certificate of Designation shall include all information required by, along with sufficient evidence that the facility can and will comply with all standards, criteria, procedures, and restrictions of, Sections 2, 4 and 6 (as applicable) of the State solid waste regulations and the provisions of Part 258 of the RCRA Subtitle D Regulations, including design criteria and groundwater and other monitoring and analysis.

(b) Operating Plan Requirements

All criteria, specifications, standards, procedures and restrictions included into the application documents and plans shall be reasonably sufficient to substantially alleviate or mitigate all health, safety, environmental and land use risks and impacts that will be or will likely be related to or caused by the operation of the proposed facility. Any risks or impacts unique to the

proposed facility or site or that were not otherwise reasonably anticipated may be subject to additional conditions and requirements, not specified herein, that the CDPHE or the BoCC determine, based on the evidence in the record, will effectively work to substantially alleviate or mitigate these risks or impacts. The BoCC has the authority, in its own discretion, to determine what level of evaluation of risks and impacts shall be undertaken.

(c) Site Conditions and Operating Standards

- (i) **Public Display of CD**

Prior to commencement of operation, the Certificate of Designation shall be publicly displayed in a prominent place at the facility, and placed on file with the PCD and the fire department. The Certificate shall include the approved operational plan and any approved site development plan of the facility.
- (ii) **Fenced**

The facility shall be adequately fenced so as to prevent all loose waste material and debris from escaping the property and to provide security from unauthorized access to the facility. Loose materials and debris shall not be allowed to accumulate along the fence line.
- (iii) **Only on Property Included in CD and Special Use**

All activities approved for the facility shall be conducted exclusively within the legally described boundaries of the area for which the Certificate of Designation was issued and for which the special use approval was granted. All structures, operations, activities, and equipment situated or conducted on the facility site shall be limited to those indicated in the approved application and site development plan or approved amendment.
- (iv) **Double Fee for Unsecured Loads**

The facility operator shall collect double the normal fee from all vehicles entering the facility with unsecured loads. A load may be secured by adequate enclosure, containerization, roping, or tarping. A log of unsecured loads shall be maintained by the operator, including date of the incident, identity of the vehicle and its driver, and

type of waste. Said log shall be available for inspection by EPCPH and County staff at any time during regular business hours of the facility.

(v) Access Adequate

All roads providing access to and from and driveways into and throughout the facility shall be of sufficient size, structure, and design to handle the type and level of traffic typically associated with such a facility. The facility shall be served by all-weather roads, driveways and parking areas, all of which shall be treated or surfaced so as to prevent dust nuisances to neighbors and any violations of fugitive dust regulations. To the extent applicable, the ECM and any adopted access standards shall control. If any transportation improvements are indicated, the applicant shall prepare and execute a transportation improvements agreement, in consultation with the appropriate federal, State and local highway authorities. At a minimum, the agreement shall specify the type and timing of the needed improvements, the standards and criteria to which the improvements shall be constructed, any maintenance or future upgrade responsibilities, and the method of financing the improvements.

(vi) Maintenance Area for Equipment

Any facility maintenance area for the repair or upkeep of vehicles or heavy equipment shall be indicated on the site development plan. Adequate safety and environmental protection procedures shall be established in the operational plan for the storage of any liquids other than water and for a response in the event of a spill or leak of fuels, oils, solvents, and other hazardous or flammable liquids. Berming, impervious surfaces and liquid collection systems may be required. Unless otherwise approved by the BoCC, all heavy duty repairs or maintenance of vehicles and heavy equipment on site involving significant disassembling of engines or

- machinery shall be conducted inside of an enclosed structure with a concrete floor.
- (vii) Water Needs
- The applicant shall identify all potable and non-potable water needs at the facility along with the likely source of the water supplies. In particular, the applicant shall demonstrate that it can obtain regular and adequate water supplies for specified fire needs, dust control, cleaning, and the construction and maintenance of liners for solid wastes disposal sites and facilities.
- (viii) Area Markers
- Prior to commencement of operation of the facility, permanent visible markers shall be placed delineating the area for the approved Certificate of Designation site.
- (ix) Ceasing and Resuming Operations
- In the event that the operator ceases operations at the facility for in excess of 180 days, the BoCC may demand, in writing, that the operator resume operations by a specified date or, if this is not possible, initiate final closure activity. Failure by the operator to comply with this demand shall enable the BoCC, after notice to the operator and the holding of a public meeting on this matter, to undertake all necessary and prudent actions for the closure of the facility.
- (x) No Landfilling in Drainage ways
- No landfilling shall occur within any regulated floodplain under any circumstances nor within any drainage way, wetland, or geologic hazard areas without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of drainage ways, wetlands, or geologic hazard areas.
- (xi) No Radioactive Materials
- No radioactive materials or materials contaminated by radioactive substances shall be disposed of at any Solid Waste Disposal Site or facility not specifically approved

for that purpose. Detection devices or procedures shall be required to assure compliance.

(xii) Drainage Controlled

Any surface drainage entering into or originating in the facility shall be controlled so that it does not flow into active or completed landfilling areas, unless otherwise approved by the BoCC as part of a facility's drainage and erosion control plan. Surface flows, coming in contact with refuse, at the working face or otherwise, shall be fully retained, with all waste-related pollutants being removed to the maximum extent practicable or as otherwise prescribed by federal or State law. Any proposed or recommended diversion structures shall be designed in accordance with the ECM. All detention facilities and diversion structures shall be regularly tested for hazardous or toxic contamination, as established in the approved operational plan, and shall be subject to any necessary corrective action as specified by the CDPHE and the EPCPH.

(xiii) Minimize Disturbance

Surface area disturbances within the Certificate of Designation site shall be no more than is absolutely necessary for the effective and efficient operation of the facility. The applicant shall document and justify the maximum surface area to be disturbed at any one time. Adequate erosion control measures shall be designed and implemented to minimize soil loss from the site. All disturbed areas that can be reclaimed shall be subject to a diligent program of stabilization and revegetation to blend with the surrounding terrain. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.

(xiv) Drainage and Erosion Control Plan Review

The drainage and erosion control plan shall be subject to review and comment by the EPCDPW, CGS, and NRCS.

(xv) Operational Plan

The Operational Plan for the facility shall require, among other things, that: (1) a minimum of 6 inches of cover soil or other approved cover shall be placed over all exposed refuse at the end of each working day; (2) the working face (area where refuse is exposed) of the active landfilling area shall be limited, at any given moment, to a total area of 22,500 square feet unless a larger working face is justified by the applicant and approved by the BoCC; (3) any landfilling and onsite borrowing activity shall not be conducted outside the areas specified within the approved site development plan; (4) any landfilling cells shall be constructed and filled in the manner and sequence prescribed by the approved application and site development plan; (5) the operator shall further restrict the size of the working face, install movable fencing downwind of the face, and implement other effective blowing trash controls during windy periods and shall totally cease landfilling operations during "high wind warnings", as defined by State solid waste regulations; (6) the operator shall remove all blown litter on site and within a mile downwind of the facility within 48 hours following a high wind warning, as defined by State solid waste regulations, or other defined period of sustained wind, as approved by the BoCC in the Operational Plan; and (7) an adequate waste screening process and training program will be implemented for the detection and prevention of disposal of regulated hazardous and toxic wastes.

(xvi) Equipment for Suppressing Fires

Adequate heavy equipment for the purposes of suppressing a landfill fire shall be maintained at the facility. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-landfill fires shall be maintained at the facility. The applicants shall undertake to make such other arrangements for the fighting and prevention of fires at the facility, as are

satisfactory to the County Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

(xvii) Setbacks from Landfill Cells

Any excavated cells for landfilling shall be at least 100 feet from all buildings and property lines. Where appropriate, setback requirements may be varied. Fencing, landscaping and berming shall be installed as necessary for appropriate buffering.

(d) Reporting Requirements

The operator or owner shall prepare and submit all reports and other information designated by the BoCC as necessary to monitor the activities of the facility. All operating records shall be made available, on request, to the County and the CDPHE.

(e) Additional Requirements for Waste Tire Disposal Facilities

(i) Tire Storage Limited

The above-ground storage, sorting or recycling (including shredding, baling, or splitting) of tires may be allowed at a waste tire only disposal facility if these activities are outlined in the approved operational plan and are clearly incidental to the primary purpose of the operation.

(ii) Tire Acceptance

These facilities may only accept whole, split, baled, or shredded Waste Tires, including reusable whole tires, unless specifically approved by the BoCC to accept other materials.

(iii) General Operational Plan Inclusions

For a waste tire disposal facility which has a recycling component, the operational plan shall, among other things, satisfactorily address or provide: (1) interim storage of waste tires to be recycled in accordance with the requirements for waste tire recycling facilities, including provisions limiting sizes of individual tire piles

to a height and width that allows for sufficient fire lanes and proper control and management as specified by the County Fire Marshal or the pertinent fire department; (2) information regarding the proposed acquisition, location, and operation of any tire shredding machine or other heavy machinery to be used in the tire recycling operation; (3) information regarding the sale or disposition of tires or tire products; (4) an alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed; and (5) all of the operational requirements contained in or imposed through Section 9 of the State solid waste regulations.

(iv) Inventory

For a waste tire disposal facility which has a recycling component, the inventory of waste tires shall be tracked by the operator of the facility in and out of the facility, with said inventory including a precise correlation of quantities of the tires with their identified source and final destination. Copies of these reports shall be submitted to the PCD and EPCPH on at least an annual basis or more frequently if so directed by the BoCC.

(v) No Retail Sales

No retail sales shall be allowed from these facilities unless allowed by zoning and specifically designated by the BoCC.

(vi) Maximum Stockpile

The stockpiling of reusable tires at either of these facilities shall not exceed that minimally necessary for the conduct of the applicant's tire resale business, and in no case more than 10,000 tires unless justified by the applicant and specifically approved by the BoCC. All stockpiles shall be stacked no more than 6 feet high.

(vii) Operational Plan to Address Tire Storage and Processing

The operational plan shall, among other things, satisfactorily address or provide: (1) all waste tires to be landfilled shall be split, halved, quartered, baled,

chipped, crumbed, or shredded and placed into individual landfilling cells not to exceed 50 feet in width and 250 feet in length with a tire depth of no more than 30 feet; one million tires each; (2) no more than 2 cells shall be operational or under construction at any one time; (3) no more than 12,500 square feet of landfilled tires shall be exposed to view at any one time (one cell); (4) all landfilled tires shall be regularly covered with soil to a depth of at least 2 feet; (5) each cell shall be separated by a minimum of 40 feet for fire department access; and (6) all applicable operational requirements contained in or imposed through Section 9 of the State solid waste regulations.

(viii) Drainage Control

Any surface drainage entering into or originating in either of these facilities shall be controlled so that it does not flow into tire disposal or storage areas, and any surface flows leaving these areas shall be minimized and controlled so as to create no significant degradation as to water quality. Any proposed or recommended diversion structures shall be designed in accordance with the ECM. Surface flows in any area where tire shredding activity or shredded tire storage is occurring shall be fully retained, and all tire-pollutants shall be removed to the maximum extent practicable or as otherwise prescribed by federal or State law. No tires shall be placed within any drainage way or in any cell below groundwater level.

(ix) Minimize Disturbed Area

The design and operation of these facilities shall be such as to minimize the quantity of disturbed surface area on the site. All areas disturbed in the initiation of the operation of these facilities which can be reclaimed and all berms, soil piles, or completed landfill cells shall be diligently stabilized and revegetated to blend in with the surrounding terrain. All grading or soil disturbance activity on site shall be conducted in a manner

consistent with all federal, State and local requirements, including those applicable to air quality.

(x) No Landfilling in Floodplain

No landfilling or storage of waste tires shall occur within any regulated floodplain under any circumstances nor within any drainage way or wetland without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of the drainage way or wetland.

(xi) Equipment for Suppressing Fire

Adequate heavy equipment for the purposes of suppressing a tire fire shall be kept available within the vicinity of these facilities. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-tire fires shall be maintained at the facilities, and with any operating equipment such as shredders, balers, etc. The applicants shall undertake to make such other arrangements for the fighting and prevention of fires at the facilities, as are satisfactory to the County Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

(xii) Setbacks of Tire Storage

All surface-level tire piles shall be set back at least 50 feet from all buildings and property lines. Any excavated cells for landfilling or storing waste tires shall be at least 100 feet from all buildings and property lines. Any tire processing, shredding, splitting, or baling equipment shall be situated at least 200 feet from all property lines, and the location of the equipment and any associated fuel storage or energy supply is subject to approval by the County Fire Marshal. Setback requirements may be varied in the approval of the site development plan or

operational plan where deemed appropriate. Fencing, landscaping and berming shall be installed as necessary for appropriate buffering.

(H) Submittal Requirements

(1) Application Required

An application shall be completed on the appropriate form. The application shall include signatures of the operator and owners of all equitable and legal interest in the property site where the facility is proposed to be located (hereinafter referred to as "facility site") and the proposed facility.

(2) Modification of Submittal Requirements

Where appropriate the PCD Director may waive or modify the submittal requirements for the additional reports identified in the submittal list.

(a) Waiver Request Required

Prior to any complete application being submitted, a waiver request is to be initiated by the applicant submitting a detailed letter to the PCD Director listing and justifying what report requirements should be waived and stipulating what other information would be provided instead. After notification to and receipt of comments and recommendations from all State and local agencies which would ordinarily review said reports the Director may grant the request, modify the report requirements, or deny the request, as he deems appropriate.

(b) Approval of Waiver

Approval of any waiver request shall not constitute a relinquishment of the right of the CDPHE, PCD or BoCC, on determining there is a reasonable need, to later request specific information that might ordinarily be included in a report that was waived.

(3) Application Filing Fees

(a) Application Fees Paid

Application fees in accordance with the fee schedule are to be paid to El Paso County on final submittal of the application to the PCD, after any modifications to the plans are made to the satisfaction of the CDPHE.

(b) Reduction in Fees

In cases where the proposed operation is of a limited scale and complexity or duration, the applicant may request that the BoCC reduce the submittal fee to that for a Minor Certificate of Designation.

(c) Amendments Subject to Adopted Fees

Amendments to approved Certificate of Designations shall be subject to a fee as identified in the fee schedule.

(d) Applicant Required to Pay Outside Agency Review Fees

In the event that agencies designated by the PCD to review applications submitted under this Section charge for the reviews, the applicant shall pay charges prior to any hearing. The applicant may also be required to pay, prior to any hearing, the costs incurred by the County in retaining any contracted consultant or expert to review and analyze the application and associated technical information. The extent and nature of the costs should be established between the applicant and the County prior to contracting for the services.

(4) Notice Requirements

In addition to those notice requirements contained in the Procedures Manual, the following statutory requirements shall be observed: Public hearing on the petition shall not be heard until public notice has been published in a newspaper of general circulation in the County at least 10 days but no more than 30 days prior to the date of the hearing. Public notice shall contain the time and place of the hearing, state the matter to be considered the applicant's proposal for a Certificate of Designation, provide a description of the facility and the facility site, and provide a description of the geographic area which is within 3 miles of the proposed facility site. In addition, notice of the public hearing shall be posted at a conspicuous point in at least one location within the County Office Building and in at least one location at the proposed facility site. The notice shall be posted for a period beginning at least 30 days before the public hearing and continuing through the date of the hearing.

(5) Standards of Review and Findings

In addition to the special use review standards found in Chapter 5, the applicant for a facility under this Section shall demonstrate the following to the satisfaction of the BoCC. It is the applicant's responsibility to provide information necessary to evaluate the standards. The BoCC shall make its decision to approve or disapprove the proposed facility, and shall make specific findings, based on the

following standards. The following standards shall apply to all requests for a Certificate of Designation:

(a) Adverse Impacts

Adverse impacts to surrounding properties from blowing trash, odors, vectors, noise, lights, and surface water flows caused by the operation of the facility will be minimized by adequate operational controls or by the existence or acquisition of an adequate buffer.

(b) Operational Plan

The submitted operational plan identifies procedures and provisions which adequately assure that the facility will be operated in a safe and environmentally acceptable manner and will cause minimal negative impacts, including:

- Hours and methods of operation will be compatible with the neighboring land uses.
- Adequate waste screening measures recognized by the industry and federal government will be implemented to assure proper identification, isolation and removal of unauthorized wastes or materials and prevent unauthorized activity.
- Adequate methods will be available to contain and dispose of all liquids associated with the operation in an acceptable manner.
- Fire protection and emergency response plans will be adequate for the type of facility proposed.
- Fencing and other site security and trash retention will be adequate for the type of facility proposed.
- Other requirements and conditions for operational plans have been fully addressed and will be complied with by the applicant.

(c) Recycling Goals

The owner or operator incorporates recycling goals, either onsite or off-site, which will result in a notable reduction in the waste stream.

(d) Minimize Traffic and Other Problems

The facility is so designed that it can be operated in a manner which will minimize traffic, storage, fire fighting, safety and other site-related problems.

(e) Natural Hazards

The facility will not be located where natural or man-made hazard or conditions will cause undue conflicts or environmental problems.

(f) Water Supplies

Adequate water supplies will be available for drinking, fire protection, showers, sanitary and cleaning purposes, landscaping, dust suppression, reclamation, and general operation.

(g) Closure

Adequate provisions have been made to address either anticipated or unanticipated closure or abandonment of the facility.

(h) Drainage and Erosion Control Measures

Drainage and erosion control measures will be adequate.

(i) Convenience and Accessibility

The facility will be reasonably convenient and accessible to the using public.

(j) Environmental and Health Standards

The applicant can demonstrate the ability and willingness to comply with the environmental and health standards and operating procedures provided under the "Solid Wastes Disposal Sites and Facilities Act," C.R.S. §§30-20-100.5 et seq., and the State solid waste regulations.

(k) Financial Resources

The applicant can demonstrate the ability to provide the financial and material resources and experience (including a past record of quality performance in solid wastes operations) necessary to properly operate the facility, and comply with all imposed conditions and requirements

(l) Facility Need

The facility is presently or will, within a reasonably foreseeable future period of time, be needed to accommodate the waste

management needs of the area it is intended to serve or to provide healthy competition in the regional solid waste management market.

(m) Compatibility

The facility is proposed to be located where, based on existing and projected urban growth patterns and the type of facility proposed, it will have a reasonably compatible or harmonious relationship with surrounding property development, including:

- All aspects of the operation and the interim and final grading plans are visually compatible with surrounding land uses and topography.
- The operation will not substantially disturb uniquely sensitive environmental features including wetlands, riparian habitats, or other wildlife habitats, threatened and endangered species habitat, and rare or unusual natural features.
- The operation will not substantially disturb identified historical, archaeological and paleontological sites.
- The geology of the facility site and design of the facility is such that the prospects of contamination of area surface water or groundwater supplies by leachate and other pollutants migrating from the facility are reasonably remote. The BoCC has the authority to evaluate the risks of contamination, in part, based on a comparison with existing or proposed sites for facilities and other available sites in or near El Paso County.
- The geology of the facility site and design of the facility is such that the prospects for interference with surface water or groundwater flow patterns which may impair vested water rights are reasonably remote. The BoCC has the authority to evaluate the risks of this disruption, in part, based on a comparison with existing or proposed sites for facilities and other available sites in or near El Paso County.
- The applicant can demonstrate the ability and willingness to comply with the environmental and health standards and operating procedures provided under RCRA Subtitle D Regulations and State regulations.

(H) Denial, Modifications, Suspension or Revocation of a Certificate of Designation

This Section shall be applicable to any type of facility, existing or that is proposed in the future, subject to Certificate of Designation approval or Minor Certificate of Designation approval.

(1) General Basis for Action**(a) Failure to Comply**

Failure to comply with any terms or conditions of approval or with the applicable requirements and conditions of this Section or the State solid waste regulations may result in reconsideration of a Certificate of Designation by the BoCC. Reconsideration, following appropriate notice and during public hearing as prescribed by the Procedures manual and this Code, may result in the modification, suspension, or revocation of the Certificate. El Paso County reserves the right to pursue any other remedies and enforcement means provided in this Code or by law.

(b) Misrepresentation and Other Issues

Above and beyond any other bases or grounds provided in this Section for denying, suspending or revoking a Certificate of Designation, an application for a Certificate of Designation may be denied, or an issued Certificate of Designation may be suspended or revoked, if the BoCC reasonably determines that it has significant and convincing evidence that an applicant or Certificate holder or any entity associated with the applicant required to be identified by this Section has:

- Intentionally misrepresented or knowingly failed to disclose any material fact in the application for or amendment of, or in a public hearing regarding, a Certificate or in any reporting documents submitted as part of the operational requirements; or
- Intentionally misrepresented or concealed any material fact pertaining to its financial or material resources, its experience and record in solid wastes operations, or other pertinent information regarding its corporate or partnership structure; or

- Exhibited a repeated history of willful disregard and violation of federal, State or local laws or regulations pertaining to solid wastes operations, hazardous or toxic materials or wastes operations, or related environmental or health laws; or
- Been convicted of a felony by final judgment within the five years immediately preceding the date of submission of the Certificate application or at any time following issuance of the Certificate, in any court for any crime defined by State or federal statutes as involving restraint of trade, price-fixing, antitrust, bribery, fraud or business-related racketeering; or
- Had any Certificate of Designation or similar permit revoked or permanently suspended by any federal, State or local authority for cause related to environmental or health noncompliance or criminal acts.

(2) **Decision to Deny, Suspend, or Revoke a Certificate**

In deciding whether to deny, suspend, or revoke a certificate under this Section, the BoCC shall consider the relevant facts and mitigating circumstances surrounding the foregoing including:

- The relevance of the offense to the nature of the business for which the Certificate of Designation has been or will be issued;
- The nature and seriousness of the offense, including the number and frequency of complaints;
- The circumstances under which the offense occurred;
- The date of the offense; and
- The ownership and management in place at the time of the offense and any subsequent changes thereto.

Prior to the BoCC taking any action, the applicant or Certificate Holder shall have a right to present and address any mitigating circumstances and to submit evidence of rehabilitation and measures taken to prevent recurrence of the unlawful activity. The BoCC's action shall only be taken following appropriate notice and during a public hearing as prescribed by the Procedures Manual and this Code.

(I) **BoCC Right to Review and Modify CD**

The BoCC retains the right to review and modify any Certificate of Designation as to its consistency with all applicable local, State, and federal laws and regulations

pertaining to the protection of the environment and public health and safety. This would include the Resource Conservation and Recovery Act's Subtitle D Regulations for municipal solid waste landfills.

(J) Administrative Modifications to Operational and Drainage and Erosion Control Plans for a Waste Disposal or Recycling Facility

(1) Purpose

To allow for modifications to be administratively approved by the PCD Director for operational documents governing any facilities included under this Section in cases where the modifications are clearly of a minor nature and do not contravene the intent of the Certificate of Designation or special use as approved by the BoCC.

(2) Limitations

This process shall be applied only to proposed modifications to the design and operations plan, and drainage and erosion control plans prepared in conformance with this Section.

(3) Exclusions

Modifications specifically excluded from this process include the following:

- Modifications which could be considered to modify or conflict with any conditions or notations specifically imposed by the BoCC on the approved Certificate of Designation, special use or any agreement entered with the BoCC.
- Any large combination or comprehensive set of modifications, even in cases where the changes would be considered minor when considered separately.
- Modifications that affect the location of waste placement and landfill elevations which result in negative visual impacts to surrounding properties.
- Major or categorical changes to waste acceptance allowances and procedures.
- Any other modifications, which in the discretion of the PCD Director, should be considered by the BoCC.

(4) Examples of Modifications

Modifications which might be allowable under this procedure include but are not limited to the following:

- Substitutions of personnel, equipment, plans or procedures.
- Minor changes to operating hours or rates.

- Minor non-categorical changes to waste acceptance allowances and procedures.
- Certain non-mandated, preventive procedures and features designed to mitigate impacts of the operation, rather than enlarge its scope.
- Modifications to facility engineering design and monitoring systems, which are non-mandated and preventive in nature, and which add clarity and specificity to the design plan, or which reflect a more current design standard approved by the State for use in Colorado.
- Modifications to the phasing plan, or the time of completion of specific improvements or actions.

(5) **Procedures**

(a) Application

The applicant shall submit the proposed modification in writing, with specific references to current text, to the PCD. Justification for, and applicability of, the proposed modification should be clearly stated. Posting and notification may be undertaken if deemed appropriate.

(b) Referral

The PCD will refer the proposed modification to all appropriate agencies, organizations and individuals to include the following at a minimum:

- CDPHE
- EPCPH
- OCA
- PCD Engineering Division (for proposed changes to the Drainage and Erosion Control Plan).
- ESD. Agencies will be requested to respond within 14 days.

(6) **Action**

Within 30 days of receipt of the original application, in the absence of adverse technical comments from the CDPHE, the PCD Director shall either approve or disapprove the application with reasons stated in writing. In granting any approval the PCD Director may impose any condition or requirement deemed necessary to protect the health, safety and welfare of the public. Final action is taken by the issuance of the Notice of Decision in accordance with the Procedures Manual and this Code.

(7) **Modification of Plans**

Within 14 days of administrative approval of any modification to operational or drainage and erosion control plans, the applicant shall provide an appropriate number of updated copies or inserts for the operational document to the PCD. Failure to provide these materials may be considered cause for nullification of the approval.

(8) **Appeal**

Any interested party may appeal the final action of the PCD Director to the BoCC in accordance with the Procedures Manual and this Code.

(K) Amendment to the Certificate of Designation

Instead of an appeal, or following an unsuccessful appeal on the proposed administrative modification, an applicant may apply for an amendment to the Certificate of Designation or special use, which may be processed as prescribed in this Section.

(L) Submittal Requirement List for a Certificate of Designation

(1) **Map**

30 copies of a map of the proposed facility site including a certified legal description of the proposed facility site and any buffer area that the operator or owner owns or will own or can legally restrict land use activity on. The map shall be drawn to a scale suitable to show the required information and shall include:

- Date of preparation, north arrow, and scale.
- Name and address of the proposed operator, preparer of the map, and property owner.
- Contour intervals of not less than 5 feet.
- Significant features, to include, but not limited to: (1) Lakes, streams, drainage ways, and other topographic features; (2) Vegetation and significant wildlife habitats; (3) Existing and proposed land use, easements, roads or rights-of-way, structures, disposal sites, access points, and related facilities; (4) Existing land uses, roads, and other major features within 1,500 feet of the proposed site.

(2) **General Reports**

30 copies each of reports required by the CDPHE under the State solid waste regulations including but not limited to:

- Geology
- Hydrology
- Engineering design and operations plan
- Closure plan

(3) **Additional Reports**

15 copies each of reports required including the following:

- Recycling plan
- Visual Impact Analysis
- Transportation Impact Analysis
- Analysis of Impacts to Sensitive or Significant Features
- Analysis of Other Potential Impacts
- Ultimate Land Use Analysis
- Drainage and Erosion Control Plan (to be prepared in accordance with the applicable specifications of the ECM. This plan shall satisfactorily address all aspects of interim and final facility design, as applicable. At a minimum, full detailed plans are required for the first phase of any multi-phased project.)
- Noxious Weed Management Plan

5.2.57 Wholesaling, Accessory Use

Wholesaling as an accessory use shall be conducted in conjunction with a retail use and shall not exceed a maximum of 600 square feet in gross floor area.

5.2.58 Wildlife Rehabilitation

Wildlife rehabilitation as licensed by the Colorado Division of Wildlife for mammal species, bird species (including raptors if properly licensed), or non-venomous reptiles and amphibians is considered an accessory use where listed. The zoning, size, and location of the site used for wildlife rehabilitation is taken into account by the Division of Wildlife in its issuance of licenses for wildlife rehabilitation.

5.2.59 Wind Energy Generation Facilities (see Section 4.3.5 Wind and/or Solar Energy Generation Plan Overlay District)

All Wind Energy Generation Facilities and appurtenant components shall be regulated by Section 4.3.5, WSE-O Wind and/or Solar Energy Generation Plan Overlay District and Appendix B, Guidelines and Regulations for Areas and Activities of State Interest.

5.2.60 Wind-Powered Generators**(A) Minimum Lot Size****(1) Freestanding Generator**

One private wind-powered generator is allowed as an accessory use where the parcel size is 2½ acres or larger irrespective of nonconforming status.

(2) Roof-Mounted or Attached Generator

One private roof-mounted or attached wind-powered generator is allowed per lot, tract or parcel as an accessory use provided it does not exceed the maximum height allowance within the applicable zoning district.

(B) Maximum Height of Generator

The height of the freestanding generator, including blades, shall not exceed 75% of the distance from the base of the generator to any property line, or overhead electrical line not including the service line for the generator, or 80 feet, whichever is less, unless otherwise approved as part of a special use. The maximum height of the generator may be further restricted if located within an airport overlay zoning district.

(C) Minimum Height of Blades Above Ground

The minimum height of the blades above the ground shall be 20 feet.

(D) Number of Generators Allowed

A maximum of one generator per 5 acres is allowed. Additional generators may be approved through a special use approval, without being considered a second principal use.

(E) Location

The generator serving the structure shall be located on the same lot or parcel as the structure that it serves; however, excess energy may be sold as allowed by State and federal law. Clustering of freestanding wind powered generators is encouraged.

(F) Setback from Property Lines

Any freestanding generator shall maintain a setback from all property lines based upon a ratio of one and one-half horizontal feet for every one vertical feet of generator height (1.5 to 1), including blades. In the event that the property is subsequently subdivided, the subdivision shall be designed to maintain this setback from proposed property lines

(G) High Wind Mitigation

The PCD shall be provided with assurance from the manufacturer that safety features to mitigate the effects of high wind conditions have been designed for the particular generator prior to issuance of a building permit for construction of a wind-powered generator.

(H) Noise Levels

Allowed noise levels shall meet the requirements of this Code.

(I) Electromagnetic and Electrical Interference

No equipment shall adversely affect the operation of any off-premises electrical, radio or television equipment including electrical interference with navigational signals for radio communications between an aviation facility and aircraft.

(J) Manual Shut-Off Required

Any individual wind-powered generator shall include a manual shut-off, which may be utilized by utility company personnel.

5.2.61 Wind/Meteorological Measuring Facility

(A) Applicability

This Section is applicable to any wind/meteorological measuring facility established after the date of adoption of this Section which exceeds the height limits allowed by the zoning district.

(B) Development Standards for Meteorological Towers

(1) Height

Wind/meteorological measuring facilities are not subject to height restriction of the zoning district, but instead are subject to the height as established through the special use process. The height of the tower or pole is measured from the top surface of the wind/meteorological measuring facility foundation (or to the adjoining ground level if no foundation exists) to the highest point of the tower or pole.

(2) Setbacks

Wind/meteorological measuring facilities shall be located a distance of 1½ times the height of the facility from any house, road, property line, third party transmission lines, or freestanding communication tower.

(3) Climb Prevention

Wind/meteorological measuring facilities shall be unclimbable by design or protected by anti-climbing devices such as:

- Fences with locking portals at least 6 feet high; or
- Anti-climbing devices 12 feet vertically from the base of the wind/meteorological measuring facility.

(4) Color

Towers or poles shall be painted white or gray or another non-reflective, unobtrusive color.

(5) Compliance with the Federal Aviation Administration

The wind/meteorological measuring facility shall comply with all applicable FAA requirements.

(6) Compliance with Additional Regulations

Nothing in this Section is intended to preempt other applicable State and federal laws and regulations.

(C) Decommissioning Plan

A wind/meteorological measuring facility approved pursuant to this Section shall provide a decommissioning plan to ensure that the wind/meteorological measuring facility is properly decommissioned. The decommissioning plan shall include:

- Provisions describing the triggering events for decommissioning the wind/meteorological measuring facility;
- Provisions for the removal of structures, debris and cabling, including those below the soil surface;
- Provisions for the restoration of the soil and vegetation;
- An estimate of the decommissioning costs certified by a professional engineer;
- Financial assurance, secured by the owner, for the purpose of adequately performing decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning costs;
- Identification of and procedures for County access to financial assurances;
- A provision that the terms of the decommissioning plan shall be binding on the owner and any of their successors, assigns, or heirs; and
- A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

5.2.62 Yard Sales

Yard and garage sales are limited to no more than 3 occurrences on a lot or parcel during the year, with each occurrence limited to no more than 5 days. Yard sales exceeding 5 days in duration or 3 occurrences per year require a temporary use permit. A yard sale may only be held on a property where a dwelling exists as the principal use.

5.3 STANDARDS FOR REVIEW, APPROVAL, AND ADMINISTRATION OF USES

5.3.1 Temporary Use Permits

(A) Purpose

The temporary use permit is a mechanism by which the County may allow a use to locate on a short term basis and by which it may allow seasonal, short term or transient uses not otherwise allowed. A temporary use permit may be issued to allow for installation of temporary emergency or critical facilities related to a utility or communication site, after any required approval has been granted to establish the permanent facility. A temporary use permit shall not be approved for a marijuana club.

(B) Temporary Use Permit Required

All temporary uses shall require a temporary use permit prior to beginning operation. All temporary uses shall comply with the standards established by this Code for the temporary use.

(C) Temporary Use Standards

(1) Zoning District Standards and Requirements Apply

Setbacks and all other standards and requirements of the zoning district in which the temporary use is located shall apply to all structures or uses connected with the temporary use, unless otherwise identified herein.

(2) Failure to Meet Criteria

Any variance from the requirements of this Code for a temporary use shall be considered a Variance of Use and not subject to the temporary use provisions of this Code.

(3) Duration of Temporary Use

Temporary uses shall be limited to the specific dates/time period identified on the temporary use permit. No temporary use shall be allowed for a period exceeding one year, unless otherwise noted. Renewals of temporary uses may be granted in one year increments, following the same procedures as the original temporary permit issuance. Any renewal or reapplication shall be treated as a new application.

(4) Compliance with Building Code and Health Code

Compliance with the Building Code and the Health Code is required for all temporary uses.

(5) Parking and Requirement for Driveway Permit

Safe access and adequate parking shall be provided for the temporary use. Any temporary use that requires a building permit, lasts more than 31 days, or results in a driveway intersecting a County road is required to secure a driveway permit.

(6) Compliance with Engineering Criteria Manual

Any temporary use is required to comply with the ECM.

(7) Suspension/Revocation

If, upon review, the conditions or restrictions imposed by this Code or by the temporary use permit have not been complied with, the PCD Director may take any action deemed necessary to remedy the noncompliance, including but not limited to revocation of the temporary use permit or pursuing the noncompliance as a zoning violation.

(8) Permit Transferability

A temporary use permit is valid only for the lot or parcel identified on the temporary use permit, and is not personal.

5.3.2 Special Use

(A) Purpose

The purpose of the special use process is to address potential impacts of certain land uses on existing and allowed uses in the same neighborhood. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.

(B) Applicability

No special use application shall be considered unless the underlying land is located within a particular zoning district which allows the proposed special use.

(C) Criteria

In approving a special use, the following criteria may be considered:

- The special use is generally consistent with the applicable Master Plan;
- The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;

- The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

(D) Limits of Approval

Issuance of a special use permit shall authorize only the particular use and activity for which it is issued, for the time period, if specified, and in accordance with the permit conditions imposed. The special use permit runs with the land. The special use is based upon the parcel size stated in the application. A reduction or increase in parcel size is considered a substantial modification of the special use unless specifically provided for in the approval. The special use permit does not relieve the owner from compliance with any other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the special use permit is approved.

The Board of County Commissioners may impose time restrictions on the approved special use permit as a condition of approval as it deems necessary.

(E) Performance Guarantees and Financial Assurance

Sufficient performance guarantees and financial assurance may be required to ensure implementation of and compliance with the conditions imposed. The terms or any required guarantees and financial assurance shall be made part of a development agreement.

(F) Public Facilities and Services

Special use permits shall be subject to the terms and requirements of the applicable development standards and regulations relating to the provision and financing of necessary public facilities and services. Determinations concerning the adequacy and efficiency of the provision of necessary public facilities and services, and the financing of the same, shall be based on standards and criteria adopted by the BoCC and may include a requirement that the applicant for a special use permit agrees to contribute a fair and equitable share of the costs of

the public facilities and services through the payment of development impact fees, special assessments, participation in a local improvement district or special district, or other similar mechanism for the provision and financing of adequate public facilities and services.

Sufficient financial assurance may be required to ensure the timely completion of any public improvements needed to address potential impacts of the proposed use. The terms and conditions regarding the provision of public facilities and services shall be made part of the development agreement.

(G) Limited to Approved Special Uses

Any land on which a special use permit is approved shall be limited to those uses and structures enumerated within the special use permit and no more than one principal allowed use.

(H) Administrative Approval Authorized

Any special use may be acted upon by the PCD Director, except for those related to a CD request or mineral and natural resources extraction, which includes processing. The PCD Director, in his sole discretion, is authorized to elevate a special use application to a public hearing.

(I) Post Approval Requirements

(1) Site Development Plan or Site Plan Review Required

Site development plan review or site plan review is required before an application for a building permit can be authorized by the PCD. Site development plan or site plan review may be concurrent with the special use permit process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.

(2) Conditions Included in Development Agreement and Filed for Recording

Conditions may be included in the development agreement signed by the applicant and the County. The development agreement shall be filed for recording by the applicant with the Clerk and Recorder.

(J) Periodic Review of Special Use Permit**(1) Special Use Permit Subject to Periodic Review**

Approved special uses shall be subject to a periodic review by the PCD to determine compliance with all applicable requirements and standards of this Code, and the conditions. The initial review shall be not more than one year from the date of issuance of the special use permit unless otherwise provided. Upon completion of each periodic review, the PCD shall document its findings and any recommendations or requirements to the holder of the special use permit.

(2) Hearing Concerning Findings of Periodic Review

The BoCC shall have the power to conduct, after notice, public hearings concerning a special use permit and compliance of the owner with the applicable requirements and standards of this Code, and the conditions imposed by the County.

(K) Abandonment**(1) Determination of Abandonment of Use**

Unless otherwise provided, a special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of approval of the special use; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, a special use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved special use site.

(2) Determination of Abandonment of Mineral Extraction

A mineral extraction special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if the mineral extraction activity has been discontinued for a period of 3 years.

(3) Extension of Special Use Permit

Prior to the expiration of the special use permit due to a determination of abandonment, a one year extension may be granted by the PCD Director for good cause shown after receiving a written request for extension

(L) Suspension or Revocation**(1) Violation of Permit Grounds for Suspension or Revocation**

The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the special use permit or development agreement shall constitute sufficient grounds for suspension or revocation of the special use permit by the BoCC, after a public hearing at which the holder of the special use permit shall be afforded the opportunity to be heard.

- (2) Notice of Revocation Hearing**
Notice of the public hearing on the suspension or revocation of a special use permit shall be in accordance the Procedures Manual, and given by conspicuously posting the subject property for a period of at least 10 days prior to the public hearing, and mailing a copy of the written notice to the holder of the special use permit and any complaining party at least 10 days prior to the public hearing.
 - (3) Determination of Suspension or Revocation**
In determining whether suspension or revocation is warranted, the BoCC shall consider, among other factors, the nature and magnitude of the violations found to exist; the impact of the violations on the health, safety and welfare of adjacent property owners and surrounding communities; and any other evidence presented in aggravation or mitigation of the violations committed.
 - (4) Suspension or Revocation in Addition to Other Penalties**
Suspension or revocation is in addition to any other remedies and enforcement provisions provided by this Code or by law.
- (M) Permit Transferability**
The special use permit is valid only for the lot or parcel identified on the special use permit and may be transferred to a new property owner.

5.3.3 Approval of Location

(A) Purpose

The purpose of this Section is to determine if a public use, structure or utility proposed for location in unincorporated El Paso County conforms to the adopted Master Plan, and to provide procedures for the timely review of the Approval of Location of public facilities or uses as provided by C.R.S. §§30-28-110, et seq.

(B) Determination of Public Use

A public use is considered to be any activity primarily funded by taxes, or of an entity which has the capability to levy taxes, or is of benefit to the public such as airports, schools, parks, utilities, and other similar public areas or structures.

(C) Applicability

The Planning Commission is required to review and approve construction of or plans for the construction of any road, park, or other public way, ground, or space, public building or structure, or public utility, whether publicly or privately owned prior to the construction of any facility. This procedure shall not apply to the following:

- Where such activity is subject to the provisions of Appendix B Guidelines and Regulations for Areas and Activities of State Interest of El Paso County (hereinafter “Appendix B” Guidelines and Regulations); and
- Routine extensions of public utility lines and minor modifications to existing uses or facilities.

The following projects require Approval of Location review to the extent they are not subject to Appendix B Guidelines and Regulations:

- Public schools (including Charter Schools);
- Public roads, public parks, trails and trail heads, public ways, grounds and spaces, public buildings and structures and utilities, whether public or privately owned;
- Public building where the building, facility or use provides or fulfills a governmental function the governmental unit is legally authorized to provide including publicly-owned jail or prison facilities;
- Water storage facility including a reservoir, pond, lake, tank or basin, natural or man-made, used for the storage, regulation or control of water;
- Central office buildings of telephone utilities;
- Fiber optic cable regeneration buildings; and
- Cable TV buildings and satellite receiving areas.

(D) Specific Facilities or Actions Exempted from the Approval of Location Permit

The following facilities or actions are exempted from the approval of location permit, but shall comply with any other permit or development requirements:

- Operation, maintenance, repair and replacement of existing water and sewage collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility;
- Projects addressed by an intergovernmental agreement which the County has approved will be subject to this Code unless otherwise provided by the terms of the intergovernmental agreement;
- Any facility necessary to serve any subdivision or other use approved under this Code provided that the BoCC specifies in its approval of the subdivision or other use that separate review of the system, extension, or proposal is not necessary under this Code;

- A facility identified within a PUD, where the Site Development Plan has been submitted and reviewed concurrently with PUD application.
- Expansion of existing facilities does not require submittal of a new application if the expansion was identified and approved in the original application.

(E) Federal or State Reviewed or Approved Facilities

Review or approval of a project by a federal or state agency does not prevent, and will not substitute for, the need to obtain a permit for that project under this Code. Where in the opinion of the Planning Commission, federal or State review and approval processes adequately address the impacts that this Code is designed to address, the County may agree to rely on that review and approval.

(F) Public Facilities Identified as an Allowed or Special Use in the Zoning District

Where the public facility is identified as an allowed or special use in the zoning district, the Approval of Location process shall be controlling for the authorization of the facility.

(G) Public Schools and Charter Schools

(1) Prior to Acquisition of Land for School Site

Prior to acquiring land or contracting for the purchase of land for a school site, the school district shall consult with and advise the Planning Commission in writing to ensure that the proposed site conforms to the adopted Master Plan as far as is feasible.

(2) Prior to Construction of a Structure

Prior to construction of any structure or building, the school district shall submit a site development plan for review and comment to the Planning Commission.

(3) Request by Planning Commission for Public Hearing

The Planning Commission may request a public hearing before the school district on the proposed site location or site development plan. If the Planning Commission requires a hearing, the school district shall promptly schedule the hearing, publish at least one notice in advance of the hearing and provide written notice of the hearing to the Planning Commission.

(4) Information to be Considered and Recommendation

The Planning Commission will consider all information presented at the hearing. If no hearing is requested, the Planning Commission will consider all information provided by the school district and provide to the school district its recommendations and conclusions.

(5) School District Responsible for Facility Locations

The authority to make final determinations as to the location of public schools and to erect buildings and structures is the school district's.

(H) Other Requirements and Clarifications

(1) Site Development Plan Required

A proposed site development plan shall be submitted to the Planning Commission for approval before construction or authorization of any public road, public park, trail or trail head, public way, ground or space, public building or structure or utility, whether public or privately owned.

(2) Disapproval of County-Funded Project

In case of disapproval of a County-funded project, the Planning Commission shall communicate its reasons to the BoCC. The BoCC is authorized to overrule the disapproval by a majority vote. Upon overruling, the BoCC may proceed with construction or authorization of the project.

(3) Non-County Projects

If the project is one that is not required to be authorized or financed by the County, the Planning Commission's disapproval may be overruled by the body or official having jurisdiction over the authorization and financing of the project by a majority vote. In the case of a utility owned by an entity other than a political subdivision, the Planning Commission's disapproval may be overruled by the public utilities commission by not less than a majority of its entire membership.

(4) County Projects Subject to Review

Applicable County-funded or County-authorized projects shall be approved pursuant to C.R.S. § 30-28-110, other applicable statutes and laws, and interpretation of the same by the PCD Director and the OCA.

(5) Failure of the Planning Commission to Act

Failure of the Planning Commission to act within 30 days after the date of official submission to it is deemed an approval, unless a longer period is granted by the submitting board, body or official.

(I) Special Process for Recording Plats Involving Roads

All plans of roads for public use, and all plans, plats, plots, and replats of land laid out in subdivision or building lots and the roads, alleys, or other portions intended to be dedicated to a public use or the use of purchasers or owners of lots, shall be submitted to the BoCC for review and subsequent approval, conditional approval, or disapproval. It is not lawful to record any such plan or plat in any public office unless the same bears, by endorsement or otherwise, the approval of the BoCC after review by the Planning Commission.

(J) Review Standards

The application for a public use, structure or utility is reviewed for conformity with the submittal and processing requirements included within this Code and Procedures Manual and for conformity with the adopted Master Plan.

(K) Effect of Approval

Issuance of an approval of location permit shall authorize only the particular use and activity for which it is issued, in accordance with the permit conditions imposed. The approval of location permit runs with the land. The applicant shall be subject to all other permits, standards and regulations of this Code, including but not limited to Appendix B Guidelines and Regulations, except to the extent expressly modified in the permit approval, in order to use the land in accordance with the approval of location permit and associated site plan. No building permit shall be authorized to implement the use until the approval of location permit is issued.

(L) Conversion of Public Facility to Private Facility

A conversion of a public facility with an approval of location to a private facility shall be completed in conformance with the applicable zoning district standards.

(M) Post Approval Requirements**(1) Satisfaction of Conditions**

Prior to beginning any construction or the commencement of the approved use, the applicant shall satisfy any required conditions.

(2) Site Development Plan Review or Site Plan Review

Site development plan review or site plan review is required before an application for a building permit can be authorized by the PCD. Site development plan or site plan review may be concurrent with the approval of location process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.

(N) Abandonment**(1) Determination of Abandonment of Use**

Unless otherwise specified by the Planning Commission, an approval of location shall be deemed abandoned, and the approval of location permit shall be of no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of the Planning Commission approval; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, an approval of location shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.

(2) Extension of Approval of Use Permit

Prior to the expiration of approval of use permit, a one year time extension may be granted by the PCD Director for good cause shown after receiving a written request for extension.

5.3.4 Variance of Use**(A) Purpose**

Occasionally, a use is proposed that is not allowed in the applicable zoning district. The BoCC may grant a variance of use to allow the proposed use if it determines that it meets the criteria contained in this Code.

(B) Applicability

Those uses that are not otherwise an allowed use or special use in a zoning district, except in a PUD Zoning District, may be considered for a variance of use. A variance of use may not be considered in a PUD Zoning District. The power of the BoCC to vary the provisions of this Code is permissive, not mandatory, and shall not be exercised in such a way as to frustrate the scheme or intent of this Code. The power to grant variances shall be exercised sparingly.

(C) Criteria

In approving a variance of use, the following criteria may be considered:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;
- The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or

- Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

(D) Limit of Approval

Issuance of a variance of use permit shall authorize only the particular use and activity for which it is issued, for the time period, if specified, and in accordance with the permit conditions imposed. The variance of use runs with the land. The variance of use is based on the parcel size stated in the application. A reduction or increase in parcel size is considered a substantial modification of the variance of use unless specifically provided for in the approval. The variance of use permit does not relieve the owner from compliance with any other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the variance of use permit is approved.

The Board of County Commissioners may impose time restrictions on the approved variance of use permit as a condition of approval as it deems necessary.

(E) Renewal/Expiration

If the existing variance of use is subject to expiration, but continued operation of the use is desired, the applicant shall submit a new application prior to expiration of the permit conforming to the requirements in place at the time of submittal in order to renew the variance of use permit. Continued operation of the use after expiration of the variance of use constitutes a violation subject to the provisions of Chapter 11.

(F) Administrative Renewal Authorized

Any variance of use renewal may be acted upon by the PCD Director. In renewing a variance of use, the PCD Director shall consider the record of compliance with conditions of approval, proposed modifications in the scope of the land use, criteria for approval pursuant to this Section or as may otherwise be amended, and may consider other relevant factors. The PCD Director, in their sole discretion, is authorized to elevate a variance of use permit renewal to a public hearing.

(G) Suspension/Revocation

The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the variance of use permit shall constitute sufficient grounds for suspension or revocation of the variance of use permit by the BoCC, subject to the requirements of Chapter 11.

(H) Abandonment

Unless otherwise specified by the BoCC, variance of use shall be deemed abandoned, and the variance of use permit shall be of no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within one year of the BoCC's approval; or (2) the primary intended use or activity has been discontinued for a period of one year. For purposes of this provision, a variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted.

5.3.5 Map Amendment (Rezoning)**(A) Purpose**

The purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern. In addition to categorizing land by uses such as residential, commercial, and industrial, the LDC also specifies such details as building setback lines, the height and bulk of buildings, the size and location of open spaces, and the intensity to which the land may be developed. The zoning of parcels of land generally conforms to and promotes the County's Master Plan. Zoning protects the rights of property owners while promoting the general welfare of the community. By dividing land into categories according to use, and setting regulations for these categories, zoning governs private land use and segregates incompatible uses.

Generally, rezoning is justifiable under one of the following circumstances:

- When the requested rezoning is in general conformance or consistency with the County's Master Plan;
- If inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning is demonstrated;
- When there was an error or oversight in the original zoning of the property; or
- The zone change is necessary for the general health, safety, or welfare of the community.

(B) Criteria for Approval

In approving a Map Amendment, the following findings shall be made:

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. §30-28-111 §30-28-113, and §30-28-116;

- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

(C) Conditions on Rezoning Authorized

Conditions of approval may be included in the resolution approving a rezoning request. Where any approved condition would impact the permitted uses or density and dimensional standards of the rezoned property, the existence of the conditions shall be noted on the Zoning Map. Any amendment to the conditions placed upon a rezoning is considered a new zoning action. Conditional zoning shall not be used to circumvent the intent or requirements of this Code, shall be exercised sparingly and in exceptional situations, and the burden of proof shall be upon the applicant to demonstrate the need.

(D) Updates of Maps

The PCD Director is responsible for producing all updates of the County Zoning map.

(E) County Initiated Zoning

The County may initiate the rezoning of any property within the unincorporated area of the County.

5.3.6 Administrative Determinations on Uses

(A) Purpose

The purpose of this Section is to provide for a mechanism to interpret the permissibility of uses of property which are not expressly identified as one of the land uses authorized in a zoning district or overlay zoning district, or defined by this Code.

(B) General Considerations

A request for an administrative determination shall relate to a specific site, zoning district, use or application. An administrative determination of this Code issued by the PCD Director shall have the same effect as any provision of this Code. An administrative determination of this Code remains in effect until rescinded in writing by the PCD Director, until such time as the administrative determination is overturned on appeal, or until such time as an amendment to the Code results in a change affecting the administrative determination. An administrative determination requires analysis and comparison of various code provisions to

arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards.

(C) Similar Uses

(1) Determination of Similar Uses

No use not specifically identified as an allowed use, special use, temporary use, or accessory use shall be allowed unless the PCD Director determines the use is similar to an expressly allowed use, special use, temporary use, or accessory use. The uses allowed in each zoning district or overlay zoning district are identified in Chapter 5.

When a use is not specifically identified as allowed in a zoning district or overlay zoning district, it shall not be allowed in the zoning district or overlay zoning district unless it meets the following criteria in determining the use is a similar use:

- The function, performance characteristics, and location requirements of the unlisted use shall be consistent with the purpose and description of the zoning district where it is proposed;
- The unlisted use is compatible with the uses specifically allowed in the district, and similar in characteristics such as traffic and parking generation, noise, glare, vibration, and dust.

(2) Exclusion of Uses

The listing of any use as being allowed in any particular zoning district or overlay zoning district shall be deemed to be an exclusion of the use from any other zoning district, in which the use is not specifically listed.

(3) Interpretations in Writing

Similar use determinations shall be made in writing by the PCD Director, who shall also determine whether an amendment to this Code to include the similar use is appropriate. Interpretations that are not in writing shall have no force or effect. Written interpretations set no precedent and shall be limited to the property identified in the interpretation unless determined to apply to an entire category of land.

(4) Record of Interpretations

The PCD Director shall maintain an official record of all interpretations in the PCD. The official record shall be available for inspection.

(5) Effect of Determination of Similar Use

Any use determined to be substantially similar to an allowed use, special use, temporary use, or accessory use in a zoning district or overlay zoning district

shall comply with all other development standards contained in this Code pertaining to the substantially similar use, including, but not limited to, dimensional requirements, landscaping requirements, parking requirements, and design requirements.

(D) Request for Interpretation

Before a text or use interpretation will be provided by the PCD Director, a request for interpretation shall be submitted to the PCD in a form established by the PCD Director, and processed in accordance with Chapter 2.

(E) Limit of Interpretations

No interpretation shall authorize any use in a zoning district or overlay zoning district unless the PCD Director determines the use is substantially similar to an allowed use, special use, temporary use, or accessory use in the zoning district or overlay zoning district. No interpretation shall allow the establishment of any use inconsistent with the statement of purpose for the zoning district or overlay zoning district, and no interpretation shall have the effect of amending, abrogating, or waiving any other standard or requirement established by Code.

5.4 DENSITY AND DIMENSIONAL STANDARDS

5.4.1 General Density and Dimensional Standards

Tables 5-4 and 5-5 list the density and dimensional standards that apply within each zoning district. Other regulations of this Code or site specific conditions may further limit development. A blank cell means there is no applicable standard.

5.4.2 Application of Density and Dimensional Standards

(A) Measuring Minimum Lot Width

Minimum lot width is the minimum lot width at the front building setback line.

(B) Measuring Setbacks

Setbacks are measured from the property line, unless noted otherwise.

(C) Setbacks for Corner Residential Lots

Corner residential lots may have a reduced setback.

(D) Setbacks for Specific Uses

Some uses have a modified setback or height allowance.

(E) Accessory Structure Not Located in Easement

An accessory structure shall not be located within an easement, unless express permission from the beneficiary of the easement is provided.

(F) Overlay Zoning District Standards May Apply

Special limitations or allowances may apply to land within an Overlay Zoning district.

Table 5-4. Density and Dimensional Standards for Agricultural, Residential and Special Purpose Districts.

Zoning District	Maximum Density (DU/ac)	Minimum Lot Size		Minimum Setbacks Principal(Accessory) ^{19,5}			Maximum Lot Coverage	Maximum Height
		Area	Width (at front setback line)	Front	Rear	Side		
Forestry and Agriculture								
F-5		5 acres ^{1,2}	200 ft	25 ft ⁵	25 ft ⁵	25 ft ⁶	25 %	30 ft
A-35		35 acres ¹	500 ft	25 ft ^{5,7,9}	25 ft ^{5,7,9}	25 ft ^{5,7,9}	None	30 ft ¹⁰
A-5		5 acres ^{1,2}	200 ft	25 ft ^{5,6,8}	25 ft ^{5,6,8}	25 ft ^{5,6,8}	None	30 ft
Rural Residential/Rural Suburban								
RR-5		5 acres ^{1,2}	200 ft	25 ft ^{6,8}	25 ft ^{6,8}	25 ft ^{6,8}	25 %	30 ft
RR-2.5		2.5 acres ¹	200 ft	25 ft ⁶	25 ft ⁶	15 ft ⁶	None	30 ft
RR-0.5		21,780 sq ft ^{1,3}	100 ft	25 ft ¹⁵	25 (5) ft	10 ft ¹⁵	None	30 ft
Residential Suburban Zoning Districts								
RS-20000		20,000 sq ft	100 ft	40 ft	40 (15) ft	15 ft	20 %	30 ft
RS-6000		6,000 sq ft ¹⁷	50 ft	25 ft ¹⁷	25 (5) ft ¹⁷	5 ft ¹⁷	40 %/ 45 % ¹⁹	30 ft
RS-5000		5,000 sq ft ^{11,17}	50 ft	25 ft ¹⁷	25 (5) ft ¹⁷	5 ft ¹⁷	40 % /45% ¹⁹	30 ft
Residential Multifamily Zoning Districts								
RM-12	12	3,500 sq ft ^{12,17}	35 ft	15 ft ^{14,17}	20 ft ^{14,17}	10 ft ^{14,17}	70 %	40 ft
RM-30	30	5,000 sq ft ^{13,17}	75 ft	25 ft ^{14,17}	15 ft ^{14,17}	15 ft ^{14,17}	60 %	40 ft
Special Purpose Zoning Districts								
R-T		5 acres	200 ft	25 ft	25 (5) ft	25 ft ¹⁶	30 %	30 ft
MHP	All standards are located in the zoning district standards.							
MHS	All standards are located in the zoning district standards.							
RVP	All standards are located in the zoning district standards.							
PUD	All development standards for principal and accessory uses are established by the Development Plan.							
¹ Specific uses may be subject to larger minimum lot area requirements. ² In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.								

- ³Parcels containing stables or corrals shall have a minimum lot area of one acre.
- ⁴Stables and corrals where allowed by the zoning shall comply with the minimum setbacks established for stables and corrals as established in Chapter 5.
- ⁵Agricultural stands shall be setback a minimum of 35 feet from all property lines.
- ⁶Kennels, pens and fur farms shall be setback a minimum of 100 feet from all property lines.
- ⁷Kennels, pens and fur farms shall be setback a minimum of 200 feet from all property lines.
- ⁸Sawmills shall be setback a minimum of 300 feet from all property lines.
- ⁹Livestock feed and sales yards shall be setback a minimum of 200 feet from all property lines, except that loading facilities may be located adjacent to a road right-of-way where loading/unloading of animals takes place.
- ¹⁰One additional foot of height is allowed for each foot of additional setback provided above the required minimums up to a maximum of 100 feet. For example, a maximum height of 35 feet is allowed for structures setback a minimum of 30 feet from all property lines and a maximum height of 50 feet is allowed for structures setback a minimum of 45 feet from all property lines.
- ¹¹Minimum lot area of 5,000 square feet applies to single-family dwellings. For two-family dwellings and all other uses a minimum lot area of 7,000 square feet is required.
- ¹²The minimum lot area for single-family detached dwelling units is 5,000 square feet. The minimum lot area for two-family dwellings and all other allowed uses is 7,000 square feet. Central water and wastewater services are required regardless of lot size or conforming status.
- ¹³Minimum lot area of 5,000 square feet applies to single-family detached dwellings, Two-family dwellings and the first 2 units of a multi-family development. An additional 1,000 square feet of lot area is required each additional dwelling unit within a multi-family development. The maximum multi-family density may not exceed 30 dwelling units per acre. All other uses are subject to a minimum lot area of 7,000 square feet. Central water and wastewater services are required regardless of lot size or conforming status.
- ¹⁴The minimum distance between buildings shall be 10 feet.
- ¹⁵The side yard setback for an accessory structure shall be 10 feet, unless the structure is at least 60 from the front property line or nearest road right of way, where a 5 feet setback is allowed. In no instance shall an accessory structure be closer to the front property line than the principal structure.
- ¹⁶The side yard setback is 25 feet when the lot is 5 acres or larger, or 5 feet if the lot is less than 5 acres.
- ¹⁷If the building is established as or converted to condominium or townhome units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks requirements, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements. A 25 foot perimeter boundary setback shall be maintained around the entire development, but a zero foot setback is allowed along any internal lot line within the development.
- ¹⁸If no separate setback is shown in parentheses for accessory structures, the principal structure setback applies to accessory structures.
- ¹⁹Where a single-story ranch style residence is proposed, the maximum lot coverage may be 45 % of the total lot area.

Table 5-5. Density and Dimensional Standards for Commercial, Industrial and Obsolete Districts.

Zoning District	Zoning District Area	Minimum Lot Size	Minimum Setbacks			Maximum Lot Coverage	Maximum Height
			Front	Rear	Side		
Commercial Zoning Districts							
CC	1 acre ¹¹		25 ft ^{1,11}	25 ft ^{2,11}	25 ft ^{2,11}		40 ft
CR	5 acres ¹¹		50 ft ^{3,4,11}	25 ft ^{2,3,4,11}	25 ft ^{2,3,4,11}		45 ft
CS	2 acres ¹¹		25 ft ^{1,3,11}	25 ft ^{1,2,3,11}	25 ft ^{1,2,3,11}		45 ft
Industrial Zoning Districts							
I-2	20 acres	1 acre ¹¹	50 ft ^{5,11}	50 ft ^{5,11}	30 ft ^{5,11}	35%	45 ft
I-3	40 acres	1 acre ¹¹	30 ft ^{6,11}	30 ft ^{6,11}	30 ft ^{6,11}	25%	⁷
Obsolete Zoning Districts							
C-1			15 ft ^{1,11}	15 ft ^{9,10}	8, 9		30 ft
C-2			15 ft ^{1,11}	20 ft ^{9,10}	8, 9		50 ft
M			15 ft ^{1,11}	15 ft ¹⁰			50 ft
R-4	All development standards for principal and accessory uses are established by the Development Plan.						
<p>¹ Gasoline pumps and canopies shall be at least 15 feet from the front property line or public right-of-way, except where the landscaping regulations require a greater setback.</p> <p>² The minimum setback is 25 feet from the perimeter boundary of the district, but no minimum setback is required from any internal side or rear lot line within the same district.</p> <p>³ Temporary uses shall be setback at least 25 feet from all property lines and 100 feet from Residential zoning districts.</p> <p>⁴ Gasoline pumps and canopies shall be setback at least 25 feet from all property lines.</p> <p>⁵ Minimum building setback distance from any adjoining residential zoning district boundary is 125 feet. The PCD Director may allow a reduction in the setback where appropriate actions are taken including landscaping, fencing, berms or building design, or where the use can be limited to mitigate potential impacts.</p> <p>⁶ Minimum building setback distance from any adjoining residential zoning district boundary is 175 feet. The PCD Director may allow a reduction in the setback where appropriate actions are taken including landscaping, fencing, berms or building design, or where the use can be limited to mitigate potential impacts.</p> <p>⁷ The maximum height of any structure is in accordance with the following formula: A plane with a pitch of 2 feet horizontal to one foot vertical beginning at a height of 25 feet above all property lines using the mean property line elevations as the datum.</p>							

⁸The side yard setback is subject to the following restrictions: (1) Where adjacent to a residential zoning district, the setbacks of the residential zoning district shall apply; (2) If the side wall of the building is constructed of 4 hour fire rated material, a setback between buildings of 3 feet is required if the wall does not serve as a common wall where no setback is required; and (3) If the side wall is not constructed of 4 hour fire rated material, the side yard setback and building separation is 5 feet.

⁹Where adjacent to a residential zoning district, the rear yard setback of the residential zoning district shall apply.

¹⁰The setback for stables and corrals is 50 feet.

¹¹If the building is established as or converted to condominium units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements.

5.4.3 Measurements and Exceptions

(A) Purpose

The purpose of these standards is to explain setback standards and allow exceptions for certain unique circumstances, while maintaining the basic purposes of use of setbacks, which include:

- Provide for adequate open spaces;
- Promote and protect the public health, safety and welfare;
- Establish uniform standards;
- Protect property values;
- Protect the public from damage or injury which may be attributable to distractions or obstructions caused by improperly situated buildings or structures; and
- Enhance the overall quality of development in any zoning district.

(B) Applicability

These standards apply to all buildings, structures, accessory structures, and uses which are subject to regulation by this Code.

(C) General Provisions

(1) Use Specific Standard Supersedes Zoning District Standard

Where a different density or dimensional requirement is established for a specific use in this Code, it shall supersede the density or dimensional requirement in Table 5-4 and 5-5.

(2) No Projection of Structure into Easement

No portion of a structure shall project into any utility or drainage easement except with the permission the agency or agencies having jurisdiction over the easement.

(3) Public or Quasi-Public Utility Buildings Not Subject to Standards

Utility buildings or facilities owned by a governmental, quasi-governmental or public entity are not subject to the development standards of the respective zoning district, but are instead governed by the standards of the approval of location, site development plan, or site plan submitted with the development application.

(D) Setback Measurement

(1) Setbacks for Structures

All setbacks are for structures, unless otherwise provided. Setback requirements are applicable, even if a building permit is not required.

(2) Setbacks Measured from Property Line

All setbacks shall be measured from the property line of the lot or parcel unless otherwise provided. In the case of an easement or other right-of-way for public road, the setback shall be measured from the easement or right-of-way line. Where the lot or parcel includes vacated right-of-way, the setback is measured from the new property line resulting after the right-of-way vacation. In the event the right-of-way is bounded

by a public improvement easement, the setback shall be measured for the edge of the right-of-way and not the public improvement easement.

(3) Setback from Planned Roadways and Associated Rights-of-Way

In accordance with BoCC policy and the right-of-way standards established by the ECM, all setbacks shall be measured from the proposed right-of-way line of roadways as depicted within the MTCP.

(4) Separation Requirements Between Land Uses

Some zoning districts and land uses have specific separation distance requirements which are indicated in the use standards and in the density and dimensional standards.

(5) Corner Lot Setbacks Modification in Residential Zoning Districts

The required front yard setback for corner lots, located in residential zoning districts (including a residential PUD) with a minimum required lot size of ½ acre or less, on the side of the dwelling where the driveway access is not located may be ½ the required front yard setback of zoning district, or 15 feet, whichever is greater, provided further, no part of any structure shall project into the sight distance triangle as defined in the ECM.

(6) Flag Lot Setbacks

The required front, side and rear yard setbacks shall be established by determining the front, side and rear lot lines based on the following criteria.

(a) Front Lot Line

The property line most parallel and nearest to the road from which access from the road is gained is the front lot line.

(b) Rear Lot Line

The property line that is most opposite or parallel to the front lot line is the rear lot line.

(c) Side Lot Line

Property lines that are not considered front or rear property lines are side lot lines.

(7) Irregularly Shaped Lots Setbacks

For wedge or pie shaped lots the minimum width at front setback line shall establish the front setback. The PCD Director shall determine how lot lines shall be designated and the resulting setbacks where the provisions of this Code do not clearly establish the lot lines or setbacks requirements.

(8) Deck Setbacks

Attached decks over 18 inches in height from finished grade to finished floor are considered a part of the principal structure and shall meet the same setbacks as the principal structure. Detached decks over 18 inches in height from finished grade to

finished floor are considered accessory structures and shall meet the principal structure setbacks unless separate accessory structure setbacks are provided for in the applicable zoning district. To be considered detached, the deck must not be connected to the principal structure, or located within 9 inches of the principal structure. Decks, slabs, or patios, whether attached or detached 18 inches or less in height from finished grade to finished floor are not considered structures.

(9) Mobile Home Setbacks

If the tongue is to be removed, the setback measurement shall be from the outer walls of the mobile home. The tongue (if not removed) may extend into the required front yard setback, but not other yard setbacks, provided the provision of the required parking can still be maintained.

(10) Merger and Setbacks

In the instance where the lot or parcel is merged, the setback is measured from the lot or parcel line resulting after the merger.

(E) Projection into Setbacks

(1) Projections in Residential Zoning Districts

For property located in residential zoning districts (including a residential PUD), containing a minimum required lot size of ½ acre or less:

- An enclosed porch, 4 feet by 4 feet or less, may project into a required front or rear yard setback.
- Open and unenclosed patios, decks, platforms, landings or ramps may extend into required front, side or rear yard setbacks provided the patio, deck, platform, landing or ramp does not exceed 18 inches in height measured from the finished floor to any adjacent point of the finished grade.
- Awnings, chimneys and flues, sills, belt courses, cornices, eaves and other similar architectural features may project not more than 2 feet into required front, side or rear yard setbacks.
- Cantilevered bay windows, no greater than 12 feet in width, may project not more than 3 feet into a required front or rear yard setback. The window shall include no supports that extend into the required front or rear yard setback.
- An open sided temporary carport, metal or canvas, which is not classified as a structure, or subject to the building code, may extend into the required front yard setback to a point 15 feet from the property line as long as any site visibility is maintained, and into the side yard setback. No portion shall project into any utility or drainage easement

except with the permission the agency or agencies having jurisdiction over the easement.

- Window wells may extend into the required side and rear yard setback. No portion shall project into any utility or drainage easement except with the permission the agency or agencies having jurisdiction over the easement.

(2) Projections in All Zoning Districts

For property located in all zoning districts:

- Wall signs may project into required front, side or rear yards not more than 18 inches.
- Fire escapes may extend 6 feet into a required rear yard.
- Utility distribution lines and related equipment commonly located along property lines may be located within a required setback (except utility or telephone boxes taller than 18 inches cannot be located within a sight distance triangle). A neighborhood substation, or gas regulator/meter station shall meet the required setbacks.
- Mailboxes, or mailbox complexes, established and approved in accordance with requirements of the ECM may be located within the front or side setback.
- Signs or entryway features may be located within the setback area in accordance with this Code and the ECM.
- Non-permanent handicap access ramps may project into a required setback.

(F) Lot Requirements

(1) Measuring Lot Width and Lot Depth

Lot width is measured parallel to the front lot line. Lot depth is measured at an angle of 90 degrees to the front lot line.

(2) Minimum Lot Area

(a) Specific Use Require More Lot Area

Some land uses require a minimum lot size which is greater than the minimum size established by the zoning district.

(b) Public Right-of-Way Not Included in Lot Area

Lot area shall not include any portion of an adjacent public right-of-way, but may include the land within a private road easement.

(c) Flag Stem Not Included in Lot Area

Lot area shall not include the area within a flag stem.

(d) Lot Area for Nonconforming Lots

The lot area requirements for nonconforming lots are established within this Chapter. Lots conforming to the minimum lot area requirements of the zoning district that are subsequently reduced in land area due to land acquisition by a governmental entity shall be considered conforming to the minimum lot area requirements.

(e) Minimum Lot Area Not Required for Utility Facilities

A minimum lot area shall not be required for utility facilities or telecommunication facilities. The required lot area shall be established through the appropriate review and hearing process.

(G) Maximum Structure Height

The maximum height of structures is listed in Table 5-4 and 5-5. The method of measurement is detailed within the definition in Chapter 1.

(1) Exceptions to Height Limits.

(a) Height Limits Not Applicable to Architectural Features

The maximum height limitations of this Code do not apply to church spires, belfries, cupolas, chimneys and other similar design or architectural features or other appurtenances that are usually installed above roof level.

(b) Height Limits Superseded by Specific Use Standards

The maximum height limitations of this Code do not apply or are superseded by the specific use or development standards of this Code, or land use approval actions that apply to water tanks, public buildings antennas, utility poles, utility facilities, wind generators, amateur radio towers, and commercial towers and similar facilities.

5.5 PROVISIONS FOR RELIEF FROM DENSITY AND DIMENSIONAL STANDARDS

5.5.1 Administrative Relief

(A) Purpose

The purpose of this Section is to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal or a minor problem arises with the strict application of development standards.

(B) PCD Authorized to Grant Administrative Relief

The PCD Director may approve administrative relief to the requirements for lot area, front, side and rear setbacks, and height limitation. Administrative relief shall be for the purpose of relieving difficulties or hardships due to narrowness, shallowness, shape or topographic condition of a specific piece of property, or to provide limited flexibility to lot standards when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of this Code will be caused by the administrative relief granted.

The PCD Director may only grant relief in accordance with the following standards:

(1) Reduction in Lot Area, Setbacks, and Lot Width

A maximum of a 20% reduction in lot area, setbacks and lot width from the amount required in the zoning district in which the subject property is located may be approved.

(2) Increase in Lot Coverage and Structure Height

A maximum of a 20% increase in the lot coverage and structure height from the amount required in the zoning district in which the subject property is located may be approved.

(3) Increase in Accessory Structure Size

A maximum of a 20% increase in the size of an accessory structure from the size allowed in the zoning district in which the subject property is located may be approved

(4) Decrease in Parking Requirements

A maximum of a 20% decrease in the parking requirements in the zoning district in which the subject property is located may be approved.

(5) Reduction in Distance Separation

A maximum reduction of 50% in distance separation requirements for day care homes, group homes, and other similar human service establishments may be approved.

(6) Increase in On-Premise Sign Area

A maximum increase of 20% in the area of any on-premise sign may be approved.

(C) Limitations on Administrative Relief

The following limitations shall apply to the granting of administrative relief:

(1) Sight Distance Triangle

Administrative Relief to setbacks on corner lots shall not be granted by the PCD Director in a sight distance triangle at corners and railroad crossings unless it is specifically found by the County that no potential traffic problem is created because of diminished sight distances.

(2) Setback and Height Relief on Same Lot

Administrative Relief shall not be granted for both setback and height requirements on the same lot or parcel.

(3) Plat Notes or Restrictions

Administrative Relief cannot be granted from a standard that is set by plat note or restriction.

(4) Within an approved PUD District

Administrative Relief in accordance with the limitations of this Code may be granted from a standard that is set by the PUD Development Plan or Development Guide for a

single lot or parcel or between two adjacent parcels. Minor variances to PUD standards affecting multiple parcels may be approved as a minor PUD amendment.

(D) Findings Necessary to Grant Administrative Relief:

(1) Criteria to be Met

To grant administrative relief, all of the following criteria shall be met, in addition to the compliance with the other applicable development standards:

- The strict application of the standard in question is unreasonable or unnecessary given the development proposal or the measures proposed by the applicant; or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;
- The intent of this Code and the specific regulation in question is preserved;
- The granting of the administrative relief will not result in an adverse impact on surrounding properties; and
- The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel.

(2) Additional Factors Considered

In addition to the criteria required to be met for approval of administrative relief, consideration may also be given to the following factors:

- The granting of administrative relief would help minimize grading and reduce vegetation removal;
- The granting of administrative relief would avoid unnecessary site disturbance or minimize grading;
- The granting of administrative relief would allow the proposed building location and existing vegetation on the site to restrict visibility of the additional height from a distance, from the road or from downhill properties; and
- The granting of administrative relief would allow for building design such as split pads, stepped footings, below grade rooms and roof forms pitched to follow the slope.

(E) Responsibility of Applicant to Comply

Prior to occupancy for the building allowed by an administrative relief, it shall be the responsibility of the applicant to furnish the PCD Director with a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected by the administrative relief.

Revoke Administrative Relief

The PCD Director may revoke any administrative relief by issuing a zoning violation notice if, in the PCD Director's opinion, the use is not in compliance with the intent and purpose for which the administrative relief was granted.

(F) Minor Variations During Platting

Minor variations from strict application of the provisions of a development plan or conventional zoning district may be allowed at the discretion of the PCD Director in order to facilitate the reasonable and expeditious platting of the property. Variations shall be allowed only after a finding by the PCD Director that:

- The variation does not constitute a substantial change to the allowed land use; and that
- No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.

The variation shall not by themselves constitute grounds for disapproval by the BoCC of any final plat unless the BoCC specifically finds that the variation constitutes a substantial change in the allowed land use or causes a substantial detriment to the public good or harm to the general purpose and intent of this Code.

5.5.2 Dimensional Variances and Appeals to the Board of Adjustment

(A) Applicability

Any person aggrieved by the inability to obtain a building permit or by any order, requirement or decision made by an administrative officer or agency in the administration, interpretation or enforcement of the following provisions of this Code can appeal to the Board of Adjustment.

(B) Authorities of the Board of Adjustment

(1) Appeal of Administrative Decisions or Determinations

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the PCD pertaining to the application or enforcement, under this Code, of:

- A zoning district's development requirements or a use standard relating to physical dimension, structural location, or bulk limitation;
- Nonconforming building provisions;
- Nonconforming lot or parcel or merger by contiguity provisions;
- Parking and development requirements;
- Landscape requirements;
- On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;
- Distance separation requirements required for daycare applications;
- Appeal of an action regarding administrative relief;

- Determination of wildfire hazard or zoning district boundary;
- Any other matter appealable to the Board of Adjustment under the provisions of this Code.

(2) Grant of Variance of Specific Development Standards

(a) Variances to Physical Requirements

The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to (1) the exceptional narrowness, shallowness or shape of the specific piece of property, or (2) the exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- The variance provides only reasonably brief, temporary relief; or
- The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or
- Some other unique or equitable consideration compels that strict compliance not be required.

(b) Variances to Standards Subject to Appeal

The Board of Adjustment is authorized to grant variances to those standards subject to appeal to the Board of Adjustment where strict compliance with this Code would result in peculiar or exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.

(c) Other Variance Matters

To hear any other variance matters expressly delegated to the Board of Adjustment by this Code.

(3) Prohibited Actions by the Board of Adjustment

The Board of Adjustment shall not take any action which would result in any of the following:

- Permitting a use other than those allowed in the property's zoning district;
- Authorizing an existing zoning violation for a building or use that is subject to prosecution pursuant to C.R.S. §30-28-124(1), without the express written consent of the OCA;
- Alteration of any definition contained in this Code;
- Substantial modification to any PUD or Special Use allowed or approved by the BoCC; or
- Variation of any subdivision standard.

(C) Action by the Board

The affirmative vote of 4 members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the PCD Director; to approve any variance; to resolve boundary line disputes; or to take any other action regarding an appeal or application.

(D) Limitations on Approval and Expiration

(1) Approval Limited to Proposal Presented

A physical variance is limited to the property configuration and existing or proposed structures actually presented to the Board of Adjustment as part of the variance application.

(2) Expiration of Approval if Action Not Initiated

A physical variance for a proposed structure, except for lot area variances where a plat has been filed for recording, is valid only if construction of the structure is initiated within one year of the date of the Board of Adjustment's approval of the variance.

(3) Expiration of Approval if Structure Removed

A physical variance for an existing or subsequently constructed structure, except for lot area variances where a plat has been filed for recording, is valid only so long as the structure is not removed or demolished.

(4) Run with the Land

Variance requests approved by the Board of Adjustment shall run with the land for which the variance has been approved.

(E) Revocation of Approval or Permit

Failure to abide by or comply with any requirements, conditions or restrictions of this Code may result in the PCD Director scheduling a hearing regarding revocation of the Board of Adjustment's approval following the appropriate enforcement procedures.

5.6 LEGAL NONCONFORMITIES

5.6.1 Purpose

This Section governs uses, structures and lots that were legally established prior to the adoption of this Code and do not comply with one or more requirements of the Code. The County seeks to allow nonconforming uses, structures, and lots to continue to exist and be maintained and put to productive use and to encourage as many aspects of the uses, structures, and lots to be brought into conformance with this Code as is reasonably practical. This Section is intended to recognize the interests of the property owner in continuing the nonconformity but also to preclude the extension, expansion, or change in character of the nonconformity or the reestablishment of the nonconformity after it has been abandoned.

5.6.2 General Provisions

(A) Continuation of Use

A nonconforming use may be continued and a nonconforming building may continue to be occupied, except as otherwise provided for in this Section. A pre-existing, nonconforming use which would require the approval of a special use shall be presumed to have the required special use permit.

(B) Change of Building or Use

A nonconforming building or use may be changed to any conforming building or use, but may not be later changed back to any nonconforming building or use. A legal nonconforming use shall not be changed to a different nonconforming use. Any change of a nonconforming use to another use shall immediately terminate the right to continue the nonconforming use.

(C) Interruption of Nonconforming Use

If a nonconforming use is abandoned for a period of one year, the structure and land where the nonconforming use previously existed shall be occupied and used only by a conforming use. Intent to resume active operation of the nonconforming use shall not affect the foregoing. The burden of proof that a nonconforming use has been continuously maintained rests with the property owner or operator of the use. The evidence that an operation has been continuous shall be clear and conclusive. Any nonconforming use may be deemed abandoned after a period of less than one year if the property owner expressly states intent to abandon the use, or engages in action which unambiguously expresses intent to abandon.

(D) Default of Title

If the title to any property changes by reason of tax delinquency, and the property is not redeemed as provided by law, the future use of the property shall be in conformity with this Code.

5.6.3 Restoration

(A) Damage to Structure

A nonconforming structure damaged or partially destroyed by fire, explosion or natural occurrence may be restored to the condition in which it was immediately prior to the occurrence of the damage or destruction, provided:

- The value of the damage is less than 50% of the County Assessor's assessed value of the improvements damaged;
- The restoration or reconstruction does not extend beyond the original limits of the structure in setback, lot area coverage, height, floor area, and number of bedrooms or bathrooms; and
- All restoration or reconstruction is started within one year from date of the damage and is completed within two years.

(B) Intentional Damage by Property Owner or Agent

The right to continue a nonconforming use terminates immediately when the structure containing a nonconforming use is destroyed by an intentional act of the property owner or their agent.

(C) Restorations Exempt for Site Development Plan Review

Restorations meeting the requirements of this provision are not required to undergo a site development plan review.

5.6.4 Enlargement of a Nonconforming Use

(A) Within an Existing Building

A nonconforming use when located within a structure may be extended throughout the existing structure devoted to the use at the time of the adoption of the provisions of this Code causing the use to become nonconforming, provided that any structural alteration conforms to the requirements of this Code.

(B) Expansion of Use as Variance of Use or Special Use

A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a Variance of Use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.

(C) Expansion of Use as Variance of Use or Special Use

A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a Variance of Use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.

5.6.5 Alteration of a Nonconforming Structure

(A) Structural Alterations Limited

A nonconforming structure may be structurally altered, repaired, or enlarged in any way allowed by this Code; however, no alterations, repairs, or enlargements shall be made in a nonconforming building which would increase the degree of nonconformity

with the density and dimensional standards of this Code. Additions or extensions may be made to a structure that is legally nonconforming as to height, area or setbacks provided the addition and the use of the addition conforms to all the requirements for the zoning district in which it is located.

(B) Maintenance

Normal repairs and maintenance of a nonconforming structure are allowed. A nonconforming structure, however, cannot be repaired or altered in a manner that increases its nonconformity with this Code.

(C) Unsafe Buildings

Any structure containing a nonconforming use or any nonconforming building declared unsafe by the Building Department may be strengthened or restored to a safe condition.

(D) Movement of Nonconforming Structure

Should a nonconforming structure be moved, it shall conform to the provisions of the zoning district in which it is located after the move.

(E) Replacement of a Mobile Home in a Nonconforming Mobile Home Park

Within a nonconforming mobile home park, a mobile home may be replaced with a post-1976 mobile home meeting the requirements of the Building Code on a unit by unit basis provided the setbacks as identified in the MHP District are met.

5.6.6 Lots and Specific Facilities and Uses

(A) Nonconforming Signs

(1) Termination of Right to Maintain Nonconforming Sign

The right to maintain a nonconforming sign shall be terminated by one or more of the following events or activities:

- Abandonment of the nonconforming sign for a continuous period of one year;
- Increase of any sign dimension;
- Damage to or destruction of the nonconforming sign from any cause whatsoever, where the cost of repairing the damage or destruction exceeds 50% of the replacement cost of the sign on the date of the damage or destruction. In determining the replacement cost of a nonconforming sign, the cost of the land, the cost of renting land, or any factor other than the cost of the sign itself shall not be considered; or
- Failure of the nonconforming sign to comply with this Code at time of construction.

(2) Change of Copy, Orientation or Trim

The copy, orientation or trim on the sign and supporting structure may be changed on a nonconforming sign.

-
- (3) **Maintenance**
Nonconforming signs shall be maintained in good repair and any damaged sign, however caused, shall be repaired, except as otherwise limited by this Section.
- (4) **Replacement of Nonconforming Signs**
Where the number of signs on a lot or parcel exceeds the number of signs allowed by this Code, 2 nonconforming signs shall be removed for every new or replacement sign to be erected. The maximum size of the new sign shall not exceed the maximum size allowed by this Code.
- (B) Nonconforming Telecommunications Towers**
For nonconforming telecommunications towers there shall be no increase in the number of antennas located on a tower, or an increase in the height or weight bearing capacity of the tower beyond that necessary to conform to safety regulations adopted by the County, State or federal government, except that the following shall be allowed:
- (1) **Replacement of Antennas**
Antennas may be maintained, or replaced, with another antenna intended to provide the same service.
- (2) **New Antennas Added to Tower**
New antennas may be added to a tower where the tower and antennas do not exceed 200 feet in height above the base of the tower, and the new antenna does not exceed 25 feet in length and 8 inches in diameter, and does not extend above the height of the existing tower.
- (3) **Maintenance and Repairs**
Maintenance, repairs or alterations to legal nonconforming telecommunication towers may be performed that are necessary to maintain the tower in good condition and repair. The weight bearing capacity and wind loading capacity of a tower may only be increased to the extent necessary to maintain the tower in conformance with State or national standards for weight bearing capacity and wind loading capacity for the number of antennas otherwise allowed on the tower as set forth in this Section.
- (4) **Removal of Unused Nonconforming Tower**
If there are no antennas on a nonconforming telecommunications tower or if a nonconforming telecommunications tower has been abandoned for a period of one year, the tower and any accessory structures, structures or equipment shall be removed within one year from the expiration of the one year period or it shall be brought into conformity with this Code.
- (C) Nonconforming Sexually-Oriented Businesses**
- (1) **Subsequent Location of Use or Change in Zoning District Boundary**
A sexually-oriented business lawfully operating at the time of adoption of this Code is not in violation of this Code by the subsequent location of a religious institution, school,

park, residence, or residential district, within 1000 feet of the sexually-oriented business.

(2) Nonconforming as a Result of Change to this Code

A sexually-oriented business lawfully operating at the time of adoption of this Code and rendered nonconforming by any modification of this Code shall comply with all requirements included in this Code, but shall not be subject to the distance separation requirements.

(D) Nonconforming Mineral Resource Extraction

Mineral and natural resource extraction operations that are sought to be conducted on property owned by or under lease or contract by the operator of a nonconforming mineral extraction operation and that is located on land contiguous to the nonconforming mineral extraction operation may be undertaken as an extension of the nonconforming mineral extraction operation.

(E) Nonconforming Pre-1976 Mobile Homes

Existing pre-1976 mobile homes are considered nonconforming uses and may only be replaced with a dwelling conforming to the requirements of the Building Code or a pre-1976 mobile home which has been certified in accordance with the building code. Within the A-35 zoning district only, existing pre-1976 mobile homes may be converted to accessory structures for use as storage and other non-habitable uses with the removal of the kitchen and any related appliances.

(F) Nonconforming Landscaping and Parking

(1) Continuation

Landscaping or parking areas legally existing at the time this Code became effective which have become nonconforming because they no longer meet current requirements, may be continued until either of the following changes occur:

- Any new construction or addition of building floor area consisting of 50% or more of the existing gross building floor area of the development project; or
- Any change from a residential use to a non-residential use (or vice versa) consisting of 50% or more of the existing gross building floor area of the development project.

All required landscaping shall be provided in conjunction with either of the changes described above.

(2) Extension

Nonconforming landscaping or parking spaces shall not be enlarged, expanded, extended or increased, except as provided in this Code. Additional parking may be required whenever the PCD Director determines that it is necessary to avoid

congestion on public roads and to provide for the general safety and convenience of County residents.

5.6.7 Nonconforming Lot or Parcel

(A) General Nonconformity

(1) Request for Conformity

Upon request, any lot or parcel shall be recognized as nonconforming provided:

- The creation of the lot or parcel was in conformance with all applicable regulations at the time of its creation;
- The lot or parcel is currently in compliance with all use regulations and conditions and restrictions of any applicable special use or variance of use; and
- The lot or parcel complies with the requirements and criteria of the merger by contiguity provisions of this Code.

(2) Compliance with Development Standards

Nonconforming lots or parcels shall comply with development standards of the applicable zoning district, except the lot frontage requirements, unless otherwise indicated in this Code. Lots or parcels subject to the merger by contiguity provisions of this Code shall have setbacks applied only along the exterior boundaries of the merged properties.

(3) Recognition Not Basis for Subdivision

Recognition of nonconforming lots shall not be a basis or justification for new subdivision development. New subdivisions shall comply with the applicable zoning requirements.

(B) Nonconforming Lot or Parcel Due to Lot Size

A lot or parcel that is nonconforming due to lot size shall be subject to the following provisions when a building permit for a dwelling or habitable addition is requested. A non-habitable addition or accessory improvement (e.g., a garage, deck, or tool shed) on a lot or parcel where a dwelling already exists is not subject to the requirements of this Section. An existing dwelling, located on a lot or parcel that is nonconforming due to lot size that is destroyed or partially destroyed by fire shall be subject to the restoration provisions of this Code.

(1) Nonconforming Lots Considered Conforming

A legal lot or zoning lot that is nonconforming as a result of the minimum lot size requirement within the applicable zoning district shall be considered to be exempt from the minimum lot size requirement where:

- Central water and sewer are both provided and the area of the legal lot is at least 60% of the minimum lot area required by the applicable zoning district; or

- Central water is provided and the area of the legal lot is at least 20,000 square feet; or
- No central water or central sewer is provided and the area of the legal lot or zoning lot is at least 2.5 acres.

(2) Nonconforming Lots Made Conforming

Where a legal lot does not meet the above requirements to be exempted from the minimum lot size requirements, contiguous legal lots under the same ownership shall be combined through a merger by contiguity process to create a zoning lot and the resulting parcel shall be considered conforming with respect to the minimum lot size requirement where:

- Central water is provided, but not central sewer, and the resulting zoning lot after any required merger is at least 10,000 square feet; or
- No central water or central sewer is provided and the resulting parcel after any required merger is one acre or more in area.

A remainder nonconforming lot or parcel not required to meet the minimum lot size requirement for the subject property to be considered a conforming zoning lot shall be considered conforming provided the owner requests and receives a zoning lot determination from the PCD Director, and files the determination for recording with the Clerk and Recorder within 30 days of the date of the determination.

(3) Nonconforming Lots Subject to Board of Adjustment Review

(a) Requirement to Use Merger by Contiguity as Alternative to Variance

When applying for a building permit or seeking any land use approvals, or when requesting a determination of nonconformity under this Code, the nonconforming lots or parcels due to lot size are subject to a merger by contiguity and shall submit to the PCD a signed and completed merger agreement, provided by the PCD, acknowledging consent to the legal combination of the nonconforming contiguous lots or parcels. No nonconforming lot or parcel due to lot size shall be determined to be eligible for lot size variance if a contiguous lot or parcel under the same ownership is available to be merged to the nonconforming lot or parcel.

(b) Requirement for Variance

A nonconforming lot or parcel or zoning lot resulting from a merger by contiguity that fails to comply with the minimum lot size requirements to be considered conforming shall be required to obtain a lot size variance from the Board of Adjustment. In reviewing the variance request the BOA may also consider the density of the surrounding area, compliance with the Master Plan, the suitability of the parcels for

the proposed construction, and the size and location of the proposed structures on the property in making their decision.

(4) **Common Ownership**

For the purposes of a merger by contiguity, contiguous lots or parcels owned by a husband and wife, individually or by joint or common ownership shall be considered common ownership. Any property owner disputing whether this common ownership provision should be applied to the property may appeal to the Board of Adjustment.

(5) **Appeal of Merger Determination**

Where merger is required by this Section in order to receive authorization of a building permit the applicant may request a Merger Hearing with the BoCC in accordance with the requirements of C.R.S. §30-28-139. The result of a merger hearing shall not obviate the requirement to comply with the nonconforming lot standards of this Code.

(6) **Zoning Lot Determination Required Prior to Building Permit Authorization**

A zoning lot determination shall be required prior to authorization of a building permit for a dwelling or habitable addition for any property subject to merger by contiguity. Upon request, the PCD Director shall provide a zoning lot determination after confirmation of the following:

- Merger has been accomplished in accordance with the merger by contiguity requirements;
- For existing dwellings, verification provided by the EPCPH that there is no evidence of sewage problems or that any sewage problems are being remedied;
- For a new dwelling that the OWTS permit has been issued by the EPCPH all isolation distances have been met, including a 100 foot radius for the well providing water on the property being located entirely on the property;
- For a new dwelling confirmation of water availability in the form of a well permit, water tap, or water commitment; and
- At least 30% of the zoning lot is considered buildable after exclusion of land identified as containing 100 year floodplain and 30% slopes.

5.6.8 Decisions and Appeals

(A) Authority with PCD Director

All decisions concerning nonconformities will be made by the PCD Director.

(B) Appeals of PCD Director Decision

All decisions of the PCD Director concerning nonconformities in this Code may be appealed to the Board of Adjustment, except that appeals regarding non-conforming use determinations are heard by the BoCC.

(C) Property Owner Responsible for Evidence

The property owner is responsible for providing evidence regarding the establishment and continuation of a nonconforming use.