EL PASO COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: **El Paso County Planning Commission**
Jim Egbert, Chair

FROM: **Nina Ruiz, Project Manager/Planner II**
Gabe Sevigny, Planner I
Jeff Rice, Engineer III
Craig Dossey, Executive Director

RE: **LDC-17-003 Land Development Code Amendment**
Amendment to Chapters 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11 of the El Paso County Land Development Code (2017) to remove errors and discrepancies, modify language to resolve reoccurring issues, and allow additional administrative authority

Commissioner District: All

Planning Commission Hearing Date	11/07/17
Board of County Commissioners Hearing Date	11/28/17

EXECUTIVE SUMMARY

A request by the El Paso County Planning and Community Development Department to amend the El Paso County Land Development Code (2017) to remove errors and discrepancies, modify language to resolve reoccurring issues, and allow additional administrative authority.

The proposed amendments include:

- Updating nomenclature and acronyms of El Paso County Departments to reflect their current name;
- Amending the beekeeping standards to allow for residential beekeeping;
- Allow for manufactured homes within the MHS zoning district;
- Amend the dimensional standards within the MHS zoning district;
- Revise the setback requirements listed in the use specific standards for stables, corrals, and barns to reflect the zoning district requirements;
- Expand the administrative relief authority to include an increased accessory structure footprint; and

- Amend the general development standards to include compliance with the Americans with Disabilities Act (ADA).

Additional amendments include revisions to principal and accessory use allowances and the inclusion and/or clarification of use and zoning district restrictions and standards as well as other conforming amendments.

A. PLANNING COMMISSION SUMMARY

Request Heard:
Recommendation:
Waiver Recommendation:
Vote:
Vote Rationale:
Summary of Hearing:
Legal Notice:

B. APPLICABLE RESOLUTIONS:

Approval Page 7
Disapproval Page 8

C. REQUEST

A request by the El Paso County Planning and Community Development Department to amend the El Paso County Land Development Code (2017) to:

- Updating nomenclature and acronyms of El Paso County Departments to reflect their current name;
- Amending the beekeeping standards to allow for residential beekeeping;
- Allow for manufactured homes within the MHS zoning district;
- Amend the dimensional standards within the MHS zoning district;
- Revise the setback requirements listed in the use specific standards for stables, corrals, and barns to reflect the zoning district requirements;
- Expand the administrative relief authority to include an increased accessory structure;
- Amend the general development standards to include compliance with the Americans with Disabilities Act (ADA); and
- Include other conforming amendments as included in the attached redlines to remove errors and discrepancies, modify language to resolve reoccurring issues, and allow additional administrative authority.

D. BACKGROUND

- The El Paso County Land Development Code is routinely amended from time to time to respond to current land use trends, reoccurring issues, changes in legislation, and errors/oversights. Since the last Code revision in 2016, staff has continuously compiled a list of necessary and recommended revisions as issues arose. A series of seven (7) Code revisions have been developed by staff and will be presented to the Planning Commission and Board of County Commissioners for review and approval. These revisions proposed with this

specific Code amendment request have been grouped together to capture what staff is referring to as the “Clean Up” items. The proposed amendments include revisions to Chapters 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11 and cover a wide range of topics and issues. Significant amendments include amending beekeeping, the MHS (Mobile Home Subdivision) zoning district, amending the setback requirements for stables/barns/corrals, expand the administrative relief authority, and amending the general development standards to include compliance with the Americans with Disabilities Act (ADA).

Beekeeping

Currently there is no distinction between commercial and residential beekeeping; causing small-scale beekeeping to be prohibited in many residential areas. There are no regulations as to the allowed size of a non-commercial beekeeping operation. The proposed changes gives a framework to not only keep beekeeping as an allowed use in a residential area, but they also include design criteria that is intended to protect the general public by establishing maximum hive sizes, maximum number of hives, setback requirements, and they give the County some regulatory authority over aggressive bees.

MHS Zoning District

There is one area within unincorporated El Paso County zoned MHS, the area is known as Stratmoor Valley. This area was platted in 1961 under the A-2 (Agricultural) zoning district. The area was then rezoned to the C-2 (Commercial) zoning district in the early 1960’s. A county initiated rezone to the MHS (Mobile Home Subdivision) zoning district was completed in 1985 due to the C-2 zoning district being rendered obsolete by action of the Board of County Commissioners, which had the effect of no longer allowing for residential development (MHS-85-001).

Due to the fact that the lots were created prior to the MHS zoning, many of the existing lots and structures do not meet the required dimensional standards. In addition, changes in the mobile home manufacturing industry have resulted in newer mobile homes being constructed that are typically larger than 14 feet wide and 70 feet long, which was the typically size of mobile homes at the time the Stratmoor Valley development was established. Amendments to the dimensional standards are being proposed to more closely fit the existing development. Additionally, staff has proposed administrative authority to allow the PCD Director to approve minor variations from the dimensional standards with the site plan approval.

The MHS zoning district does not allow for any housing types other than mobile homes. Recent requests have been made to place manufactured homes within the MHS zoning district. An amendment is being proposed to allow for manufactured homes in the MHS zoning district in addition to the current allowance for mobile homes.

Stables/Barns/Corrals

Chapter 5 of the Code provides use specific standards for private stables, corrals, and barns. These standards include separate setback requirements for these types of structures that differ from those required within the zoning districts that allow for stables, corrals, and barns. These uses are required to be located 50 feet from the front, but may be ten feet from the rear property lines.

Zoning districts that allow for these types of uses require a setback of 25 feet on all sides. Structures that are constructed as a barn at 10 feet from the rear property line, and then are converted into another use would be considered nonconforming and would require a dimensional variance before the Board of Adjustment.

Amending the dimensional standards for barns, corrals and stables to be consistent with the other dimensional standards listed in the zoning district will allow such structures to be easily converted into another use, should a future property owner wish to do so.

Administrative Relief

Section 5.5.1 of the Code allows the Director to grant administrative relief for reductions of up to 20 percent for various dimensional standards; such as setbacks, lot coverage, or parking. The administrative relief allowance does not extend to the size of an accessory structure. Any variation from the accessory size limitation, even for five (5) square feet, requires a dimensional variance before the Board of Adjustment. For this reason, staff is proposing an amendment to the administrative relief authorities to include accessory structures.

Americans with Disabilities Act (ADA)

Chapter 6 of the Code provides General Development Standards that apply to all development in unincorporated El Paso County. These standards include requirements such as landscaping, lighting, signage, drainage, and parking. The only reference to ADA requirements is found in Section 6.2.5 which states:

> "The standards in this Section are not intended to incorporate the requirements of the Americans with Disabilities Act ("ADA"). If there are any conflicts between this Section and the requirements of the ADA, then the most restrictive requirements shall govern. El Paso County is not responsible for enforcing the requirements of the ADA."

Compliance with the ADA and other Federal State accessibility laws does not fall under the jurisdiction of local authorities but is the responsibility of the property owner. Staff is proposing to replace the above language in Chapter 6 with the following three subsections: 1) Compliance, which replicates the above existing language in terms of identifying that compliance with the ADA requirements is the responsibility of the property owner; 2) Note on Site Development Plan, which

requires a note to be placed on all site development plans calling attention to the ADA requirements and separating El Paso County approval of the plan from ADA compliance; and 3) Illustrated on Site Development Plan, which requires all site development plans to identify ADA accessible exterior routes.

E. RECOMMENDED AMENDMENTS

Overall

- Replace all references to DSD (Development Services Department) with PCD (Planning and Community Development)
- Replace all references to PSD (Public Services Department) with DPW (Department of Public Works)

Chapter 1

- Add a reference in Section 1.13.1 to the use specific standards in Chapter 5 regarding agricultural accessory uses and structures.

Definitions

- Add a definition for Apiary.
- Add a definition for Bee Keeping, Residential and modifying bee keeping to read Bee Keeping, Commercial to create a distinction between the two types of bee keeping.
- Add a definition for Carport, Temporary.
- Add a definition for Colony.
- Add a definition for Flood Insurance Rate Map (FIRM) and sub-definitions for the various FIRM zones.
- Amend the definition for Floodplain, 100-Year to identify that it includes unstudied areas outside of FEMA-regulated floodplains.
- Add a definition for Hive.

Acronyms

- Correct the meaning of the acronym BESQCP to read Builder's Erosion and Stormwater Quality Control Permit.
- Correct the meaning of the acronym ESQCP to read Erosion and Stormwater Quality Control Permit.
- Add FCWFCGD (Fountain Creek Watershed, Flood Control and Greenway District) to the list of acronyms.

Chapter 2

- Add a new Section 2.1.4 Resubmittal of Denied Application, which would identify that a denied application cannot be resubmitted unless a substantial change has

occurred. The proposed addition also includes a description of what constitutes a substantial change.

Chapter 4

- Amend the name of the MHS Zoning District from Mobile Home Subdivision District to Mobile/Manufactured Home Subdivision District.
- Amend the MHS zoning district to allow for mobile homes and manufactured homes.
- Amend Table 4-5, MHS Lot Size and Setback Standards, to remove the specific references to “Mobile” and to reduce and modify the setback requirements.
- Add subsection 4.2.4.C.10, which would allow the PCD Director to approve alternative dimensional standards for specific mobile/manufactured home subdivision district lots with site plan approval.
- Add subsection 4.2.4.C.11 to allow for both temporary or permanent foundations to be used in the MHS zoning district.
- Amend subsections 4.2.4.C.12, 16, and 18 to include mobile and manufactured homes.
- Amend PUD modifications to require the submittal of a deviation request form, including justification, for any requested deviation to a standard in the ECM..
- Correct all references to CAD-O and GA-O throughout Chapter 4 to properly classify as a zoning district with sub-zones.
- Add a note to Section 4.3.3, RLUP-O Rural Land Use Plan Overlay District, identifying that the section was removed by BOCC resolution.

Chapter 5

- Amend Table 5-1 to add Agricultural Structure as a permitted use.
- Amend Table 5-1 to allow for a Manufactured Home as a permitted use within the MHS zoning district.
- Amend Table 5-2 to add Agricultural Structure as an accessory use.
- Amend Table 5-2 to indicate that Light Manufacturing, Accessory is an allowed use in the I-2, I-3, and M zoning districts and as a special use in the CS and C-2 zoning districts.
- Amend Table 5-2 to add “and Display” to “Outside Storage, Accessory” and to indicate that it is also an accessory use in the CR zoning district.
- Amend Table 5-2 to require a site development plan for security guard houses.
- Amend Table 5-2 to add Yard Sales as an accessory use in all forestry, agricultural, and residential zoning districts.
- Reword the language included in Section 5.2.1.K, Square Footage of Accessory Structure and Use Limited, to help ensure that it can be more consistently understood and applied.

- Reorder Section 5.2, Use-Specific Development Standards, to fix the list due to some uses being previously listed out of alphabetical order.
- Add the building permit requirements outlined in Section 1.13 to Section 5.2.3 with a cross reference.
- Amend Animal Keeping to add Beekeeping, Residential
- Amend the language in the Animal Keeping section to clarify that the limitations apply to the same property and are not based on a per ownership basis.
- Add Yard Sales as an accessory use in residential zoning districts and in Table 5-1 with a time limitation of 5 days.
- Revise the setback requirements for stables, barns, and corrals to be consistent with the standard zoning district setback requirements.
- Amend Table 5-5 to remove the reference to the "Maximum Zoning District Area" because none of the districts listed in the table include a maximum area.
- Amend Table 5-5 to remove footnote 2 from the front setback requirement.
- Amend Table 5-5 to remove the 40 foot maximum height allowance but leave footnote 7.
- Amend Section 5.4.3.E to add window wells to the allowed projections.
- Amend Section 5.5.1.B to allow for the size of an accessory structure to be increased by 20% with administrative relief.

Chapter 6

- Add a new Section 6.1.3, Americans with Disabilities Act (ADA) Site Accessibility, which identifies the responsibilities for compliance with the ADA and requires illustration of ADA accessible exterior routes on all site development plans and non-residential site plans.
- Add language to Sections 6.2.1.E and F clarifying that the fencing requirements are based upon the zoning districts and not the specific use.
- Add a new subsection 6.2.8.C, Recording Maintenance Plans, which requires all BMP Maintenance Plans be recorded in the records of the Clerk and Recorder's Office.
- Amend subsection 6.3.3.B.2 to clarify that fire commitment letters may be required versus always being required.

Chapter 7

- Add a note to Section 7.2.2.B.7, Rural Land Use Plan Exemption, identifying that the section was removed by BOCC resolution.
- Amend Section 7.2.2.E clarifying that exemption exhibits do not always need to be depicted via a survey and that the findings for approving all exemptions are not always made by the Board of County Commissioners since some exemptions are acted upon administratively.

Chapter 8

- Amend subsection 8.4.2.B.1.d to clarify that floodplain easements are not to be provided in the name of El Paso County.
- Amend subsection 8.4.2.B.1.d to clarify that base flood elevation data shown on a plat shall be that approved by the jurisdictional floodplain authority.
- Amend Section 8.4.5.F to be titled Detention Ponds and Permanent BMPs to revise the text of the section correspondingly.
- Amend subsection 8.4.7.B.2.d to clarify the water resource report requirements for minor subdivisions in order to reflect the minimum requirements of the State Engineer and to delete, as a corresponding change, subsection 8.4.7.B.3.e.
- Add a new Section 8.7.1, Off-Site Road Studies, Plans and Impact Assessment, which identifies that the Cost Recovery for Off Site Improvements section has been replaced by the El Paso County Road Impact Fee Program Resolution.

F. APPROVAL CRITERIA

The statutory role of the Planning Commission and Board of County Commissioners is identified below:

> ***30-28-116. Regulations may be amended.***
> *From time to time the board of county commissioners may amend the number, shape, boundaries, or area of any district, or any regulation of or within such district, or any other provisions of the zoning resolution. Any such amendment shall not be made or become effective unless the same has been proposed by or is first submitted for the approval, disapproval, or suggestions of the county planning commission. If disapproved by such commission within thirty days after such submission, such amendment to become effective, shall receive the favorable vote of not less than a majority of the entire membership of the board of county commissioners. Before finally adopting any such amendment, the board of county commissioners shall hold a public hearing thereon, and at least fourteen days' notice of the time and place of such hearing shall be given by at least one publication in a newspaper of general circulation in the county.*

G. PUBLIC COMMENT AND NOTICE

The Board of County Commissioner hearing date will be published in the newspaper pursuant to Colorado Revised Statute 30-28-116. A copy of this publication will be included in the backup material for the Board of County Commissioners Hearing.

H. ATTACHMENTS

Summary of Land Development Code amendments
Proposed Changes to the Land Development Code (2016) (redline version)
Proposed Changes to the Land Development Code (2016) (clean version)

Chapter One

INTRODUCTORY PROVISIONS

1.1. OFFICIAL TITLE

The official title of this document is the "Land Development Code of El Paso County, Colorado." For convenience, it is referred to throughout this document as the "LDC" or "Code."

1.2. AUTHORITY

This Code is adopted under the powers granted and authority conferred by the laws of the State of Colorado, including, but not limited to, the following sections of the Colorado Revised Statutes

- §§ 22-32-124 et seq. (Zoning, Planning and Building Code Duties of School
- §§24-65-101-106 et seq. (Colorado Planning Act) Repealed June 1, 2005
- §§24-65.1-101 et seq. (Areas of State Interest)
- §§24-67-101 et seq. (Planned Unit Development)
- §§24.68-101 et seq. (Vested Rights)
- §§29-20-101 et seq. (Local Government and Land Use Control Enabling Act)
- §§30-1 1-101 et seq. (County Powers and Functions)
- §§30-15-101 et seq. (County Regulations Under Police Powers)
- §§30-20-100.5 et seq. (Solid Wastes Disposal Sites and Facilities)
- §§30-28-101 et seq. (County Planning, Zoning, Subdivision)
- §§31-12-101 et seq. (Municipal Annexation)
- §§32-1-101 et seq. (Special District Act/Provisions)
- §§33-1-101 et seq. (Wildlife)
- §§33-2-101 et seq. (Endangered Species Conservation)
- §§34-1-301 et seq. (Preservation of Commercial Mineral Deposits)
- §§38-30.5-101 et seq. (Conservation Easements)
- §§41-4-101 et seq. (Airports)
- §§43-2-101 et seq. (Highways)

1.3. APPLICABILITY

The provisions of this Code apply to the development of buildings, structures and uses of land throughout unincorporated El Paso County. To the extent permitted by law, this Code applies whether development is conducted by public, quasi-public or private entities. This Code does not apply to land within the territorial limits of any incorporated municipality.

1.4. PURPOSE

This Code is adopted for the purpose of preserving and improving the public health, safety and general welfare of the citizens and businesses of El Paso County. More specifically, it is the purpose of this Code to:

- Implement the Master Plan and related elements.
- Promote predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests.
- Ensure appropriate opportunities for participation and involvement in the development process by all affected parties.
- Be fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.
- Guide the future growth and development of the County in accordance with the Master Plan.
- Guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
- Establish reasonable standards of design and procedures for subdivision and resubdivision in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land.
- Ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision, and, in so doing, ensure that current residents will be required to bear no more than their fair share of the cost of providing the facilities and services by requiring the developer to pay fees, furnish land, or establish mitigation measures to cover the development's fair share of the capital facilities needs generated by the development.
- Prevent the pollution of air, streams, and ponds; assure the adequacy of drainage facilities; and encourage the wise use and management of natural and biological resources throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land.

1.5. RIGHT-TO-FARM

Colorado is a "right-to-farm" state, meaning that certain protections are afforded agricultural operations by limiting the circumstances by which agriculture operations may be deemed to be a nuisance pursuant to C.R.S. §35-3.5-1-1 et seq.

1.6. GENERAL RULES FOR INTERPRETATION OF THIS CODE

1.6.1. Language

The language of this Code shall be read literally. The rules of construction, definitions of specific terms, and abbreviations applicable to the interpretation of this Code are provided in this Chapter.

1.6.2. Headings, Illustrations and Text

In case of any difference of meaning between the text of this Code and any heading, drawing, table, figure, or illustration, the text shall control.

1.6.3. List and Examples

Unless otherwise specifically indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

1.6.4. Computation of Time

- The term days shall always refer to calendar days.
- In computing a period of days, the first day is excluded and the last day is included unless the last day of any period is a Saturday, Sunday, or legal holiday, in which case the last day shall be the next working day.
- In computing the number of months, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun. If there are not that many days in the concluding month the period ends on the last day of that month unless the last day is Saturday, Sunday, or legal holiday, in which case the last day shall be the next working day.

1.6.5. Public Officials and Agencies

All employees, public officials, bodies, and agencies to which references are made are those of El Paso County unless otherwise expressly stated.

1.6.6. Exclusion of Uses

The listing of any use as being permitted in a particular zoning district shall be deemed to be an exclusion of the use from any other zoning district in which the use is not listed. For uses not listed in any zoning district, an administrative determination concerning whether the use is allowed within the zoning district may be requested.

1.6.7. Use Defined by Code

When a use is expressly defined in this Code, or when a use is categorized by an administrative determination, similar uses which are not listed or defined shall fall within the same category of use by character, descriptor, and intensity as determined by the ~~Development Services~~Planning and Community ~~Department~~Development Department (~~DSD~~PCD) Director.

1.7. DELEGATION OF AUTHORITY

Whenever a provision requires the head or Director of a department or another officer or employee of the County to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.

1.8. ZONING MAP

1.8.1. Adoption

The boundaries of the zoning districts established by this Code are shown on a map or series of maps designated the "Zoning Map". The zoning map and all notations, references, data and other information shown on the map is hereby adopted and made a part of this Code as fully as if it were included in the pages of this Code. The zoning map and zoning resolution are maintained in the ~~DSD~~PCD. In case of any dispute regarding the zoning classification of property subject to this Code, the zoning resolutions will govern. The ~~DSD~~PCD Director is responsible for producing all updates of the zoning map.

1.8.2. Zoning District Boundaries

Unless otherwise indicated on the zoning map or otherwise clearly stipulated in the zoning resolution, zoning district boundaries follow: lot lines; the center lines of roads or alleys or the specified distance from such features; railroad right-of-way lines; property lines; the boundaries of El Paso County; or the corporate limit line of incorporated cities and towns.

1.8.3. Interpretation of Zoning District Boundaries

Where uncertainty exists about the boundaries of the zoning districts or when the road or property existing on the ground is different with that shown on the zoning map and zoning resolution, the ~~DSD~~PCD Director is authorized to determine the location of the boundaries.

1.8.4. Drafting Errors and Changes to the Zoning Map

The ~~DSD~~PCD Director is authorized to change the zoning map when the public record clearly indicates the zoning map does not accurately depict zoning district and overlay zoning district boundaries or zoning designations and subsequent amendments to those boundaries or zoning designations approved by the Board of County Commissioners (BoCC).

1.9. OTHER REGULATIONS

1.9.1. Compliance Required

In addition to the requirements of this Code, all uses and development shall comply with all other applicable city, county, state, and federal regulations.

1.9.2. References to Other Regulations

All references in this Code to other city, county, state, or federal regulations are for informational purposes only, and do not constitute a complete list of the regulations. These references do not imply any responsibility by El Paso County for enforcement of city, State, or federal regulations.

1.9.3. Current Versions and Citations

All references to other city, county, state, or federal regulations in this Code refer to the most current version and citation for those regulations, unless specifically indicated

otherwise. Where the referenced regulations have been repealed, this Code's requirements for compliance are no longer in effect.

1.9.4. Conflict with State or Federal Regulations

If the provisions of this Code are inconsistent with those of the state or federal government, this Code's provisions shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, this Code's provision, as a local provision, prevails as an exception to the State or federal provision unless otherwise expressly prohibited by law.

1.9.5. Conflict with Other County Regulations

If the provisions of this Code are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances, resolutions, or regulations of the County, the more restrictive provision, or the provision that is more protective of public health, safety, and welfare, will control. The provisions of this Code are minimum requirements that do not preclude imposing more restrictive standards by agreement or by law. These provisions shall be construed broadly to promote the purpose for which they are adopted.

1.9.6. Conflict with Private Agreements and Covenants

This Code is not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or other private agreement or legal relationship otherwise in conformance with it, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than said easement, covenant, private agreement or legal relationship, these Code provisions will control to the extent that these provisions may be imposed without resulting in a breach or abrogation of the easement, covenant, private agreement or legal relationship.

1.10. TRANSITIONAL PROVISIONS

1.10.1. Violations Continue

Any violation of the County's previous regulations or ordinances will continue to be a violation under this Code or any subsequent amendment to this Code and will be subject to penalties and enforcement provisions of this Code or any subsequent amendment to this Code unless the use, development, construction or other activity is consistent with the express terms of this Code or any subsequent amendment to this Code, in which case enforcement action will cease. The adoption of this Code or any subsequent amendments to this Code does not affect or prevent any pending or future prosecution of, or action to abate, violations of any previous County regulations or ordinances that occurred prior to the effective date of this Code or any subsequent amendment to this Code.

1.10.2. Nonconformities

Any nonconformity under the County's previous regulations or ordinances will continue to be a nonconformity under this Code or any subsequent amendment to this Code, as long as the situation that resulted in the nonconforming status under the County's previous regulations or ordinances continues to exist. If, however, a nonconforming situation under the County previous regulations or ordinances becomes conforming because of the

adoption of this Code or any subsequent amendment to this Code, then the situation will no longer be considered a nonconformity. A situation that did not constitute a lawful nonconforming situation under the County's previous regulations or ordinances does not achieve lawful nonconforming status under this Code or any subsequent amendment to this Code merely by repeal of the County's previous regulations or ordinances.

1.10.3. Development of Legal Lots

Development of any legal lot existing on the effective date of this Code or subsequent amendments to this Code shall conform to all provisions of this Code unless otherwise provided.

1.10.4. Projects Approved Prior to the Adoption or Subsequent Amendment of the Code

Any variance, use subject to special review, or other zoning application approved under the County's previous regulations or ordinances remains valid until the expiration date of said approval, if any. The BoCC may, upon receipt of a written request and payment of the required fee, grant one extension not to exceed one year to complete the project or action approved under the County's previous regulations or ordinances. Any subsequent project or action shall comply with this Code. Any significant modification to an approved project or action shall comply with this Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.

1.10.5. Applications Submitted Before the Effective Date of this Code

Any project or action for which a complete application was submitted to the County before the effective date of this Code or any subsequent amendment to this Code may, at the applicant's option, will be reviewed under the regulations or ordinances in effect at the time of application. If approved, the projects or actions may be carried out in accordance with said regulations or ordinances. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.

1.10.6. Permits Issued Before the Effective Date of this Code

Any building, sign or structure for which a building permit was duly issued before the effective date of this Code or any subsequent amendments to the Code may be completed in conformance with the issued permit, even if the building, sign or structure does not fully comply with provisions of this Code or any subsequent amendments to the Code. If construction is not commenced or completed in accordance with the applicable permit terms, the ~~DSD~~PCD Director may, upon receipt of a written request and payment of the required fee, grant one 6-month extension for good cause shown. If the building, sign or structure is not commenced or completed within the time allowed under the original permit or any extension granted, then any building, sign or structure shall comply with the requirements of this Code or any subsequent amendments to the Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights. Any expansion in size of an approved existing structure shall comply with this Code for the modification area.

1.10.7. Subdivision Plats Approved Before the Effective Date of this Code

Any subdivision for which a preliminary plan or final plat was approved before the effective date of this Code or any subsequent amendments to the

Code may be completed according to the plat approval and other applicable permits and conditions, even if the subdivision does not fully comply with the provisions of this Code or any subsequent amendments to the Code. If the subdivision process is not completed within the time requirements established by the County's previous regulations and ordinances or within any schedule included in the approval of the subdivision, then the subdivision shall comply with this Code or any subsequent amendments to this Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.

1.10.8. Zoning District Names Before the Effective Date of this Code

The zoning district names in effect before the effective date of this Code are changed as shown in Table 1-1.

Table 1.1, Zoning District Name Changes

District Name Before the Effective Date of this Code	Zoning District Name Under this Code
Agricultural (A) and Forestry (F) Districts	
A-1, Agricultural	A-5, Agricultural
A-35, Agricultural	A-35, Agricultural
F, Forestry and Recreation	F-5, Forestry and Recreation
Rural Residential (RR) Districts	
RR-1, Rural Residential	RR-0.5, Residential Rural
RR-2, Rural Residential	RR-2.5, Residential Rural
RR-3, Rural Residential	RR-5, Residential Rural
Residential Suburban (RS) Districts	
R, Residential	RS-20000 Residential Suburban
R-1, Residential	RS-6000 Residential Suburban
R-2, Residential	RS-5000 Residential Suburban
Residential Multi-Dwelling (RM) Districts	
No existing equivalent	RM-12, Residential Multi-Dwelling
R-3, Residential	RM-30, Residential Multi-Dwelling
Commercial (C) Districts	
PBP, Planned Business Park	CC, Commercial Community
PBC, Planned Business Center	CR, Commercial Regional
PBD, Planned Business	CS, Commercial Service
Industrial (I) Districts	
PID, Planned Industrial	I-2, Limited Industrial
PHID, Planned Heavy Industrial	I-3 Heavy Industrial
Special Purpose Districts	
R-T, Residential-Topographic	R-T, Residential-Topographic
MHP, Mobile Home Park	MHP, Mobile Home Park
No existing equivalent	MHP-R Mobile Home Park, Rural
MHS, Mobile Home Subdivision	MHS, Mobile Home Subdivision
RVP, Recreational Vehicle Park	RVP, Recreational Vehicle Park
PUD, Planned Unit Development	PUD, Planned Unit Development
Overlay Districts	
OA-CGM, Airport Zone	CAD-O Commercial Airport District
OA-G, Airport-General Aviation District	GA-O, General Aviation Overlay District
O-HR, High Rise Zone	HR-O, High Rise Overlay District
No Existing Equivalent	RLUP-O, Rural Land Use Plan Overlay District
Zoning District (Added 08/11/2011)	WSE-O, Wind/Solar Energy Generation Plan
Obsolete Districts	
C-1, Commercial	C-1, Commercial
C-2, Commercial	C-2, Commercial
M, Industrial	M, Industrial
R-4, Planned Development	R-4, Planned Development
Zone Districts Removed from Land Development	**Resolution 12-008**
CN	Commercial Neighborhood
CO	Commercial Office
I-1	Research and Development

1.11. SEVERABILITY

If any portion of this Code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion held to be invalid or unconstitutional is to be deemed severed from this Code and in no way affects the validity of any other portion of this Code.

1.12. AMENDMENTS

Any amendment to this Code, other than administrative interpretations as provided for herein, shall follow the prescribed amendment procedures. Upon consultation with the Office of the El Paso County Attorney (OCA), the ~~DSD~~PCD Director may make the following changes or corrections to the provisions of this Code when the changes or corrections do not alter the sense or meaning of its provisions:

- Misspelled words may be corrected.
- Erroneous legislative histories may be corrected.
- Cross-references may be changed to agree with new, amended, reenacted, renumbered, re-lettered, reallocated or corrected ordinances or resolutions.
- Improper capitalization may be corrected.
- Descriptive headings of titles, chapters, sections or subsections may be edited or added to briefly and clearly indicate the subject matter of the title, chapter, section or subsection.
- The numbering or lettering of sections, including duplicative numbering or lettering created by conflicting enactments, may be corrected or properly arranged.
- References in design standards to specific job titles or agency names that are changed without substantial effect on job or agency responsibilities may be changed to refer to the new job title or agency name.
- Punctuation, including hyphenation, may be corrected.
- Typographical or grammatical errors may be corrected.
- Gender-specific terms that occur may be changed to gender-neutral terms and necessary grammatical changes to properly use the gender neutral terms may be made.
- Conforming changes, when authorized by BoCC resolution in adopting a change to this Code.

1.13. BUILDING PERMITS

1.13.1. Building Permits Required

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.)

The use specific standards for agricultural accessory uses and structures may be found in Chapter 5 of this Code.

1.13.2. Building Permits to Conform to Code

No building shall be constructed, reconstructed, or structurally altered, nor shall any building or land be used for any purpose except in conformity with this Code and any BoCC Resolution. No building permit, septic permit, sign permit, use permit or any other permit authorized by this Code shall be issued by the ~~DSD~~PCD unless the plans for the proposed construction, reconstruction, alteration, or use fully conform to the applicable requirements of this Code. Unless otherwise provided within this Code, ~~DSD~~PCD authorization of the issuance of a building permit by the Regional Building Department shall only be accomplished after the submission and approval of a site plan or site development plan.

1.13.3. Final Plat to be Filed Before Building Permit Issued

No building shall be erected, nor shall any building permit be issued within a subdivision before the final plat has been approved by the BoCC and filed for recording with the Clerk and Recorder, except as otherwise provided in this Code.

1.14. RULES OF CONSTRUCTION

1.14.1. Definition of Terms

Words used in this Code have their dictionary meaning unless they are specifically defined in this Code. Words defined within this Code shall have the specific meaning assigned, unless the context clearly indicates another meaning.

1.14.2. Tenses and Singular/Plural

In general, words used in the present tense shall include the future; the singular shall include the plural; and the plural the singular.

1.14.3. Mandatory and Permissive Language

The words "shall," "must," "will," "shall not," "will", "may not," "no … may," and "no … shall" are always mandatory. The word "should" indicate that which is recommended but not required. The word "may" indicates a use of discretion in making a decision.

The word "used" includes "designed, intended, or arranged" to be used. The masculine gender includes the feminine and vice versa. References to "distance" shall mean distance as measured horizontally unless otherwise specified.

1.14.4. Terms When Used with Numbers

When used with numbers, "Up to x," "Not more than x" and "a maximum of x" all include x.

1.14.5. Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- "And" indicates that all connected items or provisions apply.
- "Or" indicates that the connected items or provisions may apply singularly or in combination.
- "Either.. .or" indicates that the connected items or provisions apply singularly, but not in combination.

1.14.6. Conflicts with State Statute or Building Code

All definitions which reference the C.R.S. and Building Code are intended to duplicate the definitions used in these codes in effect on the effective date of this Code or as subsequently amended. If a definition in this Code conflicts with a definition under State statute or regulation, the State definition shall control over the Code definition.

1.14.7. Definitions are Not Regulations

These definitions are not intended to establish regulations, but are intend to define the limits of specific uses and other standards

1.15. DEFINITIONS OF SPECIFIC TERMS AND PHRASES

The following represent the definitions of the terms and phrases used in this Code. The terms are in alphabetical order.

Abandon -- To terminate the use of a structure or land by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through no activity or action. Except for agricultural activities, there shall be a presumption that a use has been abandoned if it is not undertaken, utilized, implemented or performed for a period of one year.

Abutting -- Adjoining with a common lot, parcel or tract line or sharing any portion of a lot, parcel or tract boundary line.

Access -- The place means, or way by which vehicles are provided with a safe, adequate and usable ingress and egress to a property, use or parking space.

Access Control Management Plan -- A roadway design plan which designates preferred access locations and their designs for the purpose of bringing those portions of roadway included in the access control plan into conformance with their functional classification to the extent feasible (See C.R.S. §43-2-147).

Acceptance, Final -- The acknowledgement by the County that the defects warranty period has expired and there are no outstanding items to be corrected under the provisions of the defect warranty.

Acceptance, Preliminary -- An acknowledgement by the County that, to the best of the County's knowledge, all work on common development and subdivision improvements and required public improvements has been completed in accordance with the plans and specifications and the defect warranty period should begin.

Accident Potential Zone I (APZ -1) [Class A Runway Accident] -- An area 3,000 feet wide extending 1500 feet either side of the centerline of the airport runway and 5000 feet long located beyond the Clear Zones at each end of the runway.

Accident Potential Zone II (APZ-2) [Class A Runway] -- An area 3,000 feet wide extending 1500 feet either side of the centerline of the airport runway and extending 7000 feet beyond APZ I.

Adjacent -- Nearby, meeting or touching at some point, or separated from a lot or parcel by one of the following: a road, alley, right-of-way, lake, stream or open space.

Administrative Determination -- The process used by the ~~DSD~~PCD Director to decide a written request to interpret the provisions of this Code or in issuing any other written interpretation of this Code. The interpretation of the provisions of any conditions of approval will be treated as an interpretation of this Code. An administrative determination of the provisions of this Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this Code.

Adult Arcade -- Any establishment in which the public is permitted or invited where, for any form of consideration, one or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by 5 or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult Cabaret -- A nightclub, bar, restaurant or similar establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult Motion Picture Theater -- An establishment which is characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult Store -- An establishment in which 10% or more of the total floor space available for access by the public is utilized for display, sale or rent for any form of consideration, one or more of the following: (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (b) Instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

Adult Theatre -- A theater, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis on exposure of specified anatomical areas or specified sexual activities.

Affidavit of Correction -- A recorded document correcting minor errors in a recorded final plat such as addresses, road names, boundaries, directions or distances.

Agricultural Business -- A commercial activity directly related to or resulting from the cultivation of the soil, production of crops or the raising of livestock which are not necessarily produced on the premises, which may also include feed and seed sales and hay sales which would otherwise be classified as retail sales.

Agricultural Building -- See Structure, Agricultural

Agricultural Stand -- A structure, booth or counter for the display and sale of consumable goods, including, but not limited to fruits, vegetables and grains, which have been raised, grown, or made on the same lot or parcel.

Agriculture -- The science, art, and business of producing crops or raising livestock. This includes but is not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; emus and ostriches; livestock, including beef cattle, sheep, swine, horses, ponies, mules, donkeys, llamas, alpacas or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all these animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Agritainment – Ongoing or seasonal events and/or activities, whether for remuneration or not, of an agricultural nature that are offered to the public for the purpose of recreation, entertainment, and/or education.

Air Pollutant -- Any fume, smoke, particulate matter, vapor, gas or combination thereof which otherwise enters the atmosphere including but not limited to any physical, chemical, biological, radioactive (including

source material, special nuclear material, and by-product materials) substance or material. This does not include water vapor or steam condensate.

Air Quality Management Plan -- A plan identifying potential sources of air pollution along with strategies for minimizing emissions.

Aircraft Navigation Sub-Zone (ANAV) -- An area indicated at and above the ground as drawn on the Commercial Airport District Map.

Airport Advisory Commission -- An organized body of volunteers from the Pikes Peak Region appointed by the Colorado Springs City Council. The Commission serves in an advisory capacity to the City Manager, the City Council, and the City Planning Commission; and may act in an advisory capacity to the El Paso County Planning Commission and the BoCC for matters relating to the Colorado Springs Municipal Airport.

Airport Noise Sub-Zone (ADNL) -- The area indicated by lines of increasing projected annual average noise exposure (DNL) from 65DNL to 70DNL, 70DNL to 75DNL, and 75DNL to 80DNL. The boundary of the ADNL reflects the 65 DNL line.

Airport, General Aviation -- A runway or landing area or other facility designed or used by public carriers or private aircraft for the landing and taking off of aircraft, which may include the following associated facilities: taxiways; aircraft storage and tie-down areas; hangars; servicing; and passenger and air freight terminals. Airport includes heliports.

Airstrip, Personal -- A runway or landing area without general aviation airport functions maintained for the private use of the owner of the property on which it is located. Includes personal heliport.

Amusement Center, Indoor -- An establishment totally contained within a structure designed or intended to provide entertainment or recreation for the general public, but not including bars, nightclubs or sexually-oriented businesses. The term includes, among other things, arcades (pinball, video, etc.), theaters, dinner theaters, bowling alleys, skating rinks, billiard parlors, pool halls, teen clubs, indoor shooting ranges, laser tag, privately-owned recreational facilities, health clubs, and organizational clubs. Accessory uses may include the preparation and serving of food or sale of equipment related to the identified uses.

Amusement Center, Outdoor -- An establishment, which can be contained in part by a structure, but is largely exposed to the weather, designed or intended to provide entertainment or recreation for the general public characterized by being open for specific hours, receiving remuneration, advertising activities or use of the property, using sanctioned leagues, or holding organized events. The term includes, among other things, drive-in theaters, amusement parks, carousels, miniature golf courses, golf courses and driving ranges, go-cart tracks, skateboard parks, water parks, and privately-owned outdoor recreational facilities, but does not include bars, nightclubs, or sexually-oriented businesses. Accessory uses may include the preparation and serving of food or sale of equipment related to the identified uses.

Animal Day Care Facility -- A commercial establishment for the care of dogs or other household pets, predominantly for periods of less than 24 consecutive hours.

Animal Keeping -- The activity of having, owning, and caring for domesticated animals, including animals not commonly regarded as household pets.

Animal Refuge -- A facility, other than a veterinary hospital, for the care and keeping of abandoned, injured, or confiscated animals, including domesticated or exotic species. Also includes what is commonly considered animal rescue or similar type facilities.

Annexation -- The action by a city or town to bring a lot, parcel or tract into its boundaries and jurisdiction.

Annexation Impact Report -- A written report prepared by a municipality concerning the proposed annexation of any lot, parcel or tract.

Apiary -- A pl~~,~~ace where one or more beehives are kept.

Appeal -- A request by an applicant or citizen that a decision made pursuant to this Code is reviewed for its correctness and legality by another person, agency, approving authority, or court of law having jurisdiction to hear the appeal.

Applicant -- The individual, firm, business entity, trust, association, syndicate, partnership, or corporation of record or any person designated by the property owner who has applied for or is requesting a development permit under this Code including subdivider's.

Applicant Subdivider -- A subdivider that may be required by an approved cost recovery statement issued under this Code to reimburse a requestor subdivider for a fair share of the cost of certain improvements that the County required to have installed. An applicant subdivider is also referred to as a benefited property owner.

Approval Authority -- The ~~DSD~~PCD Director, the BoCC, Planning Commission, Board of Adjustment, El Paso County Engineering Criteria Manual (ECM) Administrator, Building Official, or other person or agency, depending on the type of development permit or decision specified by State Statute or this Code, sanctioned to make a final decision approving, denying or conditionally approving the development permit or other requested action.

Approval of Location -- The process authorized by CRS §30-28-1 10(1) whereby the Planning Commission reviews and approves the location and extent of any road, park, public way, ground or space, public building or structure, or public utility (whether publicly or privately owned and constructed).

Arterial -- A road that connects major activity centers, carries high volumes of traffic longer distances, and has access to abutting land as a small part of its function. The concept of service to abutting land is secondary to the provision of mobility. Arterials are designated on the Major Transportation Corridor Plan (MTCP).

Auction -- A public sale in which real or personal property is sold to the highest bidder.

Auditorium -- A large building for public meetings or artistic performances, which usually includes a stage and seating.

Augmentation Plan -- A detailed program, which may be either temporary or perpetual in duration, to increase the supply of water available for beneficial use in a subdivision or portion thereof by the development of new or alternate means or points of diversion, by a pooling of water resources, by water exchange projects, by providing substitute supplies of water by development of new sources of water, or by any other appropriate means. "Plan for augmentation" does not include the salvage of tributary waters by the eradication of phreatophytes, nor does it include the use of tributary water collected from land

surfaces that have been made impermeable, thereby increasing the runoff but not adding to the existing supply of tributary water. Refer to C.R.S §37-92-103. "Plan for augmentation" refers to the plans approved by a water court. "Replacement Plan" refers to similar plans approved by the Colorado Groundwater Commission. See, Replacement Plan.

Automobile -- Any powered vehicle, including cars, trucks, buses, motorcycles or motor homes, or any vehicle requiring licensing under State law, such as campers, travel trailers or fifth wheels.

Automobile and Boat Storage Yard -- A lot, parcel, or structure used for temporary storage of operable automobiles, trucks under 5 tons rated capacity, campers, recreational vehicles, trailers, or boats, not owned by the property owner, where typically the storage occurs when they are not in use and for a fee. The term shall not include scrap metal processing yards, vehicle dismantling yards, or salvage yards.

Automobile and Trailer Sales Area -- An open area used for the display, sale, or rental of automobiles, trailers, boats, recreational vehicles, mobile homes and manufactured homes, and where no repair work is done except minor incidental repair and preparation work on automobiles, mobile homes and manufactured homes to be displayed, sold or rented on the premises.

Automobile Recycling Center -- An establishment primarily engaged in the wholesale or retail distribution of used automobile parts, including establishments dismantling automobiles for the purpose of selling parts.

Automobile Sales -- The use of any structure, lot or parcel for a business involving the sale of automobiles. These establishments may include office space, parking lots for the display and storage of automobiles available for sale, parking areas for customers and employees, automobile repair facilities, facilities for bodywork, painting, or restoration, and sale of parts.

Average Daily Traffic -- The total two-directional volume of traffic during a given time period (in whole days), greater than one day and less than one year, divided by the number of days in that time period.

Avigation Easement -- A document granting rights pertaining to the passage of aircraft over a grantors' property, along with other statements, requirements, and criteria accompanying that grant, which is generally recorded against the grantors property as a condition of development approval.

Bar -- An establishment serving alcoholic beverages as prescribed in C.R.S. §12-47-409 (beer and wine license) or C.R.S. §12-47-412 (tavern license) of the Colorado Liquor Code and having an occupant load as defined in the Building Code of less than 100.

Batch Plant -- Processing plant, together with its accessory facilities, for the manufacturing of concrete or asphalt and related materials and products.

Batch Plant, Temporary -- A batch plant placed on a lot or parcel on a temporary basis, usually in association with a federal, State, or local government public improvement project.

Bed and Breakfast Home -- A residence which provides temporary overnight lodging for remuneration with a maximum of 2 guest rooms. A bed and breakfast home is a home occupation as further defined and regulated by this Code.

Bed and Breakfast Inn -- A residence which provides temporary overnight lodging for remuneration with a minimum of 3 and a maximum of 10 guest rooms.

Bee Keeping, Commercial -- The cultivation of bees on a commercial scale for the production of honey and pollination of crops.

Bee Keeping, Residential – The cultivation of bees for the production of honey and pollination of crops for personal use only and not for monetary gain.

Beneficial Use Agreement -- An agreement between a landowner and the County establishing the limitations and conditions whereby waste tires may be utilized in the construction of a fence.

Benefited Property -- A property identified in a pending or approved cost recovery statement as being potentially benefited by adjacent or off-site improvements constructed by a requestor subdivider.

Berm -- A mound of soil, either natural or manmade, used to obstruct views, attenuate noise, or direct the flow of stormwater

Best Management Practice -- Systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment.

Billboard -- An off-premise sign erected to direct attention to a business, commodity, service, activity or product sold, conducted, or offered off the lot or parcel where the sign is located.

Billiard Parlor -- An establishment for the games of or relating to billiards or pool. In the event liquor is served, the establishment is classified as a bar.

Block -- An area of land within a subdivision entirely bounded by roads or the exterior boundary or boundaries of the subdivision designated as a block on a recorded subdivision plat.

Board of Adjustment -- The Board of Adjustment of El Paso County.

Board of County Commissioners -- The El Paso County governing body authorized to exercise the powers of the County.

Board of Directors -- A board of directors of a special district having the ability to directly influence the major financial decisions of the special district or a combination of related districts.

Boarding and Rooming House -- A building, other than a hotel or motel, where lodging for 5 or more persons, not including members of the operator's immediate family, is provided for compensation; meals may be provided for the lodgers where the owner or manager lives on the same ownership. This term shall not include child care center or family care home. The word compensation shall include compensation in money, services or other things of value.

Buffering -- The installation of plant materials, fencing, or landforms (or a combination of these measures), between 2 or more lots or parcels which inhibits visibility or mitigates the transmission of noise, dust, smoke, lights, and other nuisances from one lot or parcel to another, or which provides for future public improvements or additional open space.

Buildable Area -- The portion of the lot that can be occupied by the principal and accessory uses, excluding the front, side and rear yards and other areas constrained by setbacks, easements, floodplain, and other restrictions so noted on the plat or by this Code.

Building -- A structure having a roof, supported by columns or walls.

Building Code -- The Pikes Peak Regional Building Code, as adopted by the BoCC.

Building Department -- The Pikes Peak Regional Building Department.

Building Height -- The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the roof surface, if a flat roof; to the deck line of mansard roofs; and to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

Building Official -- The administrator of the Building Department or his designee.

Building Permit -- A permit issued by the Building Department for construction of a structure following a determination by the ~~DSD~~PCD and Building Department that the construction plans comply with the provisions of this Code and the Building Code.

Business Event Center -- A for-profit business whose purpose is to provide a place for people to assemble for events in the nature of, but not limited to, recreational, social, cultural, political, or educational purposes.

Caliper -- The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at 6 inches above the ground for trees up to and including 4-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

Car Wash -- A facility for the cleaning of automobiles. The term includes, among other things, truck or recreational vehicle wash.

Caretaker's Quarters -- A dwelling, mobile home, manufactured home, or apartment unit within the principal building occupied only by a caretaker and immediate family, which is accessory to the principal commercial or industrial use.

Carport, Temporary-- A detached covered structure without walls that is not subject to the building code and is used to offer limited protection to vehicles from rain and snow.

Cemetery -- A place operated and designated for the burial or keeping of the remains of the dead, whether human or animal, including crematories, mausoleums, and columbaria operated within the boundaries of the cemetery.

Cemetery, Personal -- A cemetery that is limited to the personal use of the property owner for themselves, immediate family members or other relatives.

Central Sewer System -- A system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than 2,000 gallons of sewage per day from one or more lots or parcels, but not including an onsite wastewater system (OWTS). The term central sewer system includes appurtenances such as interceptors, collection lines, outfall and the outlet sewers, pumping stations, and related equipment.

Central Water System -- A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, and which provides at least 15 service connections used by year-round residents of the area served by the system; or that regularly serves at least 25 year-round residents.

Certificate of Designation -- A document issued by the BoCC, upon favorable recommendation from the

Colorado Department of Public Health and Environment (CDPHE), authorizing the operation of a solid waste disposal site and facility pursuant to the Solid Wastes Disposal Sites and Facilities Act (C.R.S. §§30-20-101, et. seq.).

Certificate of Occupancy -- A certificate issued by the Building Department after final inspection and a finding that the building, structure, or development complies with all provisions of the applicable County codes, permits, requirements and approved plans.

Change of Use -- Any use that substantially differs from the previous use of a structure, lot, or parcel, including a change from a public use to a private use, in which the new use requires review of parking, landscaping, screening, buffering, drainage facilities, water supplies, wastewater facilities, or other changes to the site to determine compliance with this Code.

Child Care Center -- A facility with the capacity to care for more than 5 children who are under the age of 16 years and are not related to the owner, operator, or manager, whether the facility is operated with or without compensation for the care, and with or without stated educational purposes. The term includes facilities commonly known as day care centers, day nurseries, nursery schools, montessori school, kindergartens, preschools, day camps, summer camps, centers for developmentally disabled children and those facilities which give 24 hour care for dependent and neglected children; and includes those facilities for children under the age of 6 years with stated educational purposes operated in conjunction with a public, private, or parochial college or private or parochial school; except that the term shall not apply to a kindergarten maintained in connection with a public, private, or parochial elementary school system of at least 6 grades, which is defined as an educational institution under this Code. Kindergarten means any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether the facility is called a kindergarten, nursery school, preschool, or by any other name. The term child care center shall not include any facility licensed as a family care home.

Child Care Facilities -- A licensed child care center, family care home, or residential child care facility, as provided for under the Child Care Act, C.R.S. §§26-6-101 et. seq. and its implementing regulations, 12 C.C.R. 2509-8, except as otherwise defined or restricted by this Code.

Christmas Tree Lot -- An area for the temporary retail sale of Christmas trees usually set up in the parking lot of a large commercial business.

Clear Zone -- An area defined by Federal Aviation Administration (FAA) regulations that extends 3000 feet beyond the end of the runway, where the potential for aircraft accidents is considered measurable enough to warrant additional land use restrictions.

Clerk and Recorder -- El Paso County Clerk and Recorder.

Clerk to the Board -- The custodian of records and documents of the BoCC.

Clubs -- Organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, including country clubs and lodges but excluding clubs operated for profit and places of worship or assembly.

Cluster Development -- A design technique which concentrates buildings or lots in specific areas of a site in order to reduce the overall need for infrastructure or to allow the remaining land to be used for

recreation, common open space, and preservation of environmentally sensitive or visually significant features.

CMRS (Commercial Mobile Radio Service) Facility -- An unmanned facility consisting of antennae, accessory equipment, and equipment storage shelters used for the reception, switching, transmission or receiving of wireless telecommunications operating at 1000 watts or less effective radiated power and using frequencies authorized by the Federal Communications Commission, including, but not limited to, paging, enhanced specialized mobile radio, personal communication systems, personal wireless service, cellular telephone, point-to-point microwave signals, and similar technologies. Also known as a wireless telecommunications service facility.

CMRS Facility, Accessory Equipment for a -- Equipment, including buildings and structures, used to protect and enable radio switching equipment, back-up power, support structures, and other devices incidental to a CMRS facility, but not including antennae.

CMRS Facility, Building Roof-Mounted -- A CMRS facility with antennae that are mounted and supported entirely on the roof of a legally existing building or structure.

CM RS Facility, Building Wall-Mounted -- A CMRS facility with antennae that are mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, chimneys, and similar appurtenances.

CMRS Facility, Freestanding -- A CMRS facility that consists of a stand-alone support structure, such as a tower or monopole, and antennae and accessory equipment.

CMRS Facility, Pole-Mounted -- A CMRS facility with antennae that is mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, co-located freestanding CMRS facility, electric or transmission line support tower, or other similar structure.

CMRS Facility, Stealth -- A CMRS facility with an alternative design which camouflages or conceals the presence of antennae or towers, such as, but not limited to, artificial trees, clock and bell towers, and steeples.

The El Paso County Land Development Code, including any companion documents referenced in the Code and otherwise adopted. The Code comprises the zoning resolution and the subdivision regulations of the County.

Co-Location -- Placement of two or more transmitters, antennas, or other forms of telecommunication device on a common support structure.

Colorado Springs Municipal Airport -- The general aviation airport now known as City of Colorado Springs Municipal Airport, or any future name or common reference that may be promulgated adopted or referred to.

Colony – Worker bees, drones, queen, and developing brood living together in one hive.

Combination Agreement -- A voluntary acknowledgement by property owner filed for recording with the Clerk and Recorder whereby a property line is removed between two or more contiguous lots or parcels for the purpose of modifying the exterior boundaries of the resulting parcels. The execution and filing of a combination agreement eliminates the lot or parcel line between two or more parcels for the purpose of

meeting the requirements of this Code.

Combustible -- Any material that, in the form in which it is used and under the conditions anticipated will ignite and burn or will add appreciable heat to an ambient fire.

Commercial Airport District Map -- The series of maps developed for the Colorado Springs Municipal Airport which together defines the geographic extent of the boundaries of the OA-CAD District and the associated noise and accident potential based upon the Federal Aviation Regulations (FAR) Part 77 and Part 150 Studies.

Commercial Airport Overlay District (CAD-O) -- An overlay zone district applicable to airports which may include associated sub-zones noted herein that are together superimposed on existing base zones.

Commercial Center -- The area of land contained within the same zoning or rezoning approval resolution, which may include multiple owners, lots, or parcels; which utilizes common access; and which functions as a unified commercial development.

Commitment to Serve -- A written commitment by the public water or sewer provider that constitutes a binding agreement to provide service to the subject property, which may include conditions necessary to provide service and quantifiable amounts of service.

Common Open Space -- An area of land, water, or a combination of land and water designed and designated for the use or enjoyment of residents, occupants, and owners within the subdivision or development.

Community Building -- A facility used for the assembling of people for recreational, social, cultural, political or educational purposes operated by a not-for-profit, special district, or governmental entity, a homeowners' association, or a mobile home or recreational vehicle park owner generally designed to serve a neighborhood or development. A community building may include outdoor recreation facilities including tennis courts, basketball courts, playgrounds, bike trails, picnic areas, or other facilities approved as part of the site development plan or special use.

Compatibility -- The characteristics of different uses, activities or designs which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of the proposed use, activity or design in maintaining the character of existing development within the vicinity.

Complete Application -- All submittals required for processing a specific type of development application.

Composting Facility -- A site where compost is produced, except at a residential location.

Condominium -- A legal form of ownership whereby an owner gains title to an interior air space of individual units in a multi-unit project together with interest in the common areas and facilities appurtenant to the units where the land within the project is owned in common.

Conservation Area -- The land set aside in a RLUP Exemption Plat and permanently preserved, through a conservation easement or other County-approved mechanism, for conservation, agricultural, or other low-impact uses as provided by this Code.

Conservation Easement -- A recorded deed restriction under which a property owner retains title to real property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance, but gives up some or all of the development rights associated with it, the terms and restrictions of which are specified in a conservation easement document for the property. For a conservation easement to be recognized under federal law, the easement document shall transfer the rights to enforce property restrictions to a qualified conservation organization or government agency.

Construction Equipment Storage and Field Office, Temporary -- A heavy equipment and materials storage area for an establishment engaged in the business of constructing or demolishing buildings or infrastructure. The term also includes, but is not limited to, businesses engaged in the installation of air conditioners, electrical equipment, flooring, heating, painting, plumbing, roofing, tiling, ventilation, pools, and service facilities of utilities. The term also includes field offices that support the construction activities including field offices located in construction trailers. The term does not include salvage yards, junkyards, vehicle dismantling yards, or scrap metal processing yards.

Construction Permit -- A permit issued by the ECM Administrator for: (1) the construction, alteration or reconstruction of public improvements within any County right-of-way or easement; (2) the construction, alteration or reconstruction of common development improvements covered by the ECM, LDC, development agreement, or subdivision improvement agreement; or (3) site preparation activities including grading, stripping of soil or vegetation, depositing fill material, and trenching or excavating.

Construction Plans -- Project drawings that show the location, character and dimensions of the proposed work.

Contiguous -- Sharing an edge or a lot, parcel or tract boundary line. The contiguity of land areas shall not be affected by the existence between them of a private road, road easement, driveway or alley; a private right-of-way; a public or private transportation or utility right-of-way; a river, creek, stream, or other natural or artificial waterway; or an intersecting mining claim. The contiguity of land areas shall be assumed to be disrupted by the existence of established public roads and by lands contained within the legal boundaries of any municipality unless otherwise provided by this Code.

Contractor's Equipment Yard -- A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.

Convenience Store -- An establishment for the purpose of offering for sale to the neighborhood in which it is located such items as groceries, ready to eat food, over the counter drugs, and sundries. A convenience store may include retail sale of gasoline and other petroleum products.

Copy Shop -- A retail and service store for the purpose of small scale publishing, copying, fax receipt, and shipping serving the needs of the general public.

Correction Plat -- A re-recording of a previously approved final plat which is intended to correct a technical error in the plat.

County Assessor -- The El Paso County Assessor.

County Engineer -- The County Engineer for El Paso County with authority and duties as designated in Colorado Revised Statute, or authorized designee.

County Hydrogeologist -- A person designated by the BoCC to advise the County on matters pertaining to compliance with the County's water regulations, and other water matters.

Covenants -- Covenants, conditions and restrictions ("CC&R's") by which the declarant or other executing party or parties impose contractual obligations on the present and future owners and assignees of real property. CC&Rs are connected with land or other real property and run with the land, so that the grantee of the land is invested with and bound by the CC&Rs. CC&Rs include but are not limited to declarations for condominiums. CC&Rs are not enforced by the County.

CSFS (Colorado State Forest Service) Guidelines -- Guidelines, publications, and design manuals as published by the CSFS relating to forest management and wildfire protection.

Cut-Off Angle -- The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.

Date of Completion of an Improvement -- The earlier of the date that the County accepts dedication of the relevant improvement that is the subject of the cost recovery statement or, in the case of improvements to which the County does not require dedication, the earlier of the date of the County's release of the collateral for the construction of the relevant improvement or the date that any building permit is issued within the subdivision.

Datum Plane -- A horizontal plane or surface which includes the surface point of the airport elevation at mean sea level.

Day Care Center -- A non-residential facility for the care and supervision of more than 8 children for periods of less than 24 hours per day. Day care centers include preschools and nursery schools.

Day Care Home, Adult -- A private residence used for the care of 8 or fewer adults, other than the operator or operator's family, for a period of less than 24 hours per day. A license from the Colorado Department of Social Services is not required.

Day Care Home -- A private residence used for the care of up to 12 children other than the operator's own children for a period of less than 24 hours per day for which the operator possesses a license from the Colorado Department of Social Services.

Day-Night Average Sound Level -- The 24-hour average frequency-weighted sound level, in decibels, that recognizes the added impact of nighttime noise. It is a 24 hour average noise level based on A-weighting with 10 dBA (decibels) added between the hours of 10:00 p.m. to 7:00 a.m. DNL is expressed visually via contour lines in 5 DNL increments.

Day-Night Equivalent Sound Level -- The average sound level over a 24-hour period with noise events occurring between the hours of 10:00 p.m., and 7:00 a.m., subject to a penalty of 10 decibels.

Dedication -- A right to use land for the public that involves a transfer of property rights by plat, title, deed or other legal method and acceptance of the dedicated property by the appropriate public agency.

Deed Restriction -- Clauses in a deed limiting the future use of a property.

Defensible Space -- An area as defined by the Fire Marshal (typically a width of 30 feet or more) between an improved property and a potential wildland fire where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and create an area for fire suppression operations.

Density, Gross Residential -- The total number of residential dwelling units divided by the total land area of the subject property including publicly dedicated roads, open space or other public facilities.

Density, Net Residential -- The number of residential dwelling units divided by the land area within the subject property excluding publicly dedicated roads, open space or other public facilities.

Design Standards -- All requirements and regulations relating to design and layout of subdivisions as contained in this Code and the ECM.

Detention -- The temporary storage of stormwater runoff to control peak discharge rates and allow settling of stormwater sediment.

Detention Facility -- An above or below ground drainage facility, such as a pond or tank, that temporarily stores stormwater runoff and releases it at a slower rate than it is collected by the drainage facility. The facility includes the flow control structure, the inlet and outlet.

Development -- The act of carrying out any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into 2 or more parcels. When appropriate in context, development shall also mean the act of developing or the result of development. Development shall also include: (a) Any construction, placement, reconstruction, alteration of the size, of a structure on land; (b) Any increase in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development; (c) Any change in use of land or a structure; (d) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland; (e) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land; (f) The demolition of a structure; (g) The clearing or grading of land as an adjunct of construction; (h) The deposit of refuse, solid or liquid waste, or fill on a parcel of land; (i) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and (j) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area. Development shall not include: (a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way; (b) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing in established rights-of-way any mains, pipes, cables, utility tunnels, power lines, towers, poles, or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity; (c) The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure; (d) The use of any land for an agricultural activity; (e) A change in the ownership or form of ownership of any parcel or structure; or (f) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

Development Agreement -- An agreement with the County, including a subdivision improvements agreement, which clearly establishes the terms and conditions of the development approval, including the applicant's responsibility regarding project phasing, the provision of public and private facilities and improvements, and any other mutually agreed to terms and requirements. The agreement may also serve to implement the site specific development plan which establishes vested rights under C.R.S §§24-68-1 01, et seq.

Development Application -- Any application required by this Code or companion documents for a change in land use, for approval of plans, or for the issuance of a permit, including, but not limited to, the following: rezoning; use variances; special uses; variances; temporary use; approval of location; administrative approval or permit pursuant to Appendix B Guidelines and Regulations For Areas and Activities of State Interest of El Paso County ("Appendix B Guidelines and Regulations"); site plans; site development plans; preliminary plan; final plat; maintenance plans; landscape and parking plans; building permit review; certificate of designation; vacation; exemption plat; construction permit; builder's erosion and sediment control permit (BESQCP); erosion and sediment control permit (ESQCP); grading permit; development agreement; and subdivision improvement agreement (SIA).

Development Guide -- The written and graphical documents that detail the provisions for development of a PUD or R-4 development. These provisions may include, and need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrians, areas, and parking facilities; common open space, and other public facilities.

Development Permit -- An approval of a development application and associated documents including, but not limited to, the following: rezoning; variance in use; special use permit; approval of location; administrative approval or permit pursuant to Appendix B Guidelines and Regulations; variance; temporary use permit; site plan; site development plan; preliminary plan; final plat; maintenance plan; landscape and parking plan; building permit; certificate of designation; vacation, exemption plat, construction permit; builder's erosion and sediment control permit (BESQCP); erosion and sediment control permit (ESQCP); grading permit; development agreement; and subdivision improvements agreement (SIA).

Development Plan -- A document prepared pursuant to submittal of a PUD application (or in the R4 zoning district) that is intended to establish the overall land use and density parameters for a large development precedent to submittal and approval of one or a series of more detailed site specific development plans that are fully compliant with the requirements and standards of the PUD or R4 zoning district regulations.

Development Review Process -- The process of reviewing development applications for consistency with the requirements of this Code and other applicable laws, rules, and regulations.

~~**Development Services**~~**Planning and Community Development Department (~~DSD~~PCD) --** The office, department, branch or division of the El Paso County government designated by resolution of the Board of County Commissioners to administer the Land Development Code.

~~**Development Services**~~**Planning and Community Development Director --** The person designated by resolution of the Board of County Commissioners to manage the ~~Development Services~~Planning and Community Development Department or the person's equivalent position or delegated representative.

Development Standards -- Standards and regulations pertaining to the physical development of a site

including requirements pertaining to yards, heights, lot area, fences, walls, landscaping area, access, parking, signs, setbacks, and other physical requirements.

Deviation -- A modification of the ECM standards approved by the ECM Administrator.

Disconnection -- The action which removes property from the legal boundaries of a city or town, rendering the property unincorporated.

Drainage Plan -- A plan depicting the overall approach for managing stormwater drainage associated with the subject property prepared in accordance with the ECM.

Driveway -- A facility for the passage of vehicles that provides access from a public or private road to no more than 3 lots.

Driveway Permit -- A permit issued pursuant to the requirements of the ECM to allow access to a lot, parcel or tract from a public or private road. Temporary access may be allowed through the issuance of a Work in the Right-of-Way Permit.

Dry Cleaning Plant -- An industrial establishment or area for the purpose of cleaning garments and fabrics with any of a variety of non-aqueous agents.

Dry Hydrant -- An arrangement of pipe permanently connected to a water source other than a piped, pressurized water supply system that provides a ready means of water supply for fire-fighting purposes and that utilizes the drafting (suction) capability of fire department pumpers.

Dwelling, Additional -- A dwelling unit, allowed in the A-35 District only, either within or added to an existing single-family detached dwelling or located as a separate accessory structure on the same lot or parcel as the principal single-family dwelling, for use as a complete, independent living facility with provisions within the dwelling unit for cooking, eating, sanitation, and sleeping. The additional dwelling shall be considered an accessory use to the principal dwelling.

Dwelling, Multifamily -- A structure containing 3 or more dwelling units designed for or used exclusively as a residence by 3 or more families, living independently of one another with accessory uses, limited to an office, laundry and recreational facilities, used in common by the occupants.

Dwelling, Single-Family -- A structure containing one dwelling unit designed for or used exclusively as a residence by one family.

Dwelling, Single-Family Attached -- A structure containing more than one dwelling unit, each of which has primary ground floor access to the outside and are attached to each other by party walls without openings, where each dwelling unit is generally located on its own lot. The common or abutting wall shall be shared for at least 50% of the length of the side of the dwelling units. A single-family attached dwelling does not share common floor/ceilings with other dwelling units. A single-family attached dwelling is also sometimes called a townhouse or row house.

Dwelling, Two-Family -- A structure containing 2 dwelling units that are structurally attached and designed for or used exclusively as a residence by 2 families, living independently of one another.

Dwelling Unit -- One or more rooms or structures designed for occupancy by an individual or family for living and sleeping purposes, containing rooms with internal accessibility and no more than one kitchen, for use solely by the dwelling unit's occupants. The word "dwelling unit" shall not include tents, recreational

vehicles, trailer coaches, hotels, motels, guest house, mother in law apartment, or other structures designed or used primarily for transient residents.

Easement -- An area which is reserved, conveyed or dedicated for a specialized or limited purpose without the transfer of fee title.

ECM Administrator -- The County Engineer or his/her authorized designee.

Educational Institution -- Educational institution shall mean public schools, non-public schools, and schools administered and operated by the State. The following definitions shall apply to the various types of educational institutions: (a) 'Public schools' shall mean those schools administered by legally organized school districts; (b) 'Non-public schools' shall mean all private, parochial and independent schools which provide education of compulsory school age pupils comparable to that provided in the public schools of the State.

Electric Substation -- An assemblage of equipment and appurtenant facilities designed for voltage transformation or voltage control of electricity in amounts of 115,000 volts or more, and any addition increasing the existing design capacity.

Electric Transmission Lines -- Non-private electric transmission lines and appurtenant facilities which transmit electricity at 115 kilovolts or more, and any addition thereto increasing the existing design capacity.

Elevation -- The external vertical plane of a building. Elevations are considered different if they have different roof lines, building materials, details, or overall stylistic expression.

Eligible Cost -- Any monetary expense incurred and paid for the installation of an improvement that the County required to have installed under the subdivision approval process and that is directly related to the construction, inclusive of design and planning, of an improvement eligible for a fair share reimbursement. The eligible cost may be incurred by the requestor subdivider or by any metropolitan district, local improvement district, transportation authority, or similar type of governmental entity. These expenses may include but are not limited to land acquisition, materials, labor, engineering, survey, title, management, supervision, consulting, legal, and other professional matters. Eligible costs do not include the expenses incurred in preparing or processing a cost recovery statement.

Emergency Medical Facility -- A facility at which medical care is provided for situations or occurrences that would require immediate action and providing primarily outpatient emergency care for the diagnosis and treatment of individuals. This term does not include, among other things, hospitals, medical clinics, fire stations, or ambulance headquarters.

Emission -- The discharge or release into the atmosphere (ambient air) of one or more air pollutants.

Emission Permit -- The instrument issued by the CDPHE allowing construction, demolition, sandblasting, and open burning activities.

Energy Generation Facilities -- An electrical energy generating facility with generating capacity of less than 50 megawatts for commercial delivery and any appurtenant facilities.

Equipment Storage Shelter -- Buildings, storage shelters and cabinets used to house CMRS facility equipment.

Equivalent Sound Level -- The level of a constant sound which, in a given situation and time period, has the same energy as does a time varying sound. For noise sources which are not in continuous operation, the equivalent sound level may be obtained by summing individual sound exposure level (SEL) values and normalizing over the appropriate time period.

Establishment -- A place of business together with its employees, merchandise, and equipment.

Exemption from Platting -- A release from the requirements of platting by resolution of the BoCC in accordance with the terms set forth in this Code.

Exotic Animal -- Any vertebrate animal except fishes and amphibians that is not defined as a pet or livestock.

Expansion of Capacity, Road -- Expansion of the capacity of a road includes widening, intersection improvement, signalization or other capital improvements designed to increase the existing road's capacity to carry vehicles.

Extended Family Dwelling -- See Guest House

Expressway -- A public way designed to handle heavy volumes of vehicular traffic with limited access. An expressway is a divided highway for through traffic with full or partial control of access.

Fair Share Reimbursement -- A reimbursement to the requestor subdivider not to exceed the costs of the improvement, plus interest, for that share of the costs related to excess capacity not needed to meet the demands of the requestor subdivider.

Family -- An individual, or 2 or more persons related by blood, marriage, adoption, or as guardian and ward, or a group of not more than 5 persons, excluding servants, who are not so related, living together in a dwelling unit. A family shall not include more than one person required to register as a sex offender pursuant to Section 18–3–412.5, C.R.S., as amended, unless related by blood, marriage or adoption, or in foster care.

Family Care Home -- A facility for child care in a place of residence of a family or person, for the purpose of providing family care and training for a child under the age of 16 who is not related to the head of the home and, under Family Foster Home provisions, to include children from 16 to 18 years of age and those persons to 21 years of age who are placed by court order prior to their 18th birthday. The term includes any family care home receiving a child for regular 24 hour care and any home receiving a child from any State-operated institution for child care or from any child placement agency as defined in C.R.S. §26-6-102(2), or any day care home receiving a child for less than 24 hour care. The term "Family Care Home" shall not include any facility licensed as a "Child Care Center".

Farm -- Any parcel of land containing at least 35 acres used primarily for the commercial, soil-dependent cultivation of an agricultural crop; the raising of aquatic plants or animals; or the raising of livestock. This does not include livestock feed yard or exotic animal facilities.

Farm/Ranch Residence -- A farm/ranch residence is a dwelling unit occupied by persons principally employed at or engaged in the operation of the farm or ranch.

Farming -- The commercial, soil-dependent cultivation of an agricultural crop; the raising of aquatic plants or animals; or the raising of livestock. Farming includes traditional farming, sod farming, tree farming, and

animal farming in unconfined operations.

Fee Schedule -- The schedule of development application and permit fees adopted by the BoCC.

Feepayer -- A person commencing traffic-generating land development activity who is obligated to pay a regional traffic impact fee in accordance with the terms of this Code.

Field Office -- A manufactured structure or commercial vehicle used for a temporary time period for office use or the storage of construction-related plans, supplies, equipment and related items to be accessed exclusively by construction personnel.

Financial Assurance -- A financial guarantee, naming El Paso County as beneficiary, that public infrastructure and subdivision improvements required for a project will be constructed and certified according to the plans and specifications and all applicable Standards.

Financial Assurance Estimate -- An estimation of the cost of the construction of the public and common subdivision improvements associated with a subdivision or development.

Fire Department -- An organization equipped for the prevention or extinguishment of fires including municipal fire departments, fire districts, and fire companies.

Fire District -- A special district created according to State Statutes to provide fire protection and prevention services.

Fire Hazard -- Any situation, process, material, or condition that, on the basis of applicable data, can cause a fire or an explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and that poses a threat to life or the property of others.

Fire Marshal -- El Paso County Fire Marshal.

Firewood Sales -- A freestanding facility for the storage, display and sale of cut wood that is used for fuel. A firewood sales facility may also include wood splitting.

Fireworks Stand -- A temporary stand or location for the sale of fireworks.

Flea Market -- An occasional or periodic market held in an open area or structure where groups or individual sellers offer goods that are homemade, homegrown, handcrafted, old, obsolete or antique for sale to the public. This may include the selling of goods at retail by businesses or individuals generally engaged in retail trade.

Flood Insurance Rate Map (FIRM) -- An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). The following FIRM zones are the most prevalent in unincorporated El Paso County:

Zone A Floodplain
Area of special flood hazard where detailed ratemaking has not been completed, mapped by approximate methods without base flood elevations.

Zone AE Floodplain
Area of special flood hazard where base flood elevations are provided.

Zone D
Area of undetermined but possible flood hazards.

Zone X (shaded)
Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods.
Zone X (unshaded)
Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.

Floodplain, 100-Year -- The relatively flat area or lowlands adjoining the channel of a stream or water course and subject to floodwater overflow resulting from a 100-year flood which is defined as that flood equivalent of a 1% or greater chance of flooding in any given year. The floodplain includes unstudied areas outside of FEMA-regulated floodplains (SFHAs).

Floodplain Administrator -- The person designated by the Building Code to administer the provisions of the Floodplain Regulations.

Floodplain Regulations -- The Floodplain Code as included in the Building Code, as supported or clarified by any additional requirements as included in the LDC.

Floor Area, Gross -- Total area of all floors within a structure, exclusive of vents, shafts, and courts. The floor area of a structure or portion of a structure without walls shall be the area under the horizontal projection of the roof or floor above.

Floor Area Ratio -- Ratio of total floor area of the structure or structures to the total area of the lot.

Food Processing -- Preparing, treating, converting, or packaging food which has not been produced on the premises.

Forest Health -- A summary of vegetative conditions determined by an inventory by a qualified professional of a forest for insect and disease presence or potential, exotic plant species and stand structure.

Forestry and Noxious Weed Manager -- The manager of the Forestry and Noxious Weed Division of the El Paso County Environmental Services Department.

Forestry Management Plan -- A written report with implementation recommendations to aid owners in increasing the health, vigor, productivity and beauty of their forest land through use of forest management practices.

Frontage -- The boundary line of a lot, parcel, tract, or proposed subdivision that abuts an existing or proposed public road or right-of-way, as the context of the applicable provision of this Code specifically limits or modifies the term.

Fuel Modification -- Any manipulation or removal of fuels to reduce the likelihood of ignition or the resistance to fire control.

Fuel Sales and Storage -- Facilities for the storage and wholesale sales of large quantities of fuel or petroleum, including liquefied gases.

Full-Cutoff Light Fixture -- A luminary device which cuts off all upward transmission of light.

Full-Time Care -- Care for a person on a full day and night, 24 hour basis. Several hours' absence for temporary purposes such as school shall not cause the care to be less than full-time.

Funeral Home -- A building used for the preparation of the deceased for burial or cremation, for the display of the deceased or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies. Shall also include funeral parlor, mortuary, and crematory.

Garbage Service Facility -- Buildings and yards where vehicles and containers used for the transport of garbage are stored, maintained, or cleaned and which may include maintenance facilities for the company.

Gas Regulator Station -- An assemblage of equipment which reduces regulates and meters natural gas pressure in the transmission line, holder, main, pressure vessel or the compressor station piping. This may include auxiliary equipment such as valves, control instruments, or control lines as well as piping.

Gas Station -- A property where the retail sale of gasoline, diesel fuel, oil, or other fuel for vehicles and which may include, as an incidental use, the retail sale and installation of vehicle accessories, the making of minor repairs, and facilities for washing and servicing of not more than 3 vehicles completely enclosed in a structure.

Gas Transmission Pipeline -- Pipelines and appurtenant facilities installed for the purpose of transmitting gas from a source to a distributing center, to a large volume customer, or to interconnect sources of supply.

General Aviation District Map -- The map developed for the Meadowlake Airport which defines the geographic extent of the boundaries of the OA-GAD zoning district.

Geologic and Soils Report -- A report prepared by a professional geologist that identifies the geologic and soil conditions related to a specific development application site and the relationship of those conditions to the intended land use.

Geologic Hazard -- A geologic condition including but not limited to potentially unstable slopes, undermining, faulting, landslides, rockfalls, flood, or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development and which may pose a significant threat to persons or property.

Glare -- Discomfort experienced by an observer with a direct line of sight to a light source which often results in visual impairment.

Golf Course -- An area of land laid out for the game of golf with a series of 9 or 18 holes each including tee, fairway, and putting green and often one or more natural or artificial hazards. It may also include a clubhouse and other accessory structures.

Golf Course, Miniature -- A game played with a putter and golf ball in which each hole constitutes an obstacle course consisting of alleys, tunnels, bridges and the like through which the ball must be driven.

Grade, Finished -- The final elevation of the ground surface adjoining all walls of a structure after development.

Grade, Natural -- The elevation of the ground surface in its natural state, before man-made alterations.

Grading -- Stripping, cutting, filling, or stock-piling earth including land in its cut or filled condition to create new grade.

Greenhouse -- A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the propagation, cultivation, or growing of nursery stock such as flowers, bulbs, plants, trees, shrubs or vines.

Greenhouse, Personal Use -- A greenhouse for the personal use or enjoyment of the property owner.

Groundwater -- Any water not visible on the surface of the ground as defined by C.R.S. §37-90-103(1 9). Used interchangeably with "underground water."

Groundwater, Alluvial -- Groundwater found in unconsolidated clay, silt, sand, and gravel of relatively young geologic age. Alluvial groundwater includes, but is not limited to, groundwater found in the Holocene and Pleistocene Piney Creek Alluvium, Broadway Alluvium, Slocum and Vedros Alluvium and Nussbaum Alluvium.

Groundwater, Bedrock -- Groundwater found in consolidated or semi-consolidated sedimentary rocks or in igneous or metamorphic rocks. Includes groundwater found in the Denver Basin aquifers known as the Dawson, Denver, Arapahoe and Laramie-Fox Hills.

Groundwater, Nontributary -- Groundwater as defined in C.R.S. §37-90-103 (10.5). Groundwater is considered nontributary solely on the basis of determinations made by the State Engineer's Office or water decrees issued by a State court of competent jurisdiction.

Groundwater, Not Nontributary -- Groundwater in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers located outside the boundaries of any designated groundwater basin withdrawal of which will, within 100 years, deplete the flow of a natural stream at an annual rate of greater than one-tenth of one percent of the annual rate of withdrawal, C.R.S. §37-90-103 (10.7).

Groundwater, Tributary -- Any groundwater tributary to a natural stream as defined by the Water Right Determination and Administration Act of 1969, C.R.S. §§37-92-101 et. seq.

Group Home -- A home intended to provide a normal residential family setting for certain unrelated groups of people and limited to group homes for persons with mental illness, group homes for developmentally disabled persons, group homes for the aged, and group homes for handicapped or disabled persons.

Group Home for the Aged (including Assisted Living Residences) -- A group home for persons who are 60 years of age or older, who do not need nursing facilities or skilled and intermediate care facilities, and who desire to live in normal residential surroundings. The criteria, requirements, and restrictions for group homes for the aged shall be those prescribed by C.R.S. §30-28-115(2) (b) (except for distance separations) and in this Code. Group homes for the aged include assisted living residences as defined in C.R.S. §25-27-102 (1.3). "Assisted living residence" means a residential facility that makes available to three (3) or more adults not related to the owner of such facility, either directly or indirectly through an agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a twenty-four-hour basis, but not to the extent that regular twenty-four-hour medical or nursing care is required. The term "assisted living residence" does not include any facility licensed in this state as a residential care facility for individuals with developmental disabilities, or any individual residential support services that are excluded from licensure requirements pursuant to rules adopted by the Department of

Public Health and Environment.

Group Home for Developmentally Disabled Persons (including Intellectually and Developmentally Disabled Persons) -- A State-licensed group home for persons with developmental disabilities or intellectual and developmental disabilities, as those terms are defined in C.R.S. §§ 27-10.5-102(11)(a) and 25.5-1 0-202(26)(a). "Developmental disability" has the same meaning as " intellectual and developmental disability." The criteria, requirements, and restrictions for group homes for developmentally disabled persons shall be those prescribed by C.R.S. §§ 30-28-1 15(2)(a), §27-10.5-109, and 25.5-10-21 4, and any regulations implemented by the Department of Public Health and Environment, the Department of Health Care Policy and Financing, and the Department of Human Services in support of this statutory provision, and elsewhere in this Code. This includes a community residential home as defined in C.R.S. § 25.5-10-202(5).

Group Home for Handicapped or Disabled Persons -- A group home for persons with mental or physical impairments which substantially limit one or more major life activities and including such additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons. "Handicap" and "disability" have the same legal meaning. A person with a disability is any person who has a physical or mental impairment that substantially limits one of more major life activities; has a record of such impairment; or is regarded as having such an impairment. A physical or mental impairment includes, but is not limited to, hearing, visual, and mobility impairments, alcoholism, drug addiction, mental illness, mental retardation, learning disability, head injury, chronic fatigue, HIV infection, AIDS, and AIDS Related Complex. The term "major life activity" may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Group homes for handicapped or disabled persons, particularly as they relate to recovering (not currently using) alcoholics and persons with drug addictions, may also be known as sober living arrangements.

Group Home for Persons with Mental Illness -- A State-licensed group home for persons with mental illness, as that term is defined in C.R.S. §27-65-102(14). The criteria, requirements, and restrictions for group homes for persons with mental illness shall be those prescribed by C.R.S. §30-28-115(2) (b.5) (except for separation requirements) and elsewhere in this Code. The term group home for persons with mental illness shall not include any facility licensed as a residential child care facility.

Guest House -- Lodging attached to the principal dwelling or located within a garage or accessory structure which may be occupied only by occasional, non-paying guest of, the family residing in the principal dwelling. A guest house is not considered a dwelling unit. Extended family housing is a form of guest house utilized on a non-permanent basis to house immediate family members that require housing due to age, disability, or family need. A family member shall be related blood, half blood or at law, and which term "at law" also includes in-law relationships arising from a deceased or former spouse.

Gunsmith -- A person who repairs, modifies, designs, or builds firearms to factory or customer specifications, using hand tools and machine shop tools (such as lathes, milling machines, and grinders).

Habitable Space -- That area located inside a dwelling consisting of bathrooms, bedrooms, living rooms, dining rooms, kitchens, dens, lofts or similar space.

Half-Way House -- Group care facilities for adults who have been placed on probation or parole.

Hard-Surfaced -- A concrete or asphalt surface meeting the pavement and concrete design specifications

of the ECM including the required base and subbase.

Hazard to Air Navigation -- Any improvement or use of land which obstructs or otherwise has a significant adverse impact on the airspace required for the flight of aircraft, as determined by the FAA under 14 CFR Part 77 and related FAA Orders and Regulations as may be changed or amended.

Hazardous Substance -- Any material which is defined as a Hazardous Substance by the United States Code or the United States Environmental Protection Agency.

Hazardous Waste -- Any material which is defined as a Hazardous Waste by the United States Code or C.R.S. §25-15-302, as amended.

Hazardous Waste Storage and Disposal Facility -- A facility used for the storage and treatment of hazardous waste.

Health Club -- A structure or a portion thereof, including associated grounds and facilities, providing areas and equipment for the enhancement of a person's physical conditioning, the use of which is typically limited to individuals holding membership and their guests.

Heavy Equipment Rental, Sales or Storage -- An establishment where large machinery and tools used for construction and building purposes are rented, sold or stored, which may include maintenance and parts sales. Heavy equipment shall include but not be limited to bulldozer, tractor, grader, caterpillar tractor, crane, backhoe, trencher, and earthmover.

Heavy Equipment Storage Yard -- A storage yard for heavy equipment.

Hive -- A box or receptacle with movable frames, used for housing one colony of bees, not exceeding twelve cubic feet in size, including attached honeys~~-~~ supers.

Hobby Farm -- A parcel of land where livestock, animals, or birds are raised or garden crops grown in a manner either incidental to the principal residential use of the property or where the production of livestock or garden crops on the property does not constitute a principal income for the property owner. This would include 4H and similar types of programs.

Home Improvement Center -- A business that offers for sale hardware, tools, lumber, electrical, plumbing, home, lawn, and garden supplies; landscaping materials; plants; brick; lumber; and other similar materials. This use may include the outside storage of materials.

Home Occupation -- An accessory commercial activity or business service conducted on the site of a dwelling unit, only by residents of the dwelling unit, in a manner clearly incidental to the residential character of the site and surrounding neighborhood, and in compliance with the provisions of this Code.

Home Occupation, Residential -- An accessory use of a dwelling or detached accessory structure on a residentially-zoned lot or parcel and is for gainful employment or work of the resident of the dwelling.

Home Occupation, Rural -- A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended 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.

Homeowners' Association -- An incorporated nonprofit organization operating under recorded land

agreements, including but not limited to CC&Rs, through which: (1) each real property owner is automatically a member; (2) each real property is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property; and (3) a charge, if unpaid, becomes a lien against the real property. Also commonly referred to as a property owners' association.

Hospital -- A facility providing health services primarily for inpatients and medical and surgical care of the sick and injured. This includes, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, emergency departments and staff offices

Hospital, Convalescent -- An institution other than a hospital for the treatment and care of human illness or infirmary, and in which ongoing care, rather than diagnosis or treatment, constitutes the principal function. The term convalescent hospital shall include sanitarium, nursing home, and long-term care facility, but not rehabilitation facility.

Hospital, Veterinary -- A facility where animals requiring medical care are treated, or temporarily housed. The facilities may include veterinarian offices, administrative offices, space for examination, surgery, recovery, and may include boarding of animals while under treatment, but does not include animal boarding generally.

Hotel -- A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals in which, generally, the rooms are occupied singly for hire. This term shall include motel but not child care center, family care home, or human service shelter.

Household Use Only Well Permit -- A well permit which restricts water use to in house purposes, and does not allow outside watering of animals and plants.

Human Service Shelter -- An establishment which is a residential operation which provides lodging and supportive services to individuals and families in need due to family medical circumstances, economic circumstances, or social difficulties.

Immediate Family -- Those family members who are by blood or marriage recognized as parent, sibling or child.

Improvement Location Certificate -- A representation of the boundaries of a parcel of land and the improvements thereon, prepared pursuant to C.R.S. §38-51-108.

Improvements -- Road grading, road surfacing and paving, curb and gutters, street lights, road signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other installations designated by the BoCC.

Improvements, Eligible -- Any road and any facilities related to roads, water distribution systems, sewage collection systems, storm drainage facilities, or any other type of structure of facility the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit one or more applicant subdivider. The improvement may be internal as well as adjacent to or outside of the legal description of the requester subdivider's subdivision.

Impulse Noise -- Noise of short duration (typically less than one second), especially of high intensity,

abrupt onset and rapid decay, and often rapidly changing spectral composition. Impulse noise is characteristically associated with such sources as explosions, impacts, the discharge of firearms, the passage of supersonic aircraft (sonic boom) and many industrial processes.

Inclusion -- The process by which a special district's boundaries are altered through the addition of real property.

Industrial Park -- The area of land contained within the same industrial zoning or rezoning approval resolution, which may include multiple owners, lots or parcels and functions as a unified development.

Industry, Light -- Any branch of trade, production or creative endeavor employing labor and capital in an industrial or manufacturing process which is not noxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibrations, whose waste products are not allowed to emerge or accumulate where they will cause discomfort or be unsightly to adjoining property owners or the public generally, and which operates independent of railroad sidings, extensive loading docks and steam generation as prime power.

Inert Material Disposal Site -- A site and facility that accepts for disposal exclusively those materials defined as inert material.

Inert Materials -- Non-water soluble and nonputrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids according to the rules and regulations of the Board of Health. The term includes but is not limited to, earth, sand, gravel rock, concrete which has been in a hardened state for at least 60 days, masonry, asphalt paving fragments, and other inert solids that the CDPHE or the Board of Health may identify by regulation. Road sweepings from road cleaning machines are not considered inert material and are instead considered solid waste.

Infectious Waste -- Non-hazardous waste containing pathogens or biologically active material which, because of its type, concentration or quantity, could present a potential hazard to human health when improperly handled, stored, processed, transported or disposed.

Infectious Waste Transfer Station -- A facility at which infectious wastes are collected and temporarily stored pending removal to facilities or sites where the wastes will be rendered non-infectious or permanently disposed. The facility may consist of a mobile storage units into which wastes are transferred from collection vehicles.

Infrastructure -- Those man-made structures which serve the common needs of the population, such as potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

Institution, Philanthropic -- A not-for-profit establishment whose purpose is to increase the well-being of mankind, as by charitable aid or donations.

Institutional Uses -- A general term meant to encompass a variety of public and quasi-public uses such as educational facilities, religious institutions, hospitals, libraries, cemeteries and various governmental facilities.

Interceptor Sewer -- A sewer line with an internal pipe diameter of equal to or greater than 24 inches intercepting wastewater from a final point in a collection system and conveying waste directly to a treatment plant, or meeting other requirement of the CDPHE to be classified as an interceptor sewer.

Interests -- Any and all rights, claims, or shares in the surface of land but excluding any and all subsurface rights, claims, or shares.

Intermediate Processing Facility -- A solid waste processing facility designed to remove recyclables from unprocessed municipal solid waste.

Joint Use Well -- A well which is permitted for use by more than one dwelling, property, or ownership.

Kennels -- Any place or premises used in whole or in part for the purpose of keeping, training, boarding, breeding or sale of domesticated dogs or cats in which 5 or more domestic animals exist, and all of which exceed 4 months in age, to include animal pounds and shelters. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

Kitchen -- A room, or part of a room, used for the preparation of food inside a dwelling consisting of a refrigerator, a sink with one or more basins and one or more cooking devices (i.e., stove, range, oven). Multiple kitchen devices located in the same room does not result in consideration as separate kitchens.

Laboratory -- A room, rooms, or building equipped for scientific experimentation, research or testing.

Landfill -- The location and facility at which the deposit and final treatment of solid, liquid or hazardous wastes occurs or a discrete area of land or an excavation where solid wastes are placed for final disposal, which is not a land application unit, waste impoundment, or waste pile. Landfills include, but are not limited to, ash monofills, construction and demolition landfills, industrial landfills, sanitary landfills, tire monofills and similar facilities where final disposal occurs.

Landscape Area -- The part of a property exclusively set aside for living plant materials and associated nonliving ornamental materials such as mulch, fencing, walls or decorative pavers. These areas may include pedestrian spaces and certain other low impact uses but cannot include any artificial plant materials, areas behind opaque fences or areas that can be accessed by vehicles.

Landscaping -- Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences or benches. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection and replacement of existing trees.

Landscaping Area, Roadway -- A minimum required landscaping area on a private property which is located along the lot, parcel or tract frontage between or within the road right-of-way, easement, or tract boundary lines and any building or use. Driveways and sidewalks to afford limited access may be allowed to interrupt this required area; however, structures, buildings and parking are not allowed within the roadway landscape area.

Light Trespass -- A light projected onto a property from a fixture not located on that property.

Lighting Inventory -- A list of lamps indicating the bulb type, bulb wattage, and manufacturer through which the rated lumens can be determined.

Livestock -- Cattle, sheep, llamas, goats, swine, mules, poultry, horses, alternative livestock as defined by Colorado statutes (e.g., elk), and such domesticated animals as fox, mink, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit, except dogs and cats, that are used for working purposes on a farm or ranch and any other animal designated by the State Agricultural Commissioner, which animal is raised for food or fiber production.

Livestock Feed Yard -- A place of confinement (whether by structure, fence, pens, or corrals) for cattle, sheep, goats, swine, or other livestock for the purposes of concentrated feeding operations for meat or milk production where crop or forage growth or production is not sustained in the area of confinement. This definition specifically excludes educational agricultural projects (hobby farm) and horses as defined under Stable.

Livestock Sales Yard -- A confined enclosure used for the purpose of selling livestock.

Loading Area -- A portion of a lot for the temporary parking of a commercial vehicle while loading or unloading materials for use or sale on the lot.

Long-Term Care Facility -- Any of the following: (a) Convalescent center means a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital; (b) Nursing care facility means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients who require regular medical care and 24 hour per day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide 24 hour per day nursing services under the direction of a registered professional nurse employed full time; (c) Intermediate health care facility means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and 24 hour per day nursing services are required.

Lot -- An area of land in which is typically platted for development as part of a subdivision, the plat of which has been legally approved by the BoCC and recorded in the office of the Clerk and Recorder. (see Lot, Legal and Lot of Record)

Lot, Adjoining -- The lots, parcels, or tracts sharing a common boundary line.

Lot, Buildable -- A lot, parcel or tract of sufficient size and location to: (a) comply with all the standards and requirements of this Code, with the exception of the density provisions contained herein; and (b) support an OWTS or connected to a central sewer system and support an individual water system (i.e., well) or connect to a central water system that is consistent with the policies, standards and requirements of El Paso County Public Health (EPCPH) and CDPHE as they now exist or may hereafter be amended, and any other applicable policies, standards or regulations of the CDPHE. This definition is intended to apply only to lots of record as defined herein. With the exception of the density provisions of this Code, nothing

in this definition shall be construed to excuse compliance with any other provisions of this Code or any provision of local, State or federal law or any other applicable regulations governing the provision of infrastructure.

Lot, Corner -- A lot, parcel, or tract which has roads on two or more abutting sides.

Lot, Double Frontage -- A lot, parcel, or tract that fronts 2 parallel roads, or a lot that fronts 2 roads that do not intersect at the boundaries of the lot, parcel, or tract. A double frontage lot is often referred to as a Through Lot.

Lot, Flag -- A lot, parcel, or tract with the appearance of a flag and flagpole where the main use or building area does not front or abut a public roadway and where the narrow "flagpole" part of the lot, parcel, or tract is used to provide access to the public roadway. Typically, the widest part of a flag lot is located at the rear of another lot, parcel, or tract and the flagpole part of the lot, parcel, or tract is comprised entirely of a private right-of-way or driveway.

Lot, Irregularly Shaped -- A lot, parcel, or tract which may exhibit one or more of the following characteristics: (a) triangular, wedge, or pie-shaped configuration; (b) More than four boundary lines; or (c) varies significantly from a rectangular shape.

Lot, Legal -- A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972 ; a parcel exempted from subdivision by the BoCC, or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity.

Lot, Nonconforming -- A nonconforming lot is a legally created lot or parcel of land which due to subsequent amendments of this Code, right-of-way acquisition by a government entity, or to the zoning or rezoning of the lot or parcel, does not conform with the minimum lot area requirement of this Code.

Lot, Reverse Frontage -- A double frontage lot that is not accessible from one of the parallel or non-intersecting roads on which it fronts.

Lot, Zoning -- A single lot or parcel of land which, at the time of application for a building or use permit, is designated by the owner as a lot or parcel to be used, developed or built on as a unit, under single ownership and control. A zoning lot shall coincide with a lot of record except where an owner merges or combines one or more lots or parcels using a merger by contiguity or combination agreement in conformance with Chapters 5 and 7 where the merged or combined lots or parcels shall be considered a zoning lot.

Lot Area -- The total area within the boundary lines of a lot, parcel or tract.

Lot Coverage, Maximum -- The percentage of the lot, parcel, or tract area that may be covered by

structures. The calculation shall not include any areas covered by parking areas, platforms, landings, or ramps if such improvements do not exceed 18 inches in height as measured from the top-most finished surface of the improvements to any adjacent point of the finished grade. The calculation shall also not include open and unenclosed patios if such patios do not exceed 18 inches in height as measured from the top-most finished surface of the patio to any adjacent point of the finished grade. Patios, including patios that are less than 18 inches in height, which have a roof or other overhead cover and/or patios which incorporate a wall or walls as a method of partially or fully enclosing the patio shall be included in the calculation of maximum lot coverage.

Lot Depth -- The shortest horizontal distance between the front and rear boundary lines of a lot, parcel or tract.

Lot of Record -- A lot or tract of land shown on an officially recorded plat and described by platted lot or tract number or a parcel of land officially recorded or registered as a unit of property and described or by metes and bounds and lawfully established for conveyance on the date of recording of the instrument first referencing the lot, parcel, or tract. The term "lot of record" does not imply that the lot, parcel, or tract was created in conformity with the legal regulatory requirements for subdivision of property in accordance with this Code.

Lot Line, Front -- The boundary line dividing a lot, parcel, or tract from a road. On a corner lot, parcel, or tract both boundary lines dividing the lot, parcel, or tract from the roads shall be considered the front lot line, unless otherwise provided in this Code.

Lot Line, Rear -- The boundary line opposite and most distant from the front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all boundary lines that are most nearly opposite the front lot line.

Lot Line, Side -- Any lot line other than the front or rear lot line.

Lot Width -- The mean horizontal distance between side lot lines of the lot measured at right angles to the depth.

Maintenance Plan -- A plan for private maintenance of roads, common areas, recreational areas, open space, bikeways, parking areas, or water and sanitation facilities where County maintenance is not proposed.

Manufactured Home -- A single-family dwelling which is partially or entirely manufactured in a factory, is not less than 24 feet in width and 36 feet in length, is installed on an engineered permanent foundation, has brick, wood or cosmetically equivalent exterior siding and a pitched roof, and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., as amended, and is built for the Colorado climate and snow loads according to the

Department of Housing and Urban Development standards established under the provisions of 42 USC 5401, et seq. (See C.R.S.§30-28-115). A manufactured home not placed on a permanent foundation is considered a post-1976 mobile home.

Manufacturing, Light -- Manufacturing and processing in which no operations are carried on which will be likely to create smoke, fumes, noise, odor, vibration, or dust, or which will be detrimental to the health, safety, or general welfare of the community. The following are examples of light manufacturing or

processing: beverage manufacturing; book binding; canvas products manufacturing; clothing or cloth manufacturing; computer manufacturing; dry cleaning plant; electronics manufacturing; fish hatchery; furnace installation, repair, and cleaning; hosiery manufacturing; machine shops; machine tool manufacturing; machinery sales; public utility storage, yards, and service installments; sheet metal shops; shoe manufacturing; sign manufacturing, repair, and maintenance.

Map Amendment -- A revision to the Zoning Map which modifies the zoning district which is applicable to a lot, parcel, or tract.

Marijuana Club -- Any organization of persons, however otherwise defined or described, formed or operated with a primary or secondary purpose of using or consuming marijuana at a common location and characterized by membership qualifications, dues or regular meetings.

Marijuana Land Use, Medical -- Medical Marijuana Land Use shall mean and include only the following land uses which are defined in and subject to licensing pursuant to **§**CRS 12-43-101 et. seq.

-Medical Marijuana Center
-Medical Marijuana Infused Products Manufacturer
-Optional Premises Cultivation Center

Massage Business -- An establishment providing massage, but does not include training rooms of public and private schools accredited by the State Board of Education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is a massage business.

Massage Therapist -- A person who has graduated from a massage therapy school accredited by the State Board of Education or division charged with the responsibility of approving private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least 500 hours of training in massage therapy. A massage therapy school may include an equivalency program approved by the State Board of Education or division charged with the responsibility of approving private occupational schools.

Master Plan -- A plan and any functional element to the plan as adopted and amended, for the physical development of the unincorporated territory of the County. Also known as the El Paso County Comprehensive Plan, El Paso County Master Plan, the Master Plan for El Paso County, and the El Paso County Land Use Plan.

Material Modification -- A basic or essential change to the method of providing services including the exclusion or addition of services to a special district service plan.

Material Recovery Facility -- A solid waste facility designed to receive and process recyclable materials.

Materially Diminish -- A measurable change that has significance for existing or proposed development or for the existing environment.

Maximum Extent Feasible -- When no prudent or feasible alternative exists and all possible efforts to comply with regulations and minimize potential harm or adverse impacts have been undertaken.

Maximum Extent Practicable -- When, under the circumstances, reasonable efforts have been taken to

comply with the regulation or requirement, the costs of full compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project and reasonable steps have been taken to minimize any potential harm or adverse impacts resulting from non-compliance with this Code.

Meat Processing, Custom -- The slaughter or processing for a fee or other remuneration of an animal delivered to the processor by the owner of the animal.

Medical Clinic -- A facility used for the provision of medical, dental, surgical, health or mental health care of the sick or injured, operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination or treatment.

Merger Agreement -- An agreement executed by the owner and filed for recording with the Clerk and Recorder, whereby two or more contiguous nonconforming lots are combined into a zoning lot for the purposes of meeting the requirements of this Code with respect to minimum lot size, or in changing the conformity of the lots or parcels pursuant to the nonconforming lot provisions of this Code.

Microwave Antenna -- A disk-type antenna used to link communication sites together by wireless voice or data transmission.

Mineral -- An inanimate constituent of the earth, in either solid, liquid, or gaseous state which, when extracted from the earth, is usable in its natural form or is capable of conversion into usable form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing or construction material. This definition includes, but is not limited to, sand, gravel, aggregate, coal, gold, clay and limestone. This definition does not include surface or groundwater useable for domestic, agricultural, or industrial purposes, nor does it include geothermal resources subject to regulation under C.R.S. §37-90.5-101 et seq. or oil and gas resources subject to regulation under C.R.S. §34-60-101, et seq.

Mineral and Natural Resource Extraction -- An operation involved in the act of removing naturally occurring minerals from the earth for an economic use. Mineral extraction includes material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership provided such activities are approved as part of the special use.

Mineral Deposit, Commercial -- A natural mineral deposit of limestone used for construction purposes, coal, sand, gravel, and quarry aggregate, for which extraction by an extractor is or will be commercially feasible and regarding which it can be demonstrated by geologic, mineralogical, or other scientific data that the deposit has significant economic or strategic value to the area, State, or nation.

Mineral Estate Owner -- The owner or lessee of minerals located under a surface estate that are subject to an application for development.

Mineral Processing Plant -- An operation involved in material washing, sorting, crushing or more intensive modification or alteration through mechanical or chemical means to a mineral resource which was extracted on a different lot, parcel or tract than the lot, parcel or tract on which the mineral processing plant is located. This does not include asphalt or concrete batch plants or the incidental (less than 10% by volume) mixing of materials at a mineral and natural resources extraction site with materials from off site

in order to meet road material specifications.

Mini-Warehouse -- Buildings designed primarily for the storage of household items and inventory of small commercial businesses where storage units are individually leased or rented, where access to storage units is infrequent, and where no utilities are provided except for the service of a manager's apartment and for lighting and climate control of individual storage units.

Mixed Use Building -- A building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses including, but not limited to, office, retail, public uses, personal service or entertainment uses.

Mixed Use Development -- A combination of uses including residences of varying types and densities, employment, shopping and schools, located in proximity with one another, but which are designed to ensure compatibility and minimize transportation and environmental costs and impacts.

Mixed Use Residential -- Residential dwelling units located above the ground floor in a mixed use building.

Mobile Home, Junk -- A mobile home that is partially or totally damaged by fire, earthquake, wind or other natural causes, or is in a state of general dilapidation, dereliction, deterioration or decay resulting from improper lack of maintenance, vandalism or infestation with vermin or rodents.

Mobile Home, Post-1976 -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which has been certified under the "National Manufactured Housing Construction and Safety Standards Act" (42 U.S.C. 4501 et seq., as amended) in effect after June 15, 1976 or which has been certified according to the Building Code.

Mobile Home, Pre-1976 -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which has not been certified under the "National Manufactured Housing Construction and Safety Standards Act" (42 U.S.C. 4501 et seq., as amended).

Mobile Home Pad -- Part of an individual lot which has been reserved for placement of the mobile home, appurtenant structures or additions, including an adequate foundation and anchoring facilities to secure the mobile home against any accidental movement.

Mobile Home Park -- An area designated for the accommodation of mobile homes used as housing units and containing facilities for connection of mobile homes to utility systems.

Mobile Home Subdivision -- A parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a mobile home and its facilities.

Model Home -- A dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers by a realtor, building developer or contractor. The dwelling may be furnished but not occupied as a residence while being used as a model home.

Monuments -- The actual points set on the ground to locate, delineate or describe lots, parcels or tracts of land or the points set to define a legal description of a lot, parcel or tract of land including the points or

corners set by a Colorado Registered Land Surveyor in accordance with the C.R.S..

Monuments, United States Land Survey -- The points or corners established by the survey of public lands for the United States Government, including the re-establishment or restoration of said corners.

Mother-in-Law Apartment -- Supplemental living quarters, including a kitchen, that is attached to or part of the main dwelling unit, used exclusively by family members or an employee of a person residing in the main dwelling, and otherwise not rented or leased. A mother-in-law apartment is not considered a dwelling unit.

National Wetland Inventory -- The official maps produced by a branch of the U.S. Fish & Wildlife Service that collects and distributes information on the characteristics, extent, and status of the nation's wetlands and deepwater habitats.

Natural Hazard -- A geologic, wildfire, or flood condition which is adverse to past, current, or foreseeable construction or land use and constitutes a significant hazard to public health and safety or to property.

Neighborhoods -- Primarily residential areas unified by shared characteristics, functional connections and spatial perceptions. Elements which define or reinforce a neighborhood orientation include common design themes, pedestrian and bicycle linkages, shared facilities and public spaces and identifiable boundaries, edges or gateways.

Nightclub -- A food service establishment operating a bar in conjunction with providing patron dancing or live, non-adult entertainment or a bar having an occupant load, as defined in the Building Code of 100 or greater. This would not include a piano bar having an occupant load of less than 100.

Noise Analysis, Traffic -- An analysis of the potential noise attributed to a development project, which includes the following: (a) identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from

the highway; (b) prediction of traffic noise levels; (c) determination of existing noise levels; (d) determination of traffic noise impacts; and (e) examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.

Noise Barrier -- Solid obstructions built between the highway, road, or railroad and the adjacent homes, which may include berms or walls made out of wood stucco, concrete, masonry, metal, or other materials.

Noise Disturbance -- Any sound which is (a) harmful or injurious to the health, safety, or welfare of any individual; (b) of a volume, frequency, or intensity that it unreasonably interferes with the quiet enjoyment of life of an individual of ordinary sensitivity and habits; or (c) unreasonably interferes with the value of real property or any business conducted thereon.

Noise Easement -- A document granting rights pertaining to noise affecting a grantor's property, along with other statements, requirements, and criteria accompanying that grant, which is generally recorded against the grantor's property as a condition of development approval.

Noise Level Reduction (NLR) -- The difference, in decibels, between the A-weighted sound level outside a building and the A-weighted sound level inside a designated room in the building. The NLR is dependent upon the transmission loss characteristics of the building surfaces exposed to an exterior noise source, the particular noise characteristics of the exterior noise source and the acoustic properties of the designated

room in the building.

Noise Reduction Certificate -- A certificate issued by a qualified professional which quantifies the amount of noise level reduction in decibels achieved through incorporation of noise attenuation, between outdoor and indoor levels, in the design and construction of a structure.

Nondiscretionary Review -- An administrative evaluation of a specific land use or application where compliance with the regulations can be determined based on objective standards. Decisions are made administratively and do not require a public hearing, notice or written interpretation. Examples of these reviews include: whether the proposed use is or is not allowed, whether the site area is or is not large enough for the proposed number of housing units, and whether a proposed building meets all setback, height, and parking requirements.

Notice of Violation -- A written notice provided to the owner or tenant, in accordance with this Code, which declares that the property is in violation of this Code or County Ordinance, and describes remedies and penalties for the violation.

Notice to Proceed -- A document issued by the ECM Administrator authorizing a permit holder to begin construction of common development, subdivision or public improvements in accordance with an approved set of plans.

Noxious Weed -- An alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets one or more of the

following criteria: (a) aggressively invades or is detrimental to economic crops or native plant communities; (b) is poisonous to livestock; (c) is a carrier of detrimental insects, diseases, or parasites; (d) the direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

Noxious Weed Management Plan -- A written report to aid landowners in the control of noxious weeds on their property, by prescribing integrated management practices. Specifically the planning and implementation of a coordinated program utilizing a variety of methods for managing noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. These methods may include but are not limited to education, preventive measures, good stewardship, and the following techniques: biological management, chemical management, cultural management, and mechanical management.

Nursery, Retail -- An establishment which may include a greenhouse for the retail sale of trees, shrubs, and plants to the general public. Commonly known as a garden center, products and services related to gardening, growing of plants, and outdoor landscaping may also be included.

Nursery, Wholesale -- A wholesale (as defined by this Code) business, which may include a greenhouse(s), where trees, shrubs, or plants are grown or warehoused for transplanting or for use as stocks for budding and grafting.

Nursing Home -- A facility, or a distinct part of a facility, which meets the State nursing home licensing standards, is maintained primarily for the care and treatment, under the direction of a physician, of inpatients who for reason of illness or physical infirmities are unable to care for themselves, and meets the requirements in federal regulations for certification as a qualified provider of nursing home services.

"Nursing home" includes private, nonprofit, or proprietary intermediate nursing facilities for the mentally retarded or developmentally disabled.

Office, General -- Use of a site for business, professional, or administrative offices excluding medical offices. General offices are characterized by a low proportion of vehicle trips attributable to visitors or clients in relation to employees. Typical uses include real estate, insurance, management, travel, or other similar business offices; organization and association offices; law, architectural, engineering, accounting, telemarketing or other professional offices.

Office, Accessory -- A place within an industrial or warehouse building such as room, or suite, in which services, clerical work or professional duties are carried out which are directly related to the industrial or warehousing activities on the site.

Off-Site Improvements -- Public or common development or subdivision improvements located beyond the boundaries of a development which are the responsibility of an applicant or permit holder as mitigation for off-site impacts of the project. These improvements are typically specified in a technical report, such as a Transportation Impact Study, and may be eligible for cost recovery.

Off-Site Road Study -- An area-specific study and plan authorized, prepared, facilitated, or accepted by the County for the purposes of identifying road improvements necessary to serve developing, developable, and benefited properties, along with the planning and construction requirements or costs of these improvements allocated to those properties.

Off-Site Source -- Groundwater in aquifers which naturally lie beneath a property which is not part of the subject property but from which groundwater will be extracted for the subject property, and surface water which naturally flows across a property which is not part of the subject project.

Oil and Gas Operation -- Any structure, facility, or activity which is constructed on or disturbs land in association with oil or gas drilling, production, or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress, and pipelines.

Onsite Source -- Groundwater in aquifers which naturally lie beneath a subject property, and surface water which naturally flows across the subject property.

Onsite Wastewater Treatment System (OWTS) -- A system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or disposing of sewage that is not part of or connected to a central (community) sewer system. Includes, by way of example only, septic tanks and absorption areas.

Open Burning -- Burning any material or substance in the ambient air or in a receptacle other than a properly designed furnace such as an incinerator or other equipment connected to a stack or chimney. Cutting and welding torches are exempted.

Open Space -- Publicly or privately owned parcels of land which have been permanently set aside or otherwise preserved to retain land, water, historic and other aesthetic features in a primarily natural state. Open space includes trail corridors and may serve one or more of the following functions: (a) identify or separate communities and other developed areas, and to provide expansive visual relief; (b) buffer and provide transitions between different land uses; (c) preserve or protect scenic areas and vistas, prominent landforms, floodplains, riparian areas and critical ecosystems; (d) provide outdoor recreation opportunities such as hiking, biking and equestrian uses; or (e) assist with the preservation of ongoing ranching and

agricultural uses.

Owner -- Any individual, corporation, partnership or other legal entity holding or controlling title on property, including mineral interests, that is the subject of development covered by this Code, or that are intended to come under the ownership or control of the County including subdividers.

Ownership -- One or more adjoining lots or parcels that are owned by the same person, partnership, association, or corporation. Ownership also includes lots or parcels that are in common ownership but are separated by a right-of-way.

OWTS Regulations -- The regulations of the EPCPH regarding OWTS.

Panel Antennae -- An array of antennae, rectangular in shape, used to transmit and receive telecommunication signals.

Parcel -- A designated area of land which is not part of a subdivision plat that has been created by deed, survey map, or exemption and recorded in the office of the Clerk and Recorder. A parcel is described by metes and bounds.

Parent Parcel -- The lot or parcel proposed for division or subdivision.

Park, Community -- Parks of typically 24 to 199 acres which primarily serve the active and passive recreation needs of residents within specific communities or subareas of the County.

Park, Neighborhood -- Parks of 3 to 23 acres which are generally within walking or easy bicycling distance of the neighborhoods or subcommunities they serve.

Park, Regional -- Parks of more than 200 acres in area which are intended to serve the resource preservation and recreation needs of the entire County population, especially those residents within a radius of from approximately 5-10 miles.

Park Board -- El Paso County Parks Advisory Board.

Park Fee Fund, Regional -- A fund established for use in acquiring and developing regional parks, open space or regional trails in accordance with El Paso County Parks and Leisure Services Department (EPCPLSD) long-range plans. Fees collected in lieu of, or in combination with, the dedication of land for regional park purposes shall be deposited within the regional park fee fund and shall be used solely to acquire and develop regional parks, open space or regional trails which will reasonably serve and benefit the property owners within the proposed subdivision within the respective regional park district. Interest earned on regional park fees shall remain within the regional park fee fund and shall be used solely for the purposes set forth by this Code.

Park Fee Fund, Urban -- A fund established for use in acquiring and developing urban park lands that will be transferred to or developed by some other governmental or quasi-governmental entity for ownership for urban park purposes, within the neighborhood or community planning unit from which the urban park fee was collected. Fees collected in lieu of, or in combination with, the dedication of land for urban park purposes shall be deposited within the urban park fee fund and shall be used solely to acquire and develop urban park lands which will reasonably serve the needs of the intended neighborhood or community planning unit. Interest earned on urban park fees shall remain within the urban park fee fund and shall be used solely for the purposes set forth in this Code; provided, however, that the earned interest may be used

by the EPCPLSD to provide for necessary and required minimum levels of annual public health and safety maintenance of the "reserved lands" properties until transfer to another entity is affected.

Parking, Tandem -- Parking 2 cars in a driveway or parking space so that one car is right in front of the other and the front car cannot move until the back car is moved.

Parking Area -- Parking areas and spaces designed, used, required or intended to be used for the parking, storage, display or operation of vehicles, including driveways or access ways in and to these areas, but not including any outdoor storage area used principally as a recreational vehicle, boat or truck storage use, storage areas for landscaping and other bulk items or public roads and rights-of-way. The term parking area includes parking lots and parking structures.

Parking Lot -- An area, structure, or building used for the sole purpose of parking vehicles in legal operating condition, excluding recreational vehicles, and which is generally paved and striped for parking spaces.

Peddler Sales -- The temporary use of outdoor parking areas or lots for sale of merchandise or produce not produced on the premises, or food from a mobile food vendor.

Performance Standards -- Regulations and criteria established to control the operation of a use, including noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, dust, radio-activity, electrical disturbance, heat, glare, or other factors generated by or inherent in uses of land or structure.

Person -- A natural person, firm, partnership, association or corporation, but this definition does not include any governmental unit.

Personal Wireless Service -- Commercial mobile services.

Pet -- A domesticated animal kept for pleasure rather than utility, subject to the standards and limitations of this Code.

Pigeon Keeping -- The raising, keeping, housing and breeding of pigeons as a hobby.

Planned Unit Development -- An area of land to be developed under unified control or a unified plan of development which include any combination of dwelling units, commercial, educational, recreational, or industrial uses, pursuant to a plan which does not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restriction to the existing land use regulations.

Planning Commission -- The Planning Commission of El Paso County.

Planting Strip -- That portion of a right-of-way between the curb line and the sidewalk, or between the sidewalk and the right-of-way line, used for the planting of trees, shrubs, groundcover or grass, or the space between the edge of the pavement or the back of the curb and the sidewalk.

Plat -- A map and supporting materials and documentation of certain described land prepared in accordance with this Code and C.R.S. §38-51-106 as an instrument for recording of real estate interests with the Clerk and Recorder and providing a permanent and accurate record of the legal description, dedications, exact size, shape, and location of lots, blocks, roads, easements, and parcels of land. The plat, when recorded by the Clerk and Recorder, becomes the legal instrument whereby the location and boundaries of separate parcels of land within a subdivision or subdivision exemption are identified.

Plat, Amended -- A plat which contains mapping modifications to an existing approved and recorded plat which do not significantly affect the land use of an area or are technical in nature and do not involve the construction of public improvements, or an increase in density in a subdivision.

Plat Restriction -- A restriction placed upon a subdivision plat or separate recorded document that may prohibit issuance of building permits or sale, transfer or conveyance of lots while serving as the security to guarantee construction of public improvements or other facilities.

Premise -- One or more contiguous lots or parcels of record (exclusive of any right-of-way), owned or managed by the same individual or entity.

Principally Employed -- The main or primary place of employment.

Prison -- A facility for the processing and confinement of individuals either awaiting trial or serving sentences. This term does not include halfway houses. A prison may be publicly or privately-owned and operated.

Procedures Manual -- The manual of the ~~DSD~~PCD intended to help users of the LDC understand the review and decision making processes outlined in the LDC. The manual includes information on application submittal requirements and review procedures for applications and processes.

Professional Geologist -- As defined in C.R.S. §34-1-201, a person who is a graduate of an institution of higher education that is accredited by a regional or national accrediting agency with a minimum of 30 semester hours (45 quarter hours) of undergraduate or graduate work in a field of geology and whose post-baccalaureate training has been on the field of geology with a specific record of an additional 5 years of geological experience to include no more than 2 years of graduate work

Proof of Ownership -- A current title insurance policy insuring the status of an applicant as the owner in fee title to real property unless otherwise provided by this Code.

Property Line Adjustment -- The relocation of a property line which does not create additional lots, non-conforming lots or structures, and does not result in any non-buildable lots.

Proprietary School -- A facility offering special instruction in such activities as art, business, driving, or construction. The term includes, among other things, karate schools, dance studios, handicraft and hobby instruction, trade schools, secretarial schools, and dance schools.

Prudent Line -- The limit of a buffer zone adjacent to streams for erosion and flooding potential within which development would not be considered prudent if the channel is to remain in a minimally-altered state.

Prudent Line Approaches -- The use of minimum separations from regulatory floodplain limits to allow for the channel migration or bank failure which is reasonably anticipated over a 30 to 50 year period.

Public Improvement -- Any drainageway, roadway, parkway, sidewalk, pedestrian way, tree, lawn, parking area, lot improvement, or other facility which benefits the public.

Public Park -- A lot, tract or parcel of land devoted primarily to recreation, operated by a governmental or quasi-governmental entity.

Public Utility -- Public utility as defined by C.R.S. §40-1-103, 1973. ″Public utility″ is defined more

specifically for applications under Appendix B Guidelines and Regulations For Areas and Activities of State Interest of El Paso County.

Public Utility Facility -- Any physical structure or improvement necessary or desirable to deliver service to a public utility's customers.

Publishing Companies -- Facilities for the preparation and issuance of printed material for public distribution or sale. This term shall include facilities where newspaper printing, lithography, offset printing, or blueprinting are a primary business component, but not include a copy shop as defined by this code.

Putrescible Waste -- Those solid wastes that contain organic matter capable of being decomposed by microorganisms and of such character and proportion as to be capable of attracting or providing food for birds or disease vectors.

Qualified Conservation Organization -- A non-profit organization, as defined under Section 501 .C-3 of the Internal Revenue Code, and usually a conservation organization or land trust, designated to enforce the recorded deed restrictions on the use of property, as typically defined through a conservation easement.

Qualified Professional -- A professional acceptable to the County, and who is either licensed by the State of Colorado to perform the type of work involved, who is accredited by or registered with a professional group and who is operating within the scope of accreditation or registration, or who is specifically or specially qualified to perform the type of work involved.

Race Track -- A course on which races are run and are characterized by organized events or by being open or available to the public, or for public use, which may result in remuneration. Includes accessory structures and uses such as concessions, grandstands, bleachers, horse barns, kennel structures, parking lots, etc. The definition includes animal races, autocross, motocross, and similar facilities, but specifically excludes school facilities or related indoor and outdoor running tracks and the recreational and unstructured use of motor vehicles on private property with the property owner's permission.

Ranch -- A parcel of land containing at least 35 acres which is used primarily for the raising of livestock; breeding of horses; practice equestrian courses and arenas not used for scheduled, public or club events; and ancillary sales and previews of livestock and occasional weekend activities.

Recreation Camp -- A place used as a destination point for visitors, for vacationing or other recreational purposes which may include permanent structures and temporary facilities such as tents or yurts for the use of guests which facilities may contain cooking facilities and are used for temporary occupancy(not to exceed 30 consecutive days or a total of 90 days in one calendar year). This term shall not be interpreted to include hotels, motels, restaurants, and theaters but would include land uses commonly considered as campgrounds, dude ranches, resorts or retreats.

Recreational Vehicle -- A vehicle used for temporary habitation and used for travel, vacation or recreation purposes. The term shall include travel trailers, campers, motor homes, truck campers and similar terms.

Recreational Vehicle Park -- Any open area, other than a street, alley or other public place, used exclusively for the parking or temporary storage of 2 or more recreational vehicles: (a) overnight is usually located along or near main highways, where recreational vehicles stop for only one or two nights on the way to some further destination; (b) destination is usually located at or near a scenic, historical, or outdoor recreational area where recreational vehicles are attracted for extended stays of several days or weeks.

Recreational Vehicles Space -- A piece of land in a recreational vehicle park for the placement of a single recreational vehicle and the exclusive use of its occupants.

Recyclable Materials -- A type of material subject to reuse or recycling. Recyclable materials include metal, glass, cloth, paper, plastic, or any other material which presently has a commercial use or value as a commodity, raw material, or feedstock and is intentionally separated from a waste stream for reprocessing or remanufacture. Recyclable materials do not include any material meeting the definition of a hazardous waste under C.R.S. §25- 15-101 (6), any material meeting the definition of an infectious waste under C.R.S. §25-15-402(1), any material meeting the definition of a putrescible waste, or any other materials likely to contaminate groundwater, create off-site odors, or otherwise pose a threat to human health or the environment as a result of processing, reclaiming, recycling, storage prior to recycling, or use of the material.

Recycling Collection Center -- A small establishment for the acceptance, recycling, and temporary storage of recyclable materials to be transferred to a processing facility.

Recycling Facility -- A facility, which may be part of a solid waste disposal facility where used material is separated, processed by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning, and stored prior to shipment to others who use the materials to make new products.

Regional Facility -- An improvement or a part of a network or system of improvements that serve a larger area than a single subdivision and have value to a subdivision based on the nature and use of the improvement for roads, drainage, utilities, bridges, trails and open space, or floodplain requirements that insure the fullest use and development of an individual subdivision.

Regional Road Capital Improvements -- Road facilities and other improvements which are or will be dedicated to the County or another governmental or quasi-governmental entity for substantially public use, and which serve the needs of the region and the transportation planning consisting of preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting and construction of all necessary features for any regional road on the MTCP undertaken to accommodate additional traffic resulting from new traffic-generating development. This includes but is not limited to construction of new through lanes; construction of new bridges; construction of new drainage facilities in conjunction with new road construction; purchase and installation of traffic signals including new and upgraded signalization; construction of curbs, gutters, sidewalks, medians and shoulders; relocating utilities to accommodate new road construction; construction and reconstruction of intersections; widening of existing regional roads; bus turnouts; acceleration and deceleration lanes; interchanges; and traffic control devices.

Regional Trail -- A bike, equestrian, or pedestrian facility designated by the County as a regional trail.

Rehabilitation facility -- An institutional use-type facility, and not a group home, whether public, quasi-public, not-for-profit, providing accommodation, treatment and medical care for patients suffering from alcohol or drug-related illness.

Relevant Improvement -- A road or facility related to a road, water distribution system, sewage collection system, storm drainage facilities, or any other type of structure the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit one or more applicant subdivider. The improvement may be internal as well as

adjacent to or outside of the legal description of the requester subdivider's subdivision.

Religious Housing -- A residential dwelling for permanent or overnight occupation associated with a religious institution, including religious retreats, convents, monasteries, seminaries operating in conjunction with a religious institution on site, religious-sponsored orphanages, and similar religious dormitories and housing facilities. This term does not include major religious facilities that have significant recreation and outdoor activity components associated with them, such as religious camps.

Religious Institution -- An establishment primarily for the conduct of religious activities, limited to sanctuary, educational classrooms, daycare, committee and office work, a single parsonage/rectory, or religious camp.

Remainder Parcel -- A part of a larger parcel that is not platted during the subdivision of that larger parcel and which is described by metes and bounds

Renewable Water -- Surface water and alluvial groundwater. Renewable groundwater is found in, but not limited to, the alluvium found in the drainage systems of Big Sandy Creek, Black Squirrel Creek, Cherry Creek, Fountain Creek, Jimmy Camp Creek, Kiowa Creek, Monument Creek, Sand Creek and Williams Creek.

Rental Services -- An establishment where home owners equipment, lawn and garden equipment, party and wedding supplies, tent and events rental, and automotive tools are rented, which are generally utilized by homeowners, rather than contractors. Incidental sales of tools, materials, and services may occur in conjunction with the rental services. This may include outside storage of equipment utilized in the business.

Repair Shop -- A business, the primary purpose of which is to engage in repair of household appliances, television, furniture, clocks and watches, stereos, or various types of small electronic equipment and computers.

Replacement Plan -- A program defined in C.R.S.§37-90-103(12.7) to increase the supply of water available for beneficial use in a designated groundwater basin or portion thereof for the purpose of preventing material injury to other water rights by the development of new points of diversion, by pooling of water resources, by water exchange projects, by providing substitute supplies of water, by the development of new sources of water, or by any other appropriate means, consistent with the rules adopted by the Colorado Groundwater Commission. "Replacement Plan" does not include the salvage of designated groundwater by the eradication of phreatophytes, nor does it include the use of precipitation water collect from land surfaces that have been impermeable, thereby increasing the runoff, but not abiding to the existing supply of water.

Replat -- The changing of any existing lot or lots, rights-of-way, or easements of a subdivision plat previously recorded with the Clerk and Recorder.

Requestor Subdivider -- A subdivider who requests a fair share reimbursement of the cost of certain improvements that the County requires to have installed under the subdivision approval process.

Reserved Land -- Any property required by this Code to satisfy the urban park needs within an urban density subdivision or school needs within the County and acquired by the County for future transfer to some other governmental or quasi-governmental entity within the County for ownership, development, operation and maintenance as an urban park area or school.

Residential Child Care Facility -- A facility licensed by the Colorado Department of Social Services pursuant to C.R.S. §26-6-101 et seq. to provide 24 hour group care and treatment for 5 or more children.

Resolution of Approval -- A written declaration adopted by an approving authority as authorized by this Code or State Statute approving or conditionally approving the proposed development permit. The resolution is maintained in the records of the approving authority, and includes any specified conditions or modifications as reflected in the official record of the approving authority.

Restaurant -- A food service establishment whose primary business is the sale of food in a ready-to-consume state. Any such establishment serving alcoholic beverages under C.R.S. §12-47-119 (Hotel and Restaurant License) shall also be regarded as a restaurant.

Retail Sales -- Establishments engaged in the sale of goods or merchandise to the general public and rendering services incidental to the sale of these goods. A retail sales establishment is usually a place of business and is engaged in activity to attract the general public to make purchases. Including but not limited to: antiques or art, clothing, department store items, drugs, dry goods, feed and seed, hay, flowers, furniture, gifts, groceries, hardware, hobby items, office supplies, package liquor, paint, pets, shoes, sporting goods, appliances and repairs, copies and toys.

Retention -- The storage of storm water runoff in a basin without release except by means of evaporation or infiltration.

Retention Facility -- An above or underground facility, such as a pond or tank, that stores storm water runoff without release, except by means of evaporation and infiltration.

Retirement Center -- A specialized location and facility for the residence of retired people only. Individuals may be able to live entirely on their own or may require varying degrees of care. The residents may either own or rent their dwelling unit.

Rezoning -- A zoning map amendment.

Riding Academy -- An establishment which rents boards or leases riding horses or ponies or gives lessons to develop horsemanship.

Right-of-Way -- Property in which the County has any form of ownership or title or that is intended to be used by the public for, or occupied by, a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another similar use.

RLUP Exemption Plat -- A subdivision exemption plat to create the lots, parcels, or tracts identified in a RLUP overlay zoning district.

Road -- A facility for the passage of vehicles that where appropriate may include pedestrian, equestrian, and bicycle facilities.

Road, Maintained -- A road that has been accepted by El Paso County, a municipal government, or other government agency for maintenance.

Road, Non-Arterial -- Those roads not designated as arterial roads or above by the MTCP.

Road, Private -- Privately-owned and privately maintained road provided for by a tract, easement or other legal means, typically serving more than 3 lots, parcels, or tracts that do not have frontage on a public road

right-of-way. Access to these facilities by the public is restricted. Like public roads, these facilities shall be built to public road standards, unless otherwise dictated by provisions within this Code.

Road, Public -- A road located in a public right-of-way or easement and open to the public for travel and accepted for maintenance by El Paso County or another governmental jurisdiction.

Roadway Capital Improvement -- The transportation planning of, preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting, and construction of necessary features for a road construction project on an arterial or higher classification of road on the County's major road system, undertaken to accommodate traffic resulting from new traffic-generating development. Road capital improvements may include but not be limited to: (a) construction of new through lanes; (b) construction of new bridges; (c) construction of new drainage facilities in conjunction with new road construction; (d) purchase and installation of traffic signals, including new and upgraded signalization; (e) construction of curbs, gutters, sidewalks, medians and shoulders; (f) relocating utilities to accommodate new road construction; (g) the construction and reconstruction of intersections; (h) the widening of existing roads; (i) bus turnouts; (j) acceleration and deceleration lanes; (k) interchanges; and (l) traffic control devices.

Rodeo -- A public performance which includes bronco riding, calf roping, steer wrestling, bull riding, or other related events.

Rural -- For purposes of this Code, the zoning, use and development of land in zoning districts or areas which allow lot sizes that are 2.5 acres in size or greater, characterized by dispersed residential development, agricultural uses and activities, or vacant land.

Rural Land Use Plan (Process) -- A land use plan and overlay zoning district depicting residential lots, open space and roads, authorized pursuant to C.R.S. §30-28-401, which provides an alternative to dispersed 35 acre residential development and traditional subdivision design, allowing the lots and open space to be sited creatively to maintain a rural open character.

Rural Residential Development -- Land development and uses which are characterized by predominantly residential lots or parcels ranging from 2.5 to 10.0 acres in area. The areas are typically provided with a less-than-urban level of services (i.e. individual wells and septic systems, some unpaved roads) and allowing for only a limited amount of supporting commercial, office or industrial development. Designation in the rural residential category does not automatically imply the acceptability of lots as small as 2.5 acres.

Salvage Yard -- A building, structure or yard open to the air, used for the display, sale, or storage of broken, used or discarded pieces of automobiles, metal, paper, glass, rope, rags, wood or other discarded material, whether of value or valueless, and which may or may not be partly or wholly assembled into vehicles, machinery or other useful objects of any kind. This definition includes junkyards, automobile wrecking yards and scrap processing or shredding, but not implements of husbandry, farm tractors, farm or ranch equipment or vehicles customarily operated in a farm or ranch operation.

Scrap Tire Only Disposal Facility -- A location and facility at which the deposit, final treatment and disposal of whole, split, or shredded scrap tires occurs. A scrap tire only disposal facility is also commonly referred to as a monofill.

Scrap Tire Recycling Facility -- A facility where scrap tires are processed for recycling or for the extraction

of useful materials or energy from the tires through thermal, chemical, or physical processing.

Screening -- A method of visually shielding or obscuring a structure or use from view by fencing, walls, trees, or densely planted vegetation. Screening provides a complete, opaque, year round visual separation between differing land uses.

Seasonal Produce Sales -- A stand or locations where fruits and vegetables are sold only during certain months of the year.

Severe Change in Grade -- A change in grade of more than 10%.

Service Plan -- The documentation submitted to El Paso County by an applicant proposing the organization of a special district, including text, maps, charts, and tables, and containing all the information required in the C.R.S. and these standards and regulations.

Service Plan, Approved -- The final service plan to be submitted to the Court which reflects any conditions or requirements imposed by the BoCC in their approval action.

Service Plan, Draft -- A complete service plan submitted for review and recommendation of the SD/LID Committee.

Service Plan, Final -- A final service plan submitted for consideration by the BoCC reflecting any recommendations or changes from the SID/LID Committee.

Service Plan, Model -- The standard template(s) to be utilized for a Service Plan to be submitted to the County, as adopted by Resolution 07-273 and any amendment thereto.

Setback -- The minimum distance between the lot, tract or parcel boundary line and the location of structures or buildings.

Setback Line -- A line that is the required minimum distance from any lot, tract or parcel boundary line and that establishes the area within which the principal or accessory structure shall be erected or placed.

Sexually-Oriented Business -- An adult arcade, adult store, adult cabaret, adult motion picture theater or adult theater, except an establishment where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State of Colorado engages in approved and recognized sexual therapy and except any college, junior college or university supported, in whole or in part, by tax revenue and offering educational programs which, for educational purposes, may include the depiction of specified sexual activities or specified anatomical areas.

Shall -- The specified criteria are mandatory.

Shed -- An accessory building, structure, or enclosure generally used for the storage of lawn and garden equipment and tools.

Shooting Range, Indoor (See Amusement Center, Indoor) Shooting Range, Outdoor -- An outdoor facility for the firing of any gun or the shooting with bow and arrow. The term also includes rifle and pistol shooting and skeet and trap shooting. An indoor facility may be operated as an ancillary facility to an approved outdoor shooting range. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

Shopping Center -- A group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

Should -- The condition is advisory or recommended, but not mandatory.

Sign -- Any object, device, vehicle, trailer, display or structure, or part thereof, situated outdoors or indoors, which is used to identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images having the capacity of being visible from any public road, except any display on a vehicle using the highway. A vehicle or trailer parked so as to be visible from a road for more than 24 hours and have the effect of directing attention to a business or profession, to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the vehicle or trailer is located or to another location within the County shall be considered a sign.

Sign, Announcement -- A sign which directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold, or offered upon the premises where the sign is located or to which it is affixed.

Sign, Attached -- A sign which is fastened to, connected to, or painted on and wholly or partially supported by a building.

Sign, Awning -- A wall sign which is painted, stitched, sewn or stained onto the exterior of an awning.

Sign, Billboard or Board -- An off premise large format advertising displays intended for viewing from extended distances, generally more than 50 feet. Billboard displays are include but are not limited to posters copies, junior posters, vinyl-wrapped posters, bulletins, wall murals and stadium signage, mechanical message displays, or electronic.

Sign, Canopy -- A wall sign affixed to a permanently roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

Sign, Changeable Copy -- A sign that is designed so that characters, letters, or illustrations can be replaced or rearranged non-electronically without otherwise altering the face or structure of the sign, and is considered as sign area for a business for which it advertises.

Sign, Changing Illumination -- Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times.

Sign, Development -- A temporary sign promoting the sale of a development, lots, or new homes within a development or subdivision.

Sign, Directional -- Signs which guide instruct, or direct viewers to a place or event. These signs do not advertise, promote or identify a product, service or commercial development.

Sign, Display Face (panels) -- The flat area normally rectangular in shape where the advertisement is displayed.

Sign, Double Face -- A billboard structure that has two display panels, which are parallel to each other and facing in opposite directions.

Sign, Electronic Message Display (EMD) -- A sign that is capable of displaying words, symbols, figures or images that can be electronically changed by the remote or automatic means.

Sign, Freestanding -- A sign constructed and supported by uprights, or braces, placed upon the ground and not attached to any part of any building.

Sign, Hanging -- A sign located under a permitted awning or canopy at the entrance to the premises. The sign shall identify only the name of the business or premises and shall be perpendicular to the entrance wall of the building.

Sign, Identification -- A sign which states the name of such developments as subdivisions, shopping centers, business parks, industrial parks, and similar uses.

Sign, Illumination -- Light fixtures attached to a sign so that the message is visible in hours of darkness.

Sign, Information -- A sign which is erected to guide or direct the flow of traffic on the premises on which the device is located or which is non-commercial in nature. The sign may designate addresses, one-way, handicap parking, visitor parking, loading/unloading, and fire lanes.

Sign, Low-Profile -- A freestanding sign not exceeding 6 feet in height measured from the finished grade to the top of the sign, however, bonus provisions may allow for heights greater than 6 feet.

Sign, Mechanical Message Display (MMD) -- A sign that is capable of displaying words, symbols, figures or images that can be mechanically changed by remote or automatic means (also known as tri-fold, tri-vision).

Sign, Menu Board -- A wall or free-standing sign which lists the foods or other products available at drive-through facilities.

Sign, Message -- Any static, non-animated, communication, advertisement, or frame displayed within an on or off premise signs (A complete, static display message on an Electronic Message Display).

Sign, Message Hold Time -- The time interval a static message or frame must remain on the display before transitioning to another message or frame.

Sign, Nameplate -- A sign limited to identifying the street name, building or property number, and the name of the owner or occupant of the building or property.

Sign, Nonconforming -- A legally existing sign which does not conform to the requirements of this Code either on the effective date of this Code or as a result of subsequent amendments to this Code.

Sign, Off-Premise -- Any sign which is not on the same premises as the business or use with which it is identified, or which cannot be classified as an on-premise sign. Off-premise signs include billboards, bus bench and shelter signs (typically in ROW owned by public entity), direction signs (general signs that can potentially be in any zone district).

Sign, On-Premise -- A sign which displays copy specifically related to a principal use of the lot, parcel or tract on which it is located.

Sign, Pennant -- Strings of banners or flags or the placement of them in a sequential manner giving the appearance of being strung together.

Sign, Pole -- A sign whose primary means of support is one or more poles set into a concrete footing, located at or below ground level. A pole sign is considered a freestanding sign.

Sign, Political -- A sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

Sign, Portable -- A sign which is not permanently affixed to a structure and is designed for or capable of movement, except those signs explicitly designed for people to carry on their persons or permanently affixed to vehicles operating in their normal course of business.

Sign, Poster Display -- Message display which is static, non-mechanical, and non-electronic and is changed manually, or requires a manual changing of the message displayed.

Sign, Projecting -- A sign projecting in excess of 18 inches from any part of a building.

Sign, Real Estate -- A sign displayed for a limited time and offering the immediate premises for sale, rent or lease.

Sign, Real Estate Directional -- An off-premise sign displayed only when the real estate company representative, agent or seller is in attendance at the property for sale, rent or lease. A real estate directional sign is regulated as an on-premise sign.

Sign, Single Face -- Billboard structure that has single display panel facing in only one direction.

Sign, Temporary -- A sign which is erected for a limited time and may be used to advertise business, community or civic projects, real estate for sale or lease, or other special events.

Sign, Time-Temperature-Date -- A sign that displays the current time, outdoor temperature, date of the month, or any combination of that information.

Sign, Traffic -- A sign used to direct traffic in accordance with the MUTCD.

Sign, Transition Duration -- The time interval it takes the display to change from one complete static message or frame to another complete static message or frame.

Sign, Transition Method -- A visual effect applied to a message to transition from one message to the next.

Sign, Wall -- A sign attached to or painted on the wall of a building. Wall signs also include awning, fascia, and canopy signs.

Sign, Window -- A sign that is painted on applied or attached to a window or that can be read through the window from the public right-of-way.

Sign Area -- The total area of the face, plate, and frame, as well as the display surfaces but not including the structure or bracing of the sign. When the sign consists only of letters, logos, designs, or figures engraved, painted, or projected or fixed on a wall or freestanding, or when a sign is of an irregular shape, the total area of the sign shall be the smallest area enclosed by a single right angle figure surrounding all of the fixed lettering, designs and irregular shape. On double-faced signs where the sign faces are placed back to back, only one face is counted in computing the sign area; for signs with more than 2 faces, the area of all faces shall be counted.

Significant Wildlife Habitat and Migration Corridors -- Areas designated by the Colorado Division of Wildlife or the Colorado Natural Diversity Information Source (www.ndis.nrel.colostate.edu) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

Site -- The site is an ownership except as follows: (a) If a proposed development includes more than one ownership, then all the ownerships are included as the site; (b) If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development; and (c) If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Site Application -- The State and local process for approving and permitting domestic waste treatment works, including waste water treatment plants, lift stations, and interceptor sewers.

Site Development Plan -- The development plan for one or more lots showing the existing and proposed conditions of the lot and any improvements existing or to be constructed on the lot. This includes topography; vegetation; drainage; floodplains; wetlands and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers and screening devices; surrounding development; and other information that may be reasonably required for the ~~DSD~~PCD Director to determine compliance with the requirements of this Code, and subsequently authorize issuance of a building or development permit.

Site Plan -- An accurately scaled drawing of a lot or parcel showing the existing and proposed conditions of the lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

Site-Related Improvements -- Road capital improvements and right-of-way dedications, which provide direct access to the development including, but not limited to the following: (a) driveways and streets leading to and from the development; (b) right and left lanes leading to those driveways and roads; (c) one through lane; (d) curb, gutter, and sidewalks where applicable; (e) acceleration and deceleration lanes; (f) traffic control measures for those driveways; and (g) internal streets. Credit is not provided for site-related improvements under an off-site road study or transportation improvement study (TIS).

Site Specific Development Plan -- A detailed graphic representation drawn to scale of a proposed development which depicts the specific land uses, site design, and dedication requirements for the property utilized for purposes of establishing vested rights. The site specific development plan provides information including, but not limited to, the building locations and exact footprints, parking areas and designs, ingress or egress, access and utility easements, a detailed landscape plan and location and size of signage. The approved site specific development plan becomes the official plan for the property and is the final site plan submitted with the request for a vesting of property rights. Physical development of the property shall be in strict conformance with the approved site specific development plan. A final plat for a residential subdivision shall constitute a site specific development plan.

Slash Piles -- The accumulation of tree limbs, tree tops and miscellaneous natural vegetation residue left by forest management activities, such as thinning, pruning, and timber harvesting and clearing.

Small Area Plan -- A sub-area Master Plan adopted as a component of the overall Master Plan, which provides specific land use guidance and detailed direction for the specific geographic area included within the plan.

Solar Energy Generation Facility -- A large-scale electrical energy generation facility with a minimum energy generation capacity of 500 kilowatts typically consisting of photovoltaic panels, heliostats (mirrors), collection tower(s), turbine(s), collection lines, electrical substation(s), transmission line(s), and other appurtenant facilities.

Solid Waste -- Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial or commercial operations or from community activities. "Solid waste" does not include:

Any solid or dissolved materials in domestic sewage; Agricultural wastes; Solid or dissolved materials in irrigation return flows; Industrial discharges which are point sources subject to permits under the provisions of the "Colorado Water Quality Control Act", article of title 25, C.R.S; Materials handled at facilities licensed pursuant to the provisions on radiation control in article 11 of title 25, C.R.S; Exploration and production wastes, as defined in section 34-60-103 (4.5), C.R.S., except as such wastes may be deposited at a commercial solid waste facility;

Excluded scrap metal that is being recycled; or shredded circuit boards that are being recycled. (C.R.S. §30-20-101.)

Solid Wastes Disposal Site and Facility -- The location and facility at which the deposit and final treatment of solid wastes occur. (See C.R.S. §30-20-101, Certificate of Designation, Inert Materials.)

Sound Level -- The weighted sound pressure level obtained by the use of the sound level meter and frequency weighing network, as specified in the American National Standards Institute Specifications.

Sound Level, A-Weighted -- The A-scale sound level is a quantity, in decibels, read from a standard sound-level meter with A - weighting circuitry. The A-scale weighting discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The A-scale sound level measures approximately the relative "noisiness" or "annoyance" of many common sounds, while the low and high frequencies are de-emphasized.

Sound Level, C-Weighted -- A quantity, in decibels, read from a standard sound level meter with C-weighting circuitry. The C-scale incorporates slight de-emphasis of the low and high portion of the audible frequency spectrum.

Special District -- A special district organized under and existing by virtue of the provisions of C. R. S §§32-1 - 101, et seq.

Special District Policies -- The El Paso County Special District Policies as adopted by Resolution 07-272, as may be subsequently amended.

Special Flood Hazard Area -- Land in the floodplain subject to a one percent chance of flooding in a given

year. Also called Area of Special Flood Hazard.

Specialized Group Facility -- A facility which is established and supervised by a County Department of Social Services or a licensed child-placement agency for the purpose of providing 24-hour care for children from 3 years to 18 years old and those persons to 21 years old who are placed by court order prior to their 18th birthday whose special needs can best be met through the medium of a small group.

Specified Anatomical Areas -- Includes any of the following: (a) human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, which are not completely and opaquely covered; and (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities -- Includes any of the following: (a) fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy; (c) masturbation, actual or simulated; (d) human genitals in a state of sexual stimulation or arousal; or (e) human excretory functions as part of or in connection with any of the activities set forth in parts (a) through (d) hereof.

Stable -- A building, structure, barn, shed or similar enclosure for the purpose of housing and feeding of horses or other livestock and for the storage of equipment relating to the care, maintenance and operation of the farm animals.

Stable, Commercial -- Any stable where horses or other livestock are boarded for remuneration or where horses or other livestock are kept for sale or hire, except as permitted under the definition of ranch.

Stable, Private -- Any stable where farm animals are boarded and owned by the occupants of the premises and are not kept for remuneration or hire.

Stadium -- A large, often unroofed structure in which sporting events and other forms of entertainment are held.

Stand -- A booth, stall or counter for the display and sale of goods.

Storage -- The act of stocking or supplying a product reserved for future use.

Storage, Outside -- Open air storage of vehicles, raw materials, supplies, finished or semi-finished products or equipment.

Store -- An establishment operating from an enclosed building engaged in providing of services or the retail sale of products that are not primarily consumed or used upon the premises but may be assembled or installed upon the premises. The term shall not include adult uses or gasoline filling stations.

Story -- That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Structural Alterations -- Any change in the supporting members of a building or structure such as bearing walls, columns, beams, girders, floor joists or roof joists.

Structure -- Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment of something having a permanent location on the ground. The term shall

include "building" as defined herein, but not include fences or walls 6 feet in height or less, retaining walls less than 4 feet in height, or poles, lines, cables or other transmission or distribution facilities of public utilities.

Structure (when located in CAD-O zoning district) -- An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, overhead transmission lines, and vegetation. This definition is applicable to the CAD-O only.

Structure, Accessory -- A subordinate detached structure, the use of which is customarily incidental to that of the principal structure or to the principal use of the land, which is located on the same lot or parcel (or on a contiguous lot or parcel in the same ownership upon the recording a combination or use agreement that binds the accessory structure to both lots or parcels in common ownership) with the principal structure or use.

Structure, Agricultural -- For the purpose of determining exemption from the Building Code, any structure used for the sole purpose of providing shelter for agricultural implements, farm products, livestock (including horses) or poultry as intended in C.R.S. §30-28-201 (1).

Structure, Nonconforming -- Any legally existing structure which does not conform to the "location and bulk" regulations of this Code, either at the effective date of this Code or as a result of subsequent amendments which may be incorporated into this Code.

Structure, Principal -- A structure or combination of structures of chief importance or function on a lot or parcel. In general, the principal use of the site is carried out in a principal structure. The difference between a principal and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

Studio -- A place, where an art is taught or studied; an artist's or photographer's establishment. **Subdivider --** Any person, firm, partnership, joint venture, association or corporation who shall participate as owner, applicant, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision -- Any parcel of land in unincorporated El Paso County which is divided into 2 or more parcels, separate interests, or interests in common, including land to be used for condominium, apartments or any multiple dwelling units, unless the land when previously subdivided was accompanied by a filing which complied with the provisions of this Code with substantially the same density. The term "subdivision" shall not apply to any division of land which creates parcels of land each of which comprises 35 or more acres of land and none of which is intended for use by multiple owners, C.R.S. §30-28-101(1 0)(b). Unless the method of disposition is adopted for the purpose of evading C.R.S. §§30-28-101, et. seq., the term "subdivision", as defined above, shall not apply to (1) any division of land the BoCC determines is not within the purposes of C.R.S. §§30-28-101, et. seq.; or (2) any division of land which (a) creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any parcel, results in 35 or more acres per interest; (b) is created by a lien, mortgage, deed of trust or any other security instrument; (c) could be created by any court in this State pursuant to the law of eminent domain, or by operation of law, or by order of any court in this State if the BoCC is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of provisions of this Code prior to entry of the court order; and, if

the Board does not file an appropriate pleading within 20 days after receipt of such notice by the court, then such action may proceed before the court; (d) is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in any investment entity; (e) creates cemetery lots; (f) creates an interest or interests in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership of real property; (f) is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common and any such interest shall be deemed for the purposes of this Section as only one interest; (g) is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Code and any applicable County regulations, the land which is to be acquired pursuant to the contract; (h) is created by the combination of contiguous parcels of land into one larger parcel. Easements and rights-of-way shall not be considered interests for purposes of this definition.

Subdivision, Minor -- A division of land that creates 4 or fewer lots.

Subdivision Improvements Agreement -- An enforceable development agreement between an applicant or owner and El Paso County that serves as the security arrangement to secure the cost of public improvements associated with a subdivision required by the ECM and LDC.

Subdivision Regulations -- The provisions of this Code, as they apply to the division of land within the jurisdiction of El Paso County.

Subject Property -- The site for which an application for land use, development or subdivision approval has been submitted.

Surcharge --For purposes of this Code, surcharge means any mass of earth or other material being held in place by a wall structure.

Surveyor -- A Professional Land Surveyor licensed by the State of Colorado.

Target Weeds -- A list and B list noxious weeds as defined and identified by the Colorado Noxious Weed Act.

Temporary Housing -- The temporary placement of a manufactured home or recreational vehicle to serve as living quarters while the principal dwelling is under construction.

Temporary Occupancy -- A time period not to exceed 30 consecutive days or a total of 90 days in any one calendar year.

Thinning -- The selective removal of trees and shrubs based on a management prescription as determined by a professional forester or someone with fuel mitigation expertise.

Threatened or Endangered Species -- Plants and animals identified by the federal government as threatened or endangered or proposed for threatened or endangered status, plants and animals identified as rare or sensitive by the CDW, and plants or animals identified as ranking G1 or G2 by the Colorado Natural Heritage Program.

Title Commitment -- Formal documentation from a title company committing to insure the property and listing the name of the owner of the subject property, the legal description of the subject property and any legal holdings on the subject property such as easements, rights-of-way, liens, and other encumbrances.

Tower, Commercial (Non-CMRS) -- The structure on which transmitting or receiving antennas are located

and not considered a CMRS Facility. This term shall include the following: VHF and UHF television and AM and FM radio. Private towers and citizens band radios shall not be included within this definition.

Tower, Private (Non-CMRS) -- Any external tower, antenna, attached apparatus, and supporting structure not defined as a Commercial Tower or CMRS Facility. This term includes television reception antennas, citizens' band (C.B.) radio facilities, amateur radio facilities, or satellite dishes.

Townhouse -- A single-family attached dwelling situated on its own lot but attached to one or more similar dwelling units by a common wall and each unit has its own front and rear access to the outside and no unit is located over another unit.

Tract -- An area of land that is not a lot or a public right-of-way, platted as part of a subdivision, and the use of which is restricted to those uses consistent with the stated purpose as described on the plat, in the maintenance agreements, or through CC&Rs. Examples include stormwater management tracts, private street or alley tracts, school tracts, open space tracts, and tracts for future development.

Trade Schools -- Educational facilities which are publicly or privately operated and provide training for trades, such as welding, automobile mechanic, dog grooming, barbers, etc.

Traffic Markings -- All lines, patterns, words, colors or other devices, except signs and power operated traffic-control devices, set into the surface of, applied upon, or attached to the pavement or curbing or to objects within or adjacent to the roadway, placed for the purpose of regulating, warning or guiding traffic.

Trails -- A corridor or recreational easement developed for non-motorized uses such as biking, hiking, horseback riding.

Transportation Impact Study -- A report that documents a study of traffic conditions before and after construction of a proposed development prepared in accordance with the ECM. It addresses any deficiencies in the transportation system, either current or after development, and proposes recommended mitigation.

Trash Transfer Facility -- A facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of containerized collection receptacle and placed into another or is processed for compaction.

Treatment Plant -- A facility for the collection, treatment, and disposal of sanitary sewage that complies with the minimum standards specified in the Design Criteria Considered in the Review of Wastewater Treatment Facilities, Colorado Department of Health and Environment, Water Quality Control Commission, and generally has a design capacity to receive more than 2000 gallons of sewage per day ; or a facility for the treatment, purifying, supplying, and holding of raw water designed to meet the water quality requirements contained in the Colorado Primary Drinking Water Regulations.

Tree Farm -- Any parcel of land used to grow and harvest trees for wood products, such as lumber, posts and poles, fuel wood and Christmas trees, where forest products are sold on-site or transported to market.

Truck and Recreational Vehicle Repair Garage -- A building used for the care or repair of trucks generally larger than ½ ton and recreational vehicles including major or minor work such as body and fender work or engine and transmission overhaul and incidental storage or parking of repaired vehicles, but excluding the dismantling or wrecked vehicles or storage of junk vehicles.

Truck Farm -- An intensive agricultural operation for the growing of produce for sale.

Truck Stop -- An establishment that provides maintenance, repair, storage and other services to commercial vehicles and their drivers, which may include but are not limited to fuel, accessory or parts sales, overnight accommodations, restaurant facilities, or any combination thereof.

Trucking and Motor Freight Terminal -- A facility designed or intended to be used for the receiving or discharging of cargo and providing for the temporary or permanent storage of the conveyance vehicle.

Turf Grass -- Continuous plant coverage consisting of hybridized grasses that, when regularly mowed, form a dense growth of leaf blades and roots.

Turnout -- A widening in a road of sufficient length and width to allow vehicles to pass one another.

Unified Control -- Control of two or more lots, parcels or tracts of land by one or more landowners through a joint operating agreement, right to purchase, or similar agreement, but developed and implemented under a unified plan to which the owners, successors, heirs, or assigns shall be bound by the approved development plan, including any amendments thereto approved by the County.

Urban Density Development -- Land development of higher density and intensity which is characteristically provided with services of an urban nature (i.e. central water and sewer, fire hydrants, paved roads often with curb and gutter, and shorter emergency service response times). This category of development ordinarily includes most commercial, office and industrial uses and residential uses with densities of more than one dwelling unit per 2.5 acres.

Use, Accessory -- A subordinate use, incidental and related to the principal structure or use and located on the same lot or parcel as that of the principal structure or use (or on a contiguous lot or parcel in the same ownership upon the recording a combination or use agreement that binds the use to both lots or parcels in common ownership).

Use, Allowed -- Any use permissible in a zoning district provided all provisions and standards of this Code have been satisfied.

Use, Commercial -- A business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include offices and retail shops.

Use, Industrial -- A use engaged in the basic processing or manufacturing of materials or products predominately from extracted or raw materials or natural resources, or component parts; a use engaged in storage of, or manufacturing processes using flammable, hazardous or explosive materials; or manufacturing processes that potentially involve hazardous or commonly recognized adverse conditions.

Use, Nonconforming -- Any legally existing use, whether within a structure or on a piece of land, which does not conform to the use regulations of the zoning district in which the use is located, either at the effective date of this Code or as a result of the subsequent amendments which may be incorporated into this Code.

Use, Principal -- An activity or combination of activities of chief importance on the lot or parcel. The main purposes for which the land is intended, designed, or ordinarily used.

Use, Special -- A use that, owing to some special characteristics attendant to its operation or installation (e.g. potential danger, traffic, smoke or noise impact), is allowed in a zoning district, subject to approval

and special requirements, different from those usual requirements for the zoning district in which the special use may be located.

Use, Temporary -- A seasonal, short-term or transient land use allowed on a property on a temporary basis.

Utilities -- Water, sewer, gas, electric power, stormwater, telephone and cable television and other facilities or services necessary to reasonably provide for the needs of a development or subdivision.

Utility -- Any public or private entity whose principal purpose is to provide electricity, water, sewer, storm drainage, gas, radio, television, telephone, and other forms of communication utilizing the electromagnetic spectrum to the public.

Utility Substation -- Any electric transmission lines, substations or electric utilities, major gas regulator station, transmission and gathering pipelines and storage areas of utilities providing natural gas or petroleum derivatives and their appurtenant facilities.

Vacation of a Plat, Right-of-Way, or Public Easement -- The process through which recorded plats, rights-of-way, or public easements, or portions thereof are made null and void by action of the BoCC pursuant to the statutory procedure by which the County may relinquish its interest in roads, alleys, or easements, and may authorize the vacation of plats.

Variance -- The means by which an adjustment is made in the application of the specific bulk, dimensional, or performance standards set forth in this Code to a specific property.

Variance, Use -- The means by which a use not otherwise authorized as an allowed, special, or accessory use by this Code may be approved for a specific property.

Vehicle, Inoperable -- A vehicle which is damaged or dismantled to a degree that it is unable to move under its own power or is unsafe or illegal to operate on public road rights-of-way. This definition does not include implements of husbandry, farm tractors, farm or ranch equipment, or vehicles customarily operated in a farm or ranch operation.

Vehicle Repair Garage -- An establishment used for the care or repair of passenger vehicles and light trucks, including major or minor work such as paint, body and fender work or engine and transmission overhaul and incidental storage or parking of repaired vehicles, but excluding the dismantling of wrecked vehicles and the storage of junk vehicles.

Vested Property Rights -- The right to undertake and complete the development and use of the property under the terms and conditions of a site specific development plan.

Violator, Alleged -- The owner of record, whether person, partnership, firm, corporation, governmental agency or other association of persons, any authorized agent or representative of the owner of record and any occupant of the premises or property upon which there is probable cause to believe a violation of this Code, a County Ordinance, or a development permit or approval exists or has occurred.

Waiver -- The request or action for relief from compliance with a specific development standard, subdivision standard, or submittal requirement or action.

Warehouse -- A building or portion thereof used by the occupant for the inside storage, safekeeping, distribution or selling at wholesale of goods and materials in the regular course of commercial dealing and

trade. This generally includes land and buildings used as a relay station for the transfer of goods from one vehicle or party to another, and the parking and storage of tractor and other trailer units, and may include incidental retail sales. Bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions is considered flammable material storage or hazardous material storage.

Waste Water Lift Station -- A wastewater pumping station used to pump wastewater when the continuance of a gravity sewer line is not feasible.

Water, Non-Renewable -- Unless otherwise specified by the State Engineer or a State court of competent jurisdiction, all tributary, nontributary and not nontributary groundwater, as defined by appropriate State Statute, found in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, and other bedrock aquifers.

Water, Surface -- Water which flows in rivers and streams. Surface and alluvial groundwater include waters diverted out of surface streams and water diverted out of wells or other structures which are hydraulically connected to a surface stream. Water meeting this definition is governed by the Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101, et seq., Surface water and alluvial groundwater are said to be tributary, and thus, are governed by Colorado's prior appropriation doctrine.

Water Demand -- The total quantity of water a proposed subdivision will require for a period of 300 years.

Water Right, Adjudicated -- A decree issued by a Colorado State Water Court or a determination issued by the Colorado Groundwater Commission that grants an appropriation of water to an owner.

Waters of the State -- All surface and underground water in or tributary to all natural streams within the State of Colorado, except designated groundwater as referred to in C.R.S § 37-90-103(6) pursuant to C.R.S. § 37-92-1 03(1 3).

Well -- Any structure or device used for the purpose or with the effect of obtaining groundwater for beneficial use from an aquifer. Well does not include a natural flowing spring or spring where the natural spring discharge is captured or concentrated by installation of a near-surface structure or device less than ten feet in depth located at or within fifty feet of the spring or springs' natural discharge point and the water is conveyed directly by gravity flow or into a separate sump or storage. C.R.S. §37-90-103 (21) (a) and (b); §37-92-103 (14) (a) and (b).

Well Permit, Domestic Use -- Permitted water use for up to one acre foot per year which may include household use, irrigation and watering of domestic animals.

Well Permit, Exempt -- Water permits issued by the State of Colorado for certain small capacity wells based on the presumption of non-injury to senior water rights in accordance with C.R.S §37-90-105 and §37-92-602. The presumption does not apply when the well is located in a subdivision.

Wet Bar -- An area in a dwelling used for the preparation of refreshments and cocktails. A wet bar shall be limited to a one-basin sink with no garbage disposal, a small refrigerator, and counter and storage areas. The installation of any cooking device (other than a portable microwave or similar device) shall constitute a kitchen.

Wetlands -- Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetlands Analysis -- A report that identifies any existing wetlands in the National Wetlands Inventory or from field inspection that are located on a lot, parcel, or tract, or affected by drainage from a lot, parcel, or tract and any proposed wetlands. The report provides a description of potential impacts from a proposed activity and identifies methods or strategies to address or mitigate the described impacts.

Whip Antenna -- An array of antennae that is cylindrical in shape.

Wholesale -- A business use characterized by the selling of goods primarily to retailers, contractors, manufacturers, industrial users, commercial users or professional business users.

Wildfire Mitigation -- The actions taken to reduce the occurrence of or reduce the damage from wildfire.

Wildland Fire -- An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving structures.

Wildland Fire Area -- An area where improved property and wildland fuels meet at a well-defined boundary, which includes areas identified as forested on the Vegetation Map.

Wildland/Urban Intermix -- An area where improved property and wildland fuels meet with no clearly defined boundary.

Wildlife Habitat Map -- Maps that represent the general geographic extent of habitats occupied by various wildlife species. Species are anticipated to occur within these areas during all or a portion of their life cycle.

Wildlife Report -- A written document that identifies the wildlife resource within the general area of a development project and that describes the impacts to the resource as a result of a project. The report shall also identify methods that will mitigate any potential impacts to the resource.

Wildlife Rehabilitation -- The act of rehabilitating sick, injured, or orphaned wildlife by a person licensed by the Colorado Division of Wildlife, but excluding veterinarians, for the purpose of returning them back to the wild.

Wind Energy Generation Facility -- A large-scale electrical energy generation facility with a minimum energy generation capacity of 500 kilowatts typically consisting of wind turbines, meteorological data gathering devices, collection lines, electrical substation(s), transmission line(s), and other appurtenant facilities.

Wind/Meteorological Measuring Facility (Met Tower) -- The location and devices used to monitor or transmit weather data and/or wind speed and wind flow characteristics over a period of time, either for instantaneous wind information or to characterize weather conditions or wind resources at a given location. This includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices

Wind Powered Generator -- A machine by which mechanical energy supplied by the wind is changed to electric energy, generally located in association with a single dwelling or business.

Xeriscape -- The application of the principles of landscape planning and design, soil analysis and improvement, appropriate plant selection, limitation of turf area, use of mulches, irrigation efficiency, and appropriate maintenance that result in water use efficiency and water-saving practices.

Yard -- The unoccupied or vacant portion of a lot, parcel or tract between the lot, parcel or tract boundary line and a structure.

Yard, Front -- A yard extending across the width of the lot, parcel, or tract and measured from the front boundary line of the lot, parcel or tract on which the lot, parcel, or tract fronts or is addressed by to the nearest building. A lot, parcel, or tract bordered by roads on both sides shall have two front yards for setback purposes.

Yard, Rear -- A yard extending across the width of the lot, parcel or tract and measured from the rear boundary line of the lot, parcel or tract to the nearest building. The rear line of the lot, parcel or tract shall be that line most nearly parallel with the line of the road on which said lot, parcel or tract is numbered and toward the rear of said lot, parcel or tract as it faces on that road.

Yard, Side -- A yard on each side of the building between the building and the side line of the lot, parcel or tract and extending from the front yard to the rear yard.

Yard Sale -- The sale or offering for sale on site of articles of tangible personal property by the owner, lessee or other occupant of the residential dwelling. The term yard sale shall include patio sale, garage sale, rummage sale, auction, or any other similar sale.

Yard Waste Recycling Facility -- See Composting Facility.

Zero Lot Line -- The location of a structure on a lot, parcel or tract in such a manner that one or more of the structure's sides rest directly on a lot, parcel or tract boundary line with no easement or setback requirement, including two adjoining structures on separate lots, parcels or tracts sharing a common wall.

Zone A Floodplain -- The area of Special Flood Hazard as depicted on the Flood Insurance Rate Maps where detailed ratemaking has not been completed.

Zoning District -- A specifically delineated area within which uniform regulations and requirements govern use, placement, spacing, and size of lots, parcels and buildings.

Zoning District, Agricultural -- A zoning district where the primary intent of the zoning district is to provide for agricultural use or forestry while accommodating residential or other uses.

Zoning District, Base -- All general zoning districts, special purpose zoning districts, and obsolete zoning districts. The land use restrictions in a base zoning district may be modified by an overlay district.

Zoning District, Commercial -- A zoning district where the primary intent of the zoning district is to provide for commercial and office use while accommodating some other uses.

Zoning District, Industrial -- A zoning district where the primary intent of the zoning district is to provide for industrial and manufacturing use while accommodating some other uses.

Zoning District, Obsolete -- A zoning district which remains applicable to land but which has been determined by the BoCC to be outdated and which cannot be applied to any additional land within the county.

Zoning District, Overlay -- An overlay zone is generally defined as any specially mapped zoning district which is subject to supplementary regulations or requirements for development. Overlay zoning districts, by either adding restrictions to or removing restrictions from the base zoning district, include specific provisions designed to address issues unique to a particular geographic area.

Zoning District, Residential -- A zoning district where the primary intent of the zoning district is to provide for human habitation in dwelling units or recreational vehicles while accommodating some other uses.

Zoning District, Special Purpose -- Zoning districts designed to accommodate unique uses or development types or to address special development conditions. Special purpose zoning districts are base zoning districts.

Zoning Map -- The official zoning map of El Paso County as originally adopted May 11, 1942 and subsequently amended by various resolutions to apply zoning or to change the previous zoning of a property.

Zoning Resolution -- The provisions of this Code including all amendments to this Code that regulate the use of land within any zone district and any resolution of approval adopted by the BoCC that applies zoning or changes the zoning of land within unincorporated El Paso County. The zoning resolution includes the Zoning Map.

1.16. ABBREVIATIONS OF TERMS AND PHRASES

The following represent the abbreviations used in this Code. The abbreviations are in alphabetical order.

AASHTO -- American Association of State Highway and Transportation Officials
ADA -- Americans with Disabilities Act of 1990
ADT -- Average Daily Traffic
BESQCP-- Builder's Erosion and ~~Sediment~~ Stormwater Quality Control Permit
BMP-- Best Management Practice
BoCC -- Board of County Commissioners
CD -- Certificate of Designation
CRS -- Colorado Revised Statute
CC&Rs -- Covenants, conditions and restrictions
CDOT -- Colorado Department of Transportation
CDPHE -- The Colorado Department of Public Health and Environment
CGS -- Colorado Geologic Survey
CMRS -- Commercial Mobile Radio Service Facility
CO -- Certificate of Occupancy
CSFS -- Colorado State Forest Service
CLOMR -- Conditional Letter of Map Revision
CSU -- Colorado State University
dbA -- Sound Level, A-Weighted
DBPS -- Drainage Basin Planning Study
DNL -- Day-Night Average Sound Level
DOW -- Colorado Division of Wildlife
~~DSD~~PCD -- ~~Development Services~~Planning and Community ~~Department~~Development Department
~~DSD~~PCD Director -- ~~Development Services~~Planning and Community ~~Department~~Development Department Director or delegated representative
ECM -- The El Paso County Engineering Criteria Manual
ECM Administrator -- The County Engineer or delegated representative
EPCCSD -- El Paso County Community Services Department
EPCPH -- El Paso County Public Health (formerly El Paso County Department of Health and Environment)
EPC~~PSD~~DPW -- El Paso County ~~Public Services Department~~Department of Public Works (formerly Department of Transportation)
ESD -- El Paso County Environmental Services Department
ESQCP -- Erosion and ~~Sediment~~ Stormwater Quality Control Permit
FAA -- The United States Department of Transportation Federal Aviation Administration
FAR -- Federal Aviation Regulations
FAR -- Floor Area Ratio
FCC -- Federal Communications Commission
FCWFCGD – Fountain Creek Watershed Flood Control and Greenway District
FEMA -- Federal Emergency Management Agency
FIRM -- Flood Insurance Rate Map
HOA -- Homeowners' Association
IESNA -- Illuminating Engineers Society of North America
LDC -- The Land Development Code of El Paso County
Ldn -- Day-Night Equivalent Sound Level
Leq -- Equivalent Sound Level
LOMR -- Letter of Map Revision
MDDP -- Master Development Drainage Plan
MLRB -- Colorado Mined Land Reclamation Board
MTCP -- Major Transportation Corridor Plan
MUTCD -- Manual of Uniform Traffic Control Devices.
NFPA -- National Fire Protection Association

NLR -- Noise Level Reduction
NRCS -- Natural Resource Conservation Service
OCA – Office of the El Paso County Attorney
OWTS -- Onsite Wastewater Treatment System
PPACG -- Pikes Peak Area Council of Governments
RLUP -- Rural Land Use Plan
SD/LID Committee -- Special District/Local Improvement District Committee
SIA -- Subdivision Improvements Agreement
TIS -- Transportation Impact Study
USACOE -- United State Army Corps of Engineers
USFS -- United States Forest Service

Chapter Two

ADMINISTRATION

2.1. GENERAL

2.1.1 Purpose

This Chapter sets forth the general authorities used in the administration of LDC including the types of review processes established to facilitate fair and effective decision-making and to encourage public participation.

2.1.2 Procedures Manual

The ~~DSD~~PCD Director shall establish processes, standards, and procedures to support the efficient review of development applications for conformance with this Code and State statute. The processes, standards, and procedures established by the ~~DSD~~PCD Director shall be published in a Procedures Manual, and may include detailed submittal requirements, application forms, review procedures including public notice requirements, review policies and guidelines to support the implementation and administration of the LDC. The public notice requirements the Procedures Manual, including the nature, extent, time period, and methods of delivery, shall, at a minimum, conform to the requirements of State Statute. The public notice requirements established by the ~~DSD~~PCD Director may exceed the minimum requirements of State Statute where determined necessary by the ~~DSD~~PCD Director to achieve the purposes of this Code.

The Procedures Manual and any amendments thereto shall become effective when approved by the ~~DSD~~PCD Director; however the Procedures Manual and any amendments thereto shall be submitted to the Planning Commission and BoCC for review and comment within 30 days of approval by the ~~DSD~~PCD Director. The Planning Commission and BoCC shall provide comments to the ~~DSD~~PCD Director within 30 days of receipt of the Procedures Manual or any amendment thereto. The ~~DSD~~PCD Director shall consider any comments provided by the Planning Commission and BoCC, and may amend the Procedures Manual based on the comments received from the Planning Commission and BoCC. The Planning Commission and BoCC may, but are not required to, endorse the Procedures Manual and any amendments thereto.

The Procedures Manual is a management and administration tool for the ~~DSD~~PCD. As a result, it is the duty of the ~~DSD~~PCD Director to develop and maintain the Procedures Manual in a manner that ensures the achievement of organizational and administrative efficiencies, timely processing of development applications, and effective and fair public involvement in the processing and review of development applications and administration of this Code.

A copy of the Procedures Manual shall be on file in the ~~DSD~~PCD. The Procedures Manual shall control the processing and review of all development applications.

2.1.3 Master Plan Advisory

Simply by stating in this Code a requirement or preference for Master Plan consistency, the Board of County Commissioners has not by such statement rendered the Master Plan a binding requirement or regulation for either zoning or subdivision matters. The Board of County Commissioners' intent as expressed in its various Master Plan elements and in Appendix A, § A.1.6(B) to this Code is that the Master Plan be advisory only, and that the Board of County Commissioners retains its considerable discretion in deciding how to apply the Master Plan in making land use decisions.

2.1.4 Resubmittal of Denied Application

No development application which has been denied by the final decision-making authority for such application may be resubmitted unless evidence is presented showing that there has been a substantial change in conditions or circumstances. A substantial change has occurred when the development application is substantially different in a material way from the one previously denied, or the conditions or circumstances surrounding the development application and material to the approval criteria for such application have substantially changed.

2.2. AUTHORITIES

2.2~~1~~.1 BoCC (Board of County Commissioners)

The authority of the BoCC to conduct its activities is established by State Statute. The manner in which those activities are conducted is established by BoCC Resolution Number 05-106, as may be amended from time to time. In addition to any authorities identified in BoCC Resolution Number 05-106, the BoCC is empowered to do the following with respect to administration of this Code:

(A) Adopt Regulations

The BoCC may adopt and amend the LDC including, but not limited to, zoning and subdivision regulations and any associated maps.

(B) Approve Permits and Applications

The BoCC may approve, approve with conditions, or deny map amendments, code amendments, special use permits, variance of use applications, preliminary plans, final plats, development plans, Development Agreements, and all other actions as identified by this Code, the Procedures Manual, or as established by State Statute.

(C) Revoke Prior Approvals

The BoCC may void plats, SIAs or other official documents, or agreements if it is found there has been a material misrepresentation of fact, a failure to abide by conditions of

approval, or violation of time limits established in this Code that impacts the design, or legal or physical status of a subdivision or development proposal after holding a hearing, following the proper notice procedure, in order for the parties in interest to have the opportunity to address any misrepresentation of fact or non-compliance issue.

(D) Appoint Members

The BoCC shall appoint members of the Board of Adjustment and Planning Commission.

(E) Retain Experts

The BoCC may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.

(F) Delegate Powers

The BoCC may delegate powers, duties, and responsibilities to the Planning Commission, Board of Adjustment, other boards and commissions or committees, and County staff to the extent permitted by law and provided that the delegation is made subject to specific instruction, criteria, and standards to guide the exercise of any delegated discretion.

(G) Impose Reasonable Conditions

The BoCC may impose reasonable conditions upon approval of any application.

(H) Interpret this Code and Hear Appeals

The BoCC is the ultimate interpreter of the meaning and application of this Code as to the type, nature and rights of uses, conforming and nonconforming, as allowed under this Code. Except for those procedures expressly prescribed for appealing of certain administrative decisions, all interpretations or applications by the ~~DSD~~PCD Director as they relate to uses under this Code and believed to be erroneous or inapplicable may be appealed to the BoCC.

(I) Grant Waivers

The BoCC, at a public hearing on a specific application, may hear the request for a waiver from the subdivision design standards of Chapters 6, 7 and 8 and decide to accept or reject the request, or make modifications to the waiver request.

2.2.2. Planning Commission

(A) Establishment, Membership, and Rules of Procedure

The BoCC shall appoint a Planning Commission. The Planning Commission shall consist of 9 commission members. Each member shall be a resident of El Paso County. The Planning Commission shall meet once a month or as often as deemed necessary for the transaction of business. The authority of the Planning Commission to conduct its activities, the process for appointment, and the terms of its members are provided in the bylaws of the Planning Commission and by State Statute. The Planning Commission may adopt policies and procedures as it may consider necessary or advisable to discharge its statutory functions, and it shall keep a record of its proceedings

(B) Authority

All decisions of the Planning Commission constitute a recommendation to the BoCC, except those relating to the Master Plan, approval of location, and site approval applications. The Planning Commission, through the authority granted to it by the BoCC and State Statute, is empowered to do the following with respect to administration of this Code.

(1) Develop and Adopt a Master Plan

The Planning Commission may develop and adopt a Master Plan for the physical development of the unincorporated area of the County in accordance with the provisions of C.R.S. §30-28-106.

(2) Review and Act Upon Applications for Amendment to the Master Plan

The Planning Commission may review and approve any amendment to the Master Plan, whether initiated by the County or any citizen or group.

(3) Develop and Adopt a Zoning Plan

The Planning Commission may develop and make a zoning plan or plans for zoning all or part of the unincorporated territory within the County including potential amendments to this Code including text and maps representing those applicable policies identified in the Master Plan. Any regulation or amendment shall be subject to the review and formal adoption by the BoCC.

(4) Develop Subdivision Regulations

The Planning Commission may develop, propose, and recommend subdivision regulations and amendments to subdivision regulations.

(5) Review and Act Upon Applications for Approval of Location of Public Facilities

The Planning Commission may review and act upon applications for the approval of location for a public building, way, place, or space in accordance with the provisions of CRS §30-28-110

(6) Retain Experts

The Planning Commission may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.

(7) Make Recommendations on Applications

The Planning Commission may review and make recommendations concerning applications for zoning text and map amendments, special use permits, variance of use applications and subdivisions of land and any other applications as identified in this Code, State Statute and the Procedures Manual.

(8) Recommend or Impose Reasonable Conditions Upon Approvals

The Planning Commission may recommend reasonable conditions for approval of any application where the Planning Commission acts as a recommender and may impose reasonable conditions on approval of any application where the Planning Commission acts as a decision maker.

2.2.3. Board of Adjustment

(A) Establishment, Membership, and Rules of Procedure

The BoCC shall appoint a Board of Adjustment. The Board of Adjustment is established by resolution of the BoCC pursuant to State Statutes. The Board of Adjustment shall consist of 5 members. Each member shall be a legal resident of El Paso County. The Board of Adjustment shall meet once a month or as often as necessary for the transaction of its business. The meetings shall be noticed and open to the public.. The affirmative vote of at least 4 members is required for any action by the Board of Adjustment regarding an appeal or application.

(B) Authority

The Board of Adjustment shall hear and determine appeals of general relief decisions and dimensional variances in accordance with this Code the Procedures Manual, or as established by Colorado law. Decisions of the Board of Adjustment may not be appealed to the BoCC, but shall be appealed pursuant to State Statute and State Rules of Civil Procedure. The Board of Adjustment, through the authority granted to it by C.R.S. §30-28-117 and C.R.S. §30-28-118 and this Code, is empowered to do the following with respect to administration of this Code.

(1) Grant Variances

The Board of Adjustment may grant or deny a variance pursuant to the requirements and procedures of this Code relating to special physical requirements, but not to use, of the property.

(2) Hear and Decide Appeals of Administrative Determinations

The Board of Adjustment may hear and decide appeals brought by any aggrieved person regarding allegations of error by an administrative official in the application or enforcement of this Code.

(3) Impose Reasonable Conditions

The Board of Adjustment may impose reasonable conditions on approval of any application.

2.2.4. ~~DSD~~PCD Director

(A) Designation

The ~~DSD~~PCD Director is designated as the official charged with the administration of the LDC.

(B) Powers and Duties

The ~~DSD~~PCD Director, through the authority granted by this Code, the County Administrator and the BoCC, is empowered to do the following with respect to administration of this Code.

(1) Render Interpretations

The ~~DSD~~PCD Director may render interpretations of all provisions of this Code. Interpretations applicable to 2 or more properties (general interpretation) shall be collected and retained by the ~~DSD~~PCD and made available to the public for inspection. Each general interpretation shall be provided to the Planning Commission, Board of Adjustment and BoCC.

(2) Establish Application Requirements

The ~~DSD~~PCD Director may establish application and submittal requirements and schedules for review of applications and appeals pursuant to this Code.

(3) Provide Advice

The ~~DSD~~PCD Director may provide expert technical assistance to the BoCC, the Planning Commission, and the Board of Adjustment and determine when outside, technical expertise is needed to assist in the review of any development application submitted pursuant to this Code.

(4) Review Applications

The ~~DSD~~PCD Director may review development applications and make recommendations to the BoCC, the Planning Commission, and the Board of Adjustment concerning compliance with this Code.

(5) Maintain Master Plan

The ~~DSD~~PCD Director may maintain the Master Plan including, but not limited to, land use, transportation, and open space elements.

(6) Administer Standards and Regulations

The ~~DSD~~PCD Director may administer the provisions of this Code as they relate to the review and permitting of development.

(7) Promulgate Administrative Forms

The ~~DSD~~PCD Director may promulgate and require the use of application forms and other standardized documentation deemed necessary or helpful to administer the provisions of this Code.

(8) Make Administrative Decisions

The ~~DSD~~PCD Director may issue written administrative decisions concerning the application of this Code to specific property or development applications, including any grant of relief allowed by this LDC

(9) Issue Administrative Permits

The ~~DSD~~PCD Director may review and issue administrative permits pursuant to the requirements and procedures of this Code.

(10) Sign Plats and Other Administrative Documents

The ~~DSD~~PCD Director may sign plats and other documents relating to the application of this Code to specific property or development applications.

(11) Interpret Maps and Regulatory Documents

The ~~DSD~~PCD Director may interpret maps and regulatory documents for their applicability to a development application, and consult with any other agencies in that interpretation.

(12) Delegate Decision Making Authority

The ~~DSD~~PCD Director may delegate decision making authority to staff on development applications, maps, or other matters in accordance with the decision-making procedures of the LDC.

Chapter Four

SPECIAL PURPOSE, OVERLAY, AND OBSOLETE ZONING DISTRICTS

4.1. GENERAL

4.1.1. Special Purpose, Overlay, and Obsolete Zoning Districts

Table 4.1 lists the Special Purpose, Overlay, and Obsolete Zoning Districts included in this Code.

Table 4-1. List of Special Purpose, Overlay and Obsolete Zoning Districts.

Abbreviation	District Name
Special Purpose Districts	
R-T	Residential-Topographic District
MHP	Mobile Home Park District
MHP-R	Mobile Home Park District-Rural
MHS	Mobile/Manufactured Home Subdivision District
RVP	Recreational Vehicle Park District
PUD	Planned Unit Development District
Overlay Districts	
CAD-O	Commercial Airport Overlay District
GA-O	General Aviation Overlay District
RLUP-O	Rural Land Use Plan Overlay District
HR-O	High-Rise Overlay District
WSE-O	Wind and/or Solar Energy Generation Plan Overlay District
Obsolete Districts	
C-1	Commercial
C-2	Commercial
M	Industrial
R-4	Planned Development District

4.1.2. Special Purpose Districts

Special purpose zoning districts are established to accommodate unique uses or development types or to address special development conditions. Special purpose zoning districts are base zoning districts intended for very specific application.

4.1.3. Overlay Zoning Districts

As the name implies, overlay districts work in combination with base zoning districts to impose additional requirements and standards on specific property or to modify the standards associated with the base zoning district. These additional standards only apply within the limits of the overlay district. Overlay zoning districts are established and amended in accordance with the rezoning procedures applicable to any other zoning district, except as otherwise provided within this Code.

4.1.4. Obsolete Zoning Districts

The C-1, C-2, M, and R-4 zoning districts have been declared to be obsolete pursuant to BoCC Resolution No. 91-59, Land Use 10 as replaced by Resolution 92-46, Land Use-9. No land will be rezoned to an Obsolete Zoning district. The BoCC may modify the allowed uses, special uses, and development standards within these zoning districts.

Landowners are encouraged to rezone land from an Obsolete Zoning district classification. The BoCC may offer incentives, such as modified application fees in order to accomplish this goal.

4.2. SPECIAL PURPOSE ZONING DISTRICTS

4.2.1. R-T, Residential-Topographic District

(A) Purpose

The R-T district is intended to accommodate residential use in regions of extreme topographical conditions.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the R-T district are shown in the Use Table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the R-T district are subject to the use and dimensional standards listed in Table 4-2.

Table 4-2. R-T District Use and Dimensional Standards.

Description	Standard
Minimum Lot Area[1]	5 acres
Minimum Lot Width[2]	200 feet
Minimum Setbacks	
Front	25 feet
Side	25 feet (5 feet)[3]
Rear	25 feet
Maximum Lot Coverage	30%
Maximum Height	30 feet

[1] Specific uses may be subject to larger minimum lot area requirements.
[2] Measured at front building setback line.
[3] Side setback is 5 feet for lots less than 5 acres in area.

(D) General Development Standards

All uses and development in the R-T district are subject to the general development standards in Chapter 6.

4.2.2. MHP, Mobile Home Park District

(A) Purpose

The MHP district is intended to promote an acceptable living environment for occupants of mobile home parks.

(B) Allowed, Special, Accessory, and Temporary Uses

(1) General

The allowed, special, accessory, and temporary uses in the MHP district are shown in the Use Table in Chapter 5.

(2) Recreational Vehicles

A temporary use permit shall be obtained for the placement of recreational vehicles for purposes of occupancy within a mobile home park. The placement of recreational vehicles within a mobile home park shall be limited to a maximum of 5% of the individual mobile home spaces as shown on the approved site development plan. The placement of a recreational vehicle within a mobile home park is limited to one year. A new temporary use permit shall be obtained for each one year period. The temporary use is specific to the vehicle.

(C) Use and Dimensional Standards

All uses and development in the MHP district are subject to the following use and dimensional standards.

(1) Lot Area

The minimum lot area for mobile home parks is 10 acres.

(2) Road Frontage

Mobile home parks shall have at least 60 feet of frontage on a public road.

(3) Height

Buildings and structures shall not exceed 30 feet in height.

(D) Mobile Home Park Standards

Mobile home parks established in the MHP district are subject to the following development standards.

(1) Water and Sewer

Mobile home parks shall be served by a central water and sewer system.

(2) Access to Mobile Home Parks

Mobile home parks shall have access from a public road. A minimum of 2 access drives at least 15 feet in width shall be provided from a public road to the mobile home park's internal road system. One access drive shall be at least 28 feet in width, be designed to accommodate two lanes of traffic, and have sidewalks on both sides. No parking is allowed on the access drives. The access drives and sidewalks shall be hard-surfaced.

(3) Internal Roadways

The internal roads shall be: hard-surfaced; have a minimum width of 28 feet; and be privately owned, constructed, and maintained. The internal roads shall be designed and constructed to provide safe and convenient access to all spaces and facilities for common use. The internal roads shall be designed to provide adequate space for utilities within or adjacent to the roadway.

(4) Signage

All internal roads shall be identified by a clear and legible road sign and each mobile home and manufactured home site shall be clearly marked with an address for emergency response purposes.

(5) Internal Pedestrian Sidewalks

Hard-surfaced sidewalks shall be provided on both sides of internal roads. Sidewalks shall have a minimum width of 3 feet, excluding curb and gutter.

(6) Landscaping

In addition to meeting the landscaping standards in Chapter 6, the boundary of the mobile home park where not abutting the boundary of another mobile home park or mobile home subdivision shall be landscaped with hedges, evergreens, shrubbery, or a 6-foot screening wall to serve as a buffer from the adjacent property. The landscaping or walls shall be located on privately owned land and be privately constructed and maintained.

(7) Recreation Area Requirements

At least 8% of the gross area of the mobile home park shall be set aside for recreational purposes for use by the residents of the park. Sidewalks shall be provided to the recreational facilities. Recreations areas may be left as open playground areas or developed with recreation facilities, and shall be privately owned, constructed and maintained.

(8) Outdoor Storage Area

A minimum of 100 square feet of hard-surfaced storage area per mobile home space shall be provided in a common storage area with a security fence. This area is for outdoor storage for mobile home park residents only.

(9) Mobile Home Space Size and Setback Standards

The setbacks and dimensional standards in Table 4-3 shall apply to all mobile home parks.

Table 4-3. MHP District Mobile Home Park Space and Setback Standards

Description	Standard
Minimum Space Size	2,800 square feet
Minimum Space Width	40 feet
Minimum Space Depth	70 feet
Minimum Mobile Home Setbacks	
From Front Line of Space	20 feet [1]
From Side Line of Space	10 feet
From Rear Line of Space	10 feet
From Any Mobile Home	20 feet
From Exterior Lot Line of Mobile Home Park	25 feet
Minimum Accessory Structure Setbacks	
From Front Line of Space	Not Allowed
From Side Line of Space	5 feet
From Rear Line of Space	5 feet
From Any Interior Roadway	20 feet
From Exterior Lot Line of Mobile Home Park	25 feet
[1] 10 feet is allowed if 2 off-street parking spaces are provided on the side of the mobile home.	

(10) Number of Units Per Space

Only one mobile home shall be located on each mobile home space.

(11) Building Separation

All buildings or structures that are park facilities, including park offices and community buildings shall maintain a 20 foot separation from mobile homes and accessory buildings or structures.

(12) Animals

The occupants of each mobile home may keep a maximum of 4 dogs or cats, subject to the requirements of Chapter 5.

(13) Site Development Plan Approval Required

Site development plan approval is required for all mobile home parks prior to placement of a mobile home. The site development plan shall comply with the addressing requirements of the Building Department and any road naming conventions adopted by the County.

(14) Subdivision Approval Required

Occupancy of a mobile home within a mobile home park is not allowed until the property is platted in accordance with the requirements of this Code, unless otherwise exempted from subdivision by State Statute.

(15) Maintenance Plan

If roads, sidewalks, landscaping, common areas, open space, utilities, or other facilities are to be maintained by a homeowners' association (HOA), the applicant shall submit a maintenance plan in accordance with Chapter 6. If the mobile home park is exempted from subdivision, the maintenance statement addressing ownership and maintenance shall be submitted with the site development plan and recorded prior to the issuance of a building permit. If the approval of the mobile home

park requires subdivision, the maintenance plan shall be submitted concurrently with the plat and recorded in conjunction with the plat.

(16) Site Plan Approval Required

Site plan approval is required prior to building permit authorization for any individual mobile home or building within the park.

(E) General Development Standards

All uses and development in the MHP district are subject to the general development standards in Chapter 6.

4.2.3. MHP-R, Mobile Home Park District-Rural

(A) Purpose

The MHP-R district is intended to: (1) ensure and promote an acceptable living environment for the occupants of mobile home park developments in areas that cannot be reasonably served by central sewage treatment facilities and otherwise without reasonable access to full urban services; (2) encourage efficient and functional use of rural land for mobile/manufactured home park developments; and (3) minimize potential impacts on surrounding land uses.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the MHP-R district are shown in the Use Table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the MHP-R district are subject to the following use and dimensional standards, unless the BoCC expressly waives or modifies one or more of the requirements in the approval of the rezoning, based on a determination by the BoCC that compliance with one or more of the standards is not necessary to protect the health, safety, or welfare of the public or to manage the potential impacts of the land use on nearby properties.

(1) Lot Area

The minimum lot or parcel area for mobile home parks is 35 acres.

(2) Density

Residential density shall not exceed 1 dwelling unit per 2.5 acres. Clustering of units is encouraged providing all development standards are met.

(3) Height

Buildings and structures shall not exceed 30 feet in height.

(4) Setback Standards

The setbacks shown in Table 4-4 shall apply to all buildings and structures in a MHP-R zoning district.

Table 4-4. MHP-R Setback Standards

Minimum Setback for Buildings and Structures	Standard
From All Exterior Property Lines	50 feet
From Other Dwellings Units	50 feet
From 100-year Floodplain	100 feet

(D) Mobile Home Park Standards

(1) Number of Units per Site

Only one mobile home shall be located on each mobile home space. A maximum of 2 dwelling units may be served by an OWTS if approved by the EPCPH.

(2) Road Frontage

Mobile home parks shall have at least 400 feet of frontage on a public road.

(3) Access

(a) 10 or More Dwelling Units

Mobile home parks containing 10 or more dwelling units shall have direct access to a public or private road with a paved or chip and seal surface.

(b) Fewer Than 25 Dwelling Units

Mobile home parks with fewer than 25 dwelling units shall have a minimum of one direct point of access on a public road.

(c) 25 or More Dwelling Units

Mobile home parks with 25 or more dwelling units shall have a minimum of one direct point of access on a public road and a second access point that is sufficient for use by emergency vehicles.

(d) No Driveway Access from Dwelling Unit to Public Road

No direct driveway access from mobile home spaces to a public road is allowed.

(4) Internal Road Design

Internal roads shall at a minimum be gravel surfaced. Hard surfacing shall be required for all internal roads projected to carry 200 or more vehicle trips per day. Hard surfacing of internal roadways may be deferred until traffic thresholds are met either by collateralizing the improvements with the ~~DSD~~PCD or recording a limit on development in the Office of the Clerk and Recorder.

(5) Internal Road Maintenance

All interior roads, trails or drainage facilities shall be privately maintained.

(6) Signage

All internal roads shall be identified by a clear and legible road sign and each mobile home and manufactured home space shall be clearly marked with an address for emergency response purposes.

(7) Utility Easement

Easements for public utility lines shall be granted along property boundaries consistent with the policies of the applicable service providers.

(8) Water

All mobile home parks shall comply with all standards and requirements governing public drinking water supplies, if a central water system is utilized. New or expanded rural mobile home parks shall comply with the water quality standards of Chapter 6. When applicable, the mobile home park shall comply with the CDPHE Technical, Managerial, and Financial (TMF) Capacity Review and Construction Approval requirements.

(9) OWTS

Any mobile home park shall comply with all requirements and standards of the EPCPH and the CDPHE, as applicable regarding wastewater disposal. All new or expanded mobile home parks shall submit a wastewater disposal report pursuant to Chapter 8. Percolation tests shall be performed at a minimum of 20% of all proposed septic system locations unless an alternate procedure is determined to be acceptable by the EPCPH. A maximum of 2 units may be served by a single OWTS, if approved by the EPCPH.

(10) Fire Protection

All mobile home parks shall be included within or have a service commitment from an organized fire protection district; meet all applicable regulations of the local fire department; and construct and maintain at least one on-site source of water supply for fire suppression unless the source of water supply is not required by the servicing fire department.

(11) State Requirements

Mobile home parks shall comply with the CDPHE "Sanitary Standards and Regulations for Mobile Home Parks," as applicable. Mobile home parks are exempt from the following sections of the "Sanitary Standards and Regulations for Mobile Home Parks":

Section 3.2, except grasses, weeds and other vegetation shall be mowed in the immediate vicinity of structures and common areas, and as required by fire codes and BoCC ordinance.

Section 3.3, except illumination may be required in accordance with Chapter 6.

Section 5.2-5.14, except in cases where either central water or central sewer service is being provided.

Section 9.2

Section 9.18, except all structures shall conform to the Building Code.

(12) Leasing

Mobile home spaces may be leased for long-term occupancy.

(13) Landscaping and Fencing

The boundary of the mobile home park shall be landscaped or fenced. Hedges, evergreens, shrubbery, screening wall or an agricultural fence may be installed to serve as a buffer or barrier from adjacent property. Landscaping, fences or walls shall be privately owned, constructed and maintained. Internal landscaping is not required.

(14) Animals

The occupants of each mobile home or manufactured home may keep a maximum of 4 dogs or cats, subject to the requirements of Chapter 5.

(15) Agriculture

Agricultural operations such as farms, ranches, dairies, and livestock sales and feed yards are prohibited on the same property if they are located within 100 feet of any mobile home used as a residence. Hobby farms and community gardens are allowed, but only within designated common areas depicted on the approved site development plan.

(16) Trash Pickup

Scheduled trash pick-up shall be arranged and maintained by the park owner. If centralized collection locations are used, they shall be screened, secured and maintained by the park owner and comply with EPCPH regulations.

(17) Site Development Plan

Site development plan approval is required for all mobile home parks prior to the placement of a mobile home. The site development plan shall comply with the addressing requirements of the Building Department and any road naming conventions adopted by the County.

(18) Maintenance Plan

A maintenance plan shall be submitted and approved by the ~~DSD~~PCD Director prior to issuance of a building permit. The maintenance plan shall comply with Chapter 6 and specifically include a schedule for septic system pumping and other required maintenance and repair.

(E) General Development Standards

All uses and development in the MHP-R district are subject to the General Development Standards in Chapter 6.

4.2.4. MHS, Mobile/Manufactured Home Subdivision District

(A) Purpose

The MHS district is intended to accommodate mobile/manufactured home subdivisions where individual lots are established and may be conveyed.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the MHS district are shown in the Use Table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the MHS district are subject to the following use and dimensional standards.

(1) Minimum Area of Subdivision

Mobile/manufactured home subdivisions shall have a minimum area of 20 acres.

(2) Road Frontage

Mobile/manufactured home subdivisions shall have at least 60 feet of frontage on a public road.

(3) Water and Sewer

Mobile/manufactured home subdivisions shall be served by a central water and sewer system.

(4) Height

Buildings and structures shall not exceed 30 feet in height.

(5) Roads

The internal road system shall be designed to ensure safe and efficient traffic circulation. The road system shall be designed to serve the local needs of the neighborhood and to provide direct access to the abutting properties. Road access to mobile/manufactured home subdivisions shall be provided in accordance with the standards of Chapter 8 and the ECM. Public right-of-way shall be dedicated and public improvements constructed in accordance with the standards of Chapter 8.

(6) Private Internal Roads

Private roadways shall be designed for safe and convenient accesses to all lots and to facilities for common use and provide adequate space for utilities. Private roadways shall be privately owned, constructed and maintained. All private roads shall be hard-surfaced and have a minimum width of 28 feet.

(7) Sidewalks

Hard-surfaced sidewalks shall be provided on both sides of internal roadways whether public or private, in accordance with Chapter 8 and the ECM.

(8) Fencing and Landscaping

The boundary of the mobile/manufactured home subdivision shall be surrounded by a screening wall or fence with a minimum height of 6 feet. Along the mobile/manufactured home park subdivision boundaries abutting a public park or public open space hedges, evergreens and shrubbery in accordance with Chapter 6 may be used in lieu of a fence. All fences, screening, buffers, open spaces, recreational areas, and setback areas shall be privately owned, constructed and maintained.

(9) Mobile/Manufactured Home Subdivision Lot Size and Setback Standards

The setback and dimensional standards in Table 4-5 apply to all mobile/manufactured home subdivisions.

Table 4-5. MHS Lot Size and Setback Standards

Description	Standard
Minimum Lot Size for ~~Mobile~~ Homes Less Than 14 Feet In Width	5,000 square feet
Minimum Lot Size for ~~Mobile~~ Homes 14 Feet or More In Width	6,000 square feet
Minimum ~~Mobile~~ Home Setbacks[3]	
From Front Lot Line	20 feet [1]
From Side Lot Line	~~10~~ 5 feet [2]
From Rear Lot Line	~~10~~ 5 feet [2]
~~From Public Road~~	~~25 feet~~
Minimum Accessory Structure Setbacks	
From Front Lot Line	~~Not Allowed~~20
From Side Lot Line	5 feet
From Rear Lot Line	5 feet
From Any ~~Mobile~~ Home	~~20~~ 10 feet
~~From Exterior Boundary of Subdivision~~	~~25 feet~~
~~From Any Interior Roadway~~	~~20 feet~~
~~From Public Road~~	~~25 feet~~

[1] 10 feet is allowed if 2 off-street parking spaces are provided on the side of the ~~mobile~~ home.

[2] ~~The minimum side or rear setbacks shall be waived if setback lines on the final plat ensure no mobile home will be placed closer than 20 feet to any other mobile home.~~

[3] No ~~mobile~~ home may be erected in, placed on or extend over a utility or drainage easement unless approved in writing by the entity or entities having jurisdiction over the easement.

(10) Alternative Dimensional Standards

(a) Authority

The PDC Director may approve ~~an~~ alternative dimensional standards on a case by case basis where meeting the setback requirements is not possible due to narrowness, shallowness, shape, topographic condition, 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 alternative plan~~.

(b) Review Criteria

For the PCD Director t~~T~~o approve ~~an~~ alternative dimensional standards the following criteria shall be met ~~PCD Director shall find~~:

- The strict application of the standard(s) 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 prevent the structure from meeting the required dimensional standard(s);
- The intent of this Code and the specific regulation in question is preserved;
- The granting of the alternative dimensional standard(s) will not result in an adverse impact on surrounding properties; and
- The granting of the alternative dimensional standard(s) will not allow an increase in the number of dwelling units on a parcel.

(11) Foundation Requirement

Mobile homes or manufactured homes may have either a temporary or permanent foundation, as required by the local authority having jurisdiction.

~~(10)~~(12) **Number of Mobile or Manufactured Homes per Lot**

Only one mobile or manufactured home shall be located on each ~~mobile home~~ lot.

~~(11)~~(13) **Building Separation**

All buildings or structures shall maintain separation from other buildings and structures as required by the Building Code.

~~(12)~~(14) **Skirting**

All mobile homes shall be skirted.

~~(13)~~(15) **Lots on Exterior Boundary of Subdivision**

Lots on the periphery of a mobile home subdivision shall front toward the interior of the mobile home subdivision. No ~~mobile home~~ lot in the mobile home subdivision may front on a road where the opposite side of the road is outside the MHS district.

~~(14)~~(16) **Site Plan**

Site plan approval is required prior to authorization for any mobile or manufactured home to be placed or building to be constructed within a mobile home subdivision.

~~(15)~~(17) **Maintenance Plan**

If roads, sidewalks, landscaping, common areas, open space, recreational facilities, or other facilities are to be maintained by a HOA,

the applicant shall submit a maintenance plan in accordance with Chapter 6. A maintenance statement addressing ownership and maintenance shall be submitted with the rezoning request. The maintenance plan shall be submitted concurrently with the final plat and recorded in conjunction with the final plat.

~~(16)~~(18) **Platting**

Occupancy of any mobile or manufactured home within a mobile home subdivision is not allowed until the property is platted in accordance with the requirements of this Code, unless otherwise exempted by State Statute.

(D) General Development Standards

All uses and development in the MHS district are subject to the general development standards in Chapter 6.

4.2.5. RVP, Recreational Vehicle Park District

(A) Purpose

The RVP district is intended to accommodate recreational vehicle parks, which are sites used for the temporary location of occupied recreational vehicles. These facilities cover a range of short overnight stops to longer destination type stays of several days or weeks.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the RVP district are shown in the use table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the RVP district are subject to following standards.

(1) Minimum Area of Park

Recreational vehicle parks shall have a minimum area of 5 acres.

(2) Density

No more than 25 recreational vehicles are allowed per acre of land.

(3) Road Frontage

Recreational vehicle parks shall have at least 60 feet of frontage on a public road.

(4) Height

Buildings and structures in the RVP district shall not exceed 30 feet in height.

(5) Access

Recreational vehicle spaces shall access the interior roadway system within the park. No road access to any space from a public right-of-way is allowed.

(6) Internal Roads and Sidewalks

The internal road system in a recreational vehicle park shall be privately owned, constructed and maintained, and shall be designed for safe and convenient access to all spaces and to facilities for common use by park occupants, and comply with the fire department or authority requirements. The roads shall be at least 25 feet in width for 2-way and 18 feet in width for one-way travel. The radius on all curves shall be at least 40 feet. If cul-de-sacs are used, adequate vehicular turning space shall be provided, with a minimum turning radius of 40 feet. Road grades shall not exceed 6%. Sidewalks shall be provided to serve, accessory, and recreational buildings. Road and sidewalks shall be adequately lighted, in conformance with Chapter 6 and shall be hard-surfaced.

(7) Water and Sewer

Water and wastewater facilities, including any sanitation dump stations, serving the recreational vehicle park shall comply with CDPHE and EPCPH regulations. If tent camping is allowed, provisions shall be made for appropriate sanitary facilities, to the satisfaction of the EPCPH.

(8) Fire Protection

The recreational vehicle park shall comply with fire code regulations of the appropriate fire department or authority. Fires may only be made in stoves and other equipment intended for such purposes. The recreational vehicle park shall be kept free of litter, rubbish, and other inflammable materials.

(9) Landscaping

Landscaping shall be in conformance with the requirements of Chapter 6. The boundary of the recreational vehicle park shall be buffered with, landscaping, hedges, evergreens, shrubbery or a 6-foot screening wall or fence installed to serve as a buffer from adjacent property. The landscaping, fences, or walls and adjacent setback areas shall be privately owned, constructed and maintained.

(10) Recreation Area Requirements

At least 8% of the total area of a recreational vehicle park shall be set aside as open space for recreational purposes for park users. This area may not include area reserved for service facilities, setbacks, or other non-useable areas.

(11) Storage Areas

Separate areas for temporary storage of boats, pull behind trailers, etc, if requested by ~~DSD~~PCD shall be reflected on the site development plan.

(12) Recreational Vehicle Setback Standards

All recreational vehicles shall meet the setbacks in Table 4-6. Recreation vehicle park spaces shall be designed and located to ensure the setbacks will be met.

Table 4-6. Recreational Vehicle Setback Standards

Description	Standard
Minimum Recreational Vehicle Setbacks	
From All Property Lines	15 feet
From Other Recreational Vehicles	20 feet
From Local or Collector Roads	25 feet
From Arterial or Expressway	50 feet
From Any Building or Structure	20 feet
Minimum Accessory Structure Setbacks	
From Exterior Lot Line of Park	25 feet

(13) Private Towers

Private towers, except crank up towers attached to vehicles, shall not be located upon recreational vehicle spaces. Private towers may be located within common areas, subject to the requirements of Chapter 5.

(14) Animals

The occupants of each recreational vehicle may keep a maximum of 4 dogs or cats, subject to the requirements of Chapter 5.

(15) Site Development Plan

Site development plan approval is required for all recreational vehicle parks prior to occupancy of the park. Any locations proposed for temporary events, storage or tent camping shall be reflected on the site development plan.

(16) Maintenance Plan

A maintenance statement addressing ownership and maintenance shall be submitted with the rezoning request, in accordance with Chapter 6. The maintenance plan shall be submitted concurrently with the plat and recorded in conjunction with the plat. If the recreational vehicle park is exempted from subdivision, then the maintenance plan shall be submitted and recorded prior to approval of the site development plan.

(17) Platting

Occupancy of a recreational vehicle is not allowed until the property is platted in accordance with the requirements of this Code, unless otherwise exempted by State Statute.

(18) Signage

Any signage associated with the recreational vehicle park, and any temporary events shall conform to the requirements of Chapter 6.

(D) General Development Standards

All uses and development in the RVP district are subject to the General Development Standards in Chapter 6.

4.2.6. PUD, Planned Unit Development District

(A) Purpose

The Planned Unit Development (PUD) district is a versatile zoning mechanism to encourage innovative and creative design and to facilitate a mix of uses including residential, business, commercial, and industrial, recreation, open space, and other selected secondary uses. This zoning district is established in accordance with C.R.S. §§ 24-67-101, et seq., to accomplish the following objectives:

- To further the public health, safety and general welfare within El Paso County;
- To permit adjustment to changing public and private needs and to foster the ability to provide development patterns which are more compatible with and effective in meeting such needs;
- To improve the design, character and quality of new development with flexibility by varying lot size, building heights, setback controls and other site development requirements;
- To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings including mixed use and traditional neighborhood design and by the conservation and more efficient use of open space ancillary to said buildings;
- To encourage more efficient use of land services reflecting changes in the technologies and economies of land development;
- To provide housing of all types and designs to be located in proximity to employment and activity centers such as shopping, recreational, and community centers, healthcare facilities, and public transit;
- To achieve development economies to minimize impacts on existing infrastructure and to encourage the most efficient use of public infrastructure while limiting the costs of providing services and to reduce the burden on existing streets and utilities by more efficient development;
- To promote layout, design and construction of development that is sensitive to the natural land form and environmental conditions of the immediate and surrounding area, including scenic vistas, natural features and environmental resources;
- To ensure that provision is made for beneficial open space, to provide for active, usable open spaces, and to preserve open areas;
- To encourage integrated planning systems to achieve the objectives of and to otherwise implement the stated purpose and intent of this Code and the Master Plan;
- To create an integrated and fixed set of land use controls which allow multiple and mixed uses in one coordinated development; and
- To establish a basis for vested property rights for multi-year projects.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the PUD zoning district are established by the approval of the PUD zoning and the associated development plan and development guide. All uses identified within a PUD are subject to corresponding use specific development standards in the Land Development Code, as amended, unless otherwise modified by the PUD. Some uses may be subject to additional local, State, and/or federal regulation(s) which the BoCC may use as a basis to deny requests for PUD modification.

(C) Limitations on the Development of a PUD Zoning District

An approved PUD development plan is required before any building permits or use permits may be issued within a PUD zoning district, subject to compliance with application subdivision regulations.

(D) Approval Criteria For PUD Zoning

The Planning Commission and BoCC shall determine that the following criteria have been met to approve a PUD zoning district:

The proposed PUD District zoning advances the stated purposes set forth in this Section;

The application is in general conformity with the Master Plan;

The proposed development is in compliance with the requirements of this Code and all applicable statutory provisions and will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of El Paso County;

The subject property is suitable for the intended uses and the use is compatible with both the existing and allowed land uses on the neighboring properties, will be in harmony and responsive with the character of the surrounding area and natural environment; and will not have a negative impact upon the existing and future development of the surrounding area;

The proposed development provides adequate consideration for any potentially detrimental use to use relationships (e.g. commercial use adjacent to single family use) and provides an appropriate transition or buffering between uses of differing intensities both on-site and off-site which may include innovative treatments of use to use relationships;

The allowed uses, bulk requirements and required landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community;

Areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project;

Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide a reasonable walking and biking opportunities;

The proposed development will not overburden the capacities of existing or planned roads, utilities and other public facilities (e.g., fire protection, police protection, emergency services, and water and sanitation), and the required public services and facilities will be provided to support the development when needed;

The proposed development would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and energy efficient site design;

The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would unreasonably interfere with the present or future extraction of such deposit unless acknowledged by the mineral rights owner;

Any proposed exception or deviation from the requirements of the zoning resolution or the subdivision regulations is warranted by virtue of the design and amenities incorporated in the development plan and development guide; and

The owner has authorized the application.

(E) PUD Development Plan May be Approved as a Preliminary Plan

The ~~DSD~~PCD Director may authorize the combination of a preliminary plan map with a PUD development plan for BOCC consideration and approval, provided all submittal requirements of the PUD development plan and preliminary plan are met. The eligible PUD development plan shall contain all the information required on a preliminary plan. The PUD development plan shall meet all statutory requirements of a preliminary plan as contained in C.R.S. §30-28-133. The combined development plan and preliminary plan [PUD development plan] shall meet the applicable standards for a preliminary plan in Chapter 6 regarding general development standards, fire protection, and environmental considerations; the preliminary plan review standards in Chapter 7, as well as the PUD zoning review and approval criteria which includes general conformance with the Master Plan; and the subdivision [design and report] requirements in Chapter 8 which address subdivision design, exactions, utilities, provision of water and wastewater, and public improvements. Water sufficiency shall be determined at this time; however, the Board of County Commissioners may defer findings of sufficiency to the final plat stage if requested by the applicant.

Approval of the combined PUD development plan and preliminary plan shall be a discretionary act of the BOCC. Compliance with the technical standards of either process alone shall not be deemed to constitute compliance with all review and approval standards. The Planning Commission and BOCC shall find the following additional criteria for a preliminary plan has also been met:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;

- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of this Code.
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. §30-28- 133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
- Necessary services, including police and fire protection, recreation, utilities, open space and transportation systems, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and

- The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

(F) General Standards and Requirements

(1) Ownership

A PUD zoning district may be established for any parcel, tract, or lot or group of parcels, tracts, or lots held under a single ownership or unified control.

(2) Establishment and Applicability of Standards

(a) Established Purpose and Intent of PUD Zoning District

The development plan and development guide shall include a statement establishing the purpose and intent of the PUD zoning district.

(b) Establishment of the Mix and Intensity of Land Uses

The land use types and mix, the land use intensity (maximum gross residential density and maximum square footage for non-residential land uses), the maximum building heights, and the design elements (e.g. traditional neighborhood design) shall be established by the PUD zoning district.

(c) Approval of Density

Density shall be as established by the PUD development plan and/or development guide as approved by the BoCC in consideration of the following:

- Adopted Master Plan;
- Compatibility with the surrounding neighborhood;
- Traffic considerations;
- Impact upon public facilities, utilities and schools;
- The natural characteristics of the land; and
- Water availability.

(d) Use, Dimensional and Development Standards Included

Use, dimensional, and development standards are intended to present a collection of criteria necessary for development within the PUD district. The use, dimensional, and development standards for a PUD district shall be set forth in the approved PUD development plan and/or development guide and shall include, but may not be limited to: uses, density, lot area, lot width, lot depth, building height, building elevations, coverage, parking, access, screening, landscaping, open space, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other standards necessary to the administer the plan. The dimensional standards including interior and exterior boundary and setbacks, setbacks from major

roadways, setback buffers between uses areas and other similar setback requirements for the PUD district shall be those established by the PUD development plan and development guide. The ~~DSD~~PCD may prepare standardized development plan and development guide templates for use by PUD plans.

(e) Basis for Standards

The use, dimensional, and development standards established within a PUD development plan and development guide should generally be based on existing zoning districts in the LDC. The use, dimensional, and development standards from an existing LDC base zoning district may be applied by the ~~DSD~~PCD Director in the event of inadvertent omission of a required use, dimensional, and development standard.

(f) ECM Criteria and Standards

The ECM criteria and standards shall control within a PUD district unless specifically modified by the PUD development plan and development guide.

(g) Modifications of LDC Standards

Detailed standards shall be provided within the PUD development plan and development guide where any general development standard within this Code or any criteria or standard in the ECM is intended to be modified by the PUD district, or where any additional standards, not otherwise required by this Code or the ECM, will be applied within the PUD district. ~~A statement citing the reason for any modifications to this Code or the ECM shall be provided in the PUD development plan and development guide.~~ The Land Development Code and Engineering Criteria Manual Administrators shall provide a recommendation to the BoCC for any proposed modification of the respective regulations. PUD modifications shall be limited to standards or criteria internal to the PUD district. Variation from standards external to the PUD district shall require a waiver of the LDC or deviation from the ECM.

Variance from approved standards within an approved PUD shall occur in accordance with the provisions for relief of density and dimensional standards in Chapter 5 of this Code.

(h) Modification of Existing LDC or ECM Standard

For approval of a modification of a general development standard in the LDC or criteria or standard of the ECM, the BoCC shall find that the proposal provides for the general health, safety, and welfare of the citizens and at least one of the following benefits:

- Preservation of natural features;

- Provision of a more livable environment, such as the installment of street furniture, decorative street lighting or decorative paving materials;
- Provision of a more efficient pedestrian system;
- Provision of additional open space;
- Provision of other public amenities not otherwise required by the Code; or
- The proposed modification is granted in exchange for the open space and/or amenity designs provided in the PUD development plan and/or development guide.

A statement citing the reason for any modifications to this Code or the ECM shall be provided in the PUD development plan and development guide. The modification request shall be submitted and reviewed concurrently with the PUD map amendment (rezone) application. The modified development standard or engineering criteria within a PUD district shall become the basis of review and approval for any subsequent development application.

(i) Applicability of Standards Established by PUD

All buildings, structures and land uses in a PUD district shall be located, designed, used, and occupied in accordance with the standards established in the zoning and concept plan, development plan and development guide. The standards established by the zoning and concept plan, development plan and development guide shall apply to the subdivision plats for the subject property where such standards specifically modify an LDC or ECM standard.

Where no applicable standard has been established in the zoning and concept plan, development plan or development guide, or where development standards in an approved PUD defer to the requirements of the Land Development Code, unless otherwise specified the requirements of the Code, as amended, shall be applied.

(j) Enforcement of PUD Standards

Enforcement of all use, density, dimensional, and development standards, engineering criteria, including modifications of the same within a PUD district shall rest with the BoCC.

(3) Maintenance of Common Areas

The provision of an acceptable maintenance entity (e.g., HOA, Architectural Control Committee, Special District, etc.) is required to ensure maintenance of common areas, project landscaping, parking, drive aisles, fencing and building exteriors, emergency access points

and similar facilities and amenities. Maintenance agreements and/or covenants shall provide suitable guarantees for such maintenance.

(4) Review Standards Incorporated into Development Plan and Guide

The review standards for authorization of building permits with the PUD district shall be incorporated into the PUD development plan and development guide and provide efficient review and approval of permits if any special permitting provisions are proposed.

(5) Amenities in Phased Projects

Timely provision of open space, recreational facilities, and other amenities shall be guaranteed through appropriate financial assurances, development agreements or other mechanisms acceptable to the County. Amenities shall be included in each construction phase of the project.

(6) PUD Zoning District Compatibility

The PUD district shall be compatible with surrounding uses. Compatibility includes, but is not limited to, size, scale, mass, and landscaping. Uses shall be determined by evaluating the general uses, building height, setback, offset, size, density, traffic, dust, noise, harmony, character, open space, screening, health, safety and welfare.

(7) Limitations on Establishing a PUD District

A proposed PUD District shall not be approved if such approval would result in a circumvention of the variance procedures contained in this Code or if such approval would result in the circumvention or appealing of a decision of the County.

(8) Common Open Space

(a) Intent

Common open space is intended to increase the quality and uniqueness of the development. Open space provides enjoyable space while adequately buffering various uses. Common open space includes any usable tract of land or water unimproved and set aside, dedicated, designated or reserved for public or private use or for the use and enjoyment of owners or occupants of land adjoining or neighboring the area. In utilization of a PUD, common open space may include any of the uses and or structures identified within this section.

(b) PUD Zoning District Open Space Requirement

The amount and type of open space provided in a PUD district shall be proportional to the intensity of the applicable base zoning districts identified in the PUD district and uses specified in the application. In no case, however, shall the open space provided be less than 10% of the gross site area.

Open Space Requirements in Residential PUD Districts

Unless otherwise modified by the BoCC, a minimum of 10% of the gross PUD development area shall be set aside as open space. Individual phases within the PUD are not required to provide 10% open space within each phased area where a planned network of open space is provided in the overall PUD development plan.

Open Space Requirements in Commercial PUD Districts

Open space requirements within a commercial PUD may be provided as pedestrian amenities through the modification process. Substitution of pedestrian amenities shall not be counted toward any required buffer or screening requirements.

(c) Calculation of Residential Open Space

The calculation of open space area shall include all common public or privately held open space areas. Constructed storm water facilities may be included in the open space calculation if comprising less than 10% of the required open space, recreational areas, trails and greenways. Open space shall also include landscape areas that are not occupied by buildings or uses (such as storage or service areas), and private courtyards. Individual, private residential or commercial lot areas shall not be included in the open space calculation unless the open space areas located on private lots are subject to open space easements and restrictions. Parking areas and public and private roads shall not be included in the open space calculation. For multifamily, townhome and condominium developments, common open space and other recreational amenities accessible to the residents of the project may be credited toward the overall PUD district open space requirement. Any required urban park dedication shall be credited against the open space calculation.

(d) Usable Residential Open Space

Open space shall be concentrated in large usable areas. No less than 25% of the gross land area of open space shall be contiguous and usable.

(e) Allowed Uses within Open Space

Unless otherwise specified within the PUD development plan or development guide, the allowed land uses in areas designated as open space, conservation, preservation or other similar term are limited to the following:

- Recreation activities which use the land with minimum disturbance and which do not utilize structures or permanently installed equipment except as provided in this Section;

- Recreational trails for non-motorized use, except that motorized wheelchairs are permitted;
- Perimeter fence with a maximum height of 6 feet;
- Signs that are accessory to an allowed open space use not exceeding 6 square feet in area;
- Structures under 250 square feet for restrooms, picnic shelters, maintenance equipment, storage or other use accessory to a permitted open space use;
- Properly managed grazing of horses, cattle, sheep, goats, wildlife or other grazing or browsing animals;
- Forest management activities designed to promote healthy and aesthetic forests or to meet wildfire mitigation objectives; and
- Parking areas for the recreational facilities;
- Playgrounds, athletic fields, golf courses;
- Pedestrian amenities; and
- Other uses and structures identified through the modification process.

(f) Minimum Setbacks from Open Space and Trails

Minimum setback of privately owned buildings to trails and open space within a residential PUD district shall be 10 feet.

(g) Maintenance of Open Space or Common Areas

Open spaces or common areas within a PUD district including those spaces being used as public or private recreation sites, shall be protected by adequate covenants running with the land, conservation easements, deed, or plat restrictions. Open space, recreational facilities or other amenities to be provided shall be guaranteed by suitable financial assurances. Financial assurances shall not be required if:

- Acceptable provisions are included within the development agreement that guarantee the provision of these amenities in a timely manner; or
- Amenities are included in each construction phase of the project adequate to serve the residents within the phase; or
- A HOA or special district has committed to maintaining the facilities.

(h) Evaluation of Open Space

In evaluating the proposed open space areas within a PUD district, the following factors shall be considered:

- The El Paso County Parks Master Plan;
- The environmental characteristics and significance of the site;

- The location, use and relationship of the proposed open space areas to the development areas within the PUD district (Public or private common use open space areas should be accessible and available to the occupants of any proposed residential dwellings);
- Provision for adequate trails systems including bicycle, pedestrian, and equestrian trails as appropriate;
- The buffering needs of adjacent existing and planned land uses;
- Neighborhood, community, and regional recreational use area standards as applied to the proposed resident population of the PUD district;
- Applicable school standards for the number, type and location of public schools based upon the proposed resident population of the PUD district (Combined, joint use school and park sites are encouraged); and
- View corridors within and through the property and other visual and scenic assets of the site.

(9) Circulation and Access

Development within the PUD district shall be designed and constructed to include adequate, safe, and convenient arrangement for pedestrian and vehicular circulation, and parking and loading spaces. Pedestrian and vehicular circulation shall correlate with the external circulation system. All roads shall be constructed in accordance with the provisions of the ECM.

(10) Drainage

The storm drainage system shall be designed in accordance with the ECM.

(11) Buffering and Screening

Uses or structures within and adjacent to a PUD district shall be adequately buffered and screened to make their appearance and operation harmonious with the surrounding uses.

(12) Landscaping

Landscaping and any landscaping design guidelines established within the development plan or development guide shall conform to the requirements of this Code. No building permit shall be issued for any building or any portion of a PUD district until the landscaping required by the landscape plan is in place or a landscaping completion agreement has been entered into which complies with the requirements of Chapter 6 of this Code.

(13) Architecture

A set of architectural guidelines shall be included within the development plan or development guide that provides for a variety of architectural designs while ensuring that structures are compatible with other structures in the PUD district or a subarea of the PUD district. Modifications to the architectural guidelines may only be required by the County if necessary to implement a specific standard or requirement in this Code.

(14) Parking

Unless otherwise established by the zoning and concept plan, development plan, or development guide, parking shall be provided in accordance with Chapter 6 of this Code.

(15) Signage

Unless otherwise modified by the zoning and concept plan, development plan, or development guide, all signs within the PUD district shall comply with the requirements of Chapter 6 of this Code.

(16) Adequate Facilities

A PUD district will be approved only if there is a demonstration that adequate public facilities and services for the project can be provided. The cost to the County will be considered in light of the project's impact existing or proposed public facilities. In addition, it shall be shown that the project's land use mix, rate of anticipated build out, and overall developer commitments are adequate to support the infrastructure and other costs which shall be borne by the development.

Determinations concerning the adequacy and efficiency of the provision of the described public services and facilities, and the financing of the same, shall be based upon standards and criteria within this Code and the ECM, and may include a requirement to contribute a fair and equitable share of the costs of necessary public services and facilities through the payment of development fees, special assessments, participation in a local improvement district or special district, or other similar mechanism for the provision and financing of adequate public services and facilities.

(17) Phasing Plan

The establishment of a PUD district shall include a comprehensive phasing plan. The phasing plan shall present a logical development sequence for subareas of the area covered by the PUD district designed to provide for cost effective roadway, utility and other infrastructure and service extensions.

(18) Development Agreement

A development agreement is a negotiated contract between the County and a developer of property that shall provide the costs of all

on-site and off-site capital improvements necessary to implement the proposed development. Local roads and service lines may be provided for at the time of platting through a SIA. The development agreement shall be recorded concurrently with the PUD development plan and development guide, and may include financial assurance to construct approved public or private improvements in advance of the recorded final plat.

(G) Documents and Action Establishing PUD Zoning District

(1) Development Plan

(a) Description

The approved PUD development plan constitutes the approved overall zoning plan for the property. The development plan is the detailed plan for a property which generally indicates the final planned use of the property, building and parking locations, building elevations, service connections, and landscape and other important site improvements. This plan sets forth the final plans for development of the PUD district. The development plan shall cover the total area of the PUD district.

(b) Effect of Approval and Recording

The approved development plan shall be recorded and placed on file at the ~~DSD~~PCD and shall serve as the basis for review and approval of the subsequent preliminary plan, final plat, or site development plan application. Any future development plan and development guide for any portion of the approved PUD shall substantially conform to the recorded development plan. The subject property is zoned PUD at the time of approval of the development plan. All subsequent uses and actions shall conform to the development plan.

The property owners, and their successors, heirs, or assigns shall be bound by the approved development plan, including any conditions of approval, or amendments approved either by the ~~DSD~~PCD Director or BoCC.

(2) Development Guide

(a) Description

The development guide sets forth the specifics for allowed uses including special and accessory uses, densities, dimensional standards, landscaping, buffering and screening requirements, parking, fire prevention, signing, open space, maintenance, phasing and other important development controls for each use area and the property as a whole.

(b) Effect of Approval and Recording

The property owners, and their successors, heirs, or assigns shall be bound by the approved development guide, including any amendments thereto approved by the ~~DSD~~PCD Director or BoCC. The approved development guide shall be recorded concurrently with the development plan, and the recording information referenced on the development plan.

(3) Vesting

The development plan and development guide may be considered a site specific development plan for purposes of vesting if vesting is specifically requested. Any such request shall be accompanied by a request that meets the vesting requirements of this code. If vesting is specifically requested and meets the requirements of this Code for vesting, vesting shall occur at the time the development plan and development guide are filed for recording with the Clerk and Recorder.

(H) Actions Amending a PUD Zoning District

The ~~Development Services~~Planning and Community Development Director may approve a minor amendment to an approved PUD which is determined will have no foreseeable effect beyond the property boundary, such as minor changes in the siting of buildings, changes to landscape features in the interest of public safety, or the alignment of utilities and the alignment of interior roadways and parking areas. No such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the PUD, significantly reduce or increase parking areas, or significantly encroach on natural features proposed by the plan to be protected.

(I) PUD Zoning and Conceptual Plans (ZCP) Approved Prior to the Adoption of this Code

Any ZCP approved prior to the adoption of this Code or as otherwise amended, shall be governed by the conditions of Board approval as contained in the recorded Board Resolution of the same and the Code in effect at the time of approval. No building permits or uses shall be authorized within such ZCP prior to approval and recordation of a PUD development plan and final plat in conformance with the provisions and requirements of the Land Development Code.

4.3. OVERLAY ZONING DISTRICTS

4.3.1. CAD-O, Commercial Airport Overlay District

(A) Purpose

These airport hazard regulations are adopted pursuant C.R.S. §30-28-113 and 41-4-101. In connection therewith, the BoCC finds:

- The Federal Aviation Administration (FAA), in accordance with 14 CFR Part 77, has determined that certain land uses create, establish, enhance, or maintain hazards to air navigation and are or may be a public nuisance and an injury to the communities served by the airports;
- The free and unobstructed passage of all aircraft, regardless of the owner or operator of such, in, through, and across all of the navigable airspace above the communities served by the airports is a defined right under federal and state law including but not limited to 14 CFR Part 91.119, and CRS §41-1-106 and CRS §41-1-107 as amended, or any similar regulation or statue which may hereinafter be enacted in total or in part;
- Private property owners have a property interest in useable airspace above the surface of their property;
- That non-conforming use may be created, which are subject to the non-conforming use rights and restrictions as established by this Code;
- That the BoCC in adopting these regulations intends to exercise the full extent of its authority to protect the public health, safety, and general welfare of the citizens of El Paso County; and
- That these regulations support and implement the Master Plan.

(B) Commercial Airport Overlay District Map

The Commercial Airport District shall be shown on maps, charts and other documents which are made a part of this Code. Any change in the Commercial Airport District Map shall be deemed in force upon adoption by the BoCC. The ~~CAD-O district~~ CAD-O Zoning District is an overlay district. The ~~CAD-O district~~ CAD-O Zoning District is comprised of four ~~subdistricts~~Sub-Zones: Aircraft Navigation Sub-Zone (ANAV), Airport Noise Sub-Zone (ADNL) [65 DNL line], Accident Potential Zone I (APZ-1) [Class A Runway Accident], and Accident Potential Zone II (APZ-2) [Class A Runway].

Should any part of the CAD-O Overlay District be declared inapplicable by reason of action of: (1) the BoCC in amending this Code, or (2) the BoCC, or any court of competent jurisdiction in interpreting this Code, the underlying zoning shall remain un-changed.

Adoption of the Commercial Airport District Map by El Paso County and as referenced in this Section does not impose in the unincorporated area of El Paso County any additional height or use restrictions from those uses or height restrictions identified in these overlay zoning regulations.

(C) Regulations Cumulative and Relationship of CAD-O to Base Zoning District

All regulations within the ~~CAD-O district~~ CAD-O Zoning District shall be cumulative. In cases in which the provisions of the ~~CAD-O district~~ CAD-O Zoning District and the base zoning district conflict, the most restrictive provisions shall apply.

(D) Nonconforming Uses in the CAD-O

(1) No Change to Existing Uses Required

Nothing in this Section shall require a change in any lawfully constructed building, structure or use in existence at the time of adoption or amendment of the CAD-O Zoning District to continue its current lawful use, nor shall this Section prohibit reconstruction if partially or completely destroyed, nor shall this result in additional requirements for approved variances other than those requirements for lighting and marking as may be required.

(2) No Prohibition on Continuance

None of the provisions of the CAD-O Zoning District shall be construed to prohibit the continuance, expansion or re-establishment under current law of any existing use. Noise reduction design standards apply only to new structures and uses of land and not to structural additions.

(3) Existing or Approved Mobile Home Spaces

Mobile homes moved on to existing or approved mobile home spaces are exempt from the requirements of the CAD-O Zoning District.

(E) Allowed and Special Uses

Table 4-7 lists allowed and special uses within the CAD-O zone. The most restrictive CAD-O sub-~~district~~ zone and base zoning district use provisions shall control.

Table 4-7. Commercial Airport Overlay District Land Use.

Use	CAD-O ~~Subdistrict~~Sub-Zone			
	ADNL[1]	APZ-1	APZ-2	ANAV[3]
Mobile Homes				A
Single-Family Residences			A	A
Multiple-Family Residences; Residential Hotels; Convalescent Hospitals			A	A
Mixed Use if involving residential component	S	S	A	A
Hotel	S[4]		A	A
Hospitals, Institutional Uses	S[4]		A	A
Religious Uses, School,	A[4]	A	A	A
Playgrounds; Parks; Arenas	A[3]	S	S	A
Golf Courses; Cemetery; Stables	A	S	A	A
Offices	S[2, 4]	S	A	A
Commercial, Retail & Wholesale, Sexually-Oriented Business	A[4]	S	A	A
Warehouse; Light Manufacturing; Industrial; Laboratories: Wholesale	A[4]	A	A	A
Farming; Ranching; Feed Lots; Related Agricultural Uses	A	A	A	A

A = Allowed Use, S = Special Use
Note: The boundary of the ADNL District reflects the 65 DNL line.
[1] Public assembly areas, noise-sensitive cultural activities, and nature exhibits are discouraged.
[2] Many service type businesses which may be disturbed by noise should not be located in an area with greater than 65 Day-Night Equivalent Sound Level (Ldn).
[3] Airport Activity Notice and Disclosure or equivalent required, if not already recorded, in order to secure a building permit or development permit.
[4] A 30 dbA indoor noise reduction shall be achieved by approved construction techniques as evidenced by Noise Reduction Certificate. In the case of land uses classified as industrial uses, only the office portion of the building is required to achieve the noise reduction.

(F) Development Requirements within the CAD-O

(1) ANAV ~~Subdistrict~~Sub-Zone

(a) Rezoning or Subdivision Plat

The following are required prior to approval of any rezoning or subdivision plat:

- The request shall be referred to Airport Advisory Commission for review and comment.
- Airport Activity Notice and Disclosure shall be required to be recorded against the title of the property as a condition of approval.

(2) ADNL ~~Subdistrict~~Sub-Zone

(a) Building Permit

The following are required to secure a building permit or authorization of use, if not previously completed as a part of a previous development review process:

- All requests will be referred to the Airport Advisory Commission for review and comment.
- If the request is located within an existing residential zone or platted as residential, a noise level reduction of 30 dbA shall be achieved through approved construction techniques as evidence by the provision of a Noise Reduction Certificate.
- Non-residential land uses as identified in Table 4-7 shall achieve a 30 dbA noise reduction by approved construction techniques as evidenced by a noise reduction certificate.

(b) Rezoning

Land should not be rezoned to a residential or multifamily district which allows a higher density than the current zoning of the property. In the event of a rezoning or variance action to allow a residential zoning with a higher density than the current zoning of the property, the BoCC shall include specific findings relative to airport noise within the approval resolution and shall require appropriate noise mitigation measures.

(3) APZ-1 ~~Subdistrict~~Sub-Zone

(a) Restrictions

The following restrictions shall apply within the APZ-1 sub-zone~~district~~:

- Certain commercial, industrial and manufacturing uses that result in the congregation of people, as identified in Table 4-7 are either a special use or prohibited, whether or not noise level reduction is proposed or required.
- Residential land uses including caretaker residences or accessory dwellings are prohibited.

(b) Rezoning

Land Should not be rezoned to a residential or multifamily district. In the event of a rezoning action or variance to allow a residential zoning with a higher density than the current zoning of the property, the BoCC shall include specific finding relative to airport noise within the approval resolution and shall require appropriate noise mitigation measures.

(4) Required Findings in Approving Special Use within the CAD-O

Instead of the special use findings of Chapter 5, the following additional finding shall be made in approving any special use identified in Table 4-7:

The proposed use is compatible with the nearby Colorado Springs Municipal Airport considering 1) the safety, noise and lighting impacts (these impacts do not include imposition of additional height restrictions) on the proposed use by

the airport operations; and 2) the safety and lighting impacts of the proposed use on the airport.

(5) Construction or Alteration Requiring FAA Notice

Any person proposing construction or alteration of an improvement shall notify the FAA where required, in accordance with 14 CFR Part 77, as amended or any similar regulation or statute which may hereinafter be enacted in total or in part. Any notice required by this Section shall be on FAA Form 7460-1 "Notice of Proposed Construction or Alteration," available from the regional offices of the FAA. Notice required under this part shall be completed and a Determination from the FAA be made as an attachment to development applications, where required.

(6) Installation and Maintenance of Marking or Lighting on Improvements Requiring FAA Notice.

The BoCC may condition any development approval for a chimney, steeple, crane, tower, etc., with a requirement that the owner of the improvement install, operate and maintain, at the owner's expense, markers and lights as may be necessary to indicate to aviators the presence of an obstruction to flight as may be required to comply with the requirements of the FAA and/or FCC. The BoCC may, with the permission of the owner and at its own expense, install and operate markers or lights as may be necessary upon existing improvements within the ~~CAD-O district~~ CAD-O Zoning District in conformance with the standards of the FAA and/or FCC. After initial installation, the BoCC may upon written notice to the owner, require the owner to maintain those markers or lights in conformance with the standards of the FAA and/or FCC.

4.3.2. GA-O, General Aviation Overlay District

(A) Purpose

The ~~GA-O district~~GA-O Zoning District is intended to apply to land within and surrounding airports to protect those airports using non-instrument runways for general aviation purposes.

(B) Applicability

The ~~GA-O district~~GA-O Zoning District regulations shall apply where adopted to all new airports established and to all runway extensions of existing airports, except the Colorado Springs Municipal Airport.

(C) Effect of ~~GA-O District~~GA-O Zoning District

The ~~GA-O district~~GA-O Zoning District regulations apply in combination with base zoning district regulations, recorded plats, and all other applicable standards of this Code. When ~~GA-O district~~GA-O Zoning District standards conflict with the underlying base zoning district standards or other regulations of this Code, the regulations of the ~~GA-O district~~GA-O Zoning District will always

govern. When no special ~~GA-O district~~GA-O Zoning District standards are specified, all other applicable regulations of this Code will govern.

(D) General Aviation Overlay District Map

The ~~GA-O district~~GA-O Zoning District shall be shown on maps, charts and other documents which are hereby made a part of this Code. Any change in the General Aviation District Map shall be deemed in force upon adoption by the BoCC. The ~~GA-O district~~GA-O Zoning District is an overlay district. Within the ~~GA-O district~~GA-O Zoning District, ~~subdistricts~~Sub-Zones of greater detail, description, and restriction may be proposed and adopted in accordance with the provisions for adoption of the ~~GA-O district~~GA-O Zoning District.

Should any part of the GA-O Overlay District be declared inapplicable by reason of action of; (1) the BoCC in amending this Code, or (2) the BoCC, or any court of competent jurisdiction in interpreting this Code, the underlying zoning shall remain unchanged.

Adoption of any General Aviation Overlay District Map by El Paso County and as referenced in this Section does not impose in the unincorporated area of El Paso County any additional height or use restrictions identified in these overlay zoning regulations.

(E) Use Restrictions

No building or land may be used and no building may be erected, converted, or structurally altered except in accordance with the following requirements.

(1) Meadowlake Airport GA-O Uses

The following uses are allowed in the non-residential area of the Meadowlake Airport included in the ~~GA-O district~~GA-O Zoning District, in addition to those uses allowed in the underlying base zoning district:

Aero club facilities

Aircraft maintenance facilities

Airfields and landing strips

Airport terminals, related supporting facilities

Aviation control towers

Hangars and tie-down facilities

Navigation instruments and aids

Aviation related businesses

(2) Rezoning within a GA-O

The base zoning district for land within a GA-0 ~~district~~ zoning district should not be rezoned to a residential or multifamily zoning district which allows a higher density than 1 dwelling unit per 2.5 acres.

(3) Construction or Alteration Requiring FAA Notice

Any person proposing construction or alteration of an improvement shall notify the FAA where required, in accordance with 14 CFR Part 77, as amended or any similar regulation or statute which may hereinafter be enacted in total or in part. Any notice required by this Section shall be on FAA Form 7460-1 "Notice of Proposed Construction or Alteration," available from the regional offices of FAA. Notice required under this part shall be completed and a determination from the FAA be made as an attachment to development applications, where required.

(4) Installation and Maintenance of Marking or Lighting on Improvements Requiring FAA Notice.

The BoCC may condition any development approval for a chimney, steeple, crane, tower, etc., with a requirement that the owner of the improvement install, operate and maintain, at the owners' expense, markers and lights as may be necessary to indicate to aviators the presence of an obstruction to flight in as may be required to comply with the requirements of the FAA and/or FCC. The BoCC may, with the permission of the owner and at its own expense, install and operate markers or lights as may be necessary upon existing improvements within the ~~GA-O district~~GA-O Zoning District in conformance with the standards of the FAA and/or FCC. After initial installation, the BoCC may, upon written notice to the owner, require the owner to maintain those markers or lights in conformance with the standards of the FAA and/or FCC.

(5) Airport Activity Notice and Disclosure

As a condition of BoCC approval, with any rezoning or subdivision action, the owner is required to record the Airport Activity Notice and Disclosure against the property as a condition of approval.

(F) Federal Aviation Administration Standards

All development in the ~~GA-O district~~GA-O Zoning District shall comply with any applicable restrictions contained in Title 14 of the Code of Federal Regulations, Subchapter I, Federal Aviation Regulations.

4.3.3. RLUP-O, Rural Land Use Plan Overlay District

The Rural Land Use Plan Overlay District was removed from this Code by Board of County Commissioner Resolution No. 15-461. Any Rural Land Use Plan approved prior to the adoption of this Code or as otherwise amended, shall be governed by the approved and/or recorded Rural Land Use Plan, conditions of Board approval as contained in the recorded Board Resolution of the same and the Code in effect at the time of approval. Amendments or modifications deemed to minor by the determination of the ~~Development Services~~Planning and Community Development Director may be approved administratively; those

amendments or modification deemed to be major and/or substantial shall require approval by the Board of County Commissioners.

4.3.4. HR-O, High-Rise Overlay District

(A) Purpose

The HR-O district is intended to accommodate taller buildings than otherwise allowed by the base zoning districts of this Code.

(B) Application to Base Zoning Districts

The HR-O district may only be applied in combination with the CS, CR, and RM-30 zoning districts.

(C) Floor Area Ratio (FAR)

(1) FAR Limits

The following floor area ratio limits shall apply:

4 times the total lot area in the CS district

4 times the total lot area in the CR district

3 times the total lot area in the RM-30 district

(2) Parking Excluded from FAR

Indoor parking area on the lot or premises for vehicles shall not be counted as floor area for the purpose of computing maximum floor area ratios.

(D) Lot Area Per Dwelling Unit (RM-30 District only)

(1) Minimum Lot Area Per Dwelling

The minimum lot area per dwelling unit: is as follows:

1 story building: 2,000 square feet of lot area per unit

2 story building: 1,500 square feet of lot area per unit

3 story building: 1,200 square feet of lot area per unit

4 –5 story building: 900 square feet of lot area per unit

6–7 story building: 700 square feet of lot area per unit

8 –9 story building: 500 square feet of lot area per unit

10+ story building: 475 square feet of lot area per unit

(2) Indoor Parking Added to Lot Area

Indoor parking area on the lot or premises for vehicles will be considered as additional lot area for the purpose of computing lot area per dwelling unit.

(E) Area Volume Limitations

No part of any structure (except church spires, church towers, flag poles, antennas, chimneys, flues, vents, cooling towers, elevator and mechanical

penthouses and accessory water tanks) or any portions of the structure not used for human occupancy, may project through planes with a pitch of 3 vertical to 1 horizontal from lines 20 feet above lot lines and the center of roads between lot lines.

(F) Solar Access

No structure shall be established in an HR-O district that would materially diminish the solar access rights of an adjoining property owner.

4.3.5. WSE-O, Wind and/or Solar Energy Generation Plan Overlay District

(A) General

(1) Purposes

(a) General

- To regulate wind and/or solar energy generation facilities.
- To site wind and/or solar energy generation facilities where they are most appropriate, considering impacts to the environment, visual corridors, existing infrastructure, and the established development pattern.
- To ensure the preservation of public health, safety, and welfare.
- To provide a regulatory scheme that is designed to address certain standards regarding setbacks, height restrictions, and other requirements for wind and/or solar power energy generation facilities.
- To provide mitigation measures for impacts associated with large-scale wind and/or solar energy generation facilities.
- To provide greater design flexibility and efficiency in siting wind and/or solar energy generation facilities.

(2) Application, Review, and Fees

(a) Application

- An application for rezoning is required in order to obtain wind and/or solar energy generation plan overlay district (WSE-O) zoning.
- The submittal and review process for a WSEO application shall follow the provisions outlined in Section P-AR-034-11, Wind/Solar Energy Generation Plan Overlay (WSEO) Rezoning (Map Amendment), and Section S-PL-023-011, Wind/Solar Energy Generation Overlay (WSEO) Plan, of the Procedures Manual.

(b) Review

The El Paso County Planning Commission shall review and make recommendation on all WSE-O rezoning applications The El Paso County Board of County Commissioners shall review

and take final action on all wind/solar energy generation plan overlay rezoning applications.

(c) Fees

- The application fee associated with a WSE-O rezone request shall be calculated based on cost of service.
- The application fee associated with administrative site development plan requests shall be determined by the ~~Development Services~~Planning and Community Development Department adopted fee schedule.
- For those projects that, because of their size, type of operation, or technical details which are beyond the technical expertise of the El Paso County staff and require review and the provision of appropriate technical expert testimony at any required public hearing(s) before the County's governmental bodies or contracted employees of the County, the costs for said review and the provision of said expert shall be paid by the applicant. The extent and nature of said costs shall be established between the applicant and El Paso County prior to formal submittal.

(3) Applicability

(a) General

A WSE-O function in combination with base zoning districts to both modify the existing standards associated with the base zoning districts and to impose additional requirements and standards on specific properties.

(b) Zoning Requirements

The WSE-O district can be applied in all zone districts.

(4) Definitions

(a) Wind Energy Generation Facility

A large-scale electrical energy generation facility with a minimum energy generation capacity of 500 kilowatts typically consisting of wind turbines, meteorological data gathering devices, collection lines, electrical substation(s), transmission line(s), and other appurtenant facilities.

(b) Solar Energy Generation Facility

A large-scale electrical energy generation facility with a minimum energy generation capacity of 500 kilowatts typically consisting of photovoltaic panels, heliostats (mirrors), collection tower(s), turbine(s), collection lines, electrical substation(s), transmission line(s), and other appurtenant facilities.

(5) Compliance with County, State, and Federal Laws and Regulations

The WSE-O district and WSE-O plan shall comply with all applicable County regulations and ordinances, State laws and statutes, and federal law and regulations, except as otherwise modified within.

(B) Development Standards

(1) Establishment and Applicability of Standards

(a) Established Purpose and Intent of WSEO Plan

The WSE-O plan shall include a statement establishing the purpose and intent of the WSE-O zoning district.

(b) Use, Dimensional, and Development Standards Included

Use, dimensional, and development standards are intended to create a regulatory scheme necessary for development within the WSE-O zoning district. The use, dimensional, and development standards for a WSE-O district shall be set forth in the approved WSE-O plan, and shall include: uses, maximum structure height(s), minimum setbacks, structure elevations, access, accessory structures, signage, lighting, project phasing, and other standards necessary to administer the plan.

An application for WSE-O zoning district shall consider the following standards:

(i) Allowed Principal Uses

Includes the following: wind turbines, solar panels, transmission lines, substations, meteorological monitoring devices, and energy generation facility-related temporary batch plants.

(ii) Allowed Accessory Uses

Includes the following: collection lines, maintenance facilities, and any other accessory uses necessary to carry out the intent of the overlay zoning.

(2) Structure Standards

(a) Maximum Structure Height

(i) For the wind turbines, solar panels, meteorological monitoring devices, and substations the height restriction is established by the specific wind/solar energy generation overlay district zoning and development plan. Wind turbine height shall be measured from finished grade to the tip of the blade in the vertical position.

(ii) All other structures shall comply with the height restriction established by the underlying zone district (A-

35, A-5, RR-5, etc.) unless otherwise established by the specific wind/solar energy generation overlay district zoning and development plan.

(b) Structure Setbacks

(i) Wind turbines and meteorological monitoring devices shall be setback 1½ feet for every 1 foot of height from all wind/solar energy generation overlay zone district boundaries, existing dwellings, public rights-of-way, and existing above-grade utility facilities unless otherwise established by the specific wind/solar energy generation overlay district zoning and development plan (e.g. the impacts of the setback encroachment can be mitigate by establishing an external easement).

(ii) For the purpose of calculating the applicable setbacks, wind turbine height shall be measured from finished grade to the tip of the blade in the highest vertical position.

(iii) Wind turbines shall also be sited a minimum of 165 feet from the edge of any ridge with a slope greater than 20 percent.

(iv) There shall be no setback requirement for the transmission lines.

(v) All other structures shall be required to meet the setbacks of the underlying zone district unless otherwise established by the specific wind/solar energy generation overlay district zoning and development plan.

(vi) Distance from Wetlands and Hazard

All development within the wind/solar energy generation overlay district shall comply with separation requirements set forth in this Code to protect and preserve wetlands, stream corridors, wildlife habitat, and hazard areas.

(3) Roadway and Vehicular Access Standards

(a) Road Design and Construction Standards

(i) Private Access Roads

All private access roads shall be designed to ensure that emergency vehicles can gain access to the development. Such design shall be reviewed and approved by the respective fire district, if applicable, and/or the El Paso County Fire Marshal.

(ii) Upgrading Existing Substandard County Roads

The applicant shall be required to upgrade any existing substandard County roadways/rights-of-ways that are necessary for access to the development whether for construction or maintenance. Whether a roadway/right-of-way is necessary for access to the development shall be determined by the required Transportation Impact Study and the associated Haul Route Plan. Prior to construction of such upgrades, the applicant is required to submit for review and receive approval by the ECM Administrator of the associated construction drawings, financial assurance estimate, and collateral.

(iii) Reconstruction of Damaged County Roads

Inclusion in Development Impact Mitigation Agreement

the associated development impact mitigation agreement shall include language that requires the applicant to rehabilitate all haul route roads impacted by the development. The reconstruction shall meet the requirements of the El Paso County Engineering Criteria Manual.

(4) Storm Water Management and Drainage Standards

(a) Design Standards

Storm water and drainage facilities shall meet the standards of the El Paso County Engineering Criteria Manual and the El Paso County Drainage Criteria Manual.

(C) Decommissioning Plan and Agreement

(1) Purpose

A wind and/or solar energy generation facility authorized by this overlay zone district shall provide a decommissioning plan and agreement to ensure that the wind and/or solar energy generation facility, and appurtenant facilities, are properly decommissioned.

(2) Required

A decommissioning plan and agreement shall be required with all wind and/or solar energy generation plan overlay district applications and shall include:

Provisions describing the triggering events for decommissioning the wind and/or solar energy generation facility and appurtenant facilities;

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 acceptable to the County, 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.

(3) Review and Approval

The Planning Commission shall review and make a recommendation to the Board of County Commissioners on all decommissioning plans as a part of the WSEO rezone application. The Board of County Commissioners shall have final review and approval authority of all decommissioning plans associated with any WSEO application.

(D) Development Impact Mitigation Agreement

(1) Purpose

The construction and operation of large scale wind and/or solar energy generation facilities typically result in external impacts to nearby properties and to the existing infrastructure. The standard method for addressing and mitigating development-related impacts is through a development agreement between the applicant, County, and/or any other party that may be impacted by the development.

(2) Required

A development impact mitigation agreement shall be required with all wind and/or solar energy generation plan overlay district applications.

(3) Review and Approval

The Planning Commission shall review and make a recommendation to the Board of County Commissioners on all development impact mitigation agreements associated with all WSE-O applications. The Board of County Commissioners shall have final review and approval authority of all development impact mitigation agreements.

(E) Board of County Commissioner Approval of Major Amendments

A recommendation from the Planning Commission and a final action by the Board of County Commissioners are required for an amendment to the approved WSE-O plan that includes any of the following:

The addition of any uses or structures not authorized by the approved WSE-O plan.

Modification of any structure sitting envelope(s) resulting in noncompliance with the dimensional standards established by the approved WSE-O plan.

Modification of the dimensional standards established by the approved WSE-O plan.

Modification of the material terms of the associated impact mitigation development agreement, as defined by such agreement.

(F) Administrative Approval of Minor Amendments

Any amendment to the approved WSE-O plan that does not constitute a major amendment, as established in subsection E above, shall be considered a minor amendment and may be reviewed and approved administratively. The ~~DSD~~PCD Director may, at any time, elevate and application for a minor amendment to the WSE-O plan for hearing by the Planning Commission and Board of County Commissioners.

(G) Review Criteria for Approval of WSE-O Application

(1) Review Standards

In approving a Wind and/or Solar Energy Generation Overlay Plan 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 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 site is suitable for the intended use(s), including the ability to meet the general development standards of the Land Development Code, except as otherwise amended by the specific overlay zoning district;
- The application is consistent with the specific development standards in the Land Development Code pertaining to wind and/or solar energy generation facilities;
- The application meets the air, water, light, odor or noise standards established by County, State, or federal regulations;
- The proposed use(s) will not be detrimental to the health, safety, or welfare of the inhabitants of the area and the County; and
- The proposed use(s) will not cause undue burden on existing infrastructure.

4.4. OBSOLETE ZONING DISTRICTS

4.4.1. C-1, Commercial (Obsolete)

(A) Purpose

This district is established for the purpose of providing for commercial activities.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the C-1 district are shown in the Use Table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the C-1 district are subject to the Use and Dimensional Standards in Chapter 5.

(D) General Development Standards

All uses and development in the C-1 district are subject to the General Development Standards in Chapter 6.

(E) Development Standards for Building Walls

The wall of any building shall be constructed of 4 hour fire resistant material if it is located within 3 feet of a side lot line or if it is located within 5 feet of a side lot line where the lot or parcel adjoins a residential district.

(F) Maintenance Plan

A maintenance plan conforming to the requirements of Chapter 6 shall be approved by the ~~DSD~~PCD Director prior to the issuance of any building permit.

(G) Site Development Plan

Site development plan approval is required for all development prior to authorization of a building permit.

(H) Platting

No building permits shall be granted on any portion of property which is currently zoned C-1 until the property is platted in accordance with this Code, unless otherwise exempted by Statute.

If a property, at the time of its creation, was established in accordance with all applicable subdivision regulations, platting of the property is not required for issuance of a building permit. It shall be the responsibility of the person seeking a building permit to submit the necessary documentation to the ~~DSD~~PCD to substantiate the legal creation of the property.

(I) Discontinuance of Zoning or Rezoning

No land shall be zoned or rezoned to C-1 on or subsequent to May 1, 1991. All land zoned C-1 on or before May 1, 1991, shall remain zoned C-1 and shall be subject to all the provisions of the C-1 district until such time as the land is either rezoned or annexed.

4.4.2. C-2, Commercial (Obsolete)

(A) Purpose

This district is established for the purpose of providing for large commercial activities.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the C-2 district are shown in the Use Table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the C-2 district are subject to the use and dimensional standards in Chapter 5.

(D) General Development Standards

All uses and development in the C-2 district are subject to the general development standards in Chapter 6.

(E) Development Standards for Building Walls

The wall of any building shall be constructed of 4 hour fire resistant material if it is located within 3 feet of a side lot line or if it is located within 5 feet of a side lot line where the lot or parcel adjoins a residential district.

(F) Maintenance Plan

A maintenance plan conforming to the requirements of Chapter 6 shall be approved by the ~~DSD~~PCD Director prior to the issuance of any building permit.

(G) Site Development Plan

Site development plan approval is required for all development prior to authorization of a building permit.

(H) Platting

No building permits shall be granted on any portion of property which is currently zoned C-2 until the property is platted in accordance with this Code, unless otherwise exempted by Statute.

If a property, at the time of its creation, was established in accordance with all applicable subdivision regulations, platting of the property is not required for issuance of a building permit. It shall be the responsibility of the person seeking a building permit to submit the necessary documentation to the ~~DSD~~PCD to substantiate the legal creation of the property.

(I) Discontinuance of Zoning or Rezoning

No land shall be zoned or rezoned to C-2 on or subsequent to May 1, 1991. All land zoned C-2 on or before May 1, 1991, shall remain zoned C-2 and shall be subject to all the provisions of the C-2 district until such time as the land is either rezoned or annexed.

4.4.3. M, Industrial (Obsolete)

(A) Purpose

This district is established for the purpose of providing for general industrial and manufacturing activities.

(B) Allowed, Special, Accessory, and Temporary Uses

The allowed, special, accessory, and temporary uses in the M district are shown in the Use Table in Chapter 5.

(C) Use and Dimensional Standards

All uses and development in the M district are subject to the use and dimensional standards in Chapter 5.

(D) General Development Standards

All uses and development in the M district are subject to the general development standards in Chapter 6.

(E) Development Standards for Junkyards and Related Uses

All salvage yards, automobile recycling centers, scrap and waste recycling facilities, junk yards or other similarly classified uses shall comply with the standards of Chapter 6.

(F) Maintenance Plan

A maintenance plan conforming to the requirements of Chapter 6 shall be approved by the ~~DSD~~PCD Director prior to the issuance of any building permit.

(G) Site Development Plan

Site Development Plan approval is required for all development prior to authorization of a building permit.

(H) Platting

No building permits shall be granted on any portion of property which is currently zoned M until the property is platted in accordance with this Code, unless otherwise exempted by State Statute.

If a property, at the time of its creation, was established in accordance with all applicable subdivision regulations, platting of the property is not required for issuance of a building permit. It shall be the responsibility of the person seeking a building permit to submit the necessary documentation to the ~~DSD~~PCD to substantiate the legal creation of the property.

(I) Discontinuance of Zoning or Rezoning

No land shall be zoned or rezoned to M on or subsequent to May 1, 1991. All land zoned M on or before May 1, 1991, shall remain zoned M and shall be subject to all the provisions of the M district until such time as the land is either rezoned or annexed.

4.4.4. R-4, (Obsolete)

(A) Purpose

The R-4 district is established to provide more flexibility and latitude of design; to provide for a greater variety of principal and accessory uses in the development of land; to address the advantages resultant from technological change; and, to encourage initiative and creative development of parks, recreation areas, and open space.

(B) Allowed Uses

The uses allowed in the R-4 district are those uses listed on the approved development plan on file with the ~~DSD~~PCD, and those uses identified within the BoCC resolutions adopted in conjunction with R-4 zoning approval.

(C) Use and Dimensional Standards

All uses and development in the R-4 district are subject to the use and dimensional standards in Chapter 5 unless different standards are identified on the approved development plan on file with the ~~DSD~~PCD. The approved development plan shall control where a conflict exists between the standards in Chapter 5 and those on the approved development plan.

(D) General Development Standards

All uses and development in the R-4 district are subject to the general development standards in Chapter 6 unless different standards are identified on the approved development plan on file with the ~~DSD~~PCD. The approved development plan shall control where a conflict exists between the standards in Chapter 5 and those on the approved development plan.

(E) Maintenance Plan

A maintenance plan conforming to the requirements of Chapter 6 shall be approved by the ~~DSD~~PCD Director prior to the issuance of any building permit.

(F) Site Development Plan

Site development plan approval is required for all development, except single family and two family residential uses, prior to authorization of a building permit.

(G) Platting

No building permits shall be granted on any portion of property which is currently zoned R-4 until the property is platted in accordance with this Code, unless otherwise exempted by Statute.

If a property, at the time of its creation, was established in accordance with all applicable subdivision regulations, platting of the property is not required for issuance of a building permit. It shall be the responsibility of the person seeking a building permit to submit the necessary documentation to the ~~DSD~~PCD to substantiate the legal creation of the property.

(H) Discontinuance of Zoning or Rezoning

No land shall be zoned or rezoned to R-4 on or subsequent to May 1, 1991. All land zoned R-4 on or before May 1, 1991, shall remain zoned R-4 and shall be subject to all the provisions of the R-4 district until such time as the land is either rezoned or annexed.

(I) No Development Except In Accordance with Approved Development Plan

Any land that is zoned R-4 is required to have an approved development plan on file with the ~~DSD~~PCD. All development is subject to the requirements of the approved development plan and those requirements identified within the BoCC resolutions adopted in conjunction with R-4 approval. In the event that an

approved development plan is not on file with the ~~DSD~~PCD as of the effective date of this Code, development shall not occur on the land unless the land is rezoned.

Table 5-1. Principal Uses.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Inifiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Acid Manufacturing																					S			S			YES	
Adult Care Home	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]											YES		YES
Agricultural Business		S																									YES	
Agricultural Structure	A	A	A	A																						YES		YES
Agricultural Stand	A	A	A	A																						YES		YES
Agritainment	A[7]	A[7]	A[7]	A[7]																						YES	YES	
Airstrip, Personal		S																									YES	YES
Amusement Center, Indoor																	S	A	A			A	A	A			YES	
Amusement Center, Outdoor	S	S	S[2]														S	S	S			S	S	A			YES	
Animal Day Care Facility																		A	A	A				A		YES	YES	
Animal Refuge	S	S	S	S																							YES	
Auction Facility		S	S														S		A				A	A		YES	YES	
Automobile and Boat Storage Yards																	S		A	A	A			A		YES	YES	
Automobile and Trailer Sales																	S	S	A	S				A			YES	

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Bakery, Retail																	A	A	A					A			YES	
Bakery, Wholesale																			A	A	A			A			YES	
Bar																	A	A	A			A	A	A			YES	
Barber/Beauty Shop																	A	A	A			A	A	A			YES	
Batch Plant																					S			S			YES	
Batch Plant, Temporary	T	T	T	T	T	T	T	T	T	T	T	T					T	T	T	T	T	T	T	T	T	YES	YES	
Bed and Breakfast Inn	S	S	S	S	S	S	S	S	S	S	S	S														YES	YES	
Billiard Parlor																	A	A	A			A	A	A			YES	
Boarding House										A	A						S	S	A			S	S	A			YES	
Bottling Works																			A		A		A	A			YES	
Business Event Center		S	S														A	A	A			S	S	A			YES	
Car Wash																	A	A	A			A	A	A			YES	
Carnival or Circus																	T	T	T							YES	YES	
Cement Manufacturing																					S			S			YES	
Cemetery	S	S	S	S	S	S																					YES	

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Child Care Center	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	A	A	S[4]	S[4]	S[4]	S[4]		A	S	A			A	A	S		YES	YES	
Christmas Tree Sales																	T	T	T			T	T	T				YES
Club	S		S															A	A			A	A	A			YES	
CMRS Facility, Freestanding		S															S	S	S	S	S	S	S	S		YES	YES	
CMRS Facility, Stealth	S	A	S	S	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A	A	A	YES	YES	
Commercial or Retail as Part of Overall Shopping Center																	A	A	A			A	A	A			YES	
Community Building		S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A			S	S	A			YES	
Composting Facility																					S			S		YES	YES	
Construction Equipment Storage and Field Offices, Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	YES	YES	
Contractor's Equipment Yard																			S	S	A		S	A			YES	
Convenience Store																	A	A	A			A	A	A			YES	
Copy Shop																	A	A	A			A	A	A			YES	
Dairy		A[3]	A[3]	A[3]																				S				YES
Dry Cleaning Plant																				A	A			A			YES	
Dwelling, Attached Single-Family								A	A	A	A															YES		YES

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Dwelling, Detached Single-Family	A	A	A	A	A	A	A	A	A			A												S				YES
Dwelling, Multifamily										A	A																YES	
Dwelling, Two-Family	S	A	S	S		S			A	A		S																YES
Educational Institution, Private	S	S	S	S	S	S	S	S	S	S	S	S					S	S	S			S	S	A			YES	
Educational Institution, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A		YES	
Electronic, Electrical, Communication Equipment Manufacturing																				A	A			A			YES	
Emergency Facility, Private	S	S	S	S	S	S	S	S	S	S	S	S	S	S			A	A	A	A	A	S	S	S			YES	
Emergency Facility, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		YES	
Energy Generation Facilities less than 50 MW																					S			S			YES	
Explosives Manufacturing																					S			S			YES	
Family Care Home	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]												YES		YES
Farm	A[3]	A[3]	A[3]	A[3]																								
Fertilizer Manufacturing																					S			S			YES	
Financial Institution																	A	A	A			A	A	A			YES	

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Firewood Sales		S[2]	S[2]																A		A			A				YES
Fireworks Sales																	T	T	T			T	T	T		YES		YES
Flea Market																	S	A	S		S			A			YES	
Food Processing																			A	A	A		A	A			YES	
Freight Terminal																			S	A	A			A			YES	
Fuel Sales and Storage																				S	S		S	S			YES	
Funeral Home																	S	A	A			A	A	A			YES	
Garbage Service Companies																			A	S	A			M			YES	
Gas Station																	A	A	A				A	A			YES	
Glue Manufacturing																					S			S			YES	
Golf Course	S	S	S	S																		S	S	A			YES	
Greenhouse	S	A[1]	A	S																				A				YES
Greenhouse (>1 acre)	S	S	S	S																							YES	
Group Home	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]											YES		YES
Half-Way House	S	S	S	S																								YES

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Hazardous Material Storage																				S	S			A			YES	
Hazardous Waste Facility																					S			S		YES	YES	
Health Club																	A	A	A	S				A			YES	
Heavy Equipment Rental, Sales or Storage																			S	S	A		A	A			YES	
Home Improvement Center																	S	A	A	A	A		A	A			YES	
Hospital											S						A	A	S			S	S	A			YES	
Hospital, Convalescent	S	S	S							S	S						S	S	S			S	S	A			YES	
Hospital, Veterinary	S	S	S	S													S		S			S	S	A			YES	
Hotel																	S	S	A			A	A	A			YES	
Human Service Shelter																	S	S	A			S	S	S			YES	
Inert Material Disposal Site	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		YES		YES
Inert Material Disposal Site-Minor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Infectious Waste Transfer Station																				S	S			S		YES	YES	
Institution, Philanthropic	S		S	S	S	S											A	A	A			S	S	A			YES	
Kennel		A[2]	S	S													S		S			A	A	A			YES	

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Laboratory																	S		S	A	A	A	A	A			YES	
Laundromat																	A	A	A					A			YES	
Library	S		S	S						S	S						A	A	A			S	S	A			YES	
Light Industry																			S	A	A		S	A			YES	
Light Manufacturing																			S	A	A		S	A			YES	
Liquor Store																	A	A	A			A	A	A			YES	
Livestock Feed Yard		S[3]	S[3]																		S			S			YES	
Livestock Sales Yard		A[3]	S[2]																		S		S	S			YES	
Lumber Yard		S	S														S	S	S	A	A		A	A			YES	
Manufactured Home	A	A	A	A	A	A	A	A	A			A		A										S				YES
Marijuana Club[6]																												
Marijuana Land Use, Medical																			A			A	A	A			YES	
Meat Processing, Custom		S	S																A	A	A						YES	
Medical Clinic																	A	A	A					A			YES	
Metal Processing Plant																					S			S			YES	

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Mineral and Natural Resource Extraction Operations, Commercial	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	YES		YES
Mineral Processing Plant																					S			S			YES	
Mining, Construction-Related	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES		YES
Mini-Warehouse																	S		A	A	A			A			YES	
Mixed-Use Residential Units																	S	S	S							YES	YES	
Mobile Home, Post-1976		A	A	A									A	A	A													YES
Model Home/Subdivision Sales Office	T	T	T	T	T	T	T	T	T	T	T	T		T												YES		YES
Museum	S	S	S														A	A	A			S	S	A			YES	
Night Club																	S	A	S					A			YES	
Nursery, Retail																	A	A	A			A	A	A			YES	
Nursery, Wholesale	A	A[1]	A	A													S		A	A	A			A			YES	
Office, General																	A	A	A	S		A	A	A			YES	
Off-Premise Sign																	S		S		S	S	S	S		YES	YES	
Outdoor Concert			S[2]																					A			YES	
Outside Storage																					A			A		YES	YES	

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[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Parking Garage																	A	A	A					A			YES	
Parking Lot																	A	A	A			A	A	A				YES
Peddler Sales																	T	T	T			T	T	T		YES		YES
Petroleum Refining																					S			S			YES	
Plaster Manufacturing																					S			S			YES	
Prison, Private		S															S		S	S	S			S			YES	
Proprietary School																	A	A	A	S				A			YES	
Public Building, Way or Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Public Park and Open Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Publishing Companies																			S	A	A			A			YES	
Race Track		S[2]	S[2]																		S			A			YES	
Ranch	A[3]	A[3]	A[3]	A[3]																								
Recreation Camp	S	S	S	S																							YES	
Recreational Vehicle and Boat Storage																	S		A	A	A			A			YES	
Recycling Facility																					A			A		YES	YES	

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[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Rehabilitation Facility										S	S						A	A	A			A	A	A			YES	
Religious Housing		S								A	A																YES	
Religious Institution	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A			YES	
Rendering Plant		S	S[2]																		S			S			YES	
Rental Services																	A	A	A	S	S	A	A	A				
Repair Shop																	A	A	A			A	A	A			YES	
Restaurant																	A	A	A			A	A	A			YES	
Retail Sales, General																	A	A	A	S	S	A	A	A			YES	
Retirement Center										A	A																YES	
Riding Academy		A[2]	S[2]	S[2]																				A			YES	
Rodeo		S[2]	S[2]																					A			YES	
Salvage Yard																					S			S		YES	YES	
Sawmill		S[2]	S[2]																		A			A				
Seasonal Produce Sales																	T	T	T			T	T	T		YES		YES
Sexually-Oriented Business																	A		A			A	A	A		YES	YES	

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[5]A minimum of 1acre is required for a private stable.

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[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts												Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Shooting Range, Outdoor	S[2]	S[2]	S[2]																								YES	
Shopping Center																		A	A					A			YES	
Slaughterhouse																					S			S			YES	
Smelter																					S			S			YES	
Solar Farm		S																			S						YES	
Solid Waste Disposal Site and Facility		S	S																		S			S		YES	YES	
Stables, Commercial		A[2]	S[2]	S[2]																				A			YES	
Stables, Private	A	A	A	A	A	A[5]						A[1]														YES		YES
Store																	A	A	A	S	S	A	A	A			YES	
Studio																	A	A	A			A	A	A			YES	
Tannery																					S			S			YES	
Temporary Housing	T	T	T	T								T														YES		YES
Theater																	S	A	A			A	A	A			YES	
Theater, Outdoor	S		S														S	S	S			S	S	A			YES	
Tower, Commercial		S															S	S	S	S	S	S	S	S		YES	YES	

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Trash Transfer Facility																					S			S		YES	YES	
Tree Farm	A	A	A	A																								
Truck and Recreational Vehicle Repair Garage																			A	S	A			A			YES	
Truck Farm		A[2]	A																									
Truck Stop		S[2]																	S[2]		S[2]						YES	
Vehicle Repair Garage																	S	S	A	S			A	A		YES	YES	
Warehouse																	S		A	A	A		A	A			YES	
Warehouse, Flammable Material																					S			S			YES	
Waste Tire Recycling			S																		S			S		YES	YES	
Wholesale Business																	S		A	A	A		A	A			YES	
Wind/Meteorological Measuring Facilities	S	S	S	S								S									S			S		YES		YES
Wood Sales (Firewood)	S	S	S																S								YES	
Yard Sales	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	YES		

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"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

[3]Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

[4]Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5]A minimum of 1acre is required for a private stable.

[6]Marijuana Club is prohibited in all zoning districts.

[7]Minimum area of 35 acres. When less than 35 acres a special use is required.

Table 5-2 Accessory Uses. [2]

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate use?	Site Plan Required Initiating Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Additional Dwelling Unit		A																								YES		YES
Agricultural Accessory Structures and Uses[3,4]	A	A	A	A																				A	A	YES		
Agricultural Structure	A	A	A	A	A	A	A					A																
Agritainment	A[15]	A[15]	A[15]	A[15]																						YES	YES	
Airport Hangers		A																									YES	
Animal Keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Auction	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES		
Bed and Breakfast Home	A	A	A	A	A	A	A	A	A	A	A	A														YES		YES
Bee Keeping, Commercial	A	A	A	A	A							A[1]																

Notes:

“A” = Allowed Use, "S" = Special Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

[3]See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

[4]Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

[5]Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

[6]Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

[7]A minimum of 1acre is required for a private stable.

[8]A site plan is only required for accessory structures greater than 120 square feet in area.

[9]A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

[10]A special use approval is required to exceed the general standards governing number of employees or daily trips.

[11]A site plan may be required in order to verify Code compliance or support issuance of a home occupation certificate.

[12]Marijuana Club is prohibited in all zoning districts.

[13]A site development plan may be required in order to verify compliance with applicable County, State, or Federal requirements.

[14]Allowed as an accessory use when the farm/ranch is 35 acres or greater

[15] Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate use?	Site Plan Required Initiating Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Caretaker's Quarters																		A	A	A	A			A		YES		YES
Cemetery, Personal	A[1]	A[1]	A[1]	A[1]								A[1]														YES		YES
Central Storage Facility													A	A													YES	
CMRS Facility, Building Roof-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
CMRS Facility, Building Wall-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
CMRS Facility, Pole-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Commercial and Industrial Accessory Structures and Uses[3,5]																	A	A	A	A	A	A	A	A	A	YES		YES[9]
Construction Equipment Storage and Field Offices, Accessory	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Convenience Store													A		A												YES	
Farm/Ranch Residence	A[14]	A[14]	A[14]	A[14]																						YES		YES

Notes:

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[3]See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

[4]Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

[5]Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

[6]Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

[7]A minimum of 1acre is required for a private stable.

[8]A site plan is only required for accessory structures greater than 120 square feet in area.

[9]A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

[10]A special use approval is required to exceed the general standards governing number of employees or daily trips.

[11]A site plan may be required in order to verify Code compliance or support issuance of a home occupation certificate.

[12]Marijuana Club is prohibited in all zoning districts.

[13]A site development plan may be required in order to verify compliance with applicable County, State, or Federal requirements.

[14]Allowed as an accessory use when the farm/ranch is 35 acres or greater

[15] Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate use?	Site Plan Required Initiating Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Fuel Storage																	A	A	A	A	A	A	A	A			YES	
Garden Supplies and Nursery Stock																	A	A	A			A	A	A		YES	YES	
Guest House	A	A	A	A	A	A	A	A	A			A														YES		YES
Hobby Farm	A	A	A	A	A							A[1]																
Home Occupation, Residential	A	A	A	A	A	A	A	A	A	A	A	A	A	A												YES		YES[12]
Home Occupation, Rural	S	A[11]	S	S	S	S	S	S	S	S	S	S	S	S												YES		YES[12]
Light Manufacturing, Accessory																			S	A	A		S	A			YES	
Management Headquarters													A	A													YES	
Marijuana Club[13]																												
Mother-in-Law Apartment	A	A	A	A	A	A	A	A	A			A												A		YES		YES

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[3]See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

[4]Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

[5]Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

[6]Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

[7]A minimum of 1acre is required for a private stable.

[8]A site plan is only required for accessory structures greater than 120 square feet in area.

[9]A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

[10]A special use approval is required to exceed the general standards governing number of employees or daily trips.

[11]A site plan may be required in order to verify Code compliance or support issuance of a home occupation certificate.

[12]Marijuana Club is prohibited in all zoning districts.

[13]A site development plan may be required in order to verify compliance with applicable County, State, or Federal requirements.

[14]Allowed as an accessory use when the farm/ranch is 35 acres or greater

[15] Minimum area of 35 acres. When less than 35 acres a special use is required.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate use?	Site Plan Required Initiating Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Office, Accessory																				A	A			A			YES	
Outside Storage and Display, Accessory																	A	A	A	A	A			A		YES	YES	
Personal Use Greenhouse	A	A	A	A	A	A	A	A	A			A	A	A	A													YES
Pigeon Keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A									A		YES		YES
Recycling Collection Center																	A	A	A			A	A	A				YES
Retail Sales, Accessory																				A[12]	A[12]			A		YES		
Residential Accessory Structures and Uses[3, 6]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A											YES	YES[10]	YES[9]
Restaurant, Outdoor																	A	A	A			A	A				YES	
Restroom and Shower Facilities													A	A		A											YES	
Security Guard House													A	A		A											YES	

Notes:

"A" = Allowed Use, "S" = Special Use

[1]Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

[2]All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

[3]See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

[4]Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

[5]Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

[6]Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

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[8]A site plan is only required for accessory structures greater than 120 square feet in area.

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	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Solar Energy System	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Stables, Private	A	A	A	A	A	A[8]						A[7]														YES		YES
Storage and Repair of Vehicles and Machines	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	YES	YES	
Tower, Private	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Wildlife Rehabilitation	A	A	A	A	A	A	A	A	A			A	A	A	A											YES		YES
Wind Powered Generator	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	YES		YES
Yard Sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A										A	YES		

Notes:

“A” = Allowed Use, "S" = Special Use

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[2]All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

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Chapter Five

USE AND DIMENSIOINAL STANDARDS

5.1. USE TABLES

5.1.1. 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.

5.1.2. 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.

5.1.3. 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.

5.1.4. 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.

5.1.5. Applicability of Multiple Use Types

The specific use shall control the general use.

5.1.6. Unlisted Uses

The ~~DSD~~PCD Director is authorized to classify any unlisted use based on similar uses. If no similar use can be identified by the ~~DSD~~PCD Director, the ~~DSD~~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 ~~be~~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.

~~The building footprint of accessory structures which are not classified as agricultural 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, except that when the parcel size is 2.5 acres or greater the accessory structure building footprint may be two (2) times the building footprint of the primary use.~~

~~5.2.2. Child Care Centers, Family Care Homes, and Group Homes~~

~~5.2.3. 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.~~

~~5.2.4. Separation Requirements~~

~~5.2.5. 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.

5.2.6. Parking, Screening and Buffering

5.2.7. 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).

5.2.8. Facility Allowances and Applicable Review Processes

5.2.9. 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.

5.2.10. 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.

5.2.11. 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.

5.2.12. Copies of any applicable current state or local certifications, licenses or permits for the group home shall be maintained on the premises.

5.2.13. 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.

(A) 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 Development Services 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 DSD 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 Center[1]		
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

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~~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.~~

~~5.2.14.~~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

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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.)

~~5.2.15.~~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~~5 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 ~~DSD~~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 ~~DSD~~PCD Director.

(1) **Person Conducting Agritainment**
The Agritainment use shall only be operated by the owner or leasee of the property on which it is located.

(2) **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.

(3) **Conducted in Accordance with Laws**
Agritainment shall be conducted in compliance with all applicable county, state and federal laws.

(4) **Vehicles Limited**
The total number of vehicles at any given time shall not exceed fifty (50) unless otherwise approved by the ~~DSD~~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.

(5) **Building Permits Required**

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

(B) 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.

(C) Overnight Accommodations Not Allowed

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

(D) Agritainment As a Special Use

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

(E) 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~~, per ownership~~ 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, bibcocks, 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~~lot~~ 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;
- 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.

~~(E)~~(F) 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.

~~(F)~~(G) **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. (Reserved)

5.2.10. 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.

5.2.11. 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.

5.2.12. 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.

5.2.13. Car Wash

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

5.2.14. 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.

5.2.15. 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.

5.2.16. 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.

5.2.17. ~~Child Care Centers (See Adult Care Homes)~~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 Center[1]		
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.~~5.2.18. 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.~~5.2.19. 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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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, the 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.~~5.2.20. 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.~~5.2.21. 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.~~5.2.22. **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.~~5.2.23. **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.~~5.2.24. **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 ~~DSD~~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.~~5.2.25. 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 ~~DSD~~PCD Director.

~~5.2.25.~~5.2.26. Family Care Homes (See Adult Care Homes)

~~5.2.26.~~5.2.27. 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.~~5.2.28. Group Homes (See Adult Care Homes)

~~5.2.28.~~5.2.29. 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.

(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.~~5.2.30. **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.

(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) Parking Spaces 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.

(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.

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(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

(1) **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.

(2) **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.

(3) **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;
- Automobile storage or repair businesses; and
- Other small businesses which primarily serve a rural agricultural or ranching clientele.

(4) **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.

(5) **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.~~5.2.31. 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.~~5.2.32. 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 ~~DSD~~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 ~~DSD~~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.

(B) 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 pale ontological 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 ~~DSD~~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.

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(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.

(C) 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 ~~DSD~~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 ~~DSD~~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.~~5.2.33. 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.~~5.2.34. **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.~~5.2.35. **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.~~5.2.36. **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.~~5.2.37. 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 ~~DSD~~PCD Director may grant a waiver for one or more of the requirements of this section.

(5) **Right to Enter**

The empowerment of the ~~DSD~~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 ~~DSD~~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.

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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**

(a) 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 ~~DSD~~PCD Director. The ~~DSD~~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 ~~DSD~~PCD Director shall be based upon a determination by the ~~DSD~~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 (EPCPH). An appeal of any decision made by the ~~DSD~~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.

(b) 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 prepares 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 ~~DSD~~PCD private driveway permit process or through the ~~Public Services Department~~Department of Public Works (~~PSD~~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

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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 ~~DSD~~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, ~~DSD~~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

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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.~~5.2.38. 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.

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(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 ⅓ 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.~~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.

~~5.2.39.~~5.2.40. 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.

~~5.2.40.~~5.2.41. 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.

~~5.2.41.~~5.2.42. 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;
- 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.

~~5.2.42.~~5.2.43. **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.

~~5.2.43.~~5.2.44. **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**
~~DSD~~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.

(c) Storage within Fence

All material, automobiles, parts, etc. shall be located inside fenced or screened areas.

(4) **Storage of Automobiles**

(a) Storage within Easements

Storage of automobiles, parts, or materials shall not occur in any easement without the approval of the beneficiary of the easement.

(b) Storage within Drainage Areas

Storage of automobiles, parts, or materials shall not occur in drainage facilities or within the identified 100-year floodplain.

(c) Stacking of Materials

Automobiles or vehicles for parts removal or waiting to be crushed shall not be stacked more than 2 automobiles high.

(d) Automotive Recycling Facility Limited to 250 Automobiles
Storage shall not exceed 250 automobiles waiting to be crushed or to have parts removed in an automotive recycling facility.

(5) **Removal and Storage of Parts**

(a) Location of Dismantling
All dismantling of automobiles or other vehicles shall be conducted within an entirely enclosed structure and on an impervious pad, except where the parts are to be removed by the customer.

(b) Storage of Part Inside or in Parts Racks
All parts shall either be stored within an entirely enclosed building, or stored in parts racks which do not exceed 8 feet in height or the height of the screening fence whichever is greater.

(c) Condition of Parts in Outdoor Storage
Outside storage of disassembled parts is prohibited unless empty and stored with the fluid cavities open for inspection and in a manner which prevents direct contact with rainwater

(d) Hazardous Substance Outdoors
Outdoor use of hazardous substances including disassembly of any machinery, equipment or vehicles is not allowed unless drip 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 ~~DSD~~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 ~~DSD~~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.

~~5.2.44.~~5.2.45. Seasonal Produce Sales

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

~~5.2.45.~~5.2.46. 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.

~~5.2.46.~~5.2.47. 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.

~~5.2.47.~~5.2.48. 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 ~~50~~ 25 feet from the front, ~~10~~ 25 feet from the side, and ~~10~~ 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 ~~50~~ 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 ~~50~~ 25 feet from the front, 25 feet from the side and ~~10~~ 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 aces in size without an identified stable or corral area, the outer boundaries of any fenced area shall be considered the corral.

~~5.2.48.~~5.2.49. Temporary Housing

Manufactured homes, post-1976 mobile homes, pre-1976 mobile homes where the zoning allows or recreational vehicles 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 ~~DSD~~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 shall only be used as temporary housing under a temporary use permit if a building permit has been issued and remains active for a permanent dwelling.

~~5.2.49.~~5.2.50. 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.

~~5.2.50.~~5.2.51. **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.

~~5.2.51.~~5.2.52. **Vehicle Repair Garage, Including Truck and Recreational Vehicle Repair**

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.

~~5.2.52.~~5.2.53. 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**

(a) 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.

(b) 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 EPCPH may be applicable.

(c) 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 EPCPH**

Applications for approval of waste disposal and recycling facilities and amendments thereto will be referred to the EPCPH 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 ~~DSD~~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-incidental 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^{o}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.

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(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.

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(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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 disfavorably.

(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 ~~DSD~~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.

(F) 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 ~~DSD~~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 , ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 EPC~~PSD~~DPW, 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 ~~DSD~~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.

(G) 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 ~~DSD~~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 ~~DSD~~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, ~~DSD~~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 ~~DSD~~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 ~~DSD~~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

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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

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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

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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.

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(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:

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- 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

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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**

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(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

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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**

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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 ~~DSD~~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.

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- Any other modifications, which in the discretion of the ~~DSD~~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 ~~DSD~~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 ~~DSD~~PCD will refer the proposed modification to all appropriate agencies, organizations and individuals to include the following at a minimum:

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

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(6) **Action**

Within 30 days of receipt of the original application, in the absence of adverse technical comments from the CDPHE, the ~~DSD~~PCD Director shall either approve or disapprove the application with reasons stated in writing. In granting any approval the ~~DSD~~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 ~~DSD~~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 ~~DSD~~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.

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- 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

~~5.2.53.~~5.2.54. **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.

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~~5.2.54.~~5.2.55. **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.

~~5.2.55.~~5.2.56. **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.

~~5.2.56.~~5.2.57. **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

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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 ~~DSD~~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.

~~5.2.57.~~5.2.58. 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**

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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;

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- 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.

~~5.2.58.~~5.2.59. 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.

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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.

(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**

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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 ~~DSD~~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;

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- 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

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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

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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

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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 ~~DSD~~PCD Director, except for those related to a CD request or mineral and natural resources extraction, which includes processing. The ~~DSD~~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 ~~DSD~~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.

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(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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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

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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

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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

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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

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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

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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

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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

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(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**

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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**

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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**

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Applicable County-funded or County-authorized projects shall be approved pursuant to C.R.S. § 30-28-110, other applicable statues and laws, and interpretation of the same by the ~~DSD~~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.

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(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 ~~DSD~~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 ~~DSD~~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

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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.

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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 ~~DSD~~PCD Director. In renewing a variance of use, the ~~DSD~~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 ~~DSD~~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,

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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

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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

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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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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 ~~DSD~~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:

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- 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 ~~DSD~~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 ~~DSD~~PCD Director shall maintain an official record of all interpretations in the ~~DSD~~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 ~~DSD~~PCD Director, a request for interpretation shall be submitted to the ~~DSD~~PCD in a form established by the ~~DSD~~PCD Director, and processed in accordance with Chapter 2.

(E) Limit of Interpretations

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No interpretation shall authorize any use in a zoning district or overlay zoning district unless the ~~DSD~~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.

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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.

[3]Parcels containing stables or corrals shall have a minimum lot area of one acre.

[4]Stables and corrals where allowed by the zoning shall comply with the minimum setbacks established for stables and corrals as established in Chapter 5.

[5]Agricultural stands shall be setback a minimum of 35 feet from all property lines.

[6]Kennels, pens and fur farms shall be setback a minimum of 100 feet from all property lines.

[7]Kennels, pens and fur farms shall be setback a minimum of 200 feet from all property lines.

[8]Sawmills shall be setback a minimum of 300 feet from all property lines.

[9]Livestock 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.

[10]One 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.

[11]Minimum 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.

[12]The 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.

[13]Minimum lot area of 5,000 square feet applies to single-family detached dwellings, ~~two~~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.

[14]The minimum distance between buildings shall be 10 feet.

[15]The 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.

[16]The 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.

[17]If 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.

[18]If no separate setback is shown in parentheses for accessory structures, the principal structure setback applies to accessory structures.

[19]Where 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
	Minimum ~~Maximum~~		Front	Rear	Side		
Commercial Zoning Districts							
CC	1 acre[11]		25 ft[1,~~2~~,11]	25 ft[2,11]	25 ft[2,11]		40 ft
CR	5 acres[11]		50 ft[~~2~~,3,4,11]	25 ft[2,3,4,11]	25 ft[2,3,4,11]		45 ft
CS	2 acres[11]		25 ft[1,~~2~~,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%	~~40~~[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.						

[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.

[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.

[3]Temporary uses shall be setback at least 25 feet from all property lines and 100 feet from Residential zoning districts.

[4]Gasoline pumps and canopies shall be setback at least 25 feet from all property lines.

[5]Minimum building setback distance from any adjoining residential zoning district boundary is 125 feet. The ~~DSD~~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.

[6]Minimum building setback distance from any adjoining residential zoning district boundary is 175 feet. The ~~DSD~~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.

[7]The maximum height of any structure is in accordance with the following formula: A plane with a pitch of 2 feet

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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.

[8]The 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.

[9]Where adjacent to a residential zoning district, the rear yard setback of the residential zoning district shall apply.

[10]The setback for stables and corrals is 50 feet.

[11]If 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

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(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

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These standards apply to all buildings, structures, accessory structures, and uses which are subject to regulation by this Code.

(C) General Provisions

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(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**

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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**

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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

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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 ~~DSD~~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.

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- 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**

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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

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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) ~~DSD~~PCD Authorized to Grant Administrative Relief

The ~~DSD~~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 ~~DSD~~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.

~~(3)~~(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.

~~(4)~~(5) **Reduction in Distance Separation**

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A maximum reduction of 50% in distance separation requirements for day care homes, group homes, and other similar human service establishments may be approved.

~~(5)~~(6) **Increase in On-Premise Sign Area**

A maximum increase of 20% in the area of any on-premise sign may be approved.

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(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 ~~DSD~~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

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Prior to occupancy for the building allowed by an administrative relief, it shall be the responsibility of the applicant to furnish the ~~DSD~~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 ~~DSD~~PCD Director may revoke any administrative relief by issuing a zoning violation notice if, in the ~~DSD~~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

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Minor variations from strict application of the provisions of a development plan or conventional zoning district may be allowed at the discretion of the ~~DSD~~PCD Director in order to facilitate the reasonable and expeditious platting of the property. Variations shall be allowed only after a finding by the ~~DSD~~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 ~~DSD~~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

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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 ~~DSD~~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

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(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 ~~DSD~~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,

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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.

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(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.

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(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**

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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 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**

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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 vise 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**

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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 ~~DSD~~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**

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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 ~~DSD~~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 ~~DSD~~PCD a signed and completed merger agreement, provided by the ~~DSD~~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 alot size variance if a

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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 ~~DSD~~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;

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- 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 ~~DSD~~PCD Director

All decisions concerning nonconformities will be made by the ~~DSD~~PCD Director.

(B) Appeals of ~~DSD~~PCD Director Decision

All decisions of the ~~DSD~~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.

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Chapter Six

GENERAL DEVELOPMENT STANDARDS

6.1. GENERAL

6.1.1. Purpose

This Chapter is enacted for the purpose of promoting the health, safety, convenience, and welfare of the general public and to establish standards for design and operation of uses which will encourage the development of sound, economical, stable neighborhoods and create a healthy environment for present and future inhabitants of El Paso County, Colorado.

6.1.2. Applicability

The provisions of this Chapter shall apply in all zoning districts to development, uses, activities, development applications, and development permits, except as specifically modified or otherwise provided by this Code. If it is determined by the ~~DSD~~PCD Director that the applicant is purposefully separating the project into smaller individual components in order to circumvent the requirements of this chapter, the entire project may be required to be brought into conformance with this Code.

6.1.3. Americans with Disabilities Act (ADA) Site Accessibility

(A) Compliance

Compliance with the ADA and other Federal and State accessibility laws is the sole responsibility of the property owner. Therefore, compliance with this Code does not assure compliance with ADA or any other Federal or State accessibility laws or any other regulations or guidelines enacted or promulgated under or with respect to such laws. El Paso County is not responsible for enforcement of the ADA or any other Federal or State accessibility laws.

(B) Notes on Site Development Plan or Non-Residential Site Plan

The following note should be added to all site development plans or non-residential site plans, as applicable, prior to PCD approval:

The parties responsible for this plan have familiarized themselves with all current accessibility criteria and specifications and the proposed plan reflects all site elements required by the applicable ADA design standards and guidelines as published by the United States Department of Justice. Approval of this plan by El Paso County does not assure compliance with the ADA or any regulations or guidelines enacted or promulgated under or with respect to such laws.

(C) Illustrated on Site Development Plan or Non-Residential Site Plan

Each site development plan or non-residential site plan submitted to El Paso County shall clearly illustrate and identify the provision of ADA accessible exterior routes in

accordance with the applicable ADA design standards and guidelines as published by the United States Department of Justice.

6.2. DEVELOPMENT STANDARDS FOR ANCILLARY FACILITIES AND ACTIVITIES

6.2.1. Fences, Walls, and Hedges

(A) Applicability

This Section is applicable to any fence, wall, or hedge established after the date of adoption of this Section unless superseded by a specific development standard in a PUD zoning district or within a Rural Land Use Plan.

(B) Exemptions

This Section is not applicable to agricultural fences, except as otherwise provided by this Section, or to the installation of noise barriers required by this Code, the ECM or constructed and installed in accordance with federal requirements.

(C) General Standards Applicable to Fences, Walls, or Hedges

The following standards are applicable to fences, walls, or hedges, including agricultural fences.

(1) 100-Year Floodplain

Fences and walls within a 100 year floodplain shall comply with the requirements of the Floodplain Regulations.

(2) No Obstruction of View of Vehicle Operators

No fence, wall, or hedge may obstruct the view of vehicle operators entering or leaving any parking area, service drive, driveway, road, alley, or other thoroughfare. Fences, walls and hedges are subject to the sight distance standards in Chapter 2 of the ECM.

(3) Fencing Materials

The use of tires for a fence or wall, whether whole or baled, shall be allowed only on the granting of a beneficial use agreement with El Paso County, and shall only occur in conformance with the requirements of this Code and CDPHE regulations.

(a) Corrugated Metal Not Approved as Fencing Material

Corrugated metal is not considered an acceptable fencing material in perimeter fencing if visible from outside the fenced lot or parcel.

(4) Measuring the Height of a Fence

The height of fences, walls, and hedges shall be measured from the final grade of the lot, parcel, or tract at the location of the fence, wall, or hedge to the top of the fence, wall, or hedge. The top of a fence, wall, or hedge is the highest component of the fence, wall, or hedge, not including columns or posts. The depth of drainage channels under a fence, wall, or hedge shall not be included in the height measurement. The height of a fence, wall, or hedge built on berms or retaining walls shall include the height of the berm or wall.

(5) Fencing Maintained

Fences, walls or hedges shall be maintained in good structural or living condition. The owner is responsible for the repair or removal of a fence, wall or hedge, which constitutes a safety hazard, by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, or which constitutes a zoning violation.

(D) Height and Location Standards

The following requirements are applicable to all fences and walls except agricultural fences:

(1) Building Permit Required for Fences and Walls Over 6 feet in Height

A fence or wall over 6 feet in height requires a building permit from the Building Department.

(2) Fences and Walls 6 Feet in Height Considered Accessory Structure

A fence or wall over 6 feet in height is considered an accessory structure, and shall meet the accessory structure setback requirements of this Code. If no accessory structure setbacks are established by this Code, the principal structure setbacks are applicable.

(3) Fences and Walls Not to Disrupt Drainage

The fence and wall shall not be established where it would impede the drainage established by an approved drainage plan.

(4) Fences and Walls Not to Disrupt Use of Easement

The fence or wall shall not be established within an easement in a manner where the use of the easement is unnecessarily impeded.

(E) Specific Fence Standards for Residential ~~Uses~~Zoning Districts

The following requirements are applicable to fences ~~associated~~ within residential ~~uses~~zoning districts

(1) Opaque Fence Height Limited in Front Yard Setback Area

Fences or walls more than 25% opaque shall not exceed 30 inches in height when located within the front setback area.

(2) Opaque Fence Height Limited in Sight Triangle

An opaque fence, wall or hedge shall not exceed 30 inches in height when located within a sight distance triangle or as otherwise limited by Chapter 2 of the ECM.

(F) Specific Fence Standards for Non-Residential ~~Uses~~ Zoning Districts

The following requirements are applicable to fences ~~associated~~ within non-residential ~~uses~~zoning districts:

(1) 6 Feet High Fences Allowed

Fences not exceeding 6 feet in height may be placed anywhere on the lot or parcel except no fence, wall or hedge shall exceed 30 inches in height when located within a sight distance triangle or as otherwise limited by Chapter 2 of the ECM.

(2) Security Fencing

Security fencing may include 3 strands of wire on top of the fence. The wires are not included in the height measurement.

(3) Subject to Parking, Landscaping, and Screening Standards

Walls and fences shall conform to the parking, landscaping, and screening standards of this Code.

(G) Noise Barrier Fencing or Walls

Noise barrier fencing or walls shall be constructed in accordance with the provisions for noise barrier fencing in Chapter 8 and the ECM.

(H) Development Perimeter Fencing

If fencing is proposed around the perimeter of a subdivision or development, any fencing adjacent to a County road or State or federal highway shall be compatible with the existing land uses, topography, and landscaping in the immediate vicinity. Subdivision perimeter fencing shall be consistent in design and materials when established along or adjacent to common boundaries where other perimeter fencing exists.

(I) Retaining Wall Standards

(1) Building Permit Required for Retaining Walls Retaining Surcharge

A building permit is required for a retaining wall that retains a surcharge.

(2) Building Permit Required for Retaining Walls Over 4 Feet High

A building permit is required for a retaining wall greater than 4 feet in height.

(3) Retaining Walls 6 Feet High Considered Accessory Structure

A retaining wall over 6 feet in height is considered an accessory structure and shall meet the accessory structure setback requirements. If no accessory structure setbacks are established by this Code, the principal structure setbacks are applicable.

(4) Established Prior to Principal use

A retaining wall, when necessary for development, may be established prior to the principal use.

6.2.2. Landscape Requirements

(A) General

(1) Purpose

The landscape requirements are intended to provide uniform standards for the development and maintenance of the landscaping of private

property and public rights-of-way to achieve a balance between the individual right to develop and the general benefit and welfare of the community. The benefits to be achieved and the overall purposes of the landscaping required by this Section are: (1) to create a positive image and visual appeal both along the road which is highly visible and internal properties which provide a working, shopping and living environment; (2) to decrease the scale of parking lots, provide shade, and reduce heat, glare and noise; (3) to separate circulation systems; to soften and reduce the mass of buildings; to screen and buffer lower intensity uses from higher intensity uses and protect residential privacy; and (4) to create an overall pleasant and attractive surrounding.

(2) Applicability

(a) Applies to All Land Uses

The requirements of this Section shall apply to all uses except single-family or duplex dwellings and associated accessory uses which are not located within a PUD.

(b) New Use Established or Use Changed

Landscaping areas shall conform to this Section for a new building or use of previously vacant land, uses in an enlarged building, and all uses in a building when any use is changed that requires a change of occupancy to be approved by the Building Department or by the ~~DSD~~PCD.

(c) Effect of Increase in Building Area

A single or cumulative building addition (floor area) which exceeds 50% of the existing building's gross floor area shall require the entire building landscaping to comply with this Section. The existing building shall be considered the building as it existed on the effective date of this Section.

(3) Requirements of Section Supplemented by Manual

The requirements of this Section are supplemented by the Landscape and Water Conservation Manual.

(4) Authority of Director to ~~Accept~~ Approve Alternative Landscape Designs

The ~~DSD~~PCD Director may approve landscaping that does not meet the specific requirements of this Section provided the proposed landscaping meets the purpose of this Section, promotes the concepts contained in the Landscape and Water Conservation Manual, and provides an equivalent benefit to the community and environment as would otherwise be achieved by meeting the specific requirements of this Section. This authority shall not allow the ~~DSD~~PCD Director to eliminate the requirement for landscaping or to diminish the total landscaped area required by this Section.

(B) Roadway Landscaping Requirements

Roadway landscaping areas are required. A roadway landscaping area is located along the lot, parcel or tract frontage between the road right-of-way, easement, or tract boundary lines and any building or use.

(1) Minimum Depth of Roadway Landscaping Area

Table 6-1 lists the depth and number of trees required to be provided along any road in roadway landscaping area. Where the required setback is narrower than the depth of the required landscape area, the roadway landscaping area depth shall control. Unless otherwise approved by the ECM Administrator, the depth of roadway landscaping shall be measured from the property line. Where a roadway easement has been provided, the measurement shall be from the ROW or roadway easement. Where future ROW has been identified, the measurement should begin at the future ROW line in order avoid subsequent impairment of the landscaping.

Table 6-1. Roadway Landscaping Required by Roadway Classification.

Road Classification	Depth of Roadway Landscaping Area	Required Trees (Trees/Linear Foot of Frontage)
Expressway, Principal Arterial	25 feet	1 per 20 feet
Urban Interchange/Intersection	25 feet	NA
Minor Arterial	20 feet	1 per 25 feet
Non-Arterial[1]	10 feet	1 per 30 feet
[1]The required depth of the roadway landscape area shall be increased to 15 feet along a non-arterial road or public alley where the road or alley separates a non-residential use from a residential zoning district. The number of required trees shall be increased to 1 per 15 feet of linear frontage. A minimum of ⅓ of the trees shall be evergreen trees.		

(2) Location and Type of Trees in Roadway Landscaping Area

(a) Clustering Allowed

The roadway landscaping trees may be clustered along a road frontage. The clustering of evergreens may not be advisable in areas where the winter shade will cause unsafe conditions on an adjacent road.

(b) Type of Tree Limited

The types of roadway landscaping trees utilized shall be commonly known to grow in the Colorado Springs area and listed in the Landscape and Water Conservation.

(c) Exceeding Minimum Depth of Roadway Landscaping

The roadway landscaping trees shall be located within 50 feet of the road right-of-way, easement or tract boundary line and any building or use.

(d) Allowed in Right-of-Way if Approved

The roadway landscaping trees may be placed in a right-of-way if the right-of-way owner approves the placement and no conflicts exist, or will exist, with utility easements or any provider of utilities. Generally, trees are not allowed to be placed within any County right-of-way. Placing of the required roadway landscaping trees within the right-of-way shall not negate the requirement for the required roadway landscape area.

(3) Walls and Fences in Roadway Landscape Area

Walls and fences which are 25% or more opaque shall not exceed 3 feet in height when located within a required roadway landscaping area. Opaque walls and fences higher than 3 feet (such as noise barriers) shall be located outside of the roadway landscaping area to maintain a landscaped appearance along the road.

(C) Parking Lot Landscape Requirements

(1) Required Trees

A tree of a type suitable for parking lots shall be provided for every 15 parking spaces in parking lots with 15 or more parking spaces. The required trees may be clustered and shall be located in a manner which will divide and break up expanses of paving and long rows of parking and create a canopy effect over the parking lot.

(2) Parking Lot Islands

The most common method to satisfy the parking lot tree requirement is through the utilization of plant islands, fingers (areas open to the parking on three sides), and corners (open to the parking on two sides). Islands, fingers, and corners are required to be incorporated into all parking lots of 15 parking spaces or more in area. One island shall be provided for every 15 spaces. An island, finger or corner that is the same size as a parking space counts as a required island. An island the size of two spaces counts as two islands. Pedestrian entry spaces also count as an island, including the ramp. Parking lots containing fewer than 25 spaces shall not be required to provide islands.

Islands should be located at the end of center rows and at entry locations to direct traffic and minimize cutovers. Islands should generally be used and located to organize and enhance circulation, breakup continuous parking areas, and capture and direct stormwater. Islands protect vegetation from damage.

Small parking lots may utilize the perimeter area of the parking lot to satisfy the parking lot tree location requirement when there are not more than 2 rows of parking spaces and a single drive aisle. Where a parking lot is not required to be paved, no islands shall be required.

The tree types, minimum planter sizes and utilization of perimeter tree placement shall be consistent with the Landscape and Water Conservation Manual.

(3) Protection of Trees from Damage

Parking lot trees shall be protected from vehicle damage by curbs, planters or other barriers.

(4) Storm Drainage for Irrigation Encouraged

Parking lots designs that allow runoff to enter landscaped areas for irrigation and controlling non-point source pollution are encouraged.

(5) Required Parking Lot Screening

Parking lots shall be screened from view from adjacent roads and properties with differing land uses. The minimum height of the screening shall be 3 feet and may be accomplished by using berms and plantings. A minimum of ⅔ of the road frontage or common lot, parcel, or tract boundary, not counting intersecting driveways, shall be provided with the

required screening. The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas, such as grass berms and plantings beds, should be consistent with the Landscape and Water Conservation Manual.

Decorative walls or fences may be approved if the Director finds that:

- The wall or fence avoids a blank and monotonous appearance by architectural articulation and the planting of vines, shrubs or trees;
- The total use of berms or plantings is not physically feasible; or
- The wall or fence attractively compliments the use of berms or plantings.

(D) Required Buffer and Screen Areas

(1) Buffer Between Non-Residential and Residential Districts Separated by a Non-Arterial Road or Public Alley

(a) Where Required

A buffer is required along the road-side lot, parcel, or tract line of any non-residential use where the use is separated from a residential zoning district by a non-arterial road or public alley.

(b) Depth and Planting Standards

The required buffer shall be a minimum of 15 feet deep. The minimum number of trees in the buffer shall be one tree for every 15 feet of the road frontage. A minimum of ⅓ of the trees shall be evergreen trees.

(c) Opaque Fence or Wall Required

An opaque fence or wall with a minimum height of 6 feet is required along the inside edge of the required buffer when the area immediately adjacent to the 15 foot buffer is used as a service corridor for loading, maneuvering or storage. If the area is used for parking, the required parking lot screening shall be applicable.

(d) Minimum Ground Covering Required

The required buffer area shall require a ground cover at maturity with a minimum of 75% living plant materials. Bark, wood chips, rock, stone, or other natural landscape material shall be used as a non-living ground cover. Areas of a required buffer not covered in approved living ground cover material shall be covered in a approved non-living ground cover.

(2) Buffer Between Non-Residential, Multifamily Residential and Single-Family/Duplex Uses

(a) Where Required

A buffer is required in the following situations:

(i) Along the lot, parcel, or tract line on the non-residential use property between the non-residential use and a residential zoning district.

(ii) Along the lot, parcel, or tract line on the multifamily use property between the multifamily use and a single-family or duplex zoning district.

(iii) On the residential side of the project when use to use compatibility is a concern.

(b) Depth and Planting Standards

The required buffer shall be a minimum of 15 feet deep. The minimum number of trees in the buffer shall be one tree for every 25 feet of common lot, parcel, or tract line. A minimum of ⅓ of the trees shall be evergreen trees.

(c) Opaque Fencing or Wall Required

An opaque fence or wall with a minimum height of 6 feet is required along the lot, parcel, or tract line except where the adjacent single-family or duplex residential zoning district or use abuts a required roadway landscaping area.

(d) Minimum Ground Covering Required

Bark, wood chips, rock, stone, or other natural landscape material shall be used as a non-living ground cover. Areas of a required buffer not covered in approved non-living ground cover material shall be covered in a living plant material.

(E) Internal Landscaping

The following internal landscaping is required:

(1) Requirements for Multifamily Uses

The following internal landscaping is required for multifamily uses:

(a) Minimum Required Internal Landscaped Area

A minimum of 15% of the lot or parcel shall be landscaped.

(b) Minimum Number of Trees in Landscaped Area

A minimum of one tree shall be provided for every 500 square feet of required internal landscape area.

(2) Requirements for Non-Residential Uses

The following internal landscaping is required for non-residential uses.

(a) Minimum Required Internal Landscaped Area

A minimum of 5% of the lot or parcel shall be landscaped.

(b) Minimum Number of Trees in Landscaped Area

A minimum of one tree shall be provided for every 500 square feet of required internal landscape area.

(c) Trees Replaced by Shrubs

A maximum of ½ of the required trees may be substituted with shrubs adjacent to retail store fronts where the view of wall signs may be obstructed. At least 10 shrubs with a minimum container size of 5 gallons shall be provided for each tree that is replaced.

(3) Standards for Required Internal Landscape Area

(a) Intent of Internal Landscaping

The intent of the internal landscape area is to provide relief from structures and hard surfaces through the use of plantings.

(b) Location of Internal Landscape Areas

The required internal landscape areas shall be located in accordance with the following standards:

(i) Adjacent to those building elevations which form the major public views of the building from adjacent roads and properties and to the users of the project; or

(ii) At all pedestrian entrances, except service-only entries; or

(iii) Within a plaza or courtyard between buildings or portions of buildings,(plaza/courtyard is to have at least one side open); or

(iv) In an area provided to separate building areas from parking areas; or

(v) In a similar location which substantially conforms to the purpose of the required internal landscape area.

(c) Area Calculation

The entire lot, parcel or tract area shall be used as the basis for calculating required the internal landscape area. In instances where an entire lot, parcel, or tract is not used for the proposed development, the area used to calculate the required internal landscape area may be reduced by the ~~DSD~~PCD Director based on the area of the lot, parcel or tract actually being developed or used. The minimum landscaping requirements may apply to just that project area determined by the ~~DSD~~PCD Director to be developed or used. However, even if reductions in the lot area are approved, the ~~DSD~~PCD Director may require that additional landscaping (including buffering or screening) is provided at the first stage of a larger project

to mitigate environmental impacts or meet the intent of the landscaping provisions of the LDC.

(d) Paved Areas within an Internal Landscaped Area

Sidewalks which provide basic pedestrian circulation shall not count toward meeting the internal landscape area requirement. Paved plazas may be credited to a maximum of 50% of required internal landscaping area if such plazas have trees and other pedestrian-only amenities (benches, sculpture, decorative paving, etc.), are not vehicular, and provide visual relief to those building elevations which form the major public views of the project.

(F) Minimum Plant Sizes and Percentage of Live Ground Cover

(1) Landscape Material Specifications

Plant installation sizes and characteristics shall meet the following minimum requirements.

(a) Deciduous Shade Trees

Deciduous shade trees shall be 1½ inch caliper measured 6 inches above ground, balled and burlapped.

(b) Deciduous Ornamental Trees

Deciduous ornamental trees shall be 1 inch caliper measured 6 inches above ground, balled and burlapped.

(c) Evergreen Trees

Evergreen trees shall be 6 feet in height above ground, balled and burlapped, except Pinon Pine and upright junipers which shall be a minimum 4 feet in height.

(d) Evergreen and Deciduous Shrubs

Evergreen and deciduous shrubs, where required, shall be 5 gallon size.

(e) Ground Cover and Vines

Ground cover and vines shall be 1 size.

(2) Required Live Material Ground Cover

Unless otherwise allowed, required landscape areas shall include a minimum of 75% ground cover by living grass or other living plant materials at maturity. The remaining 25% of the required landscape area may be covered with bark, wood chips, rock, stone, or other landscape materials or may be designed as hard-surfaced pedestrian areas. The foliage crown of trees shall not be counted in meeting the ground cover requirement.

(G) Other Required Landscape Areas

(1) Other Areas to be Landscaped or Screened

(a) Zoning District Boundary Trees

A minimum of one tree shall be provided for every 30 feet of lot, parcel, or tract line coincident with a zoning district boundary line except if otherwise required to meet the buffering requirements between a non-residential use or multifamily use and residential zoning district.

(b) Refuse Areas Screened

Refuse collection areas, including trash bins, shall be screened from view from adjacent properties and roads by an opaque wall or fence, architectural elements, dense evergreen plantings with a minimum planting height of 6 feet, or berms with dense plantings creating an opaque appearance with a minimum height of 6 feet.

(c) Loading Docks and Other Vehicle Areas Screened

Loading docks, vehicle repair bays, and vehicle fueling areas shall be screened from view from adjacent roads by the use of plantings, berms, walls, fences, or other architectural elements.

(d) Landscaping Required Between Lot and Curb

Landscaping is required between the lot, parcel, or tract line and the required roadway landscaping area. Although this landscape area is located within the right-of-way, easement or tract, the adjacent lot, parcel or tract owner shall be responsible for maintenance. Xeric plantings shall be used in order to avoid the need to install an irrigation system within the right-of-way, easement or tract. Xeric plants may require supplemental irrigation to get them established or in times of extreme drought. Installation of an irrigation system requires approval of EPC~~PSD~~DPW or owner or right-of-way, easement or tract. Installation of plant materials may also require approval of the EPC~~PSD~~DPW or owner or right-of-way, easement or tract.

(e) Commercial Tower (Non-CMRS), CMRS Facility, Water Storage Tank, and Utility Facilities Landscape Requirements

(i) Site-Specific Landscaping Required

~~DSD~~PCD Director approval of site-specific landscaping is required for a commercial tower (non-CMRS), CMRS facility, water storage tank, and utility facilities. Installation of approved site-specific landscaping is required prior putting a commercial tower (no-CMRS), CMRS facility, water storage tank, or utility facility into operation. The site-specific landscaping is subject to the following standards:

- Rural and Remote Areas: In rural and remote areas landscaping, screening and erosion control measures shall be tailored to the nature and character of the area and the type of facility or structure contemplated. Site-specific landscaping shall, at a minimum, include revegetation of disturbed areas with materials indigenous to the site or otherwise adaptable.
- Urbanized and Developed Areas: In urbanized and developed areas, the site-specific landscaping shall address specific issues such as screening and visual impacts.

(f) Outside Storage Area Landscaping Requirements

(i) Site-Specific Landscaping Required

~~DSD~~PCD Director approval of site-specific landscaping is required for establishing an outside storage area. Installation of approved site-specific landscaping is required prior to utilizing an outside storage area.

(ii) Site-Specific Landscaping Standards

The site-specific landscaping shall reflect a combination of berms, shrubs, trees, fences or walls which will provide, at maturity, a minimum 6 foot high, 100% opaque screening for the outside storage area.

(2) Miscellaneous Requirements

(a) Flexibility in Design Allowed

The owner may select the types of and the planting spaces between the required trees. The types of trees selected shall be commonly known to grow in the Colorado Springs area and should be a type listed in the Landscape and Water Conservation Manual.

(b) Minimum Cover of Internal Landscape Area

The internal landscape area shall consist of a minimum of 50% ground cover by living plant materials. The Landscape and Water Conservation Manual provides guidance for planting near foundations.

(c) Plant Spacing

The planting spacing should accommodate the growth characteristics of the trees without adversely impacting structures, walks, or drives.

(d) Minimum Planting Size of Trees

The minimum planting size of trees shall comply with this Section and should comply with any additional specifications established in the Landscape and Water Conservation Manual.

(e) Existing Vegetation

Existing vegetation which meets the plant type requirements of the Landscape and Water Conservation Manual may be counted toward the internal landscape requirement.

(f) Limitations on Landscape Placement

(i) No Conflicts with Traffic or Sight Distance

Landscaping shall not conflict with traffic. Sight distance shall be maintained in accordance with the requirements of Chapter 2 of the ECM.

(ii) No Interference with Utilities and Fire Equipment

Landscaping shall not interfere with the general function, safety or acceptability of any gas, electric, water, sewer, telephone, or other utility easement or conflict with criteria established or adopted by a fire department. Landscaping shall not exceed 8 inches in height within 3 feet of a fire hydrant or other applicable fire department criteria.

(g) Limitations on Landscape Materials

(i) No Artificial Landscape Materials

The use of artificial vines, turf, or groundcovers as landscape material may be allowed on a case-by-case basis where live landscaping materials may be at risk or inappropriate due to land use, water availability, or location.

(ii) Elm Trees Prohibited

Trees of the Ulmus genus (elm) are prohibited in meeting the landscape requirements of this Code unless demonstrated to be Dutch Elm Disease resistant.

(iii) Use of Box Elder, Salix, and Populus Limited

Box Elder (Acer negundo) and all trees of the Salix and Populus genus, except Aspen (Populus Tremuloides), shall not be planted within 25 feet of a right-of-way.

(h) Calculating the Required Number of Plants

(i) Fractional Numbers Rounded to Closest Whole Number

Where a requirement results in a fractional number, the applicable requirement shall be the closest whole number (5.0 to 5.49 = 5; 5.5 to 5.9 = 6).

(ii) Greatest Landscape Standard Applies

Where more than one landscape requirements applies to the same use and landscape area, the greater requirements shall be met.

(iii) Landscaping Only Fulfills One Requirement

Landscaping necessary to fulfill one requirement shall not be counted in fulfilling a different landscape requirement.

(iv) Clumping Forms of Trees Encouraged

Clumps of tree, such as Hawthorn (Craetagus sp.), are encouraged instead of single-trunk trees. However, a clump of 3 or fewer trees shall be credited as only one of the required trees.

(i) Approval of Certificate of Occupancy or Use

All required landscaping shall be completed, and then inspected and approved by the ~~DSD~~PCD prior to the issuance of a Certificate of Occupancy by the Building Department or establishment of the use, except when financial assurance acceptable to the ~~DSD~~PCD Director guaranteeing the completion of the landscaping is provided. Plant substitutions require approval before issuance of a Certificate of Occupancy. Any request for a Certificate of Occupancy prior to the completion of the required landscaping shall include a written request explaining the circumstances why the landscaping cannot be installed, a cost estimate prepared by a qualified party, a landscape completion agreement signed by the owner, and financial assurance acceptable to the ~~DSD~~PCD Director. Inspection and certification by a landscape architect of compliance with this Section may be accepted at the discretion of the ~~DSD~~PCD Director.

(j) Compliance with Plans

The completed landscaping shall comply with the approved landscape plan and shall include the quantities, locations, species and sizes of plants and other landscape materials as represented on the approved landscape plan. Seeded landscape areas shall have no bare areas larger than 6 square inches after germination.

(k) Maintenance

(i) Owner Responsible

The owner is responsible for all regular and normal maintenance of required landscaping including weeding, irrigation, fertilizing, pruning and mowing.

(ii) Replacement of Dead or Damaged Materials

Replacement of dead, diseased or substantially damaged plant materials shall occur within 6 months from when the plant material died, or when the inspection determined the plant material was dead or damaged. Replacement shall be of the same or similar type as originally approved. An alternative type of species shall require approval by the ~~DSD~~PCD Director.

(iii) Maintenance Inspections

Maintenance inspections may be performed periodically. Failure to maintain the landscaping in compliance with the approval is considered a zoning violation.

6.2.3. Lighting

(A) General

(1) Purpose

The purpose of this Section is to address the physical effects of lighting, and the affect that lighting may have on the surrounding neighborhood.

(2) Applicability

This Section applies in all zoning districts, except as otherwise provided.

(3) Existing Lighting Allowed

Lighting existing at the time of adoption of this Section is not required to be modified to conform to this Section.

(4) Lighting Plan to Reflect Standards

A lighting plan for meeting these standards shall be submitted in accordance with submittal requirements for lighting plans described in the Procedures Manual.

(B) Design Standards and Requirements

(1) Limitations on Extent of Lighted Area

(a) Concealed or Shielded

Light fixtures shall be arranged and positioned such that the light sources are concealed and fully shielded so that no direct light or reflection creates a nuisance or hazard to any adjacent ownership or right-of-way and that up-light, spill-light, glare, and unnecessary diffusion are minimized. Light fixtures, except as otherwise permitted

herein, are required to be full cutoff as defined by the Illuminating Engineers Society of North America (IESNA) The cut-off angle of an exterior light source shall not exceed 90 degrees. Full cut-off fixtures may not be tilted or aimed in a manner that results in light distribution above the horizontal plane. The use of semi-cutoff or cutoff (as opposed to full cutoff) fixtures shall be permitted to illuminate areas other than parking lots provided the pole or mounting point is no more than 10' in height and the maximum lumen output does not exceed 1800 lumens per lamp.

(b) Non-Security Lighting During Non-Operating Hours

Exterior lighting, including but not limited to floodlights used to light a building façade, shall be reduced, activated by motion sensor devices, or turned off during the principal use's non-operating hours. Lighting necessary for security shall not be subject to this provision.

(c) Upward Lighting

Upward lighting for architectural, landscape or decorative purposes shall have at least 90% of the total distribution pattern within the profile of the illuminated structure or feature. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform, shall use a narrow cone of light that does not extend beyond the illuminated object.

(d) Maximum Levels

Maximum on-site lighting levels shall not exceed 10 foot candles, except for loading and unloading platforms where the maximum lighting level shall be 20 foot candles.

(e) Measurement at Property Boundaries

Light levels measured at the property line of the development site adjacent to residential property or public right of way shall not exceed 0.1 foot candles as a direct result of the on-site lighting. All light fixtures mounted within 15' of any residential property line of the site shall be classified as IES Type II or Type III, or fixture demonstrated to provide similar distribution patterns and shielding properties. Fixtures shall be fitted with "house side shield" reflectors on the sides facing the residential property line.

(f) Light Standards and Fixtures

The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site. Poles shall be anodized or coated to minimize glare from the light source. Bollards or similar light fixtures intended to illuminate landscape features or walkways are permitted which do not exceed 4 feet in height, 2 fixtures per bollard and 1 lamp not exceeding 900 lumens per fixture.

(g) Lamp Types

All outdoor light fixtures should utilize one of the following lamp types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), or high-pressure sodium. Alternatives are permitted provided they are demonstrated to be more effective for the proposed use based on IESNA recommendations.

(h) Canopy Lighting

Light fixtures associated with canopies, including but not limited to fuel islands, seasonal outdoor sales areas, shopping malls, theaters, bank drive-thrus, and hotels shall be full cutoff or mounted so that the bottom of the lens is recessed or flush with the bottom surface of the canopy. All light emitted from the canopy shall be substantially confined to the ground directly beneath the perimeter of the canopy. No lighting of any kind, except as permitted by sign regulations, shall be allowed on the top or sides of a canopy. The design of the canopy in terms of height above grade, and the spacing between the fixtures within the canopy, shall be such that the illuminance level under the canopy does not exceed 20 foot-candles.

(i) Consideration of Pilots

No lighting shall make it difficult for pilots to distinguish airport lights from others, result in glare in the eyes of the pilots using an aviation facility, impair visibility in the vicinity of an aviation facility or, in any way create a hazard or endanger the landing, take-off, or maneuvering of aircrafts intending to use an aviation facility.

(2) Height

No freestanding light fixtures shall be mounted higher than 15 feet, except parking lot light fixtures which shall be mounted no higher than 20 feet unless an alternative lighting proposal is approved in accordance with this Code.

(3) Requirements for Outdoor Recreation Facilities

Ball diamonds, playing fields, tennis courts, and other outdoor recreational uses shall be required to meet the following standards:

(a) Maximum Pole Height

The maximum light pole height shall be 80 feet.

(b) Cut-Off Angle

The cut-off angle from a lighting source that illuminates an outdoor recreational use may exceed 90 degrees provided the light source is shielded to prevent light and glare from spilling to adjacent residential properties.

(c) Hours of Use

Exterior lighting for an outdoor recreational use shall be extinguished no later than 10:00 p.m. or immediately after the conclusion of the final event of the day, whichever is later.

(C) Prohibited Lighting

The following are considered prohibited lighting:

- Site lighting that may be confused with warning, emergency or traffic signals, except as authorized by a federal, State or County government;
- Any fixed light not designed for roadway illumination that produces incident or reflected light that could be disturbing to the operator of a vehicle;
- Blinking, flashing or changing intensity lights and lighted signs, except for temporary holiday displays or lighting required by the FAA for air traffic control and warning purposes;
- The use of laser source light or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal;
- The private operation of searchlights; and
- The nighttime use of white lighting or white strobe lighting in communication tower lighting.

(D) Exemptions

The following lighting shall be exempt from the requirements of this Section:

- Holiday lights in the nature of decorations, clearly incidental and customary and commonly associated with any national, local or religious holiday. Holiday lights may be of any type, number, area, height, location, illumination or animation, except that they shall not produce incident or reflected light that may be confused with or construed as a traffic control device;
- Any lighting required by the FAA for air traffic control, navigation, and warning purposes;
- Emergency lighting as required by law enforcement or emergency services personnel to protect life or property provided the lighting is temporary and is discontinued immediately on abatement of the emergency necessitating the lighting;
- Road lighting;
- Construction lighting provided the lighting is temporary and is discontinued immediately on completion of the construction work;
- Traffic control signals and devices;
- Vehicular lights;
- Temporary use of low wattage or low voltage lighting for public festivals, celebrations, and carnivals approved as a temporary use; and
- Single family residential lighting, except as prohibited herein

(E) Alternative Lighting Proposal

(1) Authority

The ~~DSD~~PCD Director may approve a proposal that offers an alternative approach for meeting the standards of this Section. A lighting plan proposing an alternative approach for meeting these standards shall be submitted in accordance with submittal requirements for lighting plans described in the Procedures Manual. The plan shall clearly identify and discuss the modifications and alternatives proposed and describe how the proposal would better accomplish the purpose of this Section.

(2) Review Criteria

The ~~DSD~~PCD Director shall find the alternative lighting proposal accomplishes the purposes of this Section as well as a lighting plan that complies with this Section. The ~~DSD~~PCD Director will consider the extent to which the proposed design protects natural areas from light intrusion; how it enhances neighborhood continuity and connectivity; how it fosters non-vehicular access; and how it demonstrates innovative design and use of fixtures or other elements.

6.2.4. Motor Vehicles (moved to 6.2.11 Vehicle Storage)

6.2.5. Parking, Loading and Maneuvering Standards

(A) General

(1) Purpose

The parking, loading, and maneuvering standards are designed to provide safe and efficient parking and maneuvering, encourage good circulation, discourage parking on roads, and reduce the potential for a land use to impact an adjacent land use or road due to an insufficient number of parking spaces or poor parking lot design.

(2) Applicability

(a) Applies to All Land Uses

This Section applies in all zoning districts and to all uses, except as otherwise provided.

(b) New Use Established or Use Changed

Parking and maneuvering areas shall conform to this Section for a new building or use of previously vacant land, uses in an enlarged building, and all uses in a building when any use is changed and the newly approved use requires more parking than the previously approved use.

(c) Effect of Increase in Building Area

A single or cumulative building addition (floor area) which exceeds 50% of the existing building's gross floor area shall require the entire building parking to comply with this Section. The existing building

shall be considered the building as it existed on the effective date of this Section.

(3) Minimum Standards

The standards set forth in this Section are the minimum required.

(4) Relationship to ADA Requirements

The standards in this Section are not intended to incorporate the requirements of the Americans with Disabilities Act ("ADA") except as specifically referenced in Section 6.1.3 above. If there are any conflicts between this Section and the requirements of the ADA, then the most restrictive requirements shall govern. El Paso County is not responsible for enforcing the requirements of the ADA.

(B) General Parking Standards

(1) Parking Plan Review Criteria

Parking plans shall conform to the requirements in this Section including any change to an approved parking, loading and maneuvering plan.

(2) Location and Condition of Parking

(a) Use of the Public Rights-of-Way

Parking or maneuvering areas located within a public right-of-way may not be used to meet the parking or loading requirements of this Section.

(b) Parking to be Located on the Same Lot as Use Served

Parking and maneuvering areas shall be located on the same lot or parcel as the use it is intended to serve. Off-site event parking may be allowed as a temporary use. Parking or maneuvering areas may be located on adjacent lots or parcels provided a recorded document stipulates provisions for common use and maintenance. The use restriction shall run with the building or use which the parking is intended to serve. Required parking spaces for a use shall not be counted toward meeting the requirements of another use. Parking shall be located within 500 feet of the building or use which the parking is intended to serve.

(c) Right of Access to Shared Parking

Each lot or parcel of a commercial center and industrial development shall be required to provide an irrevocable access easement to the adjacent commercial or industrial properties unless each lot or parcel maintains a separate parking area.

(d) No Storage of Vehicles, Supplies, or Merchandise

Required parking areas shall not be used for storage of inoperable vehicles, supplies, merchandise, trash, or other items that would prohibit the parking space from being used on a day-to-day basis.

(3) Parking Continuously Provided

Parking and maneuvering areas that conform to the requirements of this Section shall be continuously provided for the use to which they relate so long as the use remains.

(4) Compliance with State and Federal Regulations

It shall be the owner's responsibility to comply with all other State and federal regulations including, but not limited to, ADA regulations.

(C) Parking Design Standards

The following design requirements shall apply to all parking areas except those serving single family and duplex uses.

(1) Circulation within Parking Areas

(a) Parking Areas Provided with Internal Circulation System

Parking areas shall be designed to provide circulation between drive aisles without the need to enter adjacent roads or other lots or parcels.

(b) Fire Department Review and Requirements

The internal circulation system shall be reviewed by the appropriate fire department. The fire department standard, if any, shall apply.

(2) Construction Requirements

(a) Parking Marked

Parking spaces and drive aisles shall be clearly marked.

(b) Lighting Standards

Lighting shall be provided in all parking areas with more than 5 spaces. Lighting shall meet the lighting standards contained in this Code.

(c) Paving of Parking Areas

(i) Water Quality Protection

Parking areas will be designed and maintained so that water quality is protected. Measures to prevent tracking or runoff of sediment and other contaminants shall be designed, implemented and maintained, as necessary, to protect water quality. Paving should be designed to reduce imperviousness. The provision of water quality Best Management Practices (BMPs) is encouraged. If water quality BMPs are not incorporated in the parking area construction, off-lot new development BMPs will be needed as described in Appendix I of the ECM.

(ii) Paving in Urban Areas

Parking areas for more than 5 cars shall be paved with asphalt, concrete, Modular Porous Block Pavement, or the equivalent in urban areas.

(iii) Paving in Rural Areas

Parking areas for more than 25 cars in rural areas shall be paved with asphalt, concrete, Modular Porous Block Pavement or the equivalent. Parking lots for less than 25 cars in rural areas may use rock or gravel or other measures instead of pavement to prevent erosion or runoff of sediment and other contaminants and tracking of sediment onto paved roadways. Any access to a paved County-maintained road shall be paved for a distance of at least 50 feet from the paved County road.

(iv) Paving of Unpaved Areas

The ~~DSD~~PCD Director may require the paving of nonconforming unpaved parking, maneuvering or access areas or automobile display or storage areas except parking serving a single-family residence. The requirement to pave shall be made after evaluating such factors as the character of the neighborhood and the amount and type of traffic generated by the use. The ~~DSD~~PCD Director shall find that the use of the unpaved area causes air pollution due to blowing dust or adverse drainage conditions or that the use constitutes a nuisance to the residents or occupants of the neighborhood.

(3) Access to Parking Spaces and Areas

(a) Access Location Approved by Owner of Road

The number and location of road access points shall be approved by the El Paso County ~~Public Services Department~~Department of Public Works (EPC~~PSD~~DPW), the Colorado Department of Transportation (CDOT), or other entity with responsibility for maintenance or ownership of the road and authority to review and approve the access locations.

(b) More than One Entrance to Parking

Each row of parking should be designed with more than one entrance and exit whenever possible.

(c) Spaces Served by Forward Travel

Parking spaces shall be designed to have forward travel to or from an adjacent drive aisle without moving another vehicle. Tandem parking spaces shall not count toward meeting the minimum number of parking spaces required by this Section.

(d) Spaces Design to Minimize Conflicts

Parking spaces shall be designed to minimize conflicts between vehicles entering the parking area and vehicles backing out of parking spaces.

(e) Access to Large Parking Lots

A drive aisle used to access parking spaces in parking areas with over 200 parking spaces shall be located at least 100 feet from the access point from any public road. This will help to minimize potential stacking problems resulting from vehicles entering the parking area. Signage shall give the entering vehicle the right-of-way where the entrance crosses a parking lot aisle.

(f) Parking Spaces Not Conflict with Lot Line

No parking space shall be allowed where the vehicle leaving the parking space must backup across a lot, parcel, or tract line.

(g) No Backing into Public Right-of-Way

No vehicle leaving a parking space shall be allowed to back into a public right-of-way.

(D) Parking Space Requirements

(1) Number of Parking Spaces

The number of parking spaces required is equal to the total number of standard parking spaces and disabled parking spaces required by this Section.

(a) Minimum Number of Standard Parking Spaces

(i) Number of Standard Parking Spaces Required

The minimum numbers of parking spaces to be provided for a use are listed in Table 6-2. Parking ratios are based on the gross floor area contained in the building, unless specifically listed. When the calculation of the number of required parking spaces results in a fraction, the calculation shall be the rounding to the closest whole number (ex. 5.0 to 5.49 = 5; 5.5 to 5.9 = 6).

Table 6-2. Minimum Parking Requirements by Use.

Use Type	Minimum Number of Parking Spaces
Adult Care, Group or Convalescent Home	1 per 3 beds
Agricultural Uses (Non-commercial)	Sufficient parking for all vehicles used by the operation
Amusement/Recreation Center Uses	
Amusement Park	30 spaces per acre
Arcade or Game Room	1 space per 300 square feet
Bowling Alley	4 spaces per lane
Commercial Stable	1 space per 5 stalls
Golf Course	4 spaces per hole
Golf Driving Range	1 space per tee position
Ice or Roller Skating Rink	1 space per 150 square feet
Miniature Golf Course	1 space per hole
Pool Hall	2 spaces per table
Race Track	1 space per 4 seats
Shooting Range	1 space per firing lane
Sports Field	22 spaces per field
Stadium or Sports Arena	1 space per 4 seats
Swimming Pool	1 space per 150 square feet of pool area
Tennis, Handball or Racquetball Facilities	3 spaces per court
Theater	1 space per 4 seats
Auditorium or similar place of Public Assembly	The greater of 1 space per four fixed seats or 1 space per 100 square feet of floor area
Automobile, Boat, Truck and R.V. Sales	1 space per 1,000 square feet of auto display area, plus 1 space per 450 square feet of office space
Bar/Lounge/Night Club, or Similar Place of Assembly	1 space per 3 seats, plus 1 space per employee on maximum shift
Beauty Parlor/Barber Shop	1 per 200 square feet
Bed and Breakfast Inn	1 space per 2 guest rooms or suites
Boarding House, Group Home, Dormitory, Fraternity, Sorority or other Communal Living (i.e., common kitchen facilities service the occupants)	0.5 space per bed
Bus or Train Depot	1 per 250 square feet of waiting area
Car Wash/Detail Shop/Quick Lube/Oil Change	1 space per bay or stall
Commercial Centers	
Less than 10 acres	1 per 250 square feet
10 acres or more	1 per 300 square feet
Commercial Stable	1 space per 5 stalls
Day Care/Pre-School	1 space per 400 square feet, plus 1 10'x 20' loading per 8 children licensed. Loading area shall have an unobstructed view.
Educational Institutions	
Elementary or Junior High	2 spaces per classroom
Senior High	1 space per 4 students
College/University	0.5 spaces per faculty member and employee, plus 1 space per 6 students.
Financial Institution	1 space per 250 square feet of floor area, plus 6 stacking per drive-up window
Funeral Home/Mortuary	1 space per 100 square feet of floor area open for public use, plus 1 space per 400 square feet of office area

Use Type	Minimum Number of Parking Spaces
Gasoline Filling Station/Repair Garage	1 space per employee on maximum shift, plus 3 spaces per bay or stall
Hospital	2 spaces per bed
Hotel/Motel	1 space per 1 quest room or suite, plus ½ space per 100 square feet of restaurant space and ½ space per 4 seats of meeting space
Industrial Use (e.g., construction batch plant, construction or contractor's yards, manufacturing, general light or heavy industry, meat packing and related industry)	1 space per 750 square feet
Library/Museum/Gallery	1 space per 400 square feet of floor area
Lumber Yard	1 per 300 square feet of floor area, plus 1 per 1,000 square feet of outdoor display area
Medical Offices	1 space per 200 square feet
Membership Clubs/ Health Club/Community Centers	1 space per 150 square feet of floor area
Mini-Storage	1 space per 100 units, plus 1 space per employee
Mobile/Manufactured Home Park	2 spaces per mobile/manufactured home, plus 1 guest parking space per 4 mobile/manufactured home spaces
Mobile/Manufactured Home Sales	1 space per 1000 square feet of display area
Nursery, Wholesale	5 spaces, plus 1 space per acre of indoor/outdoor display
Nursing home	1 space per 5 beds
Professional Offices	1 space per 200 square feet
Religious Institution	1 space per 4 seats
Research and Development	1 space per 400 square feet
Residential, Single-Family	
Single Family	2 spaces per dwelling unit
Single Family, Attached	2 spaces per dwelling unit, plus 1 guest space per 4 units.
Residential, Multi-Family	
Studio or Efficiency	1.1 spaces per dwelling unit
1 Bedroom	1.5 spaces per dwelling unit
2 Bedroom	1.7 spaces per dwelling unit
3 Bedroom	2.0 spaces per dwelling unit
Guest	1 space per 3 dwelling units
Elderly (60 or over)	0.6 spaces per dwelling unit
Restaurants	
Drive-in or Fast Food	1 space per 100 square feet
Sit down	1 space per 100 square feet
Outdoor Seating	1 space per 200 square feet
Retail, General (e.g., department store, grocery store, etc.)	1 space per 250 square feet of floor area, plus 6 stacking spaces per drive-up window
Retail, General (e.g., furniture or appliances)	1 space per 600 square feet
Vehicle Storage	3 spaces
Warehouse and Distribution	1 space per 1000 square feet

(ii) Parking for Uses Not Listed

The required parking spaces for a use which is not specifically listed in Table 6-2 shall be determined by the ~~DSD~~PCD Director based on the requirements of other similar uses.

(iii) Garage Spaces Counted Toward Fulfilling Requirements

The spaces within the garage are counted toward the required number of parking spaces for single family uses.

(iv) Parking Required to Accommodate All Uses on Lot

Where a lot or parcel has more than one use, or a primary use with accessory use, the total number of parking spaces required shall be the sum of the requirements for the various uses.

(v) Maximum Number of Compact Parking Spaces Allowed

A maximum of 30% of the number of required parking spaces may be compact parking spaces.

(vi) Alternative Parking Ratio Allowed

- Authority: The ~~DSD~~PCD Director may approve an alternative parking space ratio. The alternative parking space ratio may be substituted in whole or in part for a ratio meeting the standards of this Section.
- Review Criteria: To approve an alternative parking plan, the ~~DSD~~PCD Director shall find that the proposed alternative plan accomplishes the purposes of this Section equally well or better than a parking plan which complies with the standards of this Section. In reviewing the request for an alternative parking plan, the ~~DSD~~PCD Director shall take into account the number of employees, the number of expected customers or clients, the availability of shared parking (if any), or any other factors that may be unique to the applicant's request. The applicant has the burden of proof. Generally, a TIS containing a trip generation analysis, parking analysis study or by other relevant data describing the transportation impacts and clearly identifying and discussing the modifications and alternatives proposed and the ways in which the proposal will better accomplish the purpose of this Section than would a parking plan which complies with the standards of this Section should support the

request. The ~~DSD~~PCD Director shall not approve the alternative parking plan unless it: (1) Does not detract from continuity, connectivity and convenient proximity for pedestrians between or among existing or future uses in the vicinity; (2) Minimizes the visual and aesthetic impact along the public road by placing parking lots to the rear or along the side of buildings, to the maximum extent feasible; (3) Minimizes the visual and aesthetic impact on the surrounding neighborhood; (4) Creates no physical impact on any facilities serving alternative modes of transportation; (5) Creates no detrimental impact on natural areas or features; and (6) Maintains handicap parking ratios.

(b) Minimum Disabled Parking Space Requirements

Table 6-3 shows the number of additional parking spaces required to be provided as disabled spaces by parking area size. Spaces shall meet the minimum standards for disabled spaces.

Table 6-3. Disabled Parking Space Requirements.

Number of Standard Parking Spaces Required	Additional Number of Disabled Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

(2) Dimensions of Standard Parking Spaces and Aisles

(a) Minimum Standards Parking Space and Aisle Dimensions

Standard parking spaces and aisles shall meet the dimensional requirements in Table 6-4.

Table 6-4. Parking Space Dimensional Requirements.

Parking Angle[1]	Width of Space	Depth[2] of Space	Aisle Width Two-Way	Aisle Width One-Way	Depth of Interlocking Spaces	Overhang[3]
0°	9 feet	22 feet	20 feet	12 feet	18 fete	0 feet
45°	9 feet	19 feet	20 feet	12 feet	32 feet	1½ feet
60°	9 feet	20 feet	20 feet	16 feet	35½ feet	2 feet
75°	9 feet	19½ feet	22 feet	18 feet	37 feet	2 feet
90°	9 feet	18 feet	24 feet	24 feet	36 feet	2 feet

[1]Parking angle is measured as the angle defined by the line of travel of a drive aisle and the line of the longest side of a parking space.
[2]Unless otherwise depicted above, the minimum drive-aisle shall be a minimum of 24 feet. In the instance where the fire department standards are greater, the fire department standards shall be applied.
[3]Overhang may not protrude over pedestrian paths, walkways, sidewalks or otherwise block.

(b) Minimum Compact Parking Spaces and Aisles Dimensions

Compact parking spaces and aisles shall meet the dimensional requirements in Table 6-5.

Table 6-5. Dimensional Requirements for Compact Spaces.

Parking Angle[1]	Width of Space	Depth of Space	Aisle Width Two-Way	Aisle Width One-Way	Depth of Interlocking Spaces	Overhang[2]
0°	8 feet	20 feet	20 feet	12 feet	16 feet	0 feet
45°	8 feet	19 feet	20 feet	12 feet	28½ feet	1½ feet
60°	8 feet	18 feet	20 feet	16 feet	31½ feet	2 feet
75°	8 feet	17½ feet	22 feet	18 feet	33 feet	2 feet
90°	8 feet	15 feet	24 feet	24 feet	32 feet	2 feet

[1]Parking angle is measured as the angle defined by the line of travel of a drive aisle and the line of the longest side of a parking space.
[2]Overhang may not protrude over pedestrian paths, walkways, sidewalks or otherwise block.

(c) Minimum Disabled Parking Space Dimensions

Pedestrian access aisles for loading and unloading shall be provided adjacent to a disabled parking space. The pedestrian access aisle shall be a minimum of 5 feet wide. A minimum of one in every 8 disabled parking spaces shall be designated "Van Accessible" and served by a pedestrian access aisle a minimum of 8 feet wide. All parking areas shall provide at least one van accessible space. As an alternative, required disabled parking spaces may be provided in conformance with ADA Guidelines for Universal Parking Design or other acceptable ADA standard.

(E) Truck Loading and Turnaround Areas

(1) Truck Loading and Turnaround Areas Required

Loading and turnaround areas shall be provided for all non-residential buildings of 3,000 square feet or greater. Maneuvering or access areas may be located on adjacent lots or parcels as long as a recorded document is provided for common use and maintenance.

(2) Design to Minimize Noise Impacts

Truck loading and turnaround areas shall be designed and located to minimize any potential noise impacts to adjacent residential properties.

(3) No Obstruction of Parking Lot Aisles

Loading areas shall be designed so that a maneuvering or parked delivery vehicle will not obstruct parking lot aisles used by employees or customers.

(4) Onsite Turnaround Area Required

An onsite turnaround area shall be provided for all loading areas. Only turning radii found to be acceptable by the Institute of Traffic Engineers or determined to be acceptable by the ECM Administrator shall be acceptable for compliance with this requirement.

(5) Loading Areas Screened

Loading areas shall be screened from view from a public road or residential areas. Screening shall meet the screening requirements of this Code.

(6) Loading Area to Meet Requirements of Table 6-6

Loading areas shall be provided for each non-residential building based on the requirements in Table 6-6.

Table 6-6. Truck Loading Areas.

Gross Building Area	Number of Loading Spaces	Dimensions of Loading Space	Vertical Clearance	Maneuvering Aisle Width
Up to 3,000 sq. ft.	0	NA	NA	NA
3,001 to 20,000 sq. ft.	1	14 feet by 18 feet	14 feet	24 feet
20,001 to 80,000 sq. ft.	2	14 feet by 40 feet	14 feet	40 feet
80,001 to 140,000 sq. ft.	3	14 feet by 40 feet	14 feet	40 feet
For each additional 100,000 sq. ft.	1	14 feet by 40 feet	14 feet	40 feet

(F) Bicycle Facilities

Commercial, industrial, and multi-family residential uses shall provide bicycle facilities to meet the following standards:

(1) Bicycle Parking

The minimum number of bicycle parking spaces shall equal 5% of the number of required parking spaces. At least one bicycle parking space shall be provided.

(2) Location

For convenience and security, bicycle parking facilities shall: (1) be located near building entrances, (2) be visible from the land uses they serve and (3) not be located in remote automobile parking areas. Bicycle parking facilities shall not be located to impede pedestrian or automobile traffic flow nor cause damage to plant material from bicycle traffic.

(3) Design

Bicycle parking facilities shall be provided with bicycle racks and be designed to allow the bicycle to be securely locked to the bicycle rack. The bicycle rack shall be of permanent construction such as heavy gauge tubular steel with angle bars permanently attached to the pavement. Bicycle parking facilities shall be at least 2 feet in width and 5½ feet in length, with additional back-out or maneuvering space of at least 5 feet.

(G) Drive-Through Design Requirements

(1) Design of Stacking Lanes for Drive-Through Facilities

Automobile stacking lanes for drive-through uses shall be provided in accordance with the following standards:

(a) Minimum Width of Drive-Through Lane

The minimum width of a drive-through lane shall be 8 feet.

(b) Stacking Lanes Not Intersect Pedestrian Access

Required drive-through stacking lanes shall not intersect with pedestrian access to a building entrance intended for the public.

(c) Drive-Through Lanes Stripped

Each drive-through lane shall be striped, marked or otherwise distinctly delineated.

(d) Driveways Provided for Stacking Lanes

Driveways used as stacking lanes shall conform to the requirements of this Code and the ECM.

(2) Stacking and Additional Requirements for Specific Land Uses

(a) Restaurants

Restaurants shall provide 90 feet of stacking behind each order board and pick-up window, or if the functions are separated, 30 feet behind an order

board and 60 feet behind the pick-up window. The stacking may wrap around the building.

(b) Financial Institutions

Financial institutions and financial transaction facilities (i.e. bill payment windows) shall provide 70 feet of stacking behind each window or transaction facility. Where more than one window or transaction facility is provided, the stacking lanes may be distributed in 20 foot increments among the various lanes as long as no lane is less than 30 feet in length.

(c) Car Wash, Quick-Lube and Oil-Change Uses

A car wash, quick-lube, and oil-change bay shall provide 40 feet of stacking behind each bay or stall. One car drying area shall be required for each bay or stall.

(d) Mini-Warehouse Facilities

Driving aisles for mini-warehouse or self-storage facilities shall be a minimum of 24 feet wide. A driving aisle where access to storage units is only on one side of the aisle may be 20 feet in width. Parking shall be required for any accessory use (except office, caretaker's unit) on the lot, parcel, or tract based on the standards for the accessory use plus a minimum of 3 guest spaces for customers of the storage unit.

(e) Display or Storage Areas

Required parking, maneuvering, or access areas for automobile sales uses shall not be used for display or storage of automobiles. Display or storage areas shall be delineated on required plans.

(f) Boat or Recreational Vehicle Parking

Display and storage areas shall be on a surface approved the applicable fire department.

6.2.6. Pre-Development Site Grading

(A) Pre-Development Site Grading Allowed

Pre-development site grading may occur after issuance of a construction permit by the ECM Administrator in accordance with this Section and the requirements of the ECM.

(B) Pre-Development Site Grading Requirements

A construction permit for pre-development site grading will only be issued if the following requirements are met, in addition to those required in the ECM:

(1) BoCC Approved Issuance

The BoCC shall approve the preliminary plan for the subject property and authorize the ECM Administrator to issue a construction permit for pre-development site grading, which approval shall include authorization for the ECM Administrator to accept the construction sureties required by the ECM.

(2) Grading to Conform to this Code and ECM

Pre-development site grading shall conform to the grading and erosion and sediment control requirements of this Code and the ECM, except as specifically modified by this Section.

(3) ESQCP Required Prior to Issuance of a Construction Permit

The ECM Administrator shall issue an ESQCP in accordance with the requirements of the ECM prior to the issuance of a construction permit for pre-development site grading. A construction permit for pre-development site grading shall meet all requirements of the ECM for issuance of an ESQCP.

(4) Where Drainage Structures Required

Detailed engineering information meeting the requirements of the ECM will be required when drainage structures or facilities are required to be constructed as part of the pre-development site grading. All information required in a final drainage report for these facilities shall be provided to the ECM Administrator and approved before the issuance of a construction permit will be authorized. In addition, construction documents for all drainage facilities or structures to be constructed as part of the proposal for pre-development site grading shall be provided for review and approval. The construction permit application shall demonstrate to the satisfaction of the ECM Administrator that no impact will occur to any drainageway, including property downstream of the activity.

(5) Acknowledgement Form Required

A Pre-Development Site Grading Acknowledgment Form shall be completed and submitted with the construction permit application. Approval and issuance of the construction permit and ESQCP for pre-development site grading does not guarantee or create a right, or right of expectation that the BoCC will approve the final plat for the subject property. The Pre-Development Site Grading Acknowledgment Form acknowledges that signatory will proceed to perform grading under the construction permit and ESQCP at signatory's sole risk.

(6) Financial Assurance Required

Construction and stormwater Financial Assurance for the benefit of the BoCC for the cost of the erosion control measures and noxious weed management plan requirements shall be provided in conformance with this Code and the ECM.

(7) Compliance with State and Federal Requirements

The applicant is responsible to obtain and comply with all other applicable federal, State, or local rules and regulations that may be required prior to commencing pre-development site grading, including, but not limited to, Section 404 permits, floodplain development permits, dust permits, permits under the federal Clean Water Act, and Section 7 or Section 10 permits under the Endangered Species Act from the U.S. Fish & Wildlife Service.

(8) Financial Assurance Combined with Subdivision Construction Financial Assurance

The construction and stormwater Financial Assurance for pre-development site grading may be consolidated with the construction Financial Assurance for the common subdivision and public improvements when a final plat is approved by the BoCC.

(9) Release of Financial Assurance

Construction and stormwater Financial Assurance shall be released in full or in part in accordance with procedures set forth in the ECM.

6.2.7. Operational Standards

(A) General

(1) Purpose

These operational standards are designed to limit or eliminate conditions that may negatively impact the environment and use of surrounding properties.

(2) Applicability

These operational standards shall apply in all zoning districts and to all uses of lands, except as modified by this Code.

(B) Dust and Debris Control

(1) Prohibition of Blowing Dust and Debris

The blowing of dirt, sand, or debris from an ownership to an abutting or nearby ownership, or right-of-way is not allowed. Agricultural operations in Agricultural, Forestry and Rural Residential zoning districts are exempt from this prohibition.

(2) Prevention of Blowing Dust and Debris

The prevention of blowing of dirt, sand, or debris may be accomplished by oiling, placement of base course or asphalt, application of calcium chloride, watering and wetting of the area, installation of a snow fence or barrier, chiseling the ground, or other effective means.

(3) Mud or Dirt Carryout

Construction activities shall include mechanisms to limit or reduce mud or dirt carryout from the construction site, in accordance with the provisions of the ECM and the requirements of the EPCPH.

(4) Structure Demolition

Demolition of structures shall be performed to prevent or reduce blowing debris from an ownership to an abutting or nearby ownership, or right-of-way. Demolition permits may be required by the Building Department and the EPCPH

(C) Electromagnetic and Electrical Interference

The operation of equipment shall not adversely affect the operation of any off-premise electrical, radio or television equipment. No use may be made of land or water which creates interference with navigational signals for radio communications between an aviation facility and aircraft.

(D) Humidity, Heat, Glare, Smoke, or Radiation

Uses shall not emit offensive, harmful, hazardous, or annoying amounts of heat, glare, humidity, smoke, or radiation at any point on any boundary line of the ownership within which the use is located.

(E) Noise

Noise producing activity is regulated by Ordinance 02-1: Ordinance Concerning Noise Level in Unincorporated El Paso County. Uses and activities shall be conducted in conformance with Ordinance 02-1 including, but not limited to, the following standards.

(1) Maximum Permissible Noise Levels

Sound levels shall be measured in dBA as provided for in Section 6 of Ordinance 02-1. During the time periods indicated in Table 6-7, the sound levels allowed by Ordinance 02-1 shall be observed.

Table 6-7. Maximum Noise Standards by Land Use Type.

Land Use	Maximum Noise [dBA] 7:00 A.M. - 7:00 P.M.	Maximum Noise [dBA] 7:00 P.M. Next 7:00 A.M.
Residential or Commercial Area	55	50
Industrial area or Construction Activities[1]	80	75
Non-specified Areas	55	50
[1] Construction activities are subject to the sound level allowed for industrial areas during construction conducted pursuant to a valid building or construction. At other times, construction activities are subject to the sound level specified.		

(F) Vibration

Uses and activities shall be conducted so ground vibration inherently and recurrently generated is not perceptible without instruments at any point along the boundary line of the ownership on which the use or activity is conducted. Those activities typically performed as part of an agricultural operation in an agricultural or forestry zoning district shall be exempt from the requirements of this Section.

(G) Odor

No uses shall be conducted that creates a malodorous condition, except those odors which may typically be associated with an agricultural operation in an agricultural, forestry or rural residential zoning district.

6.2.8. Maintenance Plans

(A) General

(1) Purpose

Maintenance plans are intended to provide for the long term maintenance and care of roads, common areas, recreational and park areas or facilities, open space, bikeways, trails, paths, malls, parking areas, sanitation facilities, common sewerage or water system, permanent BMPs, or private detention ponds where responsibility for operation and maintenance is shared by 2 or more dwelling units, ownerships, businesses, or uses, or any other similar facility.

(2) Applicability

An applicant for a development which includes non-governmental maintenance and care of roads, common areas, recreational and park areas, or facilities, open space, bikeways, trails, paths, malls, parking areas, sanitation facilities, common sewerage or water system by two or more dwelling units or uses, private detention ponds, permanent BMPs, or any other similar type of facility and tracts that are not building sites, is responsible for preparing a maintenance plan as part of the development application for the project.

(B) Standards

Maintenance plans shall meet the following requirements:

(1) Address All Required Elements

The maintenance plan shall address all the required elements that will not be maintained by a governmental or quasi-governmental agency.

(2) Best Available Maintenance Practices

The maintenance plan shall provide for best available practices to maintain the lot, parcel, or tract for the use specified in the maintenance plan.

(3) Mechanism for Adequate Maintenance Funding

An individual or organization shall be designated to provide an adequate funding mechanism to ensure maintenance and annual monitoring of the lot, parcel, or tract for the life of the project.

(4) County Informed of Responsible Party

An adequate mechanism shall be included in the maintenance plan to keep the County informed of any changes in ownership or responsibility for the maintenance of the lot, parcel, or tract.

(5) Contingency Plan

An adequate contingency plan shall be provide for the long term maintenance of the site if irrigation water is removed from the site or the use of the site changes significantly.

(C) Recording Maintenance Plans

All BMP Maintenance Plans shall be recorded in the records of the El Paso County Clerk and Recorder's Office.

6.2.9. Signs, Off-Premise

(A) General Provisions

(1) Purpose

The purpose of this Section is to limit the impact of billboards on the community; to improve the appearance of entryways into the community such as Interstate 25, Highway 24, Highway 24 Bypass and Municipal Airport entryway corridors; to insure compatibility between billboards and adjacent land uses, especially residential uses; to limit the impact that billboards have on sign clutter in the community; to provide for the dispersion of billboards; to promote transportation safety; and to provide for the visual enjoyment of the

community's natural setting. The County recognizes that billboards are a necessary and appropriate advertising medium, and that there are acceptable and viable locations for billboards within the community.

(2) Applicability

Off premise signs erected, replaced, reconstructed, expanded, or relocated shall conform to the provisions of this Section and with all other pertinent laws or ordinances.

(3) Exemptions

This section shall not pertain to State-approved signs within State highway rights-of-way.

(4) Sign and Building Permit Required

No off-premise sign shall be erected, re-erected, relocated, replaced, expanded or altered, without first securing a sign permit from the ~~DSD~~PCD and a building permit from the Building Department.

(5) Special Use Required for Mechanical or Electronic Message Display (Change in Display Type)

Any change in display type from a static poster display to mechanical or electronic message display will require approval the same as if the sign was a new sign.

(6) Alteration of Existing Signs without Required Permits

Alteration of an existing sign other than minor modifications which do not affect sign location, face area, height, or display type, without the required permits will result in the loss of any existing non-conforming status and may extinguish all rights, including the right to receive a billboard credit.

(7) Increase in Sign Area

Any expansion of sign size, area, or square footage will require approval the same as if the sign was a new sign.

(8) Specification Information Required

Any new off-premise sign utilizing lighting or which is an EMD or MMD shall submit lighting and/or luminance specification information from the sign manufacturer to demonstrate compliance with the lighting standards of the code.

(B) Development Standards

(1) Sign Area

No billboard, except for existing billboards, shall exceed 245 square feet area. A new billboard may exceed 245 square feet only if a billboard credit for a larger size is being used, and then may only be increased up to the maximum size allowed by the billboard credit.

(2) Height

The height of a billboard shall not exceed the maximum height allowed in the applicable zoning district.

(3) Permitted Display Types and Standards

(a) Poster Copy

No sign permit or approval is required to change the message for a poster copy sign. Only one message is allowed per sign face.

(b) Mechanical message (Trifold)

(i) Message hold time

Each message on an electronic message display shall be displayed for at least four (4) to eight (8) seconds.

(ii) Transition methods

The transition between messages shall be instantaneous. Transitional effects and other transitional schemes are prohibited.

(iii) Transition duration

The interval between messages shall be instantaneous.

(iv) Brightness/Lighting

Lighting on all off premise mechanical message displays shall adhere to the lighting standards of the Code.

(v) Malfunction Default Status

In the event a malfunction occurs, all mechanical message displays shall shut down any lights and terminate movement of panels or hold panels in one position.

(c) Electronic Message Display (EMD)

(i) Special Use Required

Any use of EMD shall require approval of a special use permit. Conversion of existing static display to EMD may be approved administratively, Conversion of existing static displays within any restricted corridor are not eligible for administrative approval. New billboards proposing EMD shall require Board approval.

(ii) Animated with Special Use Approval

Animated or other video messages require Board of County Commissioners authorization through the standard special use process. Animation shall not be authorized administratively.

(iii) Message hold time

Each message on an electronic message display shall be displayed for at least four (4) to eight (8) seconds.

(iv) Transition methods

The transition between messages display shall be instantaneous. Transitional effects shall be limited to instant (slideshow), fade, dissolve, circle out, diamond out, jaws, zoom, wipe left, wipe right, scroll, and travel.

(v) Transition duration

The interval between messages shall be instantaneous.

(vi) Brightness (to include auto dimming)

Unless otherwise varied by the special use, all electronic message displays shall be equipped with technology that automatically dims the electronic message displays according to ambient light conditions to a luminance, or nighttime brightness level of up to 500 NIT, which will result in a reduction of display brightness between 5% and 25% depending on the resolution of the sign.

Documentation shall be provided from the sign manufacturer which verifies compliance with auto dimming and brightness requirements.

(vii) Malfunction Default and Repair Status

All electronic message displays shall be equipped with the ability to be shut off within 24 hours that a malfunction occurs, including the demonstration of prohibited transition methods. Signs under repair shall also be shut off.

(4) Setbacks and Location Standards

(a) Setbacks

Billboards shall maintain the minimum setbacks of the zoning district in which the billboard is located. Where a zero lot line setback is allowed for buildings, the setback for a billboard shall not be less than 10 feet.

(b) Location Standards

(i) Not Placed on Roof

No billboard shall be placed on the roof of any structure.

(ii) Not Cantilevered Over Any Structure

No billboard shall cantilever over any building or structure.

(iii) Restricted Corridors

No billboard shall be allowed within 660 feet of the nearest edge of the right-of-way along any of the following restricted

corridors except for the removal and replacement of nonconforming billboards within the same corridor. Billboards with faces which are not visible from the restricted corridors are exempt from this requirement. The restricted corridors include: Interstate 25, State Highway 24, State Highway 24 Bypass, State Highway 115, State Highway 105, Drennan Road (from Hancock to the Municipal Airport).

(iv) Additional Restrictions Along State Highways

Signs along highways as defined in C.R.S. §§43-1-203, et seq. and 43-2-101(1) and signs along the Interstate system of highways as defined in C.R.S. §43-2-101(2), are prohibited unless the signs conform with all of the requirements of the Outdoor Advertising Act, C.R.S. §§43-1-401, et seq., and any rules and regulations promulgated by the CDOT pursuant thereto and any applicable federal law and rules and regulations.

(c) Spacing Standards

The following spacing criteria shall apply to billboards:

(i) Billboards Spaced 1,000 Feet Apart

No billboard shall be spaced less than 1,000 feet from any other billboard, except in the I-3 Zoning district, where the spacing shall be no less than 400 feet.

(ii) Spacing Measured Along Road Centerline

The spacing between billboards shall be measured horizontally along the center line of the road to which the sign is directed.

(iii) Billboards within 250 Feet of Intersection

Only one billboard shall be placed within a radius of 250 feet of the center point of any road intersection.

(iv) 500 Feet from Residential Zoning Districts

No billboard shall be placed within 500 feet of any residential zoning district. The 500 foot distance shall be measured as a radius from the proposed billboard location to the nearest boundary of the residential zoning district.

(d) Billboard to Meet On-Premise Standards

Billboards shall meet the general sign standards applicable for on-premise signs, except as otherwise provided for by this Section.

(e) Name of Owner to be Placed on Sign

The name of the person owning, leasing, or controlling any billboard shall be placed in a conspicuous place on the billboard structure.

(C) Downsizing and Replacement of Nonconforming Billboards

(1) Size Reductions by January 1, 1998

Existing billboard faces in all locations were to be reduced to the following sizes by January 1, 1998:

- Billboards with face areas greater than 400 square feet shall be replaced at a size not to exceed 400 square feet in face area.
- Billboards with face areas between 377 and 245 square feet shall be replaced at a size not to exceed to 245 square feet.
- Billboards of less than 245 square feet shall be restricted to their current size in the event they are relocated or replaced.

(2) Replacement at Current Location

Nonconforming billboards may be replaced at their current location size, and orientation with a new billboard face which meets the face area requirements of this Code with only a sign permit required.

(3) Exception for 378-400 Square Foot Billboards

Billboards between 378 square feet and 400 square feet are not required to be downsized.

(4) Failure to Comply with Downsizing Requirement

Billboards which have not downsized in accordance with this provision shall be considered in violation of this Code and shall be brought into conformance with the downsizing provisions immediately on notice by ~~DSD~~PCD.

(D) Cap and Replacement/Billboard Credits

(1) Billboard Cap

There shall be a limit of 99 total billboard locations within unincorporated El Paso County. Annexation of an existing billboard shall reduce the billboard cap only if the annexing municipality does not count that billboard towards a billboard cap.

(2) Permits for Billboard Limited to Holders of Billboard Credit

Sign and building permits to erect a billboard in excess of the cap shall only be issued to those persons possessing a billboard credit.

(3) Billboard Credit

Billboard credits shall be issued by the County to those billboard owners requesting a credit who have removed a previously existing, lawfully erected billboard existing as of March 13, 1995. It shall be the responsibility of the applicant to request the credit within 1 year of removal and show the ownership, location and date of removal of the billboard.

(4) Credit Basis

Billboard credits shall be issued on a structure-for-structure, face-to-face, size to size replacement basis. For example, if the removed billboard contained only one face, its replacement would be allowed only one face. No credit shall be granted for the partial removal of faces or for the removal of billboard faces which are less than 84 square feet.

(5) Credit Utilization

A billboard credit may only be used in a location which meets all standards of this Code. Within a restricted corridor any credit utilized must be from the same corridor. A credit from a restricted corridor may be utilized outside restricted corridor.

(6) Transfer of Credits

Credits may be transferred between parties through legal means.

6.2.10. Signs, On-Premise

(A) General Provisions

(1) Purpose

This section provides for the protection of the public health, safety, and welfare by establishing a system of on-premise sign controls, regulating the size, height, number, design, materials, construction, location, lighting and maintenance of on-premise signs and sign structures in order to accomplish the following:

- Allow for reasonable and equitable identification of businesses and properties;
- Protect and enhance the visual and aesthetic character of residential neighborhoods, business areas, and all zoning districts by prohibiting the visual clutter of obtrusive and incompatible signs;
- Encourage signs which are well designed, architecturally integrated and compatible with the buildings of which they are a part;
- Provide fair and equal treatment of all sign users; and
- Promote motorist and pedestrian safety by insuring that official traffic control devices can be easily seen, that adequate sight distance is maintained and that visual impacts are limited to reduce hazards, by prohibiting nearby visual obstructions such as blinking signs, an excessive number of signs, excessive copy on signs, or signs resembling official signs.

(2) Applicability

On premise signs erected, replaced, reconstructed, expanded, or relocated shall conform to the provisions of this Section and with all other pertinent laws or ordinances.

(3) Exemptions

The following signs are exempt from the requirement to obtain a sign permit provided the sign complies with the restrictions and performance standards identified. The following signs shall further conform to the site distance requirements in Chapter 2 of the ECM, and the signs shall be located entirely on private property unless otherwise provided.

(a) Holiday Signs and Lighting

Temporary signs, lighting and decorations customary for special holidays, such as Independence Day and Christmas, erected entirely on private

property are exempt from the requirements of this Section provided they are not used to advertise the name of a product, service, or business.

(b) Real Estate Signs

(i) Temporary Real Estate Signs

Temporary real estate signs offering the premises for sale, lease or rent on which the sign is located are exempt from the requirements of this Section provided there is only one sign per frontage, the sign area does not exceed 32 square feet, and the sign does not exceed 8 feet in height.

(ii) Portable Real Estate Directional Signs

Portable real estate directional signs are exempt from the requirements of this Section, provided they are used only when the real estate company representative, agent or seller is in attendance at the property for sale provided they do not exceed 8 square feet, they do not exceed 4 feet in height.

(c) Traffic Signs

Traffic signs or markings, for the purpose of regulating, warning, or guiding traffic, whether on public or private property are exempt from the requirement of this Section provided the signs and markings comply with the Manual on Uniform Traffic Control Devices for Streets and Highways, current edition, published by the U.S. Department of Transportation, Federal Highway Administration. Traffic signs may be located on public property when approved by the owner of the lot, parcel, or tract.

(d) Bulletin Boards

Bulletin boards not over 12 square feet in area for each public, charitable or religious institution is exempt from the requirements of this Section provided the bulletin board is located on the premises of the institution and does not exceed 8 feet in height.

(e) Temporary Construction Project Signs

Temporary construction signs denoting the architect, engineer or contractor for a project under construction are exempt from the requirements of this Section provided there is only one 1 sign per frontage, the sign area does not exceed 32 square feet, the sign does not exceed 8 feet in height, and the sign is removed within 10 days following completion of construction.

(f) Memorial Signs

Memorial signs or tablets, names of buildings, and dates of erection, when cut into any masonry surface or when constructed of bronze or other non-combustible material are exempt from the requirements of this Section provided the sign does not exceed 16 square feet in area.

(g) Utility Signs

Signs of utilities indicating danger and service or safety information are exempt from the requirements of this Section.

(h) Political Signs

Political signs, posters, or bills not exceeding 6 square feet in area in any residential zoning district or 32 square feet in area when located in any non-residential zoning district or on a lot or parcel 5 acres of more in area are exempt from the requirements of this Section provided the political signs are located on private property with the consent of the property owner or the lawful occupant, the signs do not exceed 8 feet in height, and the signs are removed within 10 days following an election, except that the successful candidates of a primary election may keep their signs on display until 10 days after the general election, at which time they shall be promptly removed.

(i) Official Signs

Official signs erected and maintained by the government, or otherwise required by law are exempt from the requirements of this Section provided the signs conform to the site distance requirements of the ECM.

(j) HOA Signs

HOA signs erected by HOA or architectural review committee referencing restrictions or their control within a development are exempt from the requirements of this Section provided the sign does not exceed 16 square feet in area, the sign does not exceed 8 feet in height, is located on private property or association property, and conforms to the site distance requirements of the ECM.

(k) Bus Bench and Shelter Signs

Bus bench and shelter signs located within public right of way or public improvement easement are exempt from the requirements of this section provided the location of the bus bench or shelter has been approved either by the El Paso County ~~Public Services Department~~Department of Public Works or within a County contract for transit services.

(4) Liability for Damages

Nothing in this Section shall relieve any person, corporation, firm, or entity from responsibility for damages to any other person suffering physical injury or damage to property as a result of the installation, display, maintenance or removal of any sign authorized under this Section. The County and its employees and officials shall assume no liability for the injury or damage resulting from the authorization of any permit or inspection implementing the provisions of this Section.

(B) Permits Required

(1) Sign Permit

(a) Sign Permit Required

No sign, except a sign not requiring a sign permit, shall be erected, re-erected, relocated, replaced, expanded or altered, without first securing a sign permit from the ~~DSD~~PCD.

(b) Signs and Activities Exempt from Obtaining Sign Permit

The following signs or activities shall not be required to obtain a sign permit. These exceptions shall not be construed as relieving the owner of any sign from the responsibility of its erection and maintenance and its compliance with the provisions of this Section or any other law or ordinance regulating the sign.

(i) Maintenance and Illumination

A sign permit shall not be required for painting, repainting, cleaning or other normal maintenance and repair of a sign or a sign structure change, and the changing of the advertising copy or message on an approved painted or printed sign, theater marquee, legal nonconforming sign or similar approved signs which are specifically designed for the use of replaceable copy.

(ii) Information Signs

Information signs no more than 6 square feet in area, 3 feet in width or length, and 4 feet in height are exempt from the requirement to obtain a sign permit.

(iii) Window Signs

Window signs which are of a temporary nature which occupy less than 50% of the window surface are exempt from the requirement to obtain a sign permit.

(2) Building Permit

(a) Building Permit Required

No sign, except a sign not requiring a building permit, shall be erected, re-erected, relocated, replaced, expanded or altered, unless a building permit has been issued by the Building Department.

(b) ~~DSD~~PCD Approval of Building Permit

(i) Issuance of Building Permit to be Authorized by the ~~DSD~~PCD

No building permit for a sign shall be issued unless the issuance of the building permit is authorized by the ~~DSD~~PCD.

(ii) Permit Authorization Without State Sign Permit

No site plan to authorize a building permit shall be approved until a State Sign Permit has been obtained, where required, and a copy of the permit is provided to the ~~DSD~~PCD.

(C) Prohibited Signs

On-premise signs which fail to meet the requirements of this Section or are not specifically allowed by this Section are prohibited.

(D) General Sign Standards

(1) Setback Requirements

Signs shall meet the minimum setbacks required by the zoning district, except as otherwise provided.

(2) Height Limitations

(a) Signs Not to Exceed Height Limitations

Signs shall not exceed the maximum height allowed by the zoning district, except as otherwise provided.

(b) Sign Height to be Measured from Finished Grade

The height of a sign shall be determined using the average elevation of the finish grade of the surrounding area.

(c) Berms to be Included in Determining Sign Height

The height of the berm shall be included as part of the sign height when the base of a sign or supporting structure is located on the berm.

(3) Restrictions on Sign Placement

(a) Signs and Public Property or Right-of-Way

(i) No Encroachment on Public Property

Signs shall not encroach on public property, right-of-way or easement without the consent of the owner of the public property, right-of-way or easement, and approval of a sign permit, if required by this Section.

(ii) Public Property or within Right-of-Way

Signs shall not be pasted, painted, affixed or fastened to the surface of a utility pole, bridge, sidewalk, or County-owned or operated vehicle, or a public facility located on public property, rights-of-way or easements without the written consent of the owner of the public property, right-of-way or easement, and approval of a sign permit, if required by this Section.

(b) No Signs Placed to Limit Site Distances Along Roadways

(i) No Signs Located to Obstruct Vision Near Intersection

Signs placed within 500 feet of the center point of the intersection of two or more roads or the intersection of a road with a railroad shall not materially obstruct or reduce the existing view of traffic.

(ii) No Signs Located to Obstruct Vision Along Road

Signs shall not be placed along a road at any point where the sign would limit the existing view of traffic in either direction or of a traffic control or directional sign to less than 500 feet.

(iii) No Signs Located within Sight-Distance Triangle

Signs shall not be located within a sight-distance triangle or otherwise obstruct the view of vehicle operators entering or leaving any parking area, service drive, driveway, road, alley, or other thoroughfare. The sight-distance triangle shall be determined in accordance with the ECM.

(c) No Sign Located in Utility or Drainage Easement

No sign may be erected in, placed on or extend over a utility or drainage easement unless approved in writing by the entity or entities having jurisdiction over the easement.

(d) Additional Restrictions Along State Highways

Signs along highways as defined in C.R.S. §§43-1-203, et seq. and 43-2-101 (1) and signs along the Interstate system of highways as defined in C.R.S. §43-2-101 (2), are prohibited unless the sign conforms with all of the requirements of the Outdoor Advertising Act, C.R.S. §§43-1-401 et seq., and any rules and regulations promulgated by the State of Colorado Department of Highways and any applicable federal law and rules and regulations.

(e) Design and Construction

(i) Sign to Conform to Building Code

Signs and associated structures shall be designed and constructed in accordance with the requirements for structures in the Building Code.

(ii) Signs Not to Mimic Official Signs

Signs shall not be erected which simulate any official traffic, directional, or warning sign, or which involves lights simulating or resembling traffic signals or traffic control signs, or uses the words “stop,” or “danger”, or any other word, symbol, character or color which might confuse traffic or detract from any legal traffic control device.

(iii) Portable Signs

Portable or movable signs, or inflatable devices including blimps or balloons used as signs, are prohibited, except those which are hand held by a person or persons, or ground-mounted temporary or inflatable signs, utilized for grand openings, or special events. Manned balloons or airships are not included in these restrictions and prohibitions.

(iv) No Sign on Wall, Fence or Roof

Signs shall not be painted, pasted or similarly posted directly on the surface of any freestanding wall or on a fence or the roof of any building, unless otherwise provided.

(v) No Vehicle to be Used as Sign

Vehicles bearing a sign shall not be parked or located for the primary purpose of displaying the sign. This does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

(vi) Signs to be Stationary

Signs shall be stationary.

(vii) Illumination

No sign shall be illuminated unless the source of light is steady and suitably shielded in accordance with the lighting standards of the Code.

(viii) Blinking or Intermittent Electrical Pulsations Prohibited

No sign is allowed with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations, except time-temperature-date signs. Time-temperature-date signs are exempt from this prohibition. A change in the advertising copy or message that occurs more rapidly than once every 4 seconds will cause the sign to be considered to be a blinking or animated sign.

(ix) No Signs Attached Natural Objects

No sign shall be nailed, tacked, posted, or attached in any manner on trees, rocks or other natural objects.

(4) Standards for Specific On-Premise Sign Types

(a) Direction Signs

(i) Sign Permit Required

Direction signs are allowed in any zoning district with approval of a sign permit by the ~~DSD~~PCD.

(ii) Limit in Duration

Direction signs may be located and maintained in accordance with the approved sign permit for a maximum of 12 months.

(iii) Maximum Area

Direction signs shall not exceed 16 square feet in area and the total height of the sign shall not exceed 10 feet.

(iv) Setbacks

Direction signs shall meet the required setbacks for the zoning district in which the sign is located.

(v) Proximity to Right-of-Way

No direction sign shall be closer than 25 feet from a right-of-way boundary line.

(vi) Copy

The sign copy shall not advertise, promote or identify a product, service or commercial development.

(vii) No Illumination

No direction sign shall be illuminated.

(viii) Property Owner Approval

The location of direction signs shall be approved by the property owner of the lot, parcel, or tract on which the sign will be placed. A direction sign shall not be considered to be an off-premise sign.

(b) Temporary Signs

(i) Development Signs

- Number of Signs Limited: A maximum of 2 development signs, per subdivision or development shall be allowed.
- Maximum Size: No development sign shall exceed 50 square feet in area. Neither the length, width nor height of the sign shall exceed 12 feet.
- Location: Development signs shall be located no closer than 25 feet from a lot, parcel, or tract line.
- No Illumination: No development sign shall be illuminated.
- Time Limit for Display: The display of development signs shall be limited to a period of 12 months or until the development or subdivision is substantially built out. At the expiration of the period, the signs shall be removed within 10 days.

(ii) Model Home Signs

- Number of Signs Limited: One model home sign shall be allowed per lot, to advertise model homes or a group of new residences being offered for sale.
- Size, Height, and Location Restrictions: Model home signs shall not exceed 16 square feet in area, 8 feet in height, shall not be located less than 5 feet from any lot, parcel, or tract line.
- Time Limit for Display: The display of model home signs shall be limited to a period of 6 months or until the development or subdivision is substantially built out. At the expiration of the period, the signs shall be removed within 10 days.

(c) Flagpoles and Flags

Flags are considered signs and shall meet all standards for signs except as otherwise provided for by this Section.

(i) Area of Flag Limited

The area of the flag shall not exceed 40 square feet or 2 square feet of sign for each linear foot of building wall area the flag is adjacent or closest to, whichever is less. The allowable area of freestanding signage shall be reduced by the size of the flag.

(ii) Intrusion into Setback Area

A flagpole may be located within the setback area provided it is located within 10 feet of a building.

(iii) Height of Flagpole

No flagpole shall exceed 20 feet in height if located within a setback area or the maximum height for the zoning district if located outside the setback area.

(iv) Sign Permits

A flag or flagpole located on property in a residential or agricultural zone district shall not be subject to the sign permit requirements.

(5) Sign Maintenance

Every sign and sign structure shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of defective parts and wiring, painting, repainting, cleaning, and other acts required for the general maintenance of the sign. Signs not adequately maintained shall be subject to the enforcement and penalties described in Chapter 11.

(E) Regulations by Zoning District

(1) Agricultural, Forestry, and Residential Zoning Districts

The following sign allowances and standards shall apply in agricultural, forestry, and residential zoning districts including recreational vehicle and mobile home zoning districts, and residential PUD zoning districts.

(a) Types of Signs Allowed

The following signs shall be allowed in agricultural, forestry, and residential zoning districts subject to the standards of this Section and the specific limitations imposed for each sign type by this Code. The sign types allowed include:

- Announcement signs;
- Bulletin boards;
- Bus bench and shelter signs;
- Development signs;
- Direction signs;
- Flagpoles and flags;

- HOA signs;
- Identification signs;
- Information signs;
- Memorial signs;
- Model homes signs;
- Name plate signs;
- Official signs;
- Political signs;
- Project signs;
- Real estate signs;
- Temporary construction;
- Traffic signs;
- Bus stop signs; and
- Utility signs.

Signs not listed as allowed are prohibited.

(b) Name Plate Sign

(i) Number of Name Plate Signs

One name plate sign per dwelling unit shall be allowed.

(ii) Size of Name Plat Sign

A name plate sign shall not exceed 2 square feet in area.

(iii) Sign Copy

A name plate sign copy shall indicate the name, home occupation or non-commercial message.

(iv) Location of Name Plate Sign

The name plate sign shall be located not closer than 5 feet from a lot, parcel, or tract line.

(v) Maximum Height

The maximum height of a freestanding name plate sign shall be 4 feet.

(c) Announcement Signs

(i) Number and Use of Announcement Signs

One announcement sign shall be allowed per lot or parcel in association with a non-residential use.

(ii) Size of Announcement Sign

The announcement sign shall not exceed 20 square feet in area. Neither the width nor length of the announcement sign shall exceed 10 feet.

(iii) Location of Announcement Sign

The announcement sign shall be located no closer than 15 feet from a lot, parcel, or tract line.

(iv) Maximum Height of Announcement Sign

The announcement sign shall not exceed 12 feet in height.

(v) Additional Signage for Schools and Religious Institutions

In addition to a freestanding announcement sign, schools and religious institutions shall be allowed an additional 20 square feet of wall sign area for announcement signs.

(d) Identification Sign

(i) Number and Use of Identification Sign

Two identification signs indicating the name of the subdivision shall be allowed at each road entrance to a subdivision or development.

(ii) Low-Profile Sign Standards

Low-profile signs used as identification signs shall not exceed 40 square feet in area or 6 feet in height. Low-profile identification signs shall be located at least 25 feet from a right-of-way or road easement.

(iii) Wall Sign Standards

Wall signs used as identification signs shall be attached to a freestanding wall or fence and shall not exceed 40 square feet in area. The wall sign shall not extend above the height of the freestanding wall or fence.

(2) Business, Commercial and Industrial Zoning Districts

The following sign allowances and standards shall apply in general business and commercial zoning districts including commercial PUD zoning districts, and in industrial zoning districts including industrial PUD zoning districts.

(a) Types of Signs Allowed

The following signs shall be allowed in general business and commercial zoning districts subject to the standards of this Section and the specific limitations imposed for each sign type by this Code. The sign types allowed, unless otherwise limited by this Section, include:

- Attached signs;
- Banners;
- Bulletin boards;
- Bus bench and shelter sign;
- Commercial center and building directory signs;
- Credit card signs;
- Development signs;
- Directional signs including drive-through signs;
- Drive-through directional signs;

- Entrance/exit signs;
- Flagpoles and flags;
- Freestanding signs;
- Grand opening/special event signs;
- HOA signs;
- Identification signs;
- Information signs;
- Memorial signs;
- Menu board signs;
- Official signs;
- Political signs;
- Real estate signs;
- Temporary construction project signs;
- Time-temperature-date signs;
- Traffic signs;
- Utility signs;
- Bus stop signs; and
- Window signs.

(b) Total Sign Area and Total Number of Signs

The total sign area and number of signs of each sign type are limited. Maximum sign area and number of signs is established by the specific standards for each sign type. The combined sign area of attached signs and freestanding signs associated with a building wall is limited by this Section. All other signs are regulated independently from one another.

(c) Freestanding Signs, General

(i) Freestanding Sign Area

- Allowable Freestanding Sign Area: The total area of freestanding signs shall not exceed 2 square feet for each linear foot of the building wall closest to the freestanding sign or 40 square feet, whichever is smaller. The maximum freestanding sign area shall be 40 square feet where no building is present.
- Reduction in Freestanding Sign Area: When an attached sign and freestanding sign is located along the same building wall, the total allowable area of the freestanding sign shall, when combined with the area of attached signs, not exceed 2 square feet of signage for each linear foot of building wall or 40 square feet.
- Increase in Freestanding Sign Area Along Arterial: When a freestanding sign is located along an arterial or expressway identified in the MTCP, the allowable freestanding sign area shall be 125% of the sign area otherwise allowed by this Code. The 25% increase shall

be added after determining the maximum sign area allowed by this Code.

- Increase in Freestanding Sign Address Provision: If freestanding sign copy includes an address or address and road name, up to 20 square feet of the area of the sign devoted to the address will not count against the allowable sign area.

(d) Freestanding Sign Standards in Commercial Centers or Industrial Parks

Where a business or use is located in a commercial center or industrial park, the following additional sign standards shall be met.

(i) Freestanding Signs Limited to Low-Profile Signs

Freestanding signs located within a commercial center or industrial park shall be low-profile signs.

(ii) Number of Signs

One low-profile sign shall be allowed per building or per lot or parcel where no building is present. One flag meeting the requirements of this Section is also allowed in association with a low-profile sign.

(iii) Location of Low-Profile Sign

The low-profile sign may be located in a setback area, but shall be located no closer than 3 feet from a lot, parcel, or tract line.

(e) Freestanding Sign Standards Outside Commercial Centers or Industrial Parks

Where a business or use is not located in a commercial center or industrial park, the following additional sign standards shall be met:

(i) Number of Signs

One freestanding sign is allowed per lot or parcel. One flag meeting the requirements of this Section is also allowed in association with a freestanding sign.

(ii) Setback of Freestanding Sign

A low-profile sign shall be located no closer than 3 feet from a lot, parcel, or tract line. A pole sign shall be located no closer than 10 feet from a lot, parcel, or tract line.

(iii) Height of Freestanding Sign

The maximum height of a freestanding sign shall not exceed the height of the building with which the sign is associated. If located adjacent to or within 300 feet of a grade-separated intersection or interstate highway, the maximum height of the sign shall not exceed the maximum height allowed in the

zoning district. Where no building is present, the height of the freestanding sign shall not exceed 12 feet.

(f) Identification Sign for Commercial Centers or Industrial Parks

(i) Number of Identification Signs

Commercial centers or industrial parks with 2 or more tenants or users are allowed identification signs based on area of the commercial center or industrial park.

- Commercial Center Less than 10 Acres in Area: Where the commercial center is less than 10 acres in area, one identification sign is allowed per road frontage.
- Commercial Center 10 Acres or Greater in Area: Where the commercial center is 10 acres or greater in total area, 2 signs are allowed per road frontage.
- Industrial Park Less than 40 Acres in Area: One identification sign is allowed in industrial parks that are at least 5 acres in area and less than 40 acres in area.
- Industrial Park 40 or More Acres and Less than 80 Acres in Area: Two identification signs are allowed in industrial parks that are at least 40 acres in area and less than 80 acres in area.
- Industrial Park More than 80 Acres: 3 identification signs are allowed in industrial parks 80 acres or more in area.

(ii) Minimum Separation of Identification Signs

No identification sign shall be closer than 500 feet to any other identification sign along the same road frontage in the same commercial center or industrial center.

(iii) Identification Sign Area

Each identification sign associated with a commercial center or industrial park is limited in area based on the area of the commercial center or industrial park. When an identification sign is located along an arterial or expressway identified in the MTCP, the allowable sign area shall be 125% of the sign area otherwise allowed by this Section. The 25% increase shall be added after determining the maximum sign area allowed by this Section.

- Commercial Centers Less than 4 Acres in Area: Where the commercial center is less than 4 acres in area, the maximum area of each identification sign is 40 square feet.
- Commercial Centers 4 or More Acres and Less than 20 Acres in Area: Where the commercial center is 4 or more acres in area, but less than 20 acres in area, the maximum area of each identification sign is 5 square feet per acre of land or 1 square foot per 2 linear feet of

frontage to which the sign is adjacent, up to a maximum of 80 square feet of sign area.

- Commercial Centers 20 or More Acres in Area: Where the commercial center is 20 acres or more in area, the maximum area of each identification sign is 5 square feet per acre of land or 1 square foot per 2 linear feet of frontage to which the sign is adjacent, up to a maximum 120 square feet of sign area.
- Industrial Parks Less than 40 Acres in Area: Where the industrial park is less than 40 acres in area, the maximum area of each identification sign is 100 square feet.
- Industrial Parks 40 Acres of More in Area: Where the industrial park is 40 acres or more in area, the maximum area of each identification sign is 150 square feet.

(iv) Identification Sign Location

Identification signs shall be located a minimum of one foot for each foot of sign height or 25 feet from lot, parcel, or tract lines, whichever is less.

(v) Identification Sign Height

- Commercial Centers: Within a commercial center, identification signs shall not exceed the height of the tallest building. If no buildings exist, the maximum height of identification signs shall not exceed 12 feet.
- Industrial Parks: Within industrial parks, the height of a freestanding identification sign shall not exceed 45 feet.

(g) Attached Signs

(i) Maximum Sign Area Per Building Wall

The total area of attached signs per building wall including wall signs, fascia signs, awning signs, canopy signs, hanging and projecting signs shall conform to the following requirements:

- Building Walls within 300 Feet of Lot Line in Commercial Zoning Districts or Industrial Zoning Districts: For building walls located within 300 feet of a lot, parcel, or tract line in general business or commercial zoning districts, 1½ square feet of attached signage is allowed per linear foot of building wall, or 300 square feet, whichever is less.
- Building Walls Beyond 300 Feet of Lot Line in Commercial Zoning Districts or in Industrial Zoning Districts: For building walls located beyond 300 feet of a lot, parcel, or tract line in general business or commercial zoning districts and for building walls in industrial zoning districts, 2 square feet of attached signage are allowed per linear foot of building wall, or 300 square feet, whichever is less.

(ii) Attaching Signs to a Marquee, Canopy, or Awning

Signs may be attached to the fascia of a marquee, canopy, or awning, provided they are 8 feet or more above the ground and the sign does not project above or below the fascia.

(iii) Projection of Wall Signs

Wall signs shall not project more than 18 inches from the wall to which they are attached.

(iv) Clearance Under Projecting or Hanging Signs

If a sign extends over a walkway, the bottom of the sign shall be 8 feet or more above the ground.

(v) Minimum Surface Slope of Wall

The surface to which the sign is attached shall not have a slope of less than 75% percent.

(vi) Projection of Attached Signs Above Building Restricted

No attached sign shall project above the highest point of the building, excluding rooftop mechanical structures, chimneys, elevator shafts, ventilators, and all other facilities which may project above that area of the building commonly known as the roof.

(h) Window Signs

Window signs are allowed provided window signs do not exceed 50% of the window area and are contained within the window. Where window signs exceed 50% of a window, they require a sign permit and will count against the attached sign area allowance.

(i) Miscellaneous Signs

The following signs are allowed provided they meet the following standards:

(i) Entrance/Exit Signs

- General Business and Commercial Zoning Districts: In general business and commercial zoning districts, signs designating entrances or exits for parking areas shall be limited to one sign per entrance or exit with a maximum area of 6 square feet each. Entrance/Exit signs shall not exceed 4 feet in height above the finished grade.
- Industrial Zoning Districts: In industrial zoning districts, signs denoting entrances and exits and providing directions shall be limited to 2 signs per entrance and are limited to 48 square feet in size and 8 feet in height.

(ii) Commercial Center Directory Signs

In general business and commercial zoning districts, signs listing businesses and their locations within a commercial center shall be limited to one sign per entrance and shall be located within 150 feet and no closer than 50 feet of the road right-of-way on which the entrance is located. Commercial center directory signs shall be not exceed 32 square feet in area and shall not exceed 6 feet in height.

(iii) Building Directory Signs

Signs listing businesses within a building shall be limited to one sign per building entrance and shall be located within 15 feet of the building entrance. Building directory signs and shall not exceed 32 square feet in area and shall not exceed 6 feet in height.

(iv) Time-Temperature-Date Signs

A time-temperature-date sign that does not exceed 10 square feet per face may be provided in addition to the allowable sign area allowed by this Section. Any identification or advertising that is attached to or made part of the same sign structure is subject to the allowable sign area for the sign. The owner of the sign shall maintain it and insure that it is kept accurate.

(v) Menu Board Signs

In general business and commercial zoning districts, two menu board signs shall be allowed per drive-through lane for each drive-through restaurant. Menu boards may be freestanding or attached. Menu board signs shall be no more than 32 square feet in area, shall not exceed 7 feet in height, and shall be oriented to the drive-through lane.

(vi) Drive-Through Directional Sign

In general business and commercial zoning districts, one drive-through directional sign is allowed per drive-through lane, with a maximum size of 6 square feet and maximum height of 4 feet.

(vii) Grand Opening/Special Event Signs

Portable or movable signs, inflatable devices, pennants or streamers are allowed for grand openings and special events. The grand opening or special event shall be limited to four per calendar year, each being held over a consecutive period of days. No event shall exceed 14 days.

(viii) Banners

In general business and commercial zoning districts, one banner per building may be attached to a building wall. No banner shall exceed 16 square feet in area.

6.2.11. Vehicle Storage

(A) Applicability

This Section does not apply to any vehicle or equipment used in conjunction with the operation of a farm, ranch or dairy, nor to any vehicles or equipment located within a legally existing salvage yard.

(B) 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

(i) 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.

(ii) Recreational vehicles may be stored or parked on a public right-of-way for a maximum period of 48 hours.

(iii) Inoperable vehicles may not be stored or parked on any public right-of-way.

(3) Collectors' Vehicles

(i) 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.

(ii) 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.

(iii) 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.

(C) 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 or within the right-of-way 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. Not with standing 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 motor home 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 or as otherwise provided as part of a rural home occupation pursuant to Chapter 5 of this Code.

(3) Vehicle Repair

Vehicles owned by and for the sole use of persons residing a lot, tract or parcel may be repaired only within an enclosed structure, except a lot, parcel or tract in an A-35 zoning district where vehicles owned by others may be repaired in conformance with this Code. No painting or welding of vehicles owned for the purpose of repair and resale.

(D) Standards Applicable in Commercial or Industrial Zoning Districts

(1) Inoperable Vehicles and Vehicle Parts

Except for temporary storage in an authorized area for automobile and trailer sales, auto repair garage, gasoline filing 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 by kept free of weeds, trash and other objectionable items.

6.3. ENVIRONMENTAL STANDARDS

6.3.1. Air Quality Standards

(A) General

(1) Purpose

The purpose of this Section is to ensure developments are reviewed for their impact on air quality and that proper mitigation is provided to ensure air quality standards are met and community health is protected.

(2) Applicability

All development applications and permits shall comply with the air quality standards in this Section and all County, state and federal air quality standards, and shall reduce potential emissions where feasible.

(B) Air Quality Management Plan Required

(1) Sketch Plan and Other Applications

Applicants for a sketch plan shall submit an air quality management plan addressing how air quality impacts will be minimized and identifying how conformance with any Pikes Peak Area Council of Governments (PPACG) air quality plans will be achieved. Where the ~~DSD~~PCD Director determines that a proposed development may have significant air quality impacts, the ~~DSD~~PCD Director may request the submission of an air quality management plan to support review of the development application and permit for conformance with this Section.

(2) Air Quality Management Plan Contents

(a) General Requirements

The air quality management plan shall identify potential sources of air emissions, identify possible strategies for minimizing emissions and propose a plan for implementing those strategies. The strategies shall include those methods that are available, feasible and economically reasonable. Examples of mitigation strategies include providing transit stops; bike and walking paths; restricting wood or coal-burning fireplaces; paving roads; and co-locating neighborhood-level retail services within developments.

(b) Submission of Supplemental Documentation

Proposed developments that have emission sources regulated under State regulations shall submit the following documentation regarding control of air emissions:

(i) A copy of any air pollution emissions notice, prepared in accordance with State guidelines, shall be submitted to the

~~DSD~~PCD and shall identify potential air emissions and appropriate control strategies.

(ii) A copy of any required Colorado Air Emissions permit shall be submitted to the ~~DSD~~PCD prior to operating the facility.

(3) Review of Air Quality Plan by County Departments

The ~~DSD~~PCD, EPCPH, and ESD will review any required air quality management plans, coordinate with the PPACG where appropriate, and recommend they be accepted or rejected prior to the public hearing process.

(C) Air Quality Development Standards

(1) Compliance with EPCPH Regulations

All land use and development shall comply with the Air Quality Regulations of the EPCPH.

(2) Compliance with Air Pollution Control Regulations

Land uses with the potential to emit air pollutants above certain defined limits shall report those potential emissions and obtain an air emission permit. The program is administered by the Air Pollution Control Division, CDPHE.

(3) Relationship to Paving Requirements for Roads

Where the additional impact of the development-related traffic on new or existing roads will meet the thresholds for paving as identified in the ECM, the applicant shall pave the new or existing roads in accordance with the requirements of the ECM.

(4) Fugitive Dust During Construction

(a) Developments to Comply with Emission Standards

Developments shall comply with the following standards:

(i) Construction Activity Compliance

Any person engaged in grading, excavating, filling, or other construction activity of greater than one acre shall be required to comply with the requirements of the Air Quality Regulations, obtain a Construction Activity Permit from EPCPH, and comply with applicable requirements.

(ii) Emission Control Plan Required

- Duration of Construction Exceeds 6 Months: The emission control plan shall be approved prior to site grading and a State Construction Permit shall be obtained prior to beginning construction.
- Nuisance Conditions: Regardless of the size or duration of development, land disturbance shall be conducted so nuisance conditions are not created. If dust emissions do create a nuisance, an emission control plan is required.

- EPCPH Review of Emission Control Plans: The EPCPH shall review and approve all emission control plans.

(b) Dust Control Measures

Acceptable dust control measures and operating procedures for construction activities may include, but are not limited to, planting vegetation cover, providing synthetic cover, watering, chemical stabilization, furrows, compacting, minimizing disturbed area, wind breaks, on-site vehicle speed control, and delayed surface opening. Solid wood fencing along adjacent developed areas may be required.

(5) Haul Trucks and Haulage Equipment

(a) Deposition of Dirt and Mud on Roads

Any person undertaking any construction, demolition, dismantling, or earthmoving activities shall prevent the deposit of dirt, mud, or debris on public roads; and should deposition occur, the dirt, mud or debris shall be removed as quickly as possible by the person performing the activities.

(b) Particulates Emission in Transit

Particulates that may be emitted in transit shall be controlled by covering, wetting or otherwise treating the load prior to transit.

(6) Open Burning

(a) No Open Burning without Permit

No person shall burn or allow the burning of rubbish, waste paper, wood, or other flammable material on any lot, tract, or parcel, or on any public road, alley, or other land unless an Open Burning Permit is first obtained from the EPCPH and in conformance with the Air Quality Regulations.

(b) Prescribed Burning of Slash Piles

Prescribed burning of slash piles or broadcast burns of less than 5 acres for the purpose of forest management or wildfire mitigation is allowed if in conformance with the Air Quality Regulations of the EPCPH.

(D) Continuous Compliance with Air Quality Standards Through Conditions

Where determined appropriate by the approving authority, continuous compliance with these standards may be imposed through conditions of approval of the development permit.

6.3.2. Drainage

(A) General

(1) Purpose

The purpose of this Section is to outline the standards for obtaining approval to disturb drainage facilities or alter drainage in association with development activities, and ensuring those activities conform to the requirements of this Code and the ECM.

(2) Applicability

This Section shall apply to all development applications and permits that will result in the disturbance of drainage facilities or will alter storm drainage from the subject property during or following construction.

(3) Relationship to Other Standards and Regulations

(a) Relationship to ECM and Drainage Criteria Manual

The technical standards for preparation of drainage reports and design standards for construction are contained in the ECM. Where any conflict exists with this Section, the requirements of the ECM shall control.

(b) Relationship to Floodplain Regulations

Drainage reports required under this Section shall be prepared in conformance with the Floodplain Management Regulation.

(B) Report Requirements

(1) Types of Reports

(a) Letter Report

A letter report is required to accompany any development application for minor subdivision, replat, site development plan, site plan, and other development of a minor nature except under the following circumstances:

- Where a complete drainage report has previously been approved by the County and significant changes are not proposed;
- Where it is deemed unnecessary by the County due to minimal drainage impacts; or
- Where the 100 year floodplain is not included on the lot, parcel, or tract.

(b) Master Development Drainage Plan (MDDP)

The MDDP identifies major drainageways, ponding/detention areas, and locations of culverts, bridges, open channels and drainage areas that are tributary to the proposed development.

The MDDP presents alternate solutions to drainage problems, which may have been identified by the Drainage Basin Planning Study. The ability of downstream drainage facilities to pass developed runoff from the proposed development are thoroughly analyzed in the MDDP.

Generally, phased developments greater than 10 acres in total area and major subdivisions are required to submit a MDDP. A determination of whether an MDDP is required shall be made by the ECM Administrator in conformance with the requirements of the ECM.

(c) Preliminary Drainage Report

The preliminary drainage report identifies specific solutions to on-site and off-site drainage issues resulting from the development of a lot, parcel, or

tract. In addition, those drainage problems that exist prior to development are addressed in the preliminary drainage report.

Generally, a preliminary drainage report is required for preliminary plans and large or phased developments. A determination of whether a preliminary drainage report is required shall be made by the ECM Administrator in conformance with the requirements of the ECM.

(d) Final Drainage Report

The final drainage report finalizes concepts and presents the design details for the drainage facilities. Any changes to the preliminary design concepts presented in a preliminary drainage plan due to review comments by the County are incorporated into the final drainage plan.

A final drainage report is generally required to accompany any site development plan, final plat or major development that utilized a preliminary drainage report, or which does not qualify for a letter report. A determination of whether a final drainage report is required shall be made by the ECM Administrator in conformance with the requirements of the ECM.

When specific improvements are required, the construction drawings and specifications shall be submitted for review with the final drainage plan, and any improvements included in the construction financial assurance required by the ECM.

(2) Referral and Review Requirements

Drainage reports required by this Code or the ECM may be referred to other agencies for review and comment.

(3) Approval Required Before Action on Development Application

No final action will be taken on a development request until the drainage report as required by this Section is approved by the ECM Administrator.

(4) Modification to Approved Reports

Any modification to an approved letter report or final drainage report shall be approved by the ECM Administrator, and shall require submittal of the revised report for review and approval.

(C) Maintenance Agreement Required

Where necessary to ensure maintenance of permanent stormwater measures, a maintenance agreement in accordance with the provisions of the ECM shall be approved prior to the approval of the development permit or issuance of the Certificate of Occupancy where the only development permit required is a building permit.

6.3.3. Fire Protection and Wildfire Mitigation

(A) General

(1) Purpose and Intent

To ensure that proposed development is reviewed in consideration of the wildfire risks and need to provide adequate fire protection in order to:

- Regulate development, buildings, and structures so as to minimize the hazard to public health, safety, and welfare;
- Ensure that adequate fire protection is available for new development;
- Implement wildfire hazard reduction in new development;
- Encourage voluntary efforts to reduce wildfire hazards; and
- Reduce the demands from the public for relief and protection of structures and facilities.

(2) Applicability

This Section shall apply to all development applications and permits within the unincorporated areas of El Paso County. The standards and requirements related to construction in wildland areas are applicable on land that is shown as forested on the Vegetation Map or to areas identified in the wildland fire risk and hazard mitigation plan, if required by the approval of that plan.

(3) Relationship to Other Standards

Where a fire department has adopted standards, the more restrictive shall apply In the case of a conflict between adopted fire district standards and this code, the Fire Marshal may approve an alternative design which accomplishes the purposes of this section and provides an equivalent or similar benefit to the property or the community.

(4) Responsibility

The Fire Marshal shall have authority to enforce the provisions of this Section. The Fire Marshal shall be authorized to develop and utilize forms and checklists to implement the requirements of this Section.

(5) Basis of Standards

The basis of the standards in this Section is the most current standards adopted by the National Fire Protection Agency (NFPA) and the Colorado State Forest Service (CSFS).

(6) Wildfire Hazard Maps/Vegetation Map

El Paso County shall maintain a Vegetation Map depicting wildfire hazard areas of the County either based on vegetation type or wildfire hazard analysis, which shall be the official map for the purposes of applying this Section.

(B) Reports and Commitments Required for Subdivisions

(1) Fire Protection Report

The Fire Protection Report is required for any subdivision request and shall include the fire department's capabilities, including existing and proposed equipment, facilities, services, and response time to provide fire protection for the proposed subdivision.

(2) Fire Protection Commitment Required

A written commitment to provide structural fire protection may be~~is~~ required for any proposed subdivision, and may be requested by the Fire Marshal for other development applications.

(3) Mitigation Costs Included in Construction Financial Assurance

If the wildfire mitigation issues are significant enough in the determination of the Fire Marshal to require mitigation associated with development construction activities, the cost of the mitigation shall be included in the construction financial assurance.

(4) Plat Notes Required

Notice of any wildfire mitigation issues or obligations may be required by the County through conditions of approval or notes placed on the face of the plat.

(C) Design Standards

(1) Water Supply

(a) General

Water supply systems used for fire protection purposes shall be installed and maintained in accordance with NFPA standards. The required fire flow for one or more buildings of a planned building area (also referred to as the planned building group by the NFPA) shall be determined by the Fire Marshal using locally adopted codes, or as specified per the following conditions:

- For areas without municipal-type water systems, NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting, shall be applied.
- For those areas with municipal-type water systems, nationally recognized criteria shall be applied.

(b) Automatic Fire Protection

(i) Commercial and Industrial Structures

All commercial or industrial structures of more than 3 stories or over 40 feet in height above adjacent ground elevation shall be fully protected with an automatic sprinkler system.

(ii) Multifamily Residential Structures

Any multifamily residential building containing more than 2 dwelling units shall have an automatic sprinkler system installed.

(c) Areas with Central Water Systems

(i) Water Distribution System Pressure

The water distribution system shall be capable of delivering fire flow at a minimum rating of 20 pounds per square inch for each hydrant connected to the distribution system within the proposed subdivision.

(ii) Dead-End Mains

Dead-end mains shall not exceed 600 feet in length for main sizes less than 10 inches in diameter.

(iii) Fire Hydrant Spacing

Fire hydrants shall be located so that all residential structures are within 500 feet and all nonresidential structures are within 150 feet of a hydrant. Fire hydrants shall be installed adjacent to a road or emergency vehicle lane at a spacing not to exceed 660 feet of vehicle travel distance. Where the proposed buildings warrant, the Fire Marshal may require additional hydrants and closer spacing.

(iv) Fire Hydrant Accessibility

Fire hydrants shall be accessible to fire department apparatus from a road (i.e., maintained public roads, privately-maintained roads, or emergency vehicle access roads) or unobstructed emergency vehicle lanes (i.e., driveway, parking drive aisle, or emergency vehicle lane).

(v) Fire Hydrant Supply Lines

Fire hydrants shall be supplied by not less than a 6 inch diameter main installed on a looped system, or by not less than an 8 inch diameter main if the system is not looped or the fire hydrant is installed on a dead-end main exceeding 300 feet in length.

(vi) Fire Hydrants in Parking Areas

Fire hydrants located in parking areas shall be protected by barriers that will prevent physical damage from vehicles without obstructing hydrant operation.

(vii) Fire Hydrant Relationship to Roads

Fire hydrants shall be located within 6 feet of the edge of the pavement unless there is a conflict with the ECM or the Fire Marshal determines another location is more acceptable for fire department use. All roads and emergency vehicle lanes shall be designed to maintain a minimum unobstructed clearance of 3 feet around fire hydrants.

(viii) Fire Hydrant Easements

Easements for fire hydrants shall be provided and dedicated to the appropriate fire or water authority when the hydrants are not within a public road right-of-way. The easement shall afford accessibility to the hydrant from the right-of-way.

(ix) Release of Financial Assurance for Water Supply Systems

The contractor, installer, or owner of water supply systems shall demonstrate by testing that the capacity of the water supply system will meet fire protection design requirements prior to release of construction financial assurance for the system. The testing shall be certified by a qualified professional. The tests shall be provided to the Fire Marshal.

(d) Areas without Central Water Systems

(i) Fire Cisterns

- Fire Cisterns Required: Fire cisterns shall be provided in planned building areas which are not served by hydrants, unless the Fire Marshal has approved an alternative fire protection water supply system.
- Construction Standards: Construction of fire cisterns shall be in accordance with the approved plans and conform to the requirements of the NFPA standard on water supplies for suburban and rural fire fighting.
- Design Standards for Subdivisions with More than One Cistern: For subdivisions where more than one fire cistern is required, fire cisterns shall meet the requirements of the NFPA standards for water supplies for suburban and rural fire fighting. For this type of subdivision, fire cisterns shall be designed for the largest building allowed by zoning in the worst case hazard and construction class.
- Design Standards for Subdivisions with One Cistern: For subdivisions where only one fire cistern is required, the minimum capacity of the fire cistern shall meet the requirements of the NFPA standards on water supplies for suburban and rural fire fighting, or shall have a total capacity equal to 300 gallons for each acre within the subdivision plus 3,000 gallons per dwelling unit, whichever is greater.
- Cistern Turnaround: A dedicated turnaround shall be placed no more than 50 feet from a fire cistern, and the standpipe shall be within 8 feet of the nearest usable portion of the dedicated right-of-way or approved easement, unless otherwise approved by the applicable Fire Marshal.
- Easements Required: Fire cistern easements shall be provided and dedicated to the appropriate fire department to afford accessibility of the cistern from a public road. Easements shall be of sufficient size to facilitate maintenance.

(ii) Dry Hydrants

- Use of Dry Hydrants: Dry hydrants may be provided in combination with fire cisterns or other approved fire protection water supply systems. Plans for dry hydrants shall be submitted to and approved by the Fire Marshal.
- Construction Standards: Construction and installation of dry hydrants shall be in accordance with the

approved plans and conform to the requirements of the NFPA standards on water supplies for suburban and rural fire fighting.

- Accessible: Dry hydrants shall be located to be accessible under all weather conditions.
- Clearance: Dry hydrants shall have a minimum clearance of 20 feet on each side and be located a minimum of 100 feet from any structure. Highway or road traffic shall not be impaired during the use of the dry hydrant.
- Protected: Dry hydrants shall be protected from damage by vehicular and other perils, including freezing and damage from ice and other objects.
- Visible: Dry hydrant locations shall be made visible from the main roadway during emergencies by reflective marking and signage approved by the Fire Marshal. All identification signs shall be approved by the highway authority prior to installation if they are to be located on the right-of-way or are subject to State laws.
- Access to Hydrant: Vehicle access shall be designed and constructed to support the heaviest vehicle.
- Maintenance of Dry Hydrant: Dry hydrants shall be checked and maintained at least quarterly. Thorough surveys shall be conducted, to reveal any deterioration in the water supply situation in ponds, streams, or cisterns. Grass, brush, and other vegetation shall be kept trimmed and neat. Vegetation shall be cleared for a minimum 3 foot radius from around hydrants. The hydrant shall be painted as needed, with reflective material to maintain visibility during emergencies. The ownership and maintenance responsibilities for the facilities shall be approved by the Fire Marshal.
- Maps and Location/Detail Drawings: The fire department (Fire Marshal where there is no fire department) shall maintain in a safe location, the maps and records of dry hydrant system locations, installation, tests, inspections, maintenance and repairs.
- Easements Required: Dry hydrant easements shall be provided and dedicated to the appropriate fire department (or County where there is no fire department) to afford accessibility of the dry hydrant from a public road. Easements shall be of sufficient size to facilitate maintenance.

(iii) Water Supply Requirements

The owner of the cistern or dry hydrant is responsible for planning, developing, permitting, and continual provision of a sufficient water supply necessary to maintain the fire protection requirements of a cistern system, to the satisfaction of the Fire Marshal.

(2) Roads

This Section shall apply to all roads providing access to a planned building area whether or not they are dedicated as public roads.

(a) Roads Constructed to County Standards

All roads, including private roads and emergency vehicle access roads, shall be designed and constructed according to this Code and the ECM. Emergency vehicle access roads shall, at a minimum, be constructed to the County's gravel road standard if open to the public. Emergency vehicle access roads which are not open to public travel shall meet the non-road access standards

(b) Roads within 150 Feet of Development

Roads or emergency vehicle lanes shall be provided within 150 feet of all development except single family residential development.

(c) Two Access Routes Required

Access to a planned building area shall be provided by a minimum of 2 separate routes in accordance with the requirements of this Code and the ECM if the cul de sac exceeds the length allowed by the ECM.

(d) Turnaround Required on Dead-End Roads

Every dead-end road more than 300 feet in length shall be provided with a roadway termination meeting ECM standards.

(e) Road Grades in Wildland Fire Areas

Within wildland fire areas, road grades steeper than 10 percent may be permitted where mitigation measures can be agreed on by the Fire Marshal and the ECM Administrator.

(3) Non-Road Access

The following minimum standards shall apply to emergency vehicle lanes, driveways, and parking lot drive lanes serving as emergency vehicle lanes.

(a) Emergency Access Provided

Access for emergency responders, ingress, egress, and evacuation shall be provided for all buildings.

(b) Driveways Required

Where any point of a building is greater than 150 feet from a road, a driveway meeting these standards shall be provided to within 150 feet of the furthest point on the building.

(c) Emergency Vehicle Lanes Required

Emergency vehicle lanes shall be provided as required by the Fire Marshal.

(d) Emergency Access Lane Design

An emergency vehicle lane shall be designed and constructed to enable fire-fighting apparatus to maneuver broadside or directly forward within a minimum of 5 feet and a maximum of 25 feet of structures.

(e) Width of Driveway and Emergency Vehicle Lanes

Where the driveway is greater than 150 feet in length, it shall be not less than 10 feet in unobstructed width. Emergency vehicle lanes providing one-way travel shall be a minimum of 16 feet in width, and fire lanes with two-way travel shall be a minimum of 24 feet in width.

(f) Vertical Clearance

At least 13 feet 6 inches of vertical clearance shall be provided and maintained over the full width of an emergency vehicle lane or driveway.

(g) Turns

Required driveways shall be designed, constructed, and maintained to accommodate the turning radius of the largest apparatus typically used to respond to that location. A turn in an emergency vehicle lane shall be constructed with a minimum radius of 25 feet at the inside curb line and a minimum radius of 50 feet at the outside curb line.

(h) Grades

Emergency vehicle lanes and required driveways shall not exceed 10 percent in grade unless steeper grades are allowed where mitigation measures can be agreed on by the Fire Marshal and the property owner.

(i) Emergency Vehicle Lanes Connecting to Roads

Emergency vehicle lanes connecting to roads shall be provided with curb cuts extending at least 2 feet beyond each edge of the fire lane.

(j) Turnouts and Turnarounds Required

(i) Driveways

Where the required driveway is greater than 300 feet, it shall be provided with turnouts or turnarounds at locations approved by the Fire Marshal.

(ii) Turnarounds Required

Dead-end emergency vehicle lanes in excess of 300 feet in length shall be provided with turnouts and turnarounds as approved by the Fire Marshal. The turnaround at the terminus shall have a minimum radius of 50 feet. The Fire Marshal shall

be authorized to approve, as an alternative, a “hammerhead” turnaround to provide emergency vehicles with a three-point turnaround.

(k) Load Design

Emergency vehicle lanes and required driveways shall be designed, constructed, and maintained to accommodate the load of the largest apparatus typically used to respond to that location.

(l) Bridges or Drainage Crossings

A bridge or drainage crossing on an emergency vehicle lane or required driveway shall be designed to accommodate the load of the largest apparatus typically used to respond to that location. The load limit shall be clearly posted at the approaches to the bridge.

(m) Landscaping Maintained

Landscaping or other obstructions shall be maintained in a manner that provides unobstructed access for fire department operations.

(4) Gates

(a) Gate Location and Dimensions

Gates shall be located a minimum of 30 feet from the public right-of-way and shall not open outward. The opening provided through a gate shall be 2 feet wider than the traveled way.

(b) Locks

Fire department personnel shall have ready access to locking mechanisms on a gate restricting access to a fire line. Proposed changes to access shall be approved by the Fire Marshal.

(D) Construction in Wildland Fire Areas

(1) General

(a) Applicability

All structures potentially threatened by wildland fire shall be designed, located, and constructed to comply with this Section.

(b) Risk Assessment Required

A wildland fire risk hazard severity assessment shall be performed for all structures and groups of structures adjacent to wildland fuels.

(c) Maintenance of Property

After construction, continued maintenance of the grounds and storage of combustible materials shall be performed to maintain these requirements, as acceptable to the Fire Marshal.

(d) Location of Buildings and Building Envelopes

Buildings located closer than 30 feet to a vegetated slope shall require special mitigation measures in accordance with NFPA 1144, Standard for Protection of Life and Property from Wildfire as determined by the Fire

Marshal. Building envelopes shall not include gullies, fire chimneys, saddles, or other terrain conducive to wildfire spread.

(e) Roof Design and Materials

Only roof covering assemblies rated Class A shall be used in a wildland area. The specific class shall be consistent with the wildland fire risk and hazard severity assessment as determined by the Fire Marshal.

(f) Accessory Structures

Outbuildings, patio covers, gazebos, and other accessory structures shall be separated from the main structure by a minimum of 30 feet.

(g) Access to Structures

At least one approved means of vehicular access shall be provided to each structure or other nonstructural fire hazard in accordance with the following:

(i) For structures or nonstructural fire hazards exceeding two stories or 30 feet in height above average adjacent ground level, or 12,000 square feet of gross floor area, no less than 2 separate approved means of access shall be provided.

(ii) Approved vehicular access shall be provided to within 150 ft of any point of the exterior wall of each structure.

(h) Access to Structures Not Protected by Automatic Sprinklers

An approved means of vehicular access shall be provided to within 30 feet of all points of at least 2 exterior walls for any structure not protected by automatic sprinklers that exceeds 2 stories or 30 feet in height above average adjacent ground elevation. Single and two-family dwellings are exempt from this requirement.

(i) Access to Structures Protected by Automatic Sprinklers

For any structure protected by an automatic sprinkler system, an approved means of vehicular access shall be provided to within 400 feet of any point of the exterior wall. For any structure exceeding 3 stories or 35 feet in height above average adjacent ground elevation and protected by an automatic sprinkler system, an approved means of vehicular access shall be provided to within 30 feet of all points of at least 2 exterior walls.

(j) Separation Between Structures

A structure in a planned building area shall be separated from another structure by at least 30 feet and shall be located at least 25 feet from a lot, parcel, or tract line. A structure in a planned building area that exceeds 2 stories or 30 feet in height above average adjacent ground elevation and is not protected by an automatic sprinkler system shall be separated from other structures by at least 50 feet and shall be located at least 25 feet from a lot, parcel, or tract line.

(2) Wildland Fire and Hazard Mitigation Plan Required

(a) General Plan Standards and Requirements

When a subject lot, parcel, or tract falls within a wildland fire area, a wildland fire risk and hazard mitigation plan shall be prepared by a qualified professional and shall be tailored to the stage of development application and the stage of subdivision-related construction. A higher level of plan may be submitted at any stage of the process so long as it is implemented at the final stage of development. Plans shall utilize the Colorado State University (CSU) Guidelines and NFPA standards, as applicable. Additional fire precaution measures may be required because of fire hazard in the following areas:

(i) Areas depicted as forested on the Vegetation Map;

(ii) Areas rated as fire hazards by the CSFS;

(iii) Where slopes in or adjacent to proposed development are in excess of 20%; or

(iv) Where the local fire protection agency identifies a specific fire danger.

(b) Development of Plan

(i) General Mitigation Plan Requirements

This plan shall include, but not be limited to, the following:

- Access, ingress, egress, and evacuation;
- Fuel modification;
- Water supply;
- Construction, location, and design of structures; and
- Ignition potential.

(ii) Approval of Fire Marshal

The Fire Marshal shall approve the mitigating measures relative to access, defensible space, water supply, and construction based on the relative risk and hazard rating.

(3) Wildland Fire Risk and Hazard Severity Analysis Required

(a) Risk Assessment to be Performed

A risk and hazard rating analysis shall be performed to determine the level of the wildland fire threat to life and values at risk prior to building permit authorization in high hazard areas unless completed as part of the wildland fire and hazard mitigation plan.

(b) Basis for Mitigation Measures

The risk and hazard ratings shall be the basis for the implementation of mitigation measures relative to vegetation, other combustibles, and construction criteria.

(c) Analysis Rating Factors

The following shall be considered in analyzing the risk factors:

- The history of local wind, relative humidity, temperature, and fine fuel moisture content shall be considered in determining defensible space.
- All vegetative fuels and other combustible materials shall be evaluated for their potential to contribute to the intensity and spread of wildland fire.
- Slope and aspect shall be evaluated as to their potential to increase the threat of wildland fire to life or improved lot, parcel, or tract.
- The factors determining required defensible space shall include the history of wildland fire for the area.
- Fire-safe routes for emergency service apparatus and for egress shall be evaluated.
- Other factors that can affect the risk of ignition or the spread of wildland fire on improved lot, parcel, or tract, including the risk of structure fires spreading to vegetation, shall be part of the analysis.

(d) Review of Wildland Fire Risk and Hazard Rating

The rating assignments developed to meet the requirements of this Code shall be reviewed by the Fire Marshal.

(4) No Permit or Approval Granted without Compliance

No permit or approval associated with development, construction or occupancy shall be approved or issued until the provisions of this standard are satisfied. Notwithstanding the foregoing, the Fire Marshall shall have the authority to grant administrative variances to the design standards of this Section upon the finding of two or more of the following criteria:

- The fire protection district responsible for providing fire protection services to the project has adopted a fire code with a more stringent design standard from that contained herein;
- The application of a design standard will cause undue hardship or practical exceptional difficulties; or
- An alternate design standard will satisfy the intent and meet the goals of these Fire Protection and Wildfire Mitigation Regulations.

(5) Defensible Space Requirements

(a) General

The Defensible Space Requirements in Table 6.8 shall be implemented as minimum requirements in association with development in any Wildland Fire Area.

Table 6-8. Defensible Space Clearing and Structural Summary (Recommendations from NFPA by Wildland Fire Hazard Severity Analysis).

Low Hazard	High Hazard
9.14 m (30 ft) clearance Class A roof No portion of trees or other vegetation within 3.048 m (10 ft) of chimney outlets Trees within defensible space shall be pruned to minimize ladder fuels	9.14 m (30 ft) irrigated Class A roof 30.48 m (100 ft) fuel treatment Noncombustible siding/decks, and boxed eaves Selected fire-resistant trees within 9.1 m (30 ft) of structures Selected thinning of trees and shrubs Trees within defensible space shall be pruned to minimize ladder fuels All trees and shrubs pruned of dead material No portion of trees or other vegetation within 3.48 m (10 ft) of chimney outlets

(b) Maintenance of Defensible Space and Associated Fuel Break Thinning

Defensible space and fuel break thinning work shall be completed and maintained to the standards described in the Colorado State University's Cooperative Extension Fact Sheet 6.302. The responsibility for maintaining defensible space and associated fuel break thinning lies with the landowner. Noncompliance with defensible space maintenance standards will be enforced as a zoning violation.

(6) Fuels Modification During Development and After Construction

(a) Identification of Modification Required

Identification of fuel modification measures may be required in order to reduce the threat of wildfire. If fuel modification is determined to be necessary, the plan shall be prepared by a qualified professional. A fuel modification plan shall comply with NFPA requirements. Required elements shall include but are not limited to the following:

- Identification of fuel type, volume and loading, in conjunction with an assessment of slope and aspect, to determine the ability for a wildfire to spread;
- Reduction of fuel loading and modification of fuel types to reduce the risk to structures or adjacent vegetation, including the creation of fuel breaks; and
- Creation of defensible space to protect structures from approaching wildfire and reduce the potential for turning a structure fire into a wildfire.

(b) Fuel Modification Standards

When the Wildland Fire Risk and Hazard Mitigation Plan requires establishment of a fuel modification area:

- The modifications shall extend at least 30 feet from structures;
- Ground fuels within the defined defensible space shall be treated or removed;

- Live vegetation within the defensible space shall have dead material removed and shall be thinned and pruned;
- Dead or downed fuels within the defensible space of buildings shall be removed or treated to maintain the fuel modification area;
- Vegetation under trees within the fuel modification area shall be maintained at a height that will preclude ground fire from spreading in the tree crown;
- The fuel modification plan shall include a maintenance element with the responsibility for maintenance defined;
- In these areas all slash (fallen trees, shrubs, pulled stumps, and other combustible materials) may be required to be disposed of from an area extending to at least 150 feet from the road centerline prior to the acceptance of any roads;
- All slash shall also be removed from the vicinity of the home sites prior to final building inspection; and
- Continuous proper forest management to maintain a low wildfire danger shall be guaranteed.

(7) Combustible Materials

Propane tanks and other combustible liquids storage shall conform to NFPA 30, Flammable and Combustible Liquids Code, NFPA 58, Liquefied Petroleum Gas Code, and the Wildland Fire Risk and Hazard Mitigation Plan. Other combustible materials shall be removed from the defensible space or stored in conformance with the fire protection plan as approved by the Fire Marshal.

6.3.4. Forestry

(A) General

(1) Purpose

To ensure that proposed development is reviewed in consideration of forestry issues to:

- Identify forest health concerns and inform purchasers of developed lot, parcel, or tract;
- Improve overall forest health; and
- Implement wildfire hazard reduction.

(2) Applicability

The provisions of this Section shall apply to the review and approval of all development applications and permits on land that is forested.

(3) Vegetation Map of Forested Areas

El Paso County shall maintain a Vegetation Map depicting forested areas of the County, which shall be the official map for purposes of this Chapter. Additional mapping of infected and diseased tree locations may be maintained by the ESD.

(B) Forestry Management Standards

(1) Forestry Management to Conform to ESD Recommendations

The applicant should consult with the ESD prior to submission of the development application. ESD input should be reflected in design of the project.

(2) Forestry Management to Conform to CSU Guidelines

Development applications and permits should utilize the CSU Guidelines with respect to forest management including wildfire mitigation and pest control.

(3) Maintenance Responsibilities

Forestry management begins at the time of development, but extends as an obligation of the HOA and property owners into perpetuity. Categories of responsibility that should be addressed in the development include: (1) homeowner (responsibility to maintain, etc.); (2) HOA (Common areas, HOA enforcement against homeowners, obligation to maintain in private road tracts, etc.); (3) builder (what to be shown on site, existing vegetation, vegetation which is to be removed or thinned, etc.); and (4) developer (responsibility to complete requirements of the plan, relationship to financial assurance, relationship to warranty/maintenance bond, relationship to future filings, relationship to buildings, etc).

(4) Forestry Management Plan

(a) Forestry Management Plan Required

A forestry management plan shall be developed and submitted with the development application. The plan should describe the overall forestry management program for the subject property in conformance with the standards identified.

(b) Recording of Plan

Implementation of the forestry management plan shall be accomplished by the recording of the development guide (in the case of a PUD) or the final plat and related documents (in the case of a subdivision).

(c) Mitigation Costs Included in Construction Financial Assurance

If the forest health issues are significant enough in the determination of the ~~DSD~~PCD Director to require mitigation associated with development construction activities, the cost of the mitigation shall be included in the construction financial assurance.

(d) Plat Notes Required

Notice of any forest health issues may be required by the County through conditions of approval or notes placed on the face of the plat.

6.3.5. Grading and Erosion Control

(A) General

(1) Purpose

The purpose of this Section is to outline the standards for obtaining approval to disturb land in association with development activities, and ensuring those activities conform to the requirements of this Code and the ECM.

(2) Applicability

This Section shall be applicable whenever a development activity results in a land disturbance of greater than one acre or where the disturbance is for the purpose of installation of public improvements in association with a development activity, subject to the exceptions listed in Chapter 3 of the ECM.

(3) Approved Plan and ESQCP Required Before Land Disturbance

No clearing, grading, excavation, filling, or other land-disturbing activities covered under this Section and Chapter 3 of the ECM shall be allowed until approval of the grading plan and erosion and sediment control plan is received, and an ESQCP is approved.

(4) Relationship to ECM

The technical standards for the preparation of grading and erosion control plans, issuance of the construction permit and ESQCP, and design standards for construction are contained with the ECM.

(B) Grading Standards

Grading shall meet the following standards. Subdivision grading shall also be designed in conformance with the requirements in Chapter 8.

(1) No Severe Changes in Grade

Grading adjacent to existing development shall not result in severe changes in grade.

(2) Utility and Drainage Easements Established and Modified

In association with grading, utility and drainage easements shall be established or modified to produce a usable and desirable transition between developments.

(3) Steep Lots or Parcels Terraced

Beyond any easement area, lot and parcel grades in excess of 4:1 shall be terraced or otherwise permanently stabilized.

(4) Graded to Protect Structures

All lots, tracts and parcels shall be graded to protect structures from the 100-year storm. Lots, tracts and parcels shall be graded to avoid concentrating flows or creating ponding near existing or proposed structures.

(5) Disturbance to Approved Grading

Any disturbance to approved grading shall be promptly restored by and at the expense of the owner.

(6) Financial Assurance Not Released Until Land Stabilized

Financial assurance for drainage and erosion control shall not be released until final grading is completed and the site is stabilized, in accordance with the drainage and erosion control plan and ESQCP.

(7) Minimize Use of Retaining Wall

Grading shall minimize use of retaining walls.

(8) Disposal of Removed Vegetation

Disposal of removed vegetation shall occur off-site at an approved location, unless on-site disposal is allowed as part of an approved forestry management plan and noxious weed management plan and the disposal location is noted on the final plat or approved plan.

(9) Noxious Weed Management Plan Required

Where applicable, a noxious weed management plan shall be prepared and implemented.

(C) Erosion and Sediment Control Plan

(1) General

(a) Purpose

The purpose of the erosion and sediment control plan is to control erosion during construction in compliance with the regulations and erosion control standards outlined in the ECM.

(b) Requirements for Erosion and Sediment Control Plan

Details of the plan requirements and standards are contained in the ECM.

(c) Financial Assurance Required

Financial assurance for all temporary and permanent measures to prevent and control anticipated erosion shall be provided in conformance with the ECM.

(d) Plans Combined

Where appropriate, the erosion and sediment control plan and the grading plan may be combined in a single document.

(2) Construction Drawings

When specific erosion control improvements are required, the construction drawings and specifications shall be submitted for review with the final plat and any improvements included in the construction financial assurance required by the ECM.

(3) Referral and Review Requirements

The grading plan and erosion and sediment control plan required by this Code may be referred to other agencies for review and comment.

(D) Requirement for Maintenance Agreement

Where necessary to ensure maintenance of permanent stormwater quality and erosion control measures, a maintenance agreement in accordance with the provisions of the ECM shall be approved prior to the approval of the development permit or issuance of the Certificate of Occupancy when a building permit is the only development permit required.

6.3.6. Habitat Conservation Plans (RESERVED)

6.3.7. Noxious Weeds

(A) General

(1) Purpose

To ensure that proposed development is reviewed in consideration of the impacts to noxious weeds in order to:

- Implement the El Paso County Noxious Weed Management Plan;
- Implement the provisions of the Colorado Noxious Weeds Act;
- Reduce the spread or noxious weeds; and
- Reduce County cost for noxious weed management in newly accepted right-of-ways.

(2) Applicability

This Section shall apply to all lands and the review and approval of development applications and permits for land identified on the Noxious Weed Map or identified by the Forestry and Noxious Weed Manager as containing noxious weeds or adjacent to lands containing noxious weeds.

(3) Target Weeds of Concern

The target weeds that are of concern and which are the subject of this requirement are those noxious weeds as described in the Colorado Noxious Weed Act, C.R.S. §§35-5.5-101, et seq., and any amendments thereto, and any applicable El Paso County ordinance.

(B) Noxious Weed Management

(1) Noxious Weed Management and Plan Required

Noxious weed management shall be undertaken in association with a development application and permit when noxious weeds are identified on the Noxious Weed Map or by the Forestry and Noxious Weed Manager as being located on the subject property. Noxious weeds shall be addressed through the preparation of a noxious weed management plan.

(2) Early Consultation with ESD

The ESD should be consulted prior to submittal of a development application. The ESD input should be reflected in the design of the project.

(3) Site Control Measures

Topsoil stockpiles shall be managed and disturbance should be minimized to control noxious weeds.

(4) Limit of Noxious Weed Management Plan or Action

A noxious weed management plan or any action taken under this Section to control noxious weeds does not limit the County's authority to take appropriate action under the weed control acts.

(5) Implementation of Approved Plan

(a) Recording of Plan

Implementation of the noxious weed management plan shall be accomplished by the recording of the development guide (in the case of a PUD) or the final plat and related documents (in the case of a subdivision that incorporate the recommendations of the plan.

(b) Plat Notes Required

Notice of any noxious weed issues may be required by the County through conditions of approval or notes placed on the face of the final plat.

(c) Mitigation Costs Included in Construction Financial Assurance

If the noxious weed issues are significant enough in the determination of the ~~DSD~~PCD Director to require mitigation associated with development construction activities, the cost of the mitigation shall be included in the construction financial assurance. Release of the financial assurance shall be consistent with the requirements of the ECM.

6.3.8. Wetlands

(A) General

(1) Purpose

The purpose of this Section is to ensure wetlands are identified during the development process, and that appropriate actions are taken to minimize negative impacts to wetlands and avoid the removal of wetlands where practicable or as may be required by the U.S. Army Corps of Engineers (USACOE).

(2) Applicability

This Section shall apply to all activities and to the review of development applications and approval of development permits on lots, tracts or parcels that include wetlands identified on the National Wetland Inventory, or otherwise identified by field inspection or in the drainage report.

(B) Wetlands Standards

(1) Reductions of Impacts and Avoidance

Wetlands offer important wildlife habitat, improve surface water quality, and are often indicators of significant natural hazards. When developing a lot, tract or parcel, wetlands should be incorporated into the design of the project or avoided when practical. Storm drainage system design should consider the presence of wetlands and limit impacts that can result from flow volumes, flow rates, and water quality entering a wetland.

(2) Removal of Wetlands

If a wetland must be removed to facilitate the development of a lot, tract or parcel, mitigation should be considered and may be required by the BoCC or other agencies including replacement wetlands.

(3) Other Local, State and Federal Standards

(a) Compliance with Recommendations of USACOE

Proposed development shall comply with the requirements of the USACOE. The applicant should consult with USACOE prior to submission of a development application when wetlands are present on the subject property. USACOE input shall be reflected in design of the project.

(b) Requirements of USACOE and Other Agencies

The applicant is responsible for identifying and complying with all other applicable federal, State, or local laws and regulations that may be required prior to commencing construction, including, but not limited to, Section 404 permits from the USACOE. If the applicant fails to determine compliance requirements and integrate the comments of other regulatory agencies in advance of approval of the development permit and compliance results in a modification to the development permit, the ~~DSD~~PCD Director may require the applicant to:

- Submit amended reports;
- Revise construction design;
- Change approved documents and plats; or
- Change recorded documents and plats.

Compliance with any requirement of this Code does not relieve and applicant from compliance with any requirements of the USACOE or other agencies.

(c) Conformance with ECM

Any wetland modification or construction shall be in conformance with the requirements of the ECM.

(4) Conditions and Notes on Development Permit

Conditions or notes may be required to be placed on any development permit, which may include required delineation of wetland areas as no-build areas, easements, conservation easements, restricted areas, or other descriptions. Conditions may also identify whether consultation or clearance from other agencies shall occur:

- Prior to next step of the development application process in the case of final plats, grading, or construction of facilities, buildings, or structures;
- Prior to the recording of plat; or
- Prior to County acceptance of public improvements.

Any depiction or note on a final plat shall state the nature of the restriction and the responsible entity for enforcement and maintenance.

6.3.9. Wildlife

(A) General

(1) Purpose

To ensure that proposed development is reviewed in consideration of the impacts on wildlife and wildlife habitat, and to implement the provisions of the Master Plan.

(2) Applicability

This Section shall apply to all activities and to the review and approval of development applications and permits on land identified on the Wildlife Habitat Map as significant wildlife habitat.

(B) Wildlife Standards

(1) Reductions of Impacts and Avoidance

Wildlife and wildlife habitat are important to the quality of life in El Paso County. When developing a lot, tract or parcel, wildlife considerations should be incorporated into the design of the project and important wildlife habitat avoided when practical.

(2) Other Local, State and Federal Standards

(a) Compliance with Recommendations of DOW Standards

Proposed development should make every reasonable attempt to comply with the requirements of the DOW. The applicant should consult with DOW prior to submission of a development application when significant wildlife habitat is present on the subject property. DOW input should be reflected in design of the project.

(b) Requirements of DOW and Other Agencies

The applicant is responsible for identifying and complying with all other applicable federal, State, or local laws and regulations that may be required prior to commencing construction. If the applicant fails to determine compliance requirements and integrate the comments of other regulatory agencies in advance of approval of the development permit and compliance results in a modification to the development permit, the ~~DSD~~PCD Director may require the applicant to:

- Submit amended reports;
- Revise construction design;
- Change approved documents and plats; or
- Change recorded documents and plats.

Compliance with any requirement of this Code does not relieve and applicant from compliance with any requirements of the DOW or other agencies.

(3) Conditions and Notes on Development Permit

Conditions or notes may be required to be placed on any development permit, which may include required no-build areas, easements, conservation easements, restricted areas, or other descriptions.

Chapter Seven

RULES GOVERNING DIVISIONS OF LAND

7.1. GENERAL

7.1.1. Purpose

The purpose of this Chapter is to establish the rules governing the division of land in El Paso County in accordance with C.R.S. §§ 30-28-101 et seq., and to provide clear criteria the County will use in processing and approving divisions of land. It is hereby declared that the standards contained in this Chapter are necessary for the protection and preservation of the public health, safety and general welfare. It is intended that the implementation of these standards accomplish the following objectives:

- Provide efficient and effective review, determination, and compliance procedures;
- Ensure proper legal description, identification, monumentation, and recording of property boundaries;
- Ensure adequate access;
- Prevent the haphazard division of land and the inadequate provision of physical improvements;
- Ensure that a division of land complies with other rules and regulations, such as zoning and environmental regulations, pertinent to the development;
- Ensure safe and convenient traffic control;
- Prevent flooding within developments by providing adequate flood control and drainage facilities;
- Ensure the installation of necessary and adequate roads, water, wastewater, and sidewalk facilities; and
- Ensure compliance with C.R.S. §§30-21-101 et seq., and the Master Plan C.R.S. §30-28-106.

7.1.2. Applicability

Any subdivision, subdivision exemption, or other action that creates or modifies property boundaries or interests in property, as defined by this Code, shall conform to the requirements of this Chapter.

7.1.3. Requirement to File Plat for Recording

The filing for recording with the Clerk and Recorder of an approved plat is required for all subdivisions, subdivision exemptions, or other actions that create or modify property boundaries or interests in property except as otherwise provided by this Code.

An approved plat shall be filed for recording with the Clerk and Recorder within one year of receiving final approval from the approving authority. If the approved plat is not filed within one year of receiving final approval from the approving authority, the approval shall be void and the plat shall not be filed for recording until a new approval is granted by the applicable approving authority in accordance with the requirements of this Code and the Procedures Manual.

7.1.4.Compliance with Regulations

(A) No Unusable Lots, Tracts or Parcels

No lot, tract, or parcel of land shall be created, either by inclusion within or exclusion from a subdivision, subdivision exemption or other action that creates or modifies property boundaries or interests in property, as defined by this Code, which will result in a lot, tract, or parcel of land that cannot be used for an allowed use under the existing zoning district standards including all applicable dimensional standards.

(B) Approval of Action Does Not Abrogate Responsibility to Comply with Other Regulations

The approval of a subdivision, subdivision exemption or other action that creates or modifies property boundaries or interests in property, as defined by this Code, does not abrogate any legal requirement to comply with the rules and regulations of any other governmental agency, local, state, or federal, which may have jurisdiction over the proposed activity.

7.1.5.Taxes Paid

No plat of a subdivision, subdivision exemption or other action that creates or modifies property boundaries or interests in property, as defined by this Code, shall be filed for recording with the Clerk and Recorder until all taxes have been paid on the land.

7.1.6.Design Objectives

A division of land should be designed to create a functional and attractive environment, minimize adverse impacts, provide maximum livability, provide safe and efficient access and circulation, and generally be an asset to a community. The approval authority may, in the application of this Code, exercise design discretion to achieve the intent and purpose of this Code. All divisions of land shall comply with the design standards in Chapter 8 unless otherwise specifically provided.

7.1.7.Review Procedures

The ~~DSD~~PCD Director shall coordinate the formal technical review of all divisions of land to ensure the plats are prepared in accordance with all applicable codes, ordinances, and development standards. The ~~DSD~~PCD Director shall prepare and implement detailed procedures and standards for document preparation, submittal, and review to carry out the intent of this Code for subdivisions, subdivision exemptions, or other action that creates or modifies property boundaries or interests in property, as defined by this Code. The procedures and standards shall be incorporated into the Procedures Manual by the ~~DSD~~PCD Director. The ~~DSD~~PCD Director has the discretionary authority to modify the review procedures from time-to-time to meet the intent and purpose of this Code and pursuant to C.R.S. §30-28-133.5.

7.1.8.Vesting

The recording of the approved plat is considered a site specific development plan for the purposes of establishing vested rights. No additional vesting procedure is required.

7.2. SUBDIVISIONS, SUBDIVISION EXEMPTIONS, AND OTHER ACTIONS THAT CREATE OR MODIFY PROPERTY BOUNDARIES OR INTERESTS IN PROPERTY

7.2.1. Subdivisions

(A) Purpose

The purpose of this Section is to identify the types of subdivisions that are recognized by El Paso County and the criteria by which their conformance with this Code and C.R.S. §§30-28-133 through 139, will be established.

(B) Applicability

This Section shall apply to all divisions of land that meet the statutory definition of subdivision and are not otherwise exempted from the term “subdivision” by the BoCC.

(C) Type of Subdivisions

(1) Minor Subdivision

(a) Purpose

The purpose of establishing the minor subdivision is to provide a simplified review process which combines preliminary plan and final plat for subdivision of limited impact and complexity.

(b) Applicability

A minor subdivision is a division of land that results in the creation of 4 or fewer lots that do not discernibly impact surrounding properties, environmental resources or public facilities.

(c) Applicable Minor Subdivision Criteria for Approval

A minor subdivision shall be required to conform to all preliminary plan and final plat requirements including the criteria for approval, except to the extent that those requirements are modified by this Code or the Procedures Manual.

(d) Completed Action

A minor subdivision shall be considered completed and in effect when an approved final plat is filed for recording with the Clerk and Recorder.

(e) Circumvention of Process

If it is determined that the applicant is using the minor subdivision process to circumvent the subdivision process such as the submittal of adjoining multiple minor subdivisions or multiple replats of the same property, the applicant shall be required to comply with the preliminary plan and final plat process.

(2) Major Subdivision

(a) Purpose

The purpose of establishing the major subdivision is to provide a detailed and intensive review process for a complex subdivision which may have significant impacts on a neighborhood, water resources, the environment, and community facilities and services.

(b) Applicability

A major subdivision is a division of land that results in the creation of 5 or more lots in accordance with C.R.S. §30-28-101(10) (d).

(c) Applicable Major Subdivision Criteria for Approval

A major subdivision shall be required to conform to all preliminary plan and final plat requirements including the criteria for approval. A sketch plan may be required where the ~~DSD~~PCD Director determines a sketch plan is necessary to support the efficient and comprehensive review of a major subdivision.

(d) Completed Action

A major subdivision shall be considered completed and in effect when an approved final plat is filed for recording with the Clerk and Recorder.

(D) Subdivision Approval Process and Criteria for Approval

The subdivision approval process is usually a three step process. The steps can occur concurrently in cases where the size and complexity of the subdivision are limited.

(1) Sketch Plan

(a) Description of Sketch Plan

The sketch plan is the first step of the approval process for larger or more complex divisions of land. The sketch plan process reviews, at a conceptual level, the feasibility and design characteristics of the proposal based on the standards set forth in this Code. Minor subdivisions are not subject to the sketch plan process. The review examines the feasibility of the division of land including review of the schematic design, ability to obtain water and sanitation, location of geologic hazards, identification of environmentally sensitive areas and wildlife habitat areas, source of required services, vehicular and pedestrian circulation, relationship to surrounding land uses, evaluation of wildfire hazards and conformance with the requirements of this Code and Master Plan. During this step, public hearings are held before the Planning Commission and the BoCC.

(b) Applicability

The determination of whether a sketch plan is required is made by the ~~DSD~~PCD Director.

(i) Sketch Plan Required

A sketch plan is generally required in the following instances:

- When the development is to be staged over an extended time, with multiple phases;
- When a variety of different land uses are proposed.

(ii) Sketch Plan Optional

A sketch plan may be used by the applicant or requested by the ~~DSD~~PCD Director when consistency of a proposed subdivision with the Master Plan is unclear, or subject to dispute.

(iii) Concurrent Review and Approval

A new sketch plan may be reviewed and approved concurrently with a zoning and concept plan or development plan for a PUD. A sketch plan amendment may be reviewed and approved concurrently with any zoning and platting actions.

(c) Criteria for Approval

In approving a sketch plan, the BoCC shall find that:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The proposed subdivision is in conformance with the requirements of this Code;
- The proposed subdivision is compatible with existing and proposed land uses within and adjacent to the sketch plan area;
- The water supply report provides sufficient information to identify probable compliance with the water supply standards and identifies any need for additional water supplies;
- Services are or will be available to meet the needs of the subdivision including, roads, police and fire protection, schools, recreation facilities, and utility service facilities;
- The soil is suitable for the subdivision;
- The geologic hazards do not prohibit the subdivision, or can be mitigated;
- The subdivision will not interfere with the extraction of any known commercial mining deposit [C.R.S. §§34-1-302(1), et seq.];
- The design of the subdivision protects the natural resources or unique landforms;
- The proposed methods for fire protection are adequate to serve the subdivision; and
- The subdivision is appropriate and the design is based on mitigating the constraints of topography, soil types,

geologic hazards, aggregate resources, environmental resources, floodplain, airplane flight overlays, or other constraints.

(2) Preliminary Plan

(a) Description of Preliminary Plan

The preliminary plan is generally the second step of the approval process for a large or complex division of land or the first step in the process for simpler divisions of land. The preliminary plan process will review the feasibility and design characteristics of the proposed division of land based on the standards in this Code. The preliminary plan process will also evaluate preliminary engineering design.

The purpose of the preliminary plan is to provide an in-depth analysis of the proposed division of land including a refinement of the design considering the geologic hazards, environmentally sensitive areas, source of required services, vehicular and pedestrian circulation, and relationship to surrounding land uses. The preliminary plan and reports shall meet the statutory requirements as contained in C.R.S. §30-28-133, as amended. During this step public hearings will be held before the Planning Commission and the BoCC.

(b) Applicability

The preliminary plan applies to all subdivisions except those that can be classified as minor subdivisions.

(c) Concurrent Review of Preliminary and Final Plat

The preliminary plan may be submitted concurrently with the final plat if the proposed division of land and development of the lots does not require extensive engineering. The ~~DSD~~PCD Director shall determine whether a particular subdivision may combine processes. The preliminary plan may also be submitted in conjunction with a PUD rezoning application and serve as the development plan, as long as all applicable requirements for both applications are met.

(d) Preliminary Plan Approval Required

Preliminary plan approval or conditional approval is required in order to proceed to the final plat.

(e) Criteria for Approval

In approving a preliminary plan, the BoCC shall find that:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;

- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. §30-28- 133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
- Necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;

- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

(3) Final Plat

(a) Description of Final Plat

The final plat is the last step in the approval process for a division of land. The final plat process will review the final engineering plans, the SIA, financial assurance, CC&Rs (if applicable), the plat, and any other documents, reports, or studies as necessary; and may also review issues such as building height, landscaping, and building envelopes which have been deferred.

The purpose of this Section is to detail the approval review and approval criteria for a final plat, engineering plans, SIA, and other legal requirements for platting a division of land. During this step, there will be public hearings before the Planning Commission and BoCC.

(b) Applicability

A final plat shall be required for all subdivisions.

(c) Concurrent Review of Preliminary Plan and Final Plat

The final plat of the division of land may be processed concurrently with the preliminary plan of the proposed division of land; however, design modifications associated with the preliminary plan review may result in modifications to the final plat and delay the public hearing.

(d) Final Plat Requires Preliminary Plan Approval

Where a preliminary plan is required, a final plat may only be submitted if a preliminary plan for the subject property has been approved and the final approved version of the preliminary plan, incorporating any changes or conditions of approval, has been provided to the ~~DSD~~PCD. However, in the case of concurrent submittal of a preliminary plan and final plat, the final plat may only be filed for recording if the final approved version of the preliminary plan, incorporating any changes or conditions of approval, has been provided to the ~~DSD~~PCD.

(e) Final Plat for Portion of Preliminary Plat Area

The final plat may be for a distinct portion of preliminary plan area to provide for phased development.

(f) Criteria for Approval

In approving a final plat, the BoCC shall find that,

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;

- The subdivision is in substantial conformance with the approved preliminary plan;
- The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code;
- All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;
- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
- The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;
- Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;
- Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
- The subdivision meets other applicable sections of Chapter 6 and 8; and

- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.]

7.2.2.Subdivision Exemptions

(A) Purpose

The purpose of establishing standards for exemptions is to provide framework whereby the BoCC may grant exemptions from the definition of the term subdivision for any division of land the BoCC determines is not within the purpose of C.R.S. §30-28-101.

(B) Applicability

The BoCC may, pursuant to this Code, exempt from the definition of "subdivision" any division of land the BoCC determines is not within the purposes of the definition of "subdivision". The BoCC has exempted certain divisions of land from the definition of "subdivision" as set forth in C.R.S. §30-28-101, as amended through the adoption of this Code.

(1) Highway Rights-of-Way Exemptions

Any parcel created by the division of a parcel of land which is the direct result of the acquisition, by condemnation or otherwise, of the state or County highway rights-of-way, and any parcel created by the right-of-way taken or acquired by federal, state or local government, shall be considered an exemption provided that the parcel being divided was not created illegally.

(2) Utilities Exemptions

Any parcel of land divided into two or more separate interests, one being the interest of the fee owner of the parcel and the other being easements or land granted for purposes of public or private utility lines entering or crossing the parcel, shall be exempt from the definition of the terms "subdivision", except when a division of land of this nature is made to avoid compliance with the provisions of C.R.S. §30-28-101, as amended.

(3) Open Space Exemptions

Any parcel created by the division of a parcel of land which is the direct result of an acquisition by federal, state or local government for open space or park land shall be exempt from the definition of the term "subdivision", provided that the resulting parcel is in conformance with the minimum lot area requirements for the proposed use in the zone district in which said property is located and provided that the parcel being divided was not created illegally;

(4) Boundary-Line Adjustments or Combination of Contiguous Parcels Exemptions

The combination of contiguous unplatted parcels by the removal of a parcel boundary line or the reconfiguration of 2 unplatted parcels shall be exempt from the definition of the term "subdivision".

(5) Condominiums and Townhome Exemptions

A conversion of existing multiple units to condominium or townhome units as defined by C.R.S. §38-33-103, as amended, where there is no increase in density from what was originally approved, shall be exempt from the definition of the term "subdivision".

(6) Merger Exemptions

Property held in single and separate ownership on or before July 17, 1972 which would otherwise be subject to the provisions of C.R.S. §30-28-101, as amended, and the LDC, due to merger by contiguity into common ownership with adjacent property shall be exempt from the definition of the term "subdivision".

(7) Rural Land Use Plan Exemption

The Rural Land Use Plan Overlay District was removed from this Code by Board of County Commissioner Resolution No. 15-461. Any Rural Land Use Plan approved prior to the adoption of this Code or as otherwise amended, shall be governed by the approved and/or recorded Rural Land Use Plan, conditions of Board approval as contained in the recorded Board Resolution of the same and the Code in effect at the time of approval. Amendments or modifications deemed to minor by the determination of the Planning and Community Development Director may be approved administratively; those amendments or modification deemed to be major and/or substantial shall require approval by the Board of County Commissioners.

(C) Exemption Lot and Parcel Design Standards

(1) Comply with LDC

The resulting lots or parcels shall comply with the LDC unless: (1) a waiver or variance of one or more of the provisions of the LDC has been approved; or (2) the lots or parcels are for community facilities including utilities.

(2) Comply with Master Plan

The resulting lots or parcels shall conform to the Master Plan and any applicable intergovernmental agreement concerning land use or development.

(3) Avoids Hazards

The resulting lots or parcels will not result in development on a topographic or geologic hazard or within the 100-year floodplain, unless it is determined by the Floodplain Administrator that all proposed uses are capable of receiving a floodplain development permit.

(D) Exemption Not Subject to Certain Subdivision Standards

Subdivision standards and requirements regarding water supply and subdivision exactions including drainage fees, park fees, and school fees shall not be applicable to an exemption.

(E) Standards and Criteria for Specific Exemptions

(1) Condominium and Townhome Plats

(a) Purpose

The purpose of this Section is to provide standards and criteria for approving an exemption plat for the creation of condominium units in existing buildings, townhomes on owned lots, and for new construction where the intent to create condominium units or townhome units was established with the approval of the final plat.

(b) Applicability

A condominium map or townhome plat may be approved where a condominium or townhome is proposed to be established on land that was platted in a manner intended for condominium or townhome uses at the density proposed, where the proposal involves:

- The conversion of an existing building to condominium units;
- The construction of a building in order to establish condominium; or
- The establishment of townhome units, where land ownership is conveyed to the homeowner.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving a condominium map or townhome plat, shall find:

- The proposed uses in the condominium units or townhome units are consistent with existing zoning of the site;
- The site complies with the approved Site Development Plan, where applicable;
- The condominium map or townhome plat is consistent with the intent of the original subdivision of the property and does not result in an increase in density;
- The condominium map or townhome plat complies with the monumentation and plat preparation standards required by State Statute;
- Access and utility connections as appropriate are provided for any subsequent phases of the project;
- Homeowners' association documents or their equivalent address the unit owners' rights and responsibilities with respect to parking, loading and access facilities, landscaping, utilities and any other common areas and facilities on the site; and
- Perpetual maintenance of common facilities by property owners is provided for by the homeowners' association documents and allow for the option of County to take over maintenance and charge the cost to the property owners until property owners demonstrate they can adequately maintain the property if the property owners fail to adequately maintain the common facilities.

(d) Completed Action

An action establishing a condominium or townhome shall be considered completed and in effect when an approved condominium map or townhome plat is filed for recording with the Clerk and Recorder.

(2) Merger by Contiguity

(a) Purpose

The purpose of this Section is to establish standards whereby nonconforming substandard-sized lots or parcels can be combined to create a lot or parcel that more closely approximates the lot size requirements of the applicable zoning district to provide for building permit issuance for new construction or habitable additions, without necessitating a replat or variance.

(b) Applicability

The merger by continuity may be applied to any contiguous nonconforming lots or parcels of land where:

- Not more than one residential dwelling is located on the lots or parcels to be combined;
- The lots or parcels to be combined are located within the same zoning district; and
- The lots or parcels are owned in common ownership by the same person, persons or entity.

(c) Interpretation of Contiguity

(i) Common Boundary

Lots or parcels shall be regarded as contiguous when not less than one-sixth of the perimeter of either lot or parcel is shared by both lots or parcels or if the lots or parcels share a common boundary of at least 50 feet, whichever is less.

(ii) Severance of Contiguity

The contiguity of lots or parcels shall not be considered severed by the existence, along their common boundaries, of a private road, road easement, driveway or alley; a public or private transportation or utility easement or utility easement; a river, creek, stream, or other natural or artificial waterway; geologic condition that naturally or artificially divides property; or an intersecting mining claim.

(d) Effect of Merger

The following provisions shall be applied as a result of merger to the merged lots or parcels:

- The merged lots or parcels shall be considered as one lot or parcel of land for the purposes of application of this Code;

- The merged lots or parcels shall have setbacks applied only along the exterior boundaries of the merged properties;
- Lot frontage requirements shall not apply to merged lots or parcels; and
- The merged lots or parcels shall be considered a zoning lot.

(e) No Guarantee of Merger Results in Buildable Parcel

Merger does not guarantee that the resulting lot or parcel will meet the zoning district standards and be considered buildable, but shall establish the legality of the lot or parcel for zoning purposes.

(f) Approval Criteria

The ~~DSD~~PCD Director, in approving a merger by contiguity, shall find:

- The lots or parcels being merged are legal lots or parcels;
- The merger will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;
- The merger will not result in a nonconformity not otherwise existing prior to the merger;
- The merger is necessary to achieve compliance with the nonconforming lot or record provisions of this Code, or will accomplish a similar purpose;
- All separation distances for an OWTS can be met; and
- The extraction of areas designated as 100 year floodplain, major drainageways and slopes in excess of 30 percent leaves a single buildable area of at least 30 percent of the lot or parcel's total net area.

(g) Completed Action

These actions shall be considered completed and in effect when an approved merger agreement is filed for recording with the Clerk and Recorder.

(3) Combination of Contiguous Lots or Parcels

(a) Purpose

The purpose of this Section is to establish standards whereby lots or parcels that are conforming with respect to lot area may be combined to create a zoning lot to provide for building permit issuance for new construction or habitable additions, without necessitating a replat or variance; or an illegal parcel may be joined to a legal lot.

(b) Applicability

The combination by contiguity may be applied to any contiguous lots or parcels of land where:

- Not more than one residential dwelling is located on the lots or parcels to be combined;
- The lots or parcels to be combined are located within the same zoning district; and
- The lots or parcels are owned in common ownership by the same person, persons or entity.

(c) Interpretation of Contiguity

(i) Common Boundary

Lots or parcels shall be regarded as contiguous when not less than one-sixth of the perimeter of either lot or parcel is shared by both lots or parcels or if the lots or parcels share a common boundary of at least 50 feet, whichever is less.

(ii) Severance of Contiguity

The contiguity of lots or parcels shall not be considered severed by the existence, along their common boundaries, of a private road, road easement, driveway or alley; a public or private transportation or utility easement or utility easement; a river, creek, stream, or other natural or artificial waterway; a geologic condition that naturally or artificially divides property; or an intersecting mining claim.

(d) Effect of Combination

The following provisions shall be applied to the combined lots or parcels as a result of a combination agreement:

- The combined lots or parcels shall be considered as one lot or parcel of land for the purposes of application of this Code (i.e., zoning lot);
- The combined lots or parcels shall have setbacks applied only along the exterior boundaries of the combined properties; and
- The combined lots or parcels shall be considered a zoning lot.

(e) No Guarantee of Buildable Lot or Parcel

Combination of lots does not guarantee that the resulting lot or parcel will meet the zoning district standards and be considered buildable.

(f) Criteria for Approval

The ~~DSD~~PCD Director, in approving a combination of contiguous parcels, shall find:

- The lots or parcels being combined are legal lots, except that an illegally-created lot or parcel may be combined with one or more existing legal lots if the ~~DSD~~PCD Director determines the resultant lot or parcel are consistent with the intent and purpose of this Code;

- The combination agreement will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;
- The combination agreement will not result in establishing a nonconformity; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions that the establishment of a zoning lot will not result in a conflict with the CC&Rs or other restrictions.

(g) Completed Action

A combination of contiguous lots or parcels shall be considered completed and in effect when an approved combination agreement is filed for recording with the Clerk and Recorder.

(4) Boundary Line Adjustment between Unplatted Parcels

(a) Purpose

The purpose of this Section is to establish standards whereby the boundaries of contiguous unplatted parcels may be modified by deed in order to accommodate property transfers where no additional lots are created, without necessitating the need to file a plat.

(b) Applicability

A boundary line adjustment is applicable where it is necessary or desired to transfer a portion of land from one parcel to another contiguous parcel in order to increase the desirability of the parcels for development or use or eliminate an existing or potential non-conformity.

(c) Criteria for Approval

The ~~DSD~~PCD Director, in approving a boundary line adjustment, shall find:

- The parcels subject to the boundary line adjustment were legally created;
- No additional parcels will result from the action;
- The boundary line adjustment will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;
- The boundary line adjustment will not result in creating a nonconformity;
- The boundary line adjustment will not result in a change in the water supply for either lot;
- The resultant parcels will meet the required minimum lot size and lot width standards of the applicable zoning district or where one or both lots are nonconforming with respect to minimum lot size or lot width, the boundary line adjustment does not increase the nonconformity; and

- The deeds to be recorded will serve the purpose of both transfer of title and recombination of land to result in a legal parcel.

(d) Completed Action

A boundary line adjustment shall be considered completed and in effect when approved deeds are filed for recording with the Clerk and Recorder.

(5) Right-of-Way, Utility, and Open Space Exemptions

(a) Purpose

The purpose of this Section is to establish a process for the ~~DSD~~PCD acknowledgement that the proposed or actual acquisition or conveyance action is in conformance with these regulations and to document the changes to the affected parcels to ensure that any resulting nonconformities are recognized and that the development rights of the lot or parcel owner is documented.

(b) Applicability

The acknowledgement provided by this Section shall be applicable to the division of a lot or parcel of land which is the direct result of the acquisition by condemnation or otherwise, of any federal, State or local government road rights-of-way, acquisition by federal, state, or local government of land for open space or parks, and any parcel of land divided into two or more separate interests, one being the interest of the fee owner of the parcel and the other being easements or land granted for purposes of public or private utility lines entering or crossing the parcel.

(c) Criteria for Approval

The ~~DSD~~PCD Director, in approving a right-of-way, utility or open space exemption, shall find:

- The request serves a legitimate government or utility purpose; and
- There will be no impact on the status of the lot or parcel as a conforming lot or parcel, and if a nonconformity will result that the nonconforming lot or parcel will be deemed conforming with respect to lot size and will be eligible to apply for a variance in the event they do meet the development standards of the applicable zone district.

(d) Completed Action

The establishment of right-of-way, utilities easements, or open space parcels shall be considered completed and in effect when an approved deed ~~or exemption plat~~and graphical depiction, and any nonconforming lot determination necessary to document the rights associated with any nonconforming lot or parcel created are formally accepted by the BoCC. The documents shall be filed for recording with the Clerk and Recorder.

(6) Other Subdivision Exemptions Approved by BoCC

(a) Purpose

The purpose of this Section is to provide criteria and standards whereby the BoCC may grant exemptions from the definition of the term “subdivision” for any division of land the BoCC determines is not within the purpose of C.R.S. §§30-28-101, et seq., and that have not otherwise been identified by the BoCC within this Code as exempt.

(b) Applicability

The BoCC, may pursuant to this Code, exempt from the definition of "subdivision" any division of land the BoCC determines is not within the purposes of the definition of "subdivision”. Generally, an exemption shall be consistent with one of the following criteria in order to receive an exemption from the definition of the term “subdivision:”

- The division of land creates parcels for public or quasi-public use where no dwelling units are allowed, including but not limited to: utility facility, park, open space, fire station, sheriff substation, library, metro district office, and water/sewage facility; or
- The division of land is effected by a deed recorded in the Clerk and Recorder that the BoCC determines is not within the purposes of the definition of subdivision.

(c) Approval of Exemptions

An exemption, not otherwise previously established by this Code as an exemption by the BoCC, is required to obtain a release from the requirements of subdivision platting, by resolution of the BoCC.

(d) Criteria for Approval

~~The BoCC,~~In ~~in~~ approving an exemption, the following ~~shall~~ findings shall be made:

- The exemption is consistent with and conforms to this Code and the Master Plan;
- The exemption is a division of land determined not to be within the purpose of C.R.S. §§30-28-101, et seq.;
- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The size, location, and availability of services to the proposed lots or parcels are reasonable, appropriate, and customary for the proposed use; and
- No beneficial purpose would be served by requiring the platting of the subject property.

(e) Completed Action

An exemption shall be considered completed and in effect when an approved exemption plat or other document approved ~~by the BoCC~~

creating an exemption is filed for recording with the Clerk and Recorder.

7.2.3. Actions Vacating or Altering a Recorded Plat

The purpose of this Section is to establish standards for obtaining approval to correct a recorded plat; replat a lot, easement or building envelope; vacate a recorded plat, right-of-way or easement; or replat a subdivision to ensure that the intent of the recorded plat is not substantially altered.

(A) Vacations of Recorded Plats

(1) Vacations of Interior Lot Lines

(a) Purpose

The purpose of establishing standards for the vacation of platted lot lines is to allow for the removal of a lot line that will not substantially modify the originally platted subdivision.

(b) Applicability

Interior lot lines on a recorded plat may be vacated under the lot line vacation process where the:

- Vacation does not result in the combination of more than 10 lots;
- Vacation does not result in a violation or require a waiver of any provision of this Code or violate any condition or requirement of the original approval of the recorded plat; or
- Vacation is being conducted to create lots that conform with the minimum lot area requirements resulting from a rezoning of the property except where the rezoning was from one agricultural or residential classification to another.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving the vacation of interior lot lines, shall find:

- The lot line is no longer necessary for original purposes for which it was established or needed by those who have a right to it;
- The resolution of approval or the vacation plat adequately renames or renumbers the lot;
- The vacation of the lot line will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the removal of the lot line has been resolved.

(d) Completed Action

A vacation of interior lot lines shall be considered completed and in effect when an approved plat and correction deeds or other document approved by the ~~DSD~~PCD Director vacating the lot line is filed for recording with the Clerk and Recorder.

(2) Vacations of Utility or Drainage Easements

(a) Purpose

The purpose of establishing standards for the vacation of platted utility or drainage easements is to allow for the removal of a utility or drainage easement where the vacation will not substantially modify the originally platted subdivision.

(b) Applicability

Any utility or drainage easements as identified on the subdivision plat may be vacated by administrative action of the ~~DSD~~PCD Director or approval of a vacation plat provided any individual or entity using the easement in question or holding rights to use agrees, in writing, to the proposed vacation.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving the vacation of a utility or drainage easement, shall find:

- Vacation of the easement will not leave any lots or parcels without adequate utility or drainage easements;
- Vacation of the easement will not inhibit the provision of adequate public facilities or services to other property as required by this Code;
- Vacation of the easement will not adversely affect the public health, safety, and welfare;
- Vacation of the platted easement for utilities or drainage purposes has been approved by any individual or entity using the easement in question or holding rights to use the easement where a specific entity has been identified as holding the associated rights; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the removal of the easement has been resolved.

(d) Completed Action

A vacation of utility or drainage easement shall be considered completed and in effect when an approved plat and correction deeds, or other document approved by the ~~DSD~~PCD Director vacating the utility or drainage easement, is filed for recording with the Clerk and Recorder.

(3) Vacation of a Plat with No Rights-of-Way

(a) Purpose

The purpose of establishing standards for the vacation of a recorded plat with no rights-of-way is to allow a recorded plat to be vacated if no development has occurred.

(b) Applicability

The owner of all lots shown on a recorded plat of record may request the lots be vacated resulting in a single, unplatted parcel.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving the plat vacation, shall find:

- Vacation of the recorded plat will not leave any lots or parcels without adequate utility or drainage easements;
- Vacation of the recorded plat will not vacate road rights-of-way or access easements needed to access other property;
- Vacation of the recorded plat will not inhibit the provision of adequate public facilities or services to other property as required by this Code;
- Vacation of the recorded plat is consistent with the Master Plan;
- Vacation of the recorded plat will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the vacation of the plat has been resolved.

(d) Completed Action

A vacation of a plat shall be considered completed and in effect when an approved plat and correction deeds or other document approved by the ~~DSD~~PCD Director vacating the plat is filed for recording with the Clerk and Recorder.

(4) Vacation of a Plat with Rights-of-Way

(a) Purpose

The purpose of establishing standards for the vacation of a recorded plat that has associated public infrastructure or dedication is to ensure the vacation of the plat will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties, utility services or other improvements; and that the vacation of the plat will not be contrary to the Master Plan, this Code, or State Statutes.

(b) Applicability

An approved vacation resolution and vacation map or plat shall be required to vacate any recorded plat that has associated public infrastructure or dedication, and right-of-way that was established by the plat. The vacation shall be pursuant to C.R.S. §§43-2-301, et seq.

(c) Approval Criteria

The BoCC, in approving a plat vacation that includes right-of-way, shall find:

- The plat vacation complies with this Code and the original conditions of approval of the recorded plat;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The action does not fall within the intent and purpose of the subdivision regulations;
- The approval will not adversely affect the public health, safety, and welfare;
- No land is left, by reason of this vacation, without an established public right-of-way or private access easement connecting the land with an established public road;
- A dedication or intent to dedicate has been established, where necessary; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the vacation of the plat has been resolved.

(d) Completed Action

A vacation of a plat shall be considered completed and in effect when an approved plat and correction deeds or other document approved by the BoCC vacating the plat is filed for recording with the Clerk and Recorder.

(e) Vesting of Title

Vesting of title upon vacation of right-of-way shall be in accordance with C.R.S. §43-2-302 as amended.

(B) Alterations to Recorded Plats

(1) Lot Line/Building Envelope Adjustment

(a) Purpose

The purpose of this Section is to provide for a realignment of a lot line or building envelope, or replatting of several lots (e.g., 3 lots into 2 lots), in which the original subdivision is not substantially modified and additional lots are not created; however, tracts may be created provided the declared use of the tract does not include a structure.

(b) Applicability

An approved lot line/building envelope adjustment plat or map and any correction deeds shall be required to realign any lot lines or adjust a building envelope on a recorded subdivision plat.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving a lot line/building envelope adjustment, shall find:

- The lot line/building envelope adjustment and any resultant lots comply with this Code, and the original conditions of approval associated with the recorded plat;
- No nonconforming lots are created, and in the case of nonconforming lots, the nonconformity is not increased;
- The lot line/building envelope adjustment is in keeping with the purpose and intent of this Code;
- The lot line/building envelope adjustment will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the lot line/building envelope adjustment has been resolved.

(d) Completed Action

A lot line or building envelope adjustment shall be considered completed and in effect when an approved amended plat and correction deeds or other document approved by the ~~DSD~~PCD Director amending the plat is filed for recording with the Clerk and Recorder.

(2) Plat Amendment

(a) Purpose

The purpose of establishing standards for plat amendment is to provide for a change to a recorded plat that is deemed insubstantial, the modification or deletion of a plat note, or modification to or deletion of a plat restriction.

(b) Applicability

A plat amendment may be applicable in the following circumstances:

- To implement an amendment to a recorded plat that is deemed insubstantial by the ~~DSD~~PCD Director based on, but not limited to, the following factors: design, size, number of lots, public concern, public facilities, services, access, and transportation network;
- To modify, delete, or replace a specific plat note which appears on the face of a plat based upon a determination that conditions requiring the plat note have been satisfied or are no longer applicable; or
- To modify, delete, or replace a specific restriction which appears on the face of the plat based upon a determination that the conditions leading to the restriction have been satisfied or are no longer applicable.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving the plat amendment, shall find:

- The plat amendment complies with this Code, and the original conditions of approval associated with the recorded plat;
- The changes to the recorded plat are insubstantial, or the plat amendment is necessary to reflect the current circumstances or restrictions;
- The plat amendment is in keeping with the purpose and intent of this Code;
- The approval will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the plat amendment has been resolved.

(d) Completed Action

A plat amendment shall be considered completed and in effect when an approved amended plat, correction deeds, or other document approved by the ~~DSD~~PCD Director amending the plat is filed for recording with the Clerk and Recorder.

(3) Plat Correction

(a) Purpose

The purpose of establishing standards for plat corrections is to provide for making changes to recorded plats, due to errors or omissions, i.e. dimensions, road names, addresses and plat notes, or to correct one or more technical errors in an approved plat when the correction plat is consistent with the approved plat.

(b) Applicability

An approved plat correction certificate or correction plat shall be required to effect any change to correct errors and omissions to a recorded approved plat.

(c) Approval Criteria

The ~~DSD~~PCD Director, in approving a plat correction, shall find:

- The correction complies with this Code, and the original conditions of approval;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The correction is in keeping with the purpose and intent of this Code;
- The approval will not adversely affect the public health, safety, and welfare;
- The correction certificate or plat complies with all provisions and requirements of this Code, explains the relationship between the correction plat or certificate and

the approved plat, and provides a full description of all matters corrected; and

- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the plat correction has been resolved.

(d) Completed Action

A correction of a plat shall be considered completed and in effect when a correction certificate or correction plat is filed for recording with the Clerk and Recorder. A correction plat is most appropriately utilized when it is necessary to graphically depict the proposed changes on a plat, rather than to describe the changes in a text document.

(C) Replat

(1) Purpose

The purpose of this Section is to provide for replatting a subdivision or lots in a subdivision, in which the original subdivision is substantially modified or additional lots, are created.

Generally, a replat involves two actions, the vacation of the portion of the subdivision plat where the change is proposed or a vacation of the entire subdivision plat where all or a majority of lot lines will be changed on the recorded plat, and approval of a new subdivision plat. These actions can be taken concurrently.

(2) Applicability

A replat shall be required in order to substantially alter an existing recorded subdivision plat or where the standards for a lot line adjustment are exceeded.

(3) Determination of Plat Amendment or Minor/Major Subdivision

The ~~DSD~~PCD Director shall determine whether the proposed replat is substantial or insubstantial based on, but not limited to, the following factors: design, size, number of lots, public concern, public facilities, water supply (with recommendation from OCA) services, access, and transportation network. If the ~~DSD~~PCD Director determines the subdivision replat is insubstantial, the replat may be processed as an alteration to a recorded plat.

If the replat is determined to be substantial, the replat may be considered a major or a minor subdivision depending on the number of lots affected by the proposed changes and the impact to public facilities. The ~~DSD~~PCD Director shall determine whether the platting action is a replat or whether it is a major or minor subdivision.

(4) Criteria for Approval

The BoCC, in approving a replat of a minor or major subdivision, shall find:

- The replat complies with this Code, and the original conditions of approval associated with the recorded plat;

- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The replat is in keeping with the purpose and intent of this Code;
- The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The approval will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

(5) Completed Action

A replat shall be considered completed and in effect when a final plat is filed for recording with the Clerk and Recorder.

7.2.4. Other Actions Altering Property Boundaries and Interests in Property

(A) Real Estate Interest Disclaimer

(1) Purpose

The purpose of this Section is to establish standards to allow the BoCC to disclaim or quitclaim any interest in real estate that may not have been properly conveyed to, vested in, accepted by, or no longer of any interest to, the County. Public record may indicate that the real estate is owned by or under the authority and control of the County including a real estate interest which may have been established by a recorded document other than a subdivision plat where the County does not claim an interest in the real estate.

(2) Applicability

BoCC may disclaim a real estate interest or to approve the conveyance of a real estate interest from the County to the requestor for any real estate interest that may not have been properly conveyed to, vested in, accepted by, or no longer any interest to the County, but which may appear in the public record to be owned by or under the authority and control of the County where:

- A Section line resolution affects the property, where the resolution may or may not apply, and where a determination has been made that a public road will not be needed at that location;
- An easement or right-of-way granted to El Paso County by deed or other instrument, and is determined to no longer be needed; or
- An easement or right-of-way granted to El Paso County by deed or other instrument not accepted by the County, where the County was not party to the transaction creating the interest, or when the deed or other instrument does not sufficiently express the requisite intent or formalities to create the interest to the County.

(3) Exceptions

A real estate disclaimer of interest shall not apply where:

- The interest in the land has been used as public right-of-way;
- The interest was granted by recorded plat with a dedication statement;
- The deed or other instrument does sufficiently express the requisite intent or formalities to create the interest in the County; or
- Utilities have been installed in the area to be disclaimed or conveyed by quitclaim deed and it is necessary to retain easements for those utilities.

(4) Criteria for Approval

The BoCC shall approve or deny the disclaimer or quitclaim deed based on consideration of the staff report, the evidence from the public hearing, and compliance with the criteria for approval. The BoCC shall exclusively determine such matters in its legislative capacity. Therefore, the determination to approve the request for disclaimer or quitclaim deed shall be made in the sole and exclusive discretion of the BoCC.

The BoCC, in approving a disclaimer, shall find:

- The disclaimer or quitclaim deed complies with this Code;
- The real estate interest to be disclaimed or conveyed by quitclaim deed has not been implemented for public use, or is no longer intended for public use;
- The approval and subsequent relinquishment of County interest will not adversely affect the public health, safety, and welfare;
- Adjoining properties will not be negatively affected by the disclaimer or quitclaim deed;
- The requestor has been advised that the action by the County may not result in clear title to the property;
- Utilities are not installed in the area to be disclaimed or conveyed; and
- A recommendation has been received from the ~~DSD~~PCD, the EPC~~PSD~~DPW, and the OCA.

(5) Completed Action

A real estate disclaimer shall be considered completed and in effect when the real estate disclaimer is filed for recording with the Clerk and Recorder.

(B) Vacation of Rights-of-Way

(1) Purpose

The purpose of this Section is to provide for vacation of right-of-way that was acquired by plat dedication or by deed, or has associated public infrastructure.

(2) Applicability

An approved vacation resolution or vacation plat shall be required to vacate any road right-of-way. The vacation shall be pursuant to C.R.S. §§43-2-301, et seq.

(3) Approval Criteria

The BoCC, in approving a vacation of right-of-way, shall find:

- The right-of-way vacation complies with this Code and applicable State law;
- The approval will not adversely affect the public health, safety, and welfare;
- No land, by reason of this vacation, is left without an established public right-of-way or private access easement connecting said land with an established public road; and
- Right-of-ways and easements are reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone and similar lines appurtenances.

(4) Completed Action

A vacation of right-of-way shall be considered completed and in effect when a vacation plat or vacation resolution is filed for recording with the Clerk and Recorder. If a road has been established as a County road, the road and any associated right-of-way shall not be vacated except by a resolution approved by the BoCC.

(5) Vesting of Title

Vesting of title upon vacation shall be in accordance with C.R.S. §43-2-302 as amended.

7.2.5. Plat Naming and Number Conventions and Standards

All plats or documents filed for the purposes of compliance with this Chapter shall meet the following naming and numbering conventions:

(A) Plat Naming

Plats including preliminary plans and final plats shall be named in accordance with the following naming conventions. Deviations from the plat naming convention shall be approved by the ~~DSD~~PCD Director.

(1) First Application Filed Entitled to Name

The first application which utilizes a specific name is exclusively entitled to use that name throughout the platting process. Plat names for final plats shall follow the name established by the preliminary plan or PUD. Changes to a plat name after initial approval of the plat or PUD may require that a name change fee be paid to cover the cost of changing County records. Changes to the proposed plat name after development application submittal, unless requested by County staff, shall be approved by the ~~DSD~~PCD Director.

(2) No Duplication

No plat shall receive approval if the name duplicates or could be confused with the name of a subdivision of record within any jurisdiction located in El Paso County on file with the Clerk and Recorder.

(3) Geographic Names Limited to Geographic Areas of the County

Plat names using a geographical description of a recognizable area of the County should be located within that recognized area.

(4) Filing Designators Contiguous to Original Filing

Plat names with filing designators shall be contiguous and in the geographic area of the County as the original filing.

(5) Multiple Filings within Same Preliminary Plan or PUD

Multiple plat filings within the same preliminary plan or PUD area shall utilize sequential filing or phase numbers consistent with the name of the preliminary plan or PUD, unless they represent distinctly separate land uses (e.g., residential and commercial).

(6) Replat

Replat names shall be consistent with the name of the original plat filing unless the land includes more than one plat name, and characterized by an alphabetic descriptor after the filing number, and shall reflect consistency with the order of the original filing.

(B) Road Naming

(1) Approval Required

Road names shall be subject to the approval of the El Paso Teller E9-1-1 Authority, in coordination with the ~~DSD~~PCD, EPC~~PSD~~DPW, and the Building Official.

(2) Road May Be Required

The Building Official shall have the authority to require a road and road name when there are not enough numeric addresses available on an adjacent road such that numeric addresses can be assigned in accordance with the Building Code.

(3) Road Name Changes

Applications for road name changes shall be submitted to the EPC~~PSD~~DPW in accordance with the requirements of the EPC~~PSD~~DPW.

(4) Temporary Access

Temporary access to a lot, tract or parcel shall not be construed as a guarantee of continued usage of a numeric address or road name assigned at the time of approval.

(C) Lot Numbering

(1) Sequential Numbering

The numbering of lots shall follow a sequential numbering pattern.

(2) Lot Numbers Not Repeated in Same Block

Lot numbers shall not be repeated within the same block.

(3) Lot Numbering in Case of Vacation or Replat

A vacation or a replat of lots or tracts shall conform to the following lot number conventions:

(a) Vacating Common Lot Line

When vacating a common lot line between two lots, the original lot number followed by the letter "A" shall be used to number the new lots (e.g., when vacating the common lot line between lot 1 and lot 2, the newly created lot shall be renumbered lot 1A).

(b) Replatting with Fewer Lots

When replatting 3 lots into 2 lots, the original lot numbers followed by the letter "A" shall be used to number the new lots (e.g., when replatting lots 3, 4, & 5, into two lots, the new lots should be numbered lot 3A and 4A).

(c) Adjustment to Common Lot Line

When adjusting the common lot line between two lots, the original lot numbers followed by the letter "A" shall be used to number the new lots (e.g., when realigning the common lot line between lots 7 and 8, the new lots should be numbered 7A and 8A).

(d) Replatting Entire Subdivision Filing

When replatting an entire subdivision filing, the lots shall be numbered consecutively starting with the number "1".

(4) Common Area Tracts Labeled

Tracts that are common open space for the subdivision shall be labeled "Common Area Tract" followed by a consecutive letter designation beginning with "A". Common area tracts shall be further identified by one of the following applicable designations that shall be placed in parentheses after the common area tract label:

- "Buildable/Support Buildings Only" for those common area tracts that may be occupied by buildings or structures that are intended for use by the lot owners within the subdivision;
- "Non-Buildable" for those common area tracts that are not intended to be occupied by buildings or structures.

(D) Addressing

(1) Assignment of Addresses

Assignment of numeric addresses is the responsibility of the Building Official, in accordance with the Building Code.

(2) Address Correction

Corrections to addresses shown on a final plat may be accomplished by an Affidavit of Correction, Plat Correction, Amended Plat or a Replat, or other method approved by the Building Official.

(E) Requirements for Phased Platting

The following requirements apply to phase platting:

(1) Phasing Schedule

The phasing schedule shall be noted on the PUD Plan, preliminary plan, and in the SIA or development agreement.

(2) Phasing to Accommodate Interim Conditions

The phasing schedule shall accommodate proper drainage, secondary access, water and sewer systems, open space and listed threatened or endangered species during construction of a phased subdivision.

(3) Phasing of Through Roads

Phasing a road connection eliminates the need to obtain a waiver of requirements for connection of through roads if appropriate notes are placed on the preliminary plan and final plat, financial assurance is provided for the road connection, or a deviation is granted by the ECM Administrator.

7.2.6. Survey and Monumentation Standards

(A) Survey Closure Requirements

An accurate and complete boundary survey shall be made of the land to be divided. A traverse of the exterior boundaries of the tract, and of each block, when computed from field measurements on the ground must close within a limit of one foot to 10,000 feet of perimeter. Boundaries shall be clearly indicated on the plat.

(B) Lot Dimensions and Distances

Bearings and angles and lengths shall be given for all lot lines. In cases where a lot line is a common line only one set of figures, adjacent to the line described, need be given if the lot descriptions are given to the same bearing, not a reverse bearing. If table data is used, each individual lot shall be separately described giving all bearings and angles and lengths making each lot close by data provided and a table shall be included on the same page as the plat. Should the plat drawing be of such a size as to preclude the data table then the drawing shall be developed in such a manner as to show a portion of the plat and its pertinent table on each sheet as required. All bearings and lengths on the plat shall close to within plus or minus 0 degrees, 01 minute.

(C) Curved Boundaries

On curved boundaries and all curves on the plat sufficient data shall be given to enable the reestablishment of curves on the ground. Curve data shall include: (1) central angle; (2) radius; and (3) arc length.

(D) Monuments

Permanent reference monuments and block and lot monuments shall be set on the external boundary of the subdivision pursuant to C.R.S. §§38-51-101 et seq. Subdivisions will be tied by angles and distances to the nearest accepted monuments. All monuments shall be located and described. Information adequate to locate and trace all monuments shall be noted on the plat.

(E) Supplemental Information to Submit with the Plat

Closure sheets (DMD or equivalent) for the external boundary and blocks of the subdivision, including the computed acreages for the entire subdivision, shall be submitted to ~~DSD~~PCD for review and approval prior to recording the plat.

7.3. WAIVERS

7.3.1. Purpose

The purpose of this Section is to provide for flexibility in the application of this Code when a subdivision design standard is inapplicable or inappropriate to a specific subdivision design.

7.3.2. Authorization to Grant Waivers

(A) Planning Commission Recommendation

The Planning Commission, as part of the hearing on a specific application, will hear the request for a waiver from the standards and make recommendations to the BoCC.

(B) BoCC Authorized to Grant Waivers

After receiving a recommendation from the Planning Commission, the BoCC may approve a waiver from any of the subdivision design standards and requirements of this Code in association with a development application.

7.3.3. Criteria for Approval of Waivers

A waiver from standards shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

- The waiver does not have the effect of nullifying the intent and purpose of this Code;
- The waiver will not result in the need for additional subsequent waivers;
- The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
- The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;
- A particular non-economical hardship to the owner would result from a strict application of this Code;
- The waiver will not in any manner vary the zoning provisions of this Code; and
- The proposed waiver is not contrary to any provision of the Master Plan.

7.3.4. Timing of Waiver Request

A written waiver request shall be submitted no later than at the time of the preliminary plan application in the case of a major subdivision. The waiver request may be a separate request, or requested in conjunction with an application. If the waiver request substantially alters the design, location, anticipated construction, phasing, impacts on adjacent properties or roads, impacts on designated protected areas, or other special circumstances as were reviewed during the previous application review, the applicant shall submit a revised plan including the waiver. The Planning Commission shall review the revised plan and provide a recommendation to the BoCC.

7.3.5. Waiver Application Requirements

The written request for a waiver shall state in detail the extent of the waiver, the grounds for the requested waiver and all of the facts relied upon by the applicant. The applicant shall have the

burden of providing both the justification for their waiver requests and sufficient documentation to allow ~~DSD~~PCD to properly evaluate the engineering and planning impacts of the requested waiver.

Chapter Eight

SUBDIVISION DESIGN, IMPROVEMENTS AND DEDICATIONS

8.1. GENERAL

8.1.1. Purpose

This Chapter is enacted for the purpose of promoting the health, safety, convenience, and welfare of the general public and to establish standards of design which will encourage the development of sound, economical, stable neighborhoods and create a healthy environment for present and future inhabitants of El Paso County, Colorado, by:

- Assisting in the orderly, efficient and integrated development of the County;
- Making provisions for adequate open spaces for traffic, drainage, recreation and parks, sites for schools and educational facilities, light and air;
- Making provisions for the proper location, width, and design of roads in order to minimize traffic hazards, and to provide for safe and convenient vehicular circulation;
- Specifying the extent to which, or manner in which, roadways shall be graded and improved and to what extent water, sewer and other utilities shall be required and installed;
- Ensuring that structures will harmonize with the physical characteristics of the site;
- Ensuring that land is divided into lots that are of adequate size and configuration for the purpose for which they are intended to be used;
- Protecting the natural resources, considering the natural vegetation and promoting the natural beauty of the County;
- Implementing the Master Plan;
- Ensuring that definite provision will be made for a water supply that will be sufficient in terms of quantity, dependability and quality to provide an appropriate supply of water for the type of development proposed; and
- Providing for an adequate and accurate system to record land divisions and ensuring proper legal descriptions and survey monumentation in order to inform the public, and especially future residents, of the facts about the division, thereby safeguarding the interests of the public, the homeowner, the applicant, and the County.

8.1.2. Applicability

This Chapter shall apply to divisions of land including subdivisions, replats, subdivision exemptions, and other actions resulting in the creation of new lots, parcels, or tracts or the reconfiguration of existing lots, parcels, or tracts, unless specifically exempted.

The dedication requirements, fees in lieu of dedication, or fees imposed by this Code shall be those requirements and fees in effect at the time a complete development application is submitted to the ~~DSD~~PCD unless specifically modified by a resolution of the BoCC.

8.2. CONFORMITY WITH PLANS AND STANDARDS

8.2.1. Conformity with the Master Plan

Divisions of land shall generally conform to the Master Plan. The County may require that reasonable efforts are made to help ensure a division of land conforms to the Master Plan.

8.2.2. Conformity with this Code

Divisions of land shall conform to this Code to help ensure that the division of land takes into account the basic design principles necessary for a safe, serviceable, attractive and healthy living environment while protecting the interests of the County.

8.2.3. Zoning and the Division of Land

Lands included within a plat shall be zoned prior to approval of a plat.

8.2.4. Conformity with the ECM

Divisions of land shall conform to the ECM to help ensure that the design and construction of common development and public improvements take into account the basic design principles necessary for a safe, serviceable, attractive and healthy living environment while protecting the interests of the County.

8.2.5. Conformity with Self-Imposed Restrictions

If an owner commits in writing or verbally in a hearing to restrictions or requirements greater than those required by this Code, the ECM or any other County regulation or ordinance, the plat shall conform to the self-imposed restrictions and the commitments shall be indicated on the face of the plat or contained within the SIA or development agreement. The commitments shall be fully enforceable under this Code.

8.3. RESTRICTIONS ASSOCIATED WITH THE PLAT

8.3.1. Plats to be Recorded

The approved plat shall be recorded with the Clerk and Recorder. Approval of the plat shall be evidenced by the signature of the approval authority on the face of the plat. The plat shall be recorded within one year of approval by the approval authority.

8.3.2. No Changes to Approved Plat without BoCC Approval

No changes, erasures, modification, or revisions shall be made on the plat after the approval by the BoCC, except as required by the BoCC to satisfy conditions of approval or with the approval of the ~~DSD~~PCD Director.

8.3.3. Actions Required at Recording of Plat

(A) Plat Notes Required

The BoCC may require specific plat notes to be included on a plat prior to recording including, but not limited to, notes to implement review agency recommendations, BoCC conditions, OCA conditions, and standard plat notes identified in the Procedures Manual to help ensure conformance of the plat with this Code and other County requirements.

(B) Plat Addressed Prior to Recording

No plat shall be recorded until the Building Official has assigned numeric addresses in a legible manner on the face of the plat.

(C) Taxes Paid Prior to Recording of Plat

No plat shall be recorded unless the ad valorem taxes applicable to the subject property, for all years prior to that year in which approval is granted, have been paid. [C.R.S. §30-28-110(4) (a)].

(D) Fees and Dedications

Any fees required by this Code shall be paid and any land dedications required by this Code shall be completed prior to or concurrently with filing of the plat for recording with the Clerk and Recorder.

8.3.4. Plat Filed Before Construction of Structures

No building permit shall be issued or structure erected before a plat of the subject property has been filed for recording with the Clerk and Recorder except as may be required to: (1) complete the common development or public improvements required as part of the approval of the division of land and construction permit issued by the ECM Administrator; or (2) construct model homes or other structures expressly authorized by the BoCC.

8.4. DESIGN CONSIDERATIONS AND STANDARDS

8.4.1. Planning Considerations

The following planning considerations shall be adhered to when dividing land:

(A) Land Found Unsuitable for Development

Land unsuitable for development due to physical constraints shall not be divided unless methods authorized by this Code are used to mitigate the problems created by the unsuitable land conditions.

(B) Safe for the Intended Purpose

Land shall be divided in a manner that allows it to be used safely for the intended purpose without danger to the public health, safety or welfare or peril from fire, flood, geologic hazards or other natural hazards. Building sites shall not be located in areas subject to geologic hazards as determined by the CGS or a Geologic Report; or in a 100-year floodplain unless located in compliance with the Floodplain Regulations.

(C) Topography to be Considered

Consideration shall be given to topography. Building sites shall not be located on land with a slope of 30% or greater.

(D) Planning Required for Remainder Parcels

A remainder parcel shall be at least 35 acres, platted as a tract, identified as a future phase consistent with the preliminary plan, or exempted by the BoCC in accordance with Chapter 7. A remainder parcel is not eligible for use or building permits unless specifically approved by BoCC action.

(E) Continuation of Roads and Other Linear Facilities

Divisions of land shall be designed to accommodate the continuation of roads, trails, pedestrian access, utilities and drainage facilities into adjacent property unless there is sufficient justification for an alternative design. The connection shall provide a logical, safe and convenient circulation link for vehicular, bicycle,

pedestrian, or equestrian traffic with existing or planned circulation routes and, in particular, to destinations such as schools, parks and business or commercial centers.

(F) Lot Layout, Design and Configuration

Divisions of land shall be designed to provide for lots that are of an appropriate size and configuration for the site characteristics and intended uses; adequate buffering from the adverse impacts of adjoining uses through lot orientation, setbacks, landscaping or other appropriate methods; conservation of water, land and energy resources; conveniently located recreation facilities within the development; minimal grading, road cuts and fills; and a road system designed to preserve the integrity and function of the arterial and local roadway network. Lots shall have reasonable access to open space, trails, park land or recreation facilities that are set aside for either homeowner use or use by the general public.

(G) Preservation of Natural Landscape

The primary importance of the preservation and enhancement of the natural landscape and vegetation shall be considered. The layout and design of lots, blocks, and rights-of-way shall provide desirable settings for structures by making use of natural features, unique or distinctive topographic features including buttes and rock outcroppings, existing vegetation, natural drainage, riparian and wetland areas, significant wildlife habitats, identified aquifer recharge areas, and aesthetic features. Alteration of features shall be kept to a minimum and shall be based on practical engineering considerations.

(H) Preservation of Historical and Archaeological Sites

Alterations of historic or archaeological sites shall be avoided. Emphasis should be placed on reuse of historical structures and incorporation of historical and archaeological sites into the park and open space system. If disturbance of sites is unavoidable, the applicable public agency shall be provided the opportunity to excavate, purchase, or record the site before alteration takes place.

8.4.2. Environmental Considerations

The following environmental design considerations apply to divisions of land:

(A) Miscellaneous Environmental Requirements

(1) Buffers

(a) Planting Easement Along Collectors, Arterials, or Expressways

A planting or screening easement may be required along the property line of lots abutting collectors, arterials, or expressways. No vehicular access shall be allowed through a planting or screening easement.

(b) Landscaping between Differing Land Uses

Landscaping should be provided, especially as a buffer between different types of uses. Xeriscape should be used whenever possible to minimize water consumption.

(2) Multifamily Lots Served by Central Sewage Collection System

Multifamily residential lots shall be served by a central sewage collection system.

(3) Airport Impacts

Residential lots should be located to minimize adverse influences from airports and airport operations.

(4) Threatened and Endangered Species Compliance

The design shall consider threatened and endangered species.

(B) Hazards

Land shall not be divided until natural hazards have been removed or the impact of natural hazards mitigated as determined by the ~~DSD~~PCD Director. Lots or tracts subject to natural hazards which may be eliminated through specialized engineering shall be identified on the plat. Identification of natural hazards on the plat shall include a statement about the specific natural hazard and a statement of the engineering alterations required to eliminate the natural hazard. The following hazards are subject to these requirements:

- Geologic hazards including mine hazards, as identified by the applicant, review agency, or contained in the County inventory of geologic hazards;
- Soil hazards as identified by the applicant, review agency, or contained in the County inventory of soil hazards;
- l00-year floodplain as identified by the applicant, review agency, or the Floodplain Administrator;
- Wildfire hazards as identified on the County and State wildfire hazard inventory or maps;
- Hazards caused by high water table or polluted water, as identified by the applicant, review agency, or County inventory;
- Hazards associated with airports and major utility facilities; and
- Hazards associated with the presence of old landfills, fill areas, and surface and subsurface contamination.

Land subject to natural hazards shall generally be identified through field investigation and reports, existing County natural hazard inventories, and review agency comments.

(1) Flood Hazard Area Requirements

In areas of special flood hazards, the following standards shall be met:

(a) Review by Floodplain Administrator

Divisions of land shall be reviewed by the Floodplain Administrator for compliance with the Floodplain Regulations.

(b) Minimize Flood Damage

Divisions of land shall be designed and constructed to minimize potential flood damage to properties and public utilities and facilities such as sewer, gas, electrical, and water systems. Development in the floodplain shall be limited to uses compatible

with the flood hazard and shall specifically exclude residential uses, sewage and water treatment plants, commercial shopping areas, and industrial sites.

(c) Hazardous Activities Prohibited

Activities in a Special Flood Hazard Area that may be hazardous to public health and water quality are prohibited, including but not limited to septic systems, landfills, disabled vehicles, etc.

(d) Lots or Portions of Lots within Floodplain

(i) Lots Less than 2.5 Acres in Size

Lots less than 2.5 acres in size are required to be located entirely outside of the 100-year floodplain. Lands within the 100-year floodplain shall be established in a tract. A special district, HOA, or other corporate entity shall be designated to maintain the tract unless otherwise provided by this Code.

(ii) Lots Greater than 2.5 Acres in Size

Lots 2.5 acres and larger are required to provide drainage easement for the 100-year floodplain ~~in the name of El Paso County with the restrictions of~~with the restriction of "No Build" and "No Storage of Materials".

(e) Base Flood Elevations and Floodplain Boundaries

(i) Floodplain Boundaries to be Shown on Plat

~~Federal Emergency Management Agency (FEMA)-approved base flood elevation data and 100-year floodplain boundaries~~Base flood elevation data approved by the jurisdictional floodplain authority and 100 year floodplain boundaries shall be shown on the plat.

(ii) Located within 300 Feet of a Zone A Floodplain

If any portion of a division of land is located within 300 feet of a Zone A Floodplain, FEMA-approved base flood elevations and boundaries are required to be determined and shown on the plat, or the applicant may provide a Floodplain Certification Letter by a professional engineer or architect stating that "To the best of the engineer's knowledge and based on field verified characteristics of the ~~property, the property~~land being divided, the property is reasonably safe from flooding and, if studied, the 100-year floodplain would not be shown to enter the property in question."

(2) Noise

(a) Impacts of Noise Pollution to be Minimized

Divisions of land shall be designed to minimize the impacts of noise pollution to residents. Divisions of land shall be designed with reference to potential and actual noise pollution hazards based on both existing conditions and projected conditions as identified in the TIS.

(b) Roadway and Railroad Mitigation

(i) Types of Noise Mitigation

Where noise levels exceed or are predicted to exceed 67 dBA Equivalent Sound Level (Leq), any or all of the following mitigation measures (in order of County preference) shall be included in the design:

- Increased building setbacks;
- Modified site orientation for buildings and outdoor areas;
- Landscape buffers or tracts;
- Noise easement;
- Soil berming; or
- Noise barrier.

In the event that building setbacks or orientation standards are utilized as the mitigation strategy, those building setbacks and orientation standards shall be noted on the plat.

(ii) Mitigation in Residential Subdivisions

Noise mitigation may be required for any residential subdivision, and shall be required for single-family and duplex residential subdivisions, which contain lots that will be individually owned, and are located adjacent to expressways, principal arterials or railroads. Where required, mitigation shall reduce the existing or projected exterior noise levels at the building site location and outdoor areas for patios and decks closest to the noise generator to 67 dBA Leq. A noise study to determine the area of potential impact is required where a subdivision includes or borders an expressway, principal arterial or railroad. A noise study is not required for minor subdivisions and minor replats.

(iii) Noise Activity Covenant and Disclosure Required

In the event noise mitigation within the area subject to noise levels of 67 dBA Leq would not achieve a noise level reduction of a minimum of 5 dBA Leq without a noise barrier, a Noise Activity Covenant and Disclosure

is required to be applied to each lot which will remain in the 67 dBA Leq, either by notation on the plat or by recording a separate document.

(iv) Noise Mitigation Located Outside Right-of-Way

Noise mitigation measures shall be located in easements or on tracts to be maintained by a special district or homeowners association and outside of the right-of-way or roadway easements, unless otherwise approved by the ECM Administrator. A noise easement or maintenance agreement is required to assure access to and maintenance of the noise mitigation.

(c) Noise Barriers

(i) Appropriateness of Noise Barriers

Noise barriers are generally more appropriate within an urban area or adjacent to urban development. Increased setbacks and orientation standards are more appropriate in rural areas. A noise barrier should not be the default design alternative unless other mitigation strategies cannot practically and effectively achieve the noise reduction.

(ii) Noise Barrier Standards and Construction

When noise barrier construction is selected as the noise mitigation strategy, the noise barrier should be designed to achieve a noise reduction of at least 10 dBA Leq.

Noise barriers shall be constructed according to current CDOT standards, unless specifically modified by the ECM.

(iii) Noise Barriers Required Prior to Occupancy

Noise barriers shall be installed prior to approval of a certificate of occupancy by the Building Department for residential structures, unless an extension of time to install the noise barrier is granted by the ~~DSD~~PCD Director.

(iv) Noise Barrier Not Required to Meet Zoning Setback

A noise barrier is not required to comply with zoning district setbacks.

(v) Consistency in Design and Materials

Noise barriers shall be of similar design and materials along an expressway, principal arterial, or railroad, unless an alternative design or material type is approved by the ~~DSD~~PCD Director.

(d) Airport Noise

Where lots are located within the 65 Day-Night Equivalent Sound Level (Ldn) noise contour as determined by a current FAR Part 150 study for public airports or an AICUZ study for military airfields, the plat shall include a plat note advising that construction shall achieve a 30 dBA interior noise level reduction through approved construction techniques as evidenced by a Noise Reduction Certificate.

(e) Military Installation Noise

Where lots are located within the 130 dBA noise contour line under adverse weather as determined by the current Fort Carson Installation Environmental Management Plan, the plat shall include a plat note restricting residential development on impacted lots. Development of commercial, industrial, or public structures devoted to office uses shall incorporate noise reduction measures sufficient to achieve an interior noise level reduction of 35 dBA as evidenced by a Noise Reduction Certificate.

(f) Relationship to the Noise Ordinance

The requirements of this Section do not supersede requirements of any applicable BoCC Ordinance regarding noise.

(3) Unsuitable Building Areas

Areas within lots or tracts which reflect one or more of the following characteristics shall be deemed unsuitable for building and shall be identified as no build areas on the plat.

- Areas not suitable for location of water or sewage disposal systems as determined by State and County health regulations.
- Areas where slopes are greater than 30%.
- Areas of identified or designated geologic, soil, or natural hazards as identified or designated in the El Paso County hazard identification inventory; provided that the limitations cannot be overcome through the application of specialized engineering.
- Areas within the l00-year floodplain as reflected on FEMA Flood Insurance Rate Map (FIRM), within proposed boundaries as reflected in LOMR/CLOMR, or as determined by a flood study as approved by the Floodplain Administrator.
- Areas within easements, without the permission or release from the beneficiary of the easement holder.

(4) Snow Drift Areas

Where the subdivision is adjacent to arterial roads subject to snow drifting problems as identified in the ECM, additional design features to prevent snow drifting as listed in the ECM are applicable.

8.4.3. Division of Land, Block, Lot, and Tract Layout Standards

(A) Division of Land Standards

(1) Minimum Frontage for Division of Land

A division of land shall have a minimum of 60 feet frontage on a public road.

(B) Block Standards

(1) General

The lengths, widths, and shapes of blocks shall conform to the following standards:

(a) Separation of Differing Land Uses

Blocks shall be used to separate distinct land uses or zoning classifications.

(b) Vehicular and Pedestrian Circulation

Blocks shall be laid out and designed to provide for convenient control, safety, and access for vehicular and pedestrian circulation.

(c) Topography and Natural Features

Blocks shall be laid out with respect for the existing topography, vegetation, and other natural features.

(2) Block Lengths and Pedestrians

Block lengths in excess of 600 feet may require pedestrian access be provided approximately midway through the block.

(C) Lot Design

Lot design and layout shall conform to the following standards:

(1) Buildable Lots

Lots shall be buildable lots, unless specifically approved and restricted by plat note.

(2) Lot Area and Dimensions

(a) Minimum Lot Dimensions in Zoning District

The minimum area and dimensions of lots shall conform to the requirements of the applicable zoning district.

(b) Adequate Buildable Area Required

Lots shall have sufficient buildable area to reasonably accommodate the allowed uses. Buildable areas shall be excluded from easements unless otherwise approved by the easement holder, and shall not encroach into natural hazard areas unless the natural hazards are mitigated as required by this Code.

(c) Lot Area Adequate to Accommodate Parking

Lot area shall be adequate to allow for the provision of necessary parking facilities for the allowed uses.

(d) Corner Lots and Building Setbacks

Corner lots shall accommodate the required setback on both frontages, which may require extra lot width.

(e) Minimum Frontage

Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E).

(f) Lots Using OWTS

(i) Lots Designed to Use an OWTS

Lots which will utilize an OWTS shall have a minimum area of 2.5 acres.

(ii) Minimum Buildable Area for Lots Using an OWTS

A minimum of 1 acre of buildable area is required for lots proposed to utilize an OWTS.

(g) Side Lot Lines at Right Angles

Side lot lines shall be substantially at right angles or radial to road right-of-way lines.

(h) Irregular or Wedge-Shaped Lots

Irregular or wedge-shaped lots shall have sufficient width at the front setback line to accommodate construction of a principal structure that meets side setback requirements

(3) Double Frontage and Reverse Frontage Lots

(a) Limited Use of Double Frontage and Reverse Frontage Lots

Double frontage and reverse frontage lots are discouraged except where essential to provide a separation of residential properties from arterial roads or incompatible uses, or where access is not allowed to one of the roads.

(b) Access to Double Frontage Lots Restricted

Access for double frontage lots shall be taken from the lowest classification roadway providing access to the lot and not from perimeter collectors, arterials, or expressways. A statement dissolving the right of access to collectors, arterials, and expressways shall be required on the plat.

(c) Access Control Using Reserve Strips of Land

Reserve strips of land to prevent access to roads are prohibited.

(4) Flag Lots

(a) Only Allowed Where Other Options Impractical

Flag lots shall only be used where other lot layouts are impractical.

(b) Not Used to Avoid Public Road or Utilities Construction

Flag lots shall not be used as a means of avoiding the construction of public roads or the extension of utilities.

(c) Cul-De-Sac Required

The lot layout shall incorporate a cul-de-sac where 3 or more abutting flag lots would occur.

(d) Shared Access

Flag lots shall be required to share access where inadequate frontage exists for multiple accesses in accordance with the access requirements of the ECM.

(e) Minimum Pole Width

The minimum width for a flag lot pole shall be 30 feet.

(f) Maximum Pole Length

The length of the flag lot pole shall not exceed the length of the longest side of the flag portion of the flag lot.

(g) Pole Not Included in Lot Area

The area of the pole of the flag lot shall not be included in the lot area in meeting the minimum lot area requirements. Where the pole is irregular or wedge shaped the ~~DSD~~PCD Director shall determine where the flag pole is measured to.

(5) Division of Lots by Boundaries and Man-Made or Natural Features

(a) Roads or Other Lots

Lot shall not be divided by a road, alley, or another lot.

(b) Municipal, County or Zoning District Boundary

Lots shall not be divided by a municipal or County boundary or zoning district boundary.

(c) Special, Taxing, or School District Boundary

Lots shall not be divided by a special district, taxing district, or school district boundary, unless coordinated with the affected districts.

(d) Lots Divided by Irrigation Ditch, Stream or Drainage Facility

Lots should not be divided by an irrigation ditch, stream, or drainage facility unless a bridge or crossing is built to provide vehicular or pedestrian access to both sides.

(e) Lots Divided by Easements

Lots should not be divided by easements. Drainage easements which bisect a lot are only allowed where no reasonable alternative to the drainage solution exists.

(D) Tracts

(1) Not Eligible for Building Permits

Tracts shall not be used for structures and are not considered eligible for building permits, unless authorized by the approving authority and expressly noted on the plat.

(2) Not Subject to Minimum Lot Size Requirements

Where a tract is not to be used for structures, the tract is not required to meet the minimum lot size requirements of the zoning district.

(3) Areas to Be Shown

Tract area shall be shown on the plat in square feet and acreage.

(4) Tract Boundary Line Locations

Tract boundary lines shall be located, when practicable, at the top of slopes or along benches or the flowlines of drainage courses.

(5) Minimum Frontage

Tracts shall have a minimum of 30 feet of frontage on and have access from a public road or approved access easement, except where private roads are approved by the BoCC.

(6) Park and School Tracts

(a) Dimensions of School Tracts

Tracts for schools shall have sufficient buildable area to reasonably accommodate the intended use. Buildable areas shall be excluded from easements unless otherwise approved by the applicable easement authority, and shall not encroach into hazardous areas unless the hazards are abated as specified in the required documents and plans.

(b) Access for School Tracts

Tracts for schools shall have access meeting the requirements of this Code and the ECM.

(c) Adequate Area for Recreation Required

Tracts for parks and schools shall have suitable areas for active or passive recreation facilities.

(7) Tracts Not Divided by Municipal, County, or Zoning District Boundary

Tracts shall not be divided by the boundary line of a County, city or zoning district.

(8) Public and Common Areas in Tracts

Land intended to be conveyed or reserved for common homeowner or public use except lands to be dedicated as rights-of-way use shall be located within tracts.

8.4.4. Transportation System Considerations and Standards

(A) Planning and Design of Transportation System

(1) Transportation System Design Principles

Transportation systems serving the division of land shall be designed in conformance with the planning and design principals and criteria in the ECM. New roadways and associated structures shall be designed and built to bear a logical relationship to existing and planned roads and to provide suitable service to the ultimate land use of their service areas, and designed and constructed to achieve suitable capacity, safety, and levels of service and maintenance.

(2) Consistent with MTCP

The location and design of roads shall be consistent with the road network and functional classification as identified in the MTCP.

(3) Transportation Facilities Adequate

The nature and amount of traffic likely to be generated by the division of land shall be accommodated by existing and planned roadways without significant degradation of the physical condition or levels of service and safety as evidenced by a TIS prepared in conformance with the requirements in Appendix B of the ECM.

(B) Right-of-Way Dedication Required

Roads shall be located within a dedicated public right-of-way meeting the requirements of the ECM for the roadway classification proposed. In addition, adequate right-of-way shall be dedicated to accommodate the construction of the roads identified within the MTCP in accordance with BoCC policy. In accordance with BoCC policy, the BoCC may allow a disclosure such as "public ROW easement" or "future ROW" to be placed on a plat as an alternative to dedication.

(C) Public Roads Required

Divisions of land, lots, and tracts shall be served by public roads.

(D) Dead-End Road Standards

(1) Maximum Number of Lots on Dead-End Road

The maximum number of lots fronting and taking access from a dead-end road is 25. A corner lot is not counted in the maximum number of lots on a dead-end road when the fire department determines that adequate emergency access is provided to the corner lot by an alternative road.

(2) More than 25 Lots on a Dead-End Road

Where more than 25 lots would front and take access to a dead-end road, a second means of access shall be provided. The second access

shall be either a public road or a road located within an easement specifically constructed for emergency access purposes.

In situations where a second access is planned but is not practicable to construct initially, a divided 4 lane road meeting the design and construction requirements of the ECM shall be considered a second means of access until the second access road is constructed. Provision for crossing the median of a 4 lane road by emergency vehicles shall be included in the design. Roads taking access from the 4 lane road shall be subject to the dead end and roadway termination standards of this Code and the ECM.

(3) Maximum Length of Dead-End Road

The maximum length of a dead-end road is governed by the ECM, and may be further limited in those areas subject to wildfire hazard in accordance with this Code.

(E) Private Road Allowances

(1) Use of Private Roads Generally Limited

Private roads shall normally be confined to closed loops and dead-end roads not likely to be needed for the convenience and safety of the general public.

(2) Private Roads Require Waiver

The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BoCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads.

(3) Private Roads to Meet County Standards

Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:

- Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;
- Design speed where it is unlikely the road will be needed for use by the general public;
- Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;
- Maximum and minimum block lengths; and
- Maximum grade.

(4) Private Roads Determined to Comply with Access Requirements

In cases where private roads are approved, the private roads shall be deemed to comply with the access and frontage requirements of this Code as if the private roads were public roads.

(5) Private Roads Posted

Private roads shall be posted and identified on the plat.

8.4.5. Drainage Considerations and Standards

(A) Drainage Design Concepts

- The design and operation of the drainage facilities serving a division of land shall ensure that: Historical flow patterns are maintained in a manner that will reasonably preserve the natural character of the area and prevent property damage of the type generally attributed to runoff peak flow and velocity increases, diversions, concentration and unplanned ponding of storm runoff;
- Runoff volumes and peaks in areas affected by runoff conform to the applicable provisions of the ECM;
- The division of land does not impede the flow of natural water courses;
- Low points within the affected area are ensured adequate drainage;
- The drainage system considers the drainage basin as a whole and is capable of accommodating not only runoff from the proposed division of land, but also, where applicable, the runoff from areas adjacent to and upstream of the division of land;
- Provision exists in the design or operation of proposed drainage facilities for suitable maintenance including requiring the applicant to enter into a Private Detention Basin Maintenance Agreement and Easement or create covenants whereby the lot owners are required to maintain the detention basin(s); and
- Where a division of land will cause the introduction of new pollutants into the runoff water, storage, treatment and removal of pollutants conforms to the requirements of the ECM.

(B) Site Drainage Standards

(1) Lot Grading

Lots and tracts shall be laid out to provide positive drainage away from building sites. Overlot grading shall be designed and maintained consistent with the drainage basin planning study and master drainage plan.

(2) Coordinated with Drainage and Flood Control Systems

The design and site drainage shall be coordinated with the drainage and flood control systems.

(C) Drainage and Bridge Facility Design and Construction Standards

(1) Drainage and Bridges Constructed to ECM Standards

Drainage and bridge facilities shall be designed and constructed in conformance with the standards specified in this Code and the ECM.

(2) Compliance with Drainage Basin Planning Study and Master Drainage Plan

Drainage improvements shall conform to the requirements of the drainage basin planning study and master drainage plan.

(D) Maintenance Provisions Required

Provision for the maintenance of drainage areas shall be included as part of the subdivision easement and documents.

(E) Protection of Hazardous Areas Associated with Drainage Facilities

(1) Low-Lying Areas Preserved

Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for easement dedication, shall be preserved and retained in their natural state as drainage ways.

(2) Prudent Line Setback

Where applicable, the Prudent Line Setback, which is a buffer zone on either side of the channel where development is prohibited and the channel is allowed to move laterally, shall be shown as a no-build area and shall have a maintenance easement to grant El Paso County maintenance access.

(3) Subdivision Below a Jurisdictional Dam

Land which is subject to possible failure of an upstream dam meeting the size, volume or height standards of a jurisdictional dam shall not be platted unless the potential flooding condition is alleviated according to plans approved by the ECM Administrator or the State Engineer. A Dam Failure Analysis may be required prior to approval of downstream subdivisions.

(F) Detention Ponds ~~Located in Tracts~~and Permanent BMPs

Detention ponds and permanent BMPs shall be located in separate tracts or permanent easements where appropriate or required by the ECM.

(G) Drainage Easements

(1) Drainage Easements Required for Watercourses and Ditches

A drainage easement shall be provided if a division of land is traversed by a watercourse, drainageway, channel, stream, water supply ditch, or canal. The easement shall exclude the right to make improvements of the type which would interfere with runoff. Dedication shall include a right to access if necessary.

(2) Drainage Easements Required Outside Subdivision Boundaries

When a proposed drainage system will carry water across land outside the division of land, appropriate drainage rights and easements shall be secured.

(3) Drainage Easements Required for Runoff Leaving Roadside Ditch

Drainage easements shall be established for runoff which enters private property from a roadside ditch.

(4) Width of Drainage Easements

(a) General Requirements

A drainage easement or right-of-way shall conform to the lines of watercourse and the requirements of this Code, the ECM, and related technical documents, and be of a width adequate for the intended purpose and maintenance. The minimum requirements for easements shall be based on the base flood, but shall not be less than 15 feet in width unless otherwise approved by the ECM Administrator.

(b) Standard Drainage Easement Widths and Locations

Drainage easements may be coincident with the required utility easements unless requested otherwise by the review engineer. The standard drainage easements for urban and rural lots shall be provided as follows:

(i) Urban Density

- Side Lot Lines: 5 feet
- Rear Lot Lines: 7 feet

(ii) Rural Density

- Front Lot Lines: 10 feet
- Side Lot Lines: 10 feet
- Rear Lot Lines: 10 feet

8.4.6. Utilities Considerations and Standards

(A) General

Provision shall be made for facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure adequate electric and natural gas service for the division of land.

(B) Utilities Standards

(1) Utilities Located Underground

Utility facilities shall be located underground throughout the division of land except in situations or locations where undue hardship result from compliance with this requirement and the overriding intent of this Code has been demonstrated to the satisfaction of the ~~DSD~~PCD Director. Transformers, switching boxes, pedestals and other necessary facilities may be placed aboveground.

(2) Extended to Each Lot or Building Site

Utilities shall be extended to each lot, tract or building site.

(3) Utilities Located in Rights-of-Way or Easements

Utility lines, including appurtenances, shall be placed either within rights-of-way or within the easements or tracts provided for the particular facilities in accordance with the approved utility service plan and the

ECM. Utility easements shall be identified for water, sewer, gas, electric power, telephone, cable television, and drainage facilities on the plat.

(C) Standards for Easements

(1) General

(a) Meet ECM Requirements

Utility easements shall meet the requirements of the El Paso County ECM.

(b) Located to Provide for Efficient Installation

Easements shall be located to provide for efficient installation and maintenance of utilities, drainage, vehicular and pedestrian access, emergency access, detention/retention facilities, water courses, and fire protection.

(c) Utility Rights within Easements

Easements for the utility companies for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, and sewer lines, shall include the right to trim interfering trees and brush and a perpetual right of ingress and egress for installation, maintenance, and replacement of lines.

(d) Approved by Utility Companies Providing Service

Utility easements shall be approved by utility companies serving the project or the beneficiary of the easement.

(e) Shared Utility Easements

Shared use of a given easement is encouraged to minimize the number of easements.

(f) Free of Conflicting Encumbrances

Easements shall be free from conflicting legal encumbrances, avoid unnecessary removal of trees or excessive excavations, and be reasonably free from physical obstructions.

(g) Blanket Utility Easements Prohibited

Blanket utility easements shall be prohibited. Existing blanket or undefined easements shall be defined or located on the ground. If an easement already of record cannot be definitely located, a statement of the existence, the nature of the easement, and its recorded reference shall be placed in the note section.

(h) No Structures Over Easements

No structure or obstruction may be erected in, placed on or extend over an easement unless approved in writing by the entity or entities having jurisdiction over the easement.

(i) Easements Used for Stated Purpose

Easements shall only be used for stated purpose as shown on the recorded plat.

(2) Easement Locations and Dimensions

(a) Easements Along Lot and Tract Lines

Utility easements shall be provided along lot and tract lines in accordance with the serving utility, this Code, and ECM.

(b) Easements Abutting Rear Lot Lines

Where an easement abuts a rear lot line which is not the rear lot line of another lot, or which is on the perimeter of the division of land, the easement width shall be 10 feet or more.

(c) Utility Easements Combined with Drainage Easements

Where easements are combined with a water course, drainage way, channel, or stream, an additional utility easement of at least 10 feet in width shall be provided if the use would be in conflict with drainage requirements or wetlands.

(d) Standard Easement Widths and Locations

Unless otherwise required by the utility provider, the standard utility easements for urban and rural lots shall be provided as follows.

(i) Urban Density

- Side Lot Lines: 5 feet.
- Rear Lot Lines: 7 feet.

(ii) Rural Density

- Front Lot Lines: 10 feet
- Side Lot Lines: 10 feet
- Rear Lot Lines: 10 feet

(D) Vacation of Easements

(1) Easement Vacation to Follow Requirements of Chapter 7

Easements may be vacated in accordance with the provisions of Chapter 7 and the Procedures Manual after review by public utilities or other service providers providing designated services to the area in and around the subdivision.

(2) Approval of Structure over Easement Not Construed as Vacation

Approval in writing for the placement of a structure within an easement shall not be construed to be a vacation of the easement.

8.4.7.Water Supply Standards

(A) General

(1) Purpose

The purpose of this Section is to promote the health, safety, and welfare of the residents of El Paso County and is adopted pursuant to various State statutory authorities granted to counties, including, but not limited to, C.R.S. §§30-28-101, et seq., C.R.S. §§30-28-201, et seq., C.R.S. §§29-20-101, et seq., C.R.S. §§24-65.1-101, et seq., C.R.S. §§24-67-101, et seq., respectively.

This Section is not intended to enhance, diminish, displace, modify or supersede any applicable State Statutes or regulations regarding the initiation, adjudication, administration or use of water rights.

(2) Applicability

The requirements of this Section shall apply to any development application which results in the creation of new lots, except as otherwise provided, with the following clarifications:

- The effective date of this Section is originally November 20, 1986, and this Section shall fully apply to any subdivision which does not have preliminary plan approval prior to that date;
- Any proposed subdivision with a preliminary plan approval by the BoCC prior to November 20, 1986, but still in the process of obtaining plat approval, shall be subject to the previously existing water supply regulations in this Code and any controlling State statutory requirements regarding subdivision water supplies. Notwithstanding the foregoing, a subdivision proposing a change in its source of water which would result in a substantial decrease in the quality, quantity or dependability of the water supply or a substantial increase in the annual water demand shall be subject to this Section. In no case shall a change from a renewable to non-renewable source provide less than a 300-year water supply; and
- The requirements of this Section shall apply if there has been a substantial change in the water supply of the subdivision. The BoCC, with recommendations from the County Hydrogeologist or the OCA, shall determine if a substantial change in the water supply or water demand is proposed. Factors to be considered in the determination of a substantial change in the water supply or water demand include the percent increase or decrease in water demand or water availability and the absolute quantity increase or decrease in the water demand or water availability.

(3) Exceptions

The requirements set forth in this Section shall not apply to:

- Subdivisions which will not use water;

- Agricultural uses not associated with residential, commercial, or industrial activities requiring subdivision approval;
- A proposed subdivision which, by reason of the nature, type and extent of the proposed development, will not require a water supply as prescribed herein. Subdivisions meeting this requirement are not designed or developed for permanent occupation or habitation. The determination shall be made by the BoCC, following recommendations by the OCA, ~~DSD~~PCD Director, or County Hydrogeologist, on a case-by-case basis, and shall be based on a specific request and supporting evidence presented by the applicant along with recommendations of the Planning Commission. If exempted by the BoCC, any subsequent change in the subdivision as approved may require compliance with this Section;
- A vacation or vacation and replat of an existing subdivision or lots within an existing subdivision or any plat change, any of which will not result in significantly greater total water use than previously anticipated for the subdivision. All determinations as to the significance of the change in water use shall be made by the BoCC, with recommendations by the County Hydrogeologist or OCA; and
- The Planning Commission may recommend and the BoCC may, on a case-by-case basis, waive any or all of the requirements of this Section pursuant to a waiver application; however the finding of sufficiency for the quality, quantity, and dependability for water supplies shall not be waived; and

(4) Terminology

Unless specifically provided by this Code, water terminology within this Section shall have the same meaning, definition and application as set forth in C.R.S. §§37-90-101, et seq. and §§37-92-101, et seq.,

(B) Water Resource Report

(1) General

(a) Purpose

The purpose of the water resources report is to provide the data necessary for the Planning Commission and the BoCC to determine whether the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision.

(b) Water Resources Report Required

A water resources report as required by this Section shall be submitted with sketch plan, preliminary plan, final plat, and any subdivision applications which will create a new lot. A copy of the report will be kept on file in the El Paso County ~~DSD~~PCD.

(c) Prepared by Qualified Professional

The water resources report shall be prepared by a qualified hydrogeologist, hydrologist, licensed civil engineer, qualified groundwater geologist, or other qualified professional with appropriate experience.

(d) Document Adequate Water Supply

The Water Resources Report shall include adequate documentation that the proposed water supply is sufficient in terms of quantity, dependability, and quality for the proposed subdivision.

(e) Enforcement

In addition to any other remedies provided by law or this Code, the BoCC shall have the right to enforce compliance with the provisions of this Section, including any agreement provided pursuant to this Section, by means of withholding building permits within the subject subdivision or withholding plat approvals for additional development phases within the subject subdivision pending full compliance or other resolution.

(2) Description Report Contents and When Required

(a) Sketch Plan Report

The initial water resource report submitted with the sketch plan may be of a general nature, may be based on published and unpublished data and reports, and need not include site-specific hydrogeologic data. The purpose of the report included with the sketch plan is to identify probable compliance of the proposed subdivision with the water supply standards and to identify the need for additional water supplies which will be required for the subdivision.

(b) Preliminary Plan Report

The water resource report submitted with the preliminary plan shall include all of the data needed to determine whether the water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision. The report shall be based on engineering calculations and site-specific data and shall include a detailed discussion of the water demand, supply, quality, dependability, and supply facilities for the proposed project. The report shall identify those aspects of the water supply plan which are insufficient in terms of quantity, quality or dependability and shall identify the actions to remedy the deficiencies.

(c) Final Plat and Replat Report

The water resource report submitted with the final plat shall include all of the data needed to determine whether the proposed water supply is sufficient in terms of quality, quantity

and dependability for the type of subdivision proposed. The report shall be based on engineering calculations and site-specific data and shall include a detailed discussion of the water demand, supply, quality, dependability, and supply facilities for the proposed subdivision.

A water resources report is not required if the BoCC made a finding that the proposed water supply plan of the preliminary plan was sufficient in terms of quantity, quality and dependability. However, an amended water resources report is required if there is a substantial change in either the water supply or the estimated water demand.

(d) Residential Subdivisions of 4 Lots or Fewer

A complete water resources report is ~~optional~~ not always required for minor subdivisions. State statute requires the State Engineer to review all proposed water supplies. The State Engineer requires at a minimum a narrative discussion and a Water Supply Information Summary Form. ~~In all cases, however, the applicant shall provide the information required by the State Engineer.~~

(3) Water Resource Report

The water resource report shall document the requirements of this Section and shall include the following data, documentation, and analysis at a level of detail necessary to make the determinations of sufficiency:

(a) Summary of the Proposed Subdivision

The water resource report shall include a summary of the proposed subdivision with the following information:

- A location map including roads, Township and Range, a copy of all maps required with sketch and preliminary plan and final plat submittals, and legal description; and
- A description of subdivision including acreage of each proposed land use, number of dwelling units, etc. For phased projects the description shall clearly describe the acreages, land uses and number of units of each phase. The location of each proposed land use shall be shown on appropriate maps.

(b) Information Regarding Sufficient Quantity of Water

(i) Calculation of Water Demand

The water resource report shall include water demand calculations in separate calculations for the type, number and annual water requirements of existing, proposed and potential maximum uses of the subject property and a general timetable when the demands are expected.

Acceptable methods of determining water demand are described in this Section.

(ii) Calculation of Quantity of Water Available

The water resource report shall identify and describe each source of water including: (1) a map showing the location of any off-site water to be used and the location of major water transmission lines, reservoirs, etc; (2) calculations of the quantity of water available from each source (on-site and off-site sources shall be determined separately); and (3) a description of groundwater sources.

(iii) Groundwater Source Information

The water resource report shall list each aquifer to be used. Each aquifer shall be identified as tributary, non-tributary, not non-tributary or from a designated basin, and as either renewable or non-renewable aquifers. The report shall discuss the need for and the status of any augmentation plans required to use the proposed supply. The report shall also describe the annual and the 300-year quantity of water available from each proposed aquifer.

(iv) Production Wells Information

The water resource report shall discuss location, construction and production details of existing and proposed production wells. The following shall be included: (1) estimated number, size and short- and long-term yields of wells necessary to serve the proposed subdivision; (2) estimated life expectancy of wells; (3) estimated short and long-term well development schedule indicating probable timing of bringing additional wells on line; (4) A map showing locations of wells to be used during the first 5 years of the subdivision and probable locations of wells in the following years; (5) Well drilling logs and well completion reports; and (6) Pumping test data and analysis, including data and analysis of constant rate and step drawdown tests.

(v) Surface Water Sources

The report shall list each surface water supply to be used. The report shall discuss the need for and the status of any augmentation plans required to use the proposed supply. In addition, the report shall describe the annual and the 300-year quantity of water available from each proposed surface water supply, and calculate the number of years of water supply. For phased

projects, the calculation shall delineate the years of water available for each phase.

(c) Information Regarding Sufficient Dependability of Water Supply

The water resource report shall include the following information to allow a determination of sufficient dependability of the water supply to be established:

(i) Proof of Ownership

Proof of ownership or right of acquisition of use of existing or proposed water rights sufficient in quality, quantity and dependability to serve the proposed use including well permits, court decrees, well applications, export permits, etc.

(ii) Financial Plan

Financial plan and capital improvements plan of water provider.

(iii) Description of Water Supply

Description of the water supply, location shown on maps, and, when appropriate, engineering designs of existing and proposed water supply facilities, including wells, storage facilities, major transmission lines, etc.

(iv) Calculations Demonstrating Quantity

Calculations and documentation demonstrating that the aquifers are capable of supplying the required quantity of water and analysis showing the wells are capable of producing the required water supplies, if groundwater is to be used.

(v) Evidence of Water System Source

If a public or private water system is to be used, evidence that the source can and will supply water to the proposed subdivision stating the amount of water available for use within the subdivision and the feasibility of extending service to the area. This evidence shall include the following information: (1) A letter indicating a commitment to serve (except in the case of a sketch plan); (2) Name and address of the municipality, quasi-municipality, or water company which will supply the water; (3) Current capacities of the existing system; (4) Total amount of current and committed use; and (5) Amount and timing of water to be supplied to the subdivision.

This requirement does not apply to subdivisions to be supplied by individual wells.

(vi) Evidence of Short-Term Supply for Fire

Evidence that short-term water supply needs of the subdivision can be met to satisfy fire demand and reduction of supplies as a result of flooding, and damaged or otherwise incapacitated systems. Short-term dependability can be satisfied by such features as reservoirs, cisterns, standby wells and standby connections with other water supply or distribution systems.

(d) Information Regarding Sufficient Quality

The following shall be supplied: (1) Chemical analyses of proposed water from each proposed source; (2) Evidence of compliance with County and State water quality standards; and (3) Discussion of potential for water quality degradation from on-site and off-site sources.

~~**(e) Requirements of the State Engineer**~~

~~State statute requires the State Engineer to review all proposed water supplies. The State Engineer requires a narrative discussion and a Water Supply Information Summary Form. The following is the minimal information requirements of the State Engineer for all subdivisions:~~

- ~~Plat and legal description of the property and a description of previous actions of the State Engineer's Office regarding the property (e.g. previous exemptions, well applications);~~
- ~~Well number or numbers of existing and sited wells when available including names of previous owners, dates of well construction, depth, etc., if numbers are not available;~~
- ~~Use of water supply on the property as it now exists including number and locations of dwellings supplied, area of irrigated lawn and garden, water use for livestock, etc;~~
- ~~Proposed water supply including a description of wells or water provider to be used for each lot and what aquifer the applicant intends to use; and~~
- ~~Water requirements for each proposed lot including quantity to be used for dwellings, irrigation and livestock.~~

~~It is not necessary to include this information as a separate item provided it is included in the water resources report.~~

~~(f)~~(e) Public and Private Commercial Water Providers

(i) Information from Commercial Water Providers

It is the responsibility of the applicant to provide information regarding the availability of water supplies from any source, including public and private commercial water providers. Should the subdivision fall within a water provider's service district, a general water resources report supplied by the provider may be used to evaluate available water resources provided the content meets or exceeds the requirement of the Water Resource Report.

(ii) Water Providers Report

In those cases where the water provider submits a general Water Resources Report, the water resource report shall be updated annually, by February of each year. Update information shall include:

- Volume of water sold in the previous year;
- New water acquisitions, commitments, augmentation plans, etc.;
- Water trades or other losses of water supplies;
- Anticipated water acquisitions for the upcoming year;
- Legal documentation accompanying new water acquisitions and augmentation plans;
- Major capital improvements accomplished during the past year and anticipated major capital improvements for the upcoming year; and
- Other information which would be useful in evaluating the availability of water supplies.

~~(g)~~(f) Review of Water Resource Report

Water Resource Reports will be referred to the State Engineer and any applicable designated groundwater management district or water service provider, and reviewed by the County Hydrogeologist, OCA, EPCDHE, and ~~DSD~~PCD. When a proposed subdivision is located within a designated groundwater management district, El Paso County may receive comments and review recommendations from the district; however, the recommendations are not binding on the County.

(i) Sketch Plan Report

After receipt of the report, County staff and review agencies will submit a statement of their conclusions, finding and recommendations to the ~~DSD~~PCD.

Given the general and preliminary nature of water information available at the sketch plan stage, the OCA

will not provide recommendations or comments on the sufficiency of the water supply for sketch plan.

(ii) Preliminary Plan Report

The County Hydrogeologist will, in consultation with the OCA and the ~~DSD~~PCD, prepare a recommendation that the water supply be found sufficient or insufficient in terms of quantity and dependability. The EPCDHE will prepare a recommendation that the water supply is sufficient or insufficient in terms of quality. If the County Hydrogeologist, OCA or EPCDHE recommend that the proposed water supply be found insufficient they shall identify the deficiencies in the water supply plan to be corrected prior to submittal of the final plat.

(iii) Final Plat

The County Hydrogeologist will, in consultation with the OCA and the ~~DSD~~PCD, prepare a recommendation that the water supply be found sufficient or insufficient in terms of quantity and dependability. The EPCDHE will prepare a recommendation that the water supply is sufficient or insufficient in terms of quality. If the County Hydrogeologist, OCA or EPCDHE recommend that the proposed water supply be found insufficient they shall identify the deficiencies in the water supply plan.

(4) Basis of Determination of Sufficiency

(a) General Provisions

The Planning Commission shall, as part of its deliberations, make a recommendation regarding the sufficiency of the proposed water supply. The BoCC shall determine the sufficiency of the proposed water supply in terms of quantity, dependability, and quality based on the information presented and the recommendation of the Planning Commission.

In determining the sufficiency of a proposed water supply, the BoCC shall, at a minimum, consider the Water Resources Report, data and recommendations from the State Engineer's Office, OCA, the County staff, and the County Hydrogeologist; the recommendations of the Planning Commission; and public comment. In all cases the burden of proof in demonstrating sufficiency rests with the applicant, and it shall be the applicant's sole responsibility to document in the Water Resources Report that the proposed water supply is sufficient in terms of quantity, dependability, and quality.

(b) Conditional Finding of Sufficiency

Conditional findings of sufficiency can be made by the Planning Commission and the BoCC specifying conditions that shall be

met prior to recording the final plat. Some examples of conditions include, but are not limited to: written proof that a well has been abandoned or re-permitted, written proof that an applicant has voluntarily reduced the amount of withdrawal, completion of CDPHE Technical, Managerial and Financial (TMF) analysis and issuance of PWSID number for a new central water system, and formal annexation of the lot into a central water system's service area. Once these requirements are met, the conditional finding of sufficiency becomes a finding of sufficiency.

(c) Exception to 300-Year Water Supply

An exception to the 300-year water supply can be granted to those lot(s) not included in the Water and Sanitation or Metropolitan District's service area but the applicant desires to subdivide their land, annex into the District, and utilize the District's service for the new lot(s), which lot(s) may be granted an exception of the 300-year water supply requirement due to the fact that the District has effectively appropriated all the groundwater under the proposed subdivision by virtue of the cylinders of appropriation around its pre-1973 well(s). However, if exempt well(s) will continue to be used by an existing lot (and will not use the District's water service), the applicant must reduce the amount of withdrawal from their exempt well(s) to meet the County's 300-year supply life requirement.

(d) Documents Needed for Review by the OCA

The following documents shall be reviewed by the OCA:

- Water Supply Information Summary Form
- Letter of Commitment from Water District
- Copies of all well permits
- Copies of all Water Court Decrees
- Copies of all Colorado Groundwater Commission Determinations of Water Rights
- State Engineer's Office Opinion

(e) Phases of Plan Approval

(i) Sketch Plan:

Approval of a sketch plan by the Planning Commission and BoCC does not require a finding that the proposed water supply is sufficient in terms of quality, quantity and dependability.

(ii) Preliminary Plan

- Action of the Planning Commission: The Planning Commission shall make a recommendation that the proposed water supply is or is not sufficient in terms of quantity, dependability, and quality. Separate recommendations may be made. A preliminary plan

may be approved even if a recommendation of insufficiency is made. The Planning Commission shall identify the deficiencies in its recommendations to the BoCC.

- Action of the BoCC: The BoCC shall make a finding that the proposed water supply is or is not sufficient in terms of quantity, dependability, and quality. Separate findings may be made. A preliminary plan may be approved even if a finding of insufficiency is made. The BoCC shall identify the deficiencies with respect to the water supply plan.

(iii) Final Plat

- No final plat shall be approved by the Planning Commission or the BoCC without a finding that the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision.
- For subdivisions with 4 lots or more whose water supply consists of wells, and particularly where there are water augmentation or replacement obligations, the applicant shall establish a HOA or other entity approved by the OCA that shall be responsible to carry out the obligations under the water court decree, Colorado Groundwater Determination, and any related augmentation or replacement plans. For subdivisions with 3 lots or less, while creation of an HOA is preferred, responsibility for the obligations may be placed on the individual lot owners in the covenants or in a Joint Use Well-Sharing and Easement Agreement. Unless the water court or Colorado Groundwater Commission authorizes differently, no more than 6 lots shall share a well in a joint-use well sharing arrangement. Plat notes concerning the responsibility for the obligations and for conveyances of water rights shall be included on the face of the final plat. Prior to recording the final plat for any such subdivision, the applicant shall provide to ~~DSD~~PCD and the OCA for review and approval documents including, but not limited to, water court decrees and plans for augmentation signed by the Water Judge; determinations of water rights and replacement plans signed by the Colorado Groundwater Commission; deeds to cure defects in title to water rights; form deeds conveying water rights to individual lot owners; deeds conveying water rights for augmentation or replacement to the HOA (or to lot owners for

subdivisions with 3 lots or less); Joint Use Well Sharing and Easement Agreements (where applicable); restrictive covenants; and documents creating the HOA including articles of incorporation, certificate of incorporation by the Secretary of State, and bylaws.

(5) Finding of Sufficient Dependability

The proposed water supply shall meet the following criteria to be found sufficient in terms of dependability:

- The supply is of sufficient quantity to meet the needs of the proposed subdivision for 300 years;
- The proposed water supply system and water supply is capable of meeting the average annual and peak daily demand of the proposed subdivision; and
- The applicant has provided adequate evidence of ownership or the right of acquisition or use of existing or proposed water rights sufficient in quantity, dependability, and quality to serve the proposed uses within the subdivision; and (1) the legal capability to accomplish any changes in the uses or points of diversion of the rights with quantities and dependability necessary to serve the proposed subdivision without material injury to vested water rights; or (2) adequate evidence that the public or private water provider can and will supply the proposed subdivision with water of adequate quality, quantity and dependability.

(6) Adequate Proof of Ownership or Right of Acquisition

No final plat will be approved without adequate proof of ownership or the right of acquisition or use of existing and proposed water rights. Following are the minimum requirements of each type of water supply as proof of ownership or the right of acquisition of or use of existing and proposed water rights of surface or groundwater:

(a) Surface Water

For surface water and underground water defined in C.R.S. §37-92-103 (11), the following shall be considered adequate proof of ownership or right of acquisition:

- Copies of appropriate well permits or court decrees for water rights, changes of water rights, and augmentation plans or State Engineer approved temporary exchange plans; or
- If the decree or historic use and priority does not provide for a probable uninterrupted supply, the applicant shall submit a legally binding alternative supply plan, such as reserve groundwater.

(b) Groundwater Outside the Designated Groundwater Basins

For groundwater outside the designated groundwater basins and subject to C.R.S. §37-90-137(4) (S.B.-5 and S.B.-213), the following shall be considered adequate proof of ownership or right of acquisition:

- Copies of well permits, court decrees for the intended type of use and quantity, or determinations made by the State Engineer under rules and regulations adopted pursuant to C.R.S. §37-90-137(9) in response to water court request pursuant to C.R.S. §37-92-302(2), and in the referral and review process of C.R.S. §30-28-136(1) (h)(I);
- With respect to groundwater classified as not non-tributary, a court decree approving a plan of augmentation is required.

(c) Designated Groundwater

(i) Alluvial Groundwater

For alluvial groundwater, permits or determinations issued by the Colorado Groundwater Commission for the intended type of use or court decrees shall be considered adequate proof of ownership or right of acquisition. If appropriate, export permits are required.

(ii) Bedrock Groundwater

For bedrock groundwater, permits or determinations issued by the Colorado Groundwater Commission for the intended type of use, or court decrees and estimates of the quantity of groundwater in Denver Basin formations shall be considered adequate proof of ownership or right of acquisition. Either a permit or a court decree is required for water which will be used during the first 20 years of the proposed project. Denver Basin formation estimates are only permissible for those deeper aquifers which will not be needed during the first 20 years of the project life. If appropriate, export permits are required.

- Perfected Groundwater Rights (1973): For groundwater rights perfected prior to enactment of Senate Bill 213 (July 6, 1973) and not defined in §37-92-103 (11), C.R.S., a court decree or well permits for the intended types of use shall be considered adequate proof of ownership or right of acquisition.

(d) Other Information Required

In addition to the above requirements, the applicant shall provide any other pertinent information and documentation which further

expands, restricts or modifies (or which could potentially expand, restrict, or modify) the existence, ownership and right to use the subject water rights for the proposed subdivision.

(e) Written Evidence Required

The applicant shall provide written evidence satisfactory to the BoCC that documented water rights have been committed to and will be retained for subdivision use to the fullest extent necessary to satisfy the water demand of the proposed subdivision as required by this Section. The written evidence may include one or a combination of the following:

- An adequate letter of commitment from an established water provider agreeing to provide water service to the proposed subdivision, and stating the amount of water available for use within the proposed subdivision and the feasibility of extending service to that area;
- A legally binding agreement between the BoCC and the applicant or water provider setting forth and prescribing the terms, conditions, limitations and restrictions as to the commitment and retention of documented water rights necessary to satisfy the present and anticipated future water demand of the proposed subdivision or the respective filing thereof in accordance with this Section; or
- A plat note conveying or identifying the documented water rights committed to the proposed subdivision, and restricting the further conveyance, sale, transfer, or change in use of the committed water rights.

In determining the appropriate means to accomplish the foregoing, the BoCC shall consider, among other factors, the legal classification of the water involved, the type of water system proposed, and the water provider's history of experience and reliability of providing service.

(f) Written Documentation Recorded Prior to Plat Approval

The written documentation required by the BoCC pursuant to this Section 8.4.7, shall be finalized, fully executed and recorded prior to or concurrent with the recording of the final plat for the subject property, except that the letter of commitment shall not be recorded. HOA documents shall be recorded, to the extent that the HOA is in existence at the time of plat recording.

(g) Adequate Proof from Water Provider

(i) General

Adequate proof is required of the capability of the water provider to serve the proposed subdivision and pre-

existing subdivisions, if any, with adequate quantity, dependability, and quality at average annual and at peak daily demand. The 300-year water supply requirement does not apply to pre-existing (prior to November 20, 1986) subdivisions.

(ii) Financial and Capital Improvement Plan

The financial plan and capital improvements plan shall include a program for future wells if future groundwater development is planned and shall show that necessary financial resources have been satisfactorily committed to extend water service to the proposed subdivision and to adequately maintain and operate the water supply system. Projects in which each residence will be served by an individual well are not required to have a financial or capital improvement plan.

(iii) Water Bearing Capacity of Aquifers

Proof shall be provided that the water bearing properties of aquifers (i.e., hydraulic conductivity, transmissivity, storativity, storage coefficient, etc.) are adequate to yield the quantity of water which is proposed to be extracted from the aquifer.

(iv) Physical Facilities and Technical Capabilities Adequate

Proof shall be provided that physical facilities, or the necessary financial and technical resources and legal commitments and authority to construct a system, for raw water acquisition, collection, storage and treatment, and for treated storage and distribution and maintenance or water pressure are sufficient to serve the needs of the proposed subdivision.

(v) Water Demands for Fire

Proof shall be provided that water demands needed to satisfy fire demand, replacement of supplies reduced due to flooding, damaged or otherwise incapacitated systems can be met. This short term dependability is satisfied by such features as reservoirs, cisterns, standby wells and standby connections with other water supply or distribution systems.

(vi) Compliance with Drinking Water Regulations

When a new community water system subject to the Colorado Primary Drinking Water Regulations is proposed in conjunction with a subdivision, a conditional finding of sufficiency may be issued by the Planning Commission and BoCC in the approval of a preliminary plan or final plat subject to the following:

- CDPHE TMF capacity, analysis and approval thereof, as evidenced by issuance of a Public Water System Identification (PWSID) number;
- Adequate construction surety for the proposed water system which includes all waterworks identified in the CDPHE TMF analysis;
- Restrictions on the sale of lots and the issuance of building permits until the water system is constructed and certified are included on the final plat; and
- An entity acceptable to the water court, or Colorado Groundwater Commission or the CDPHE shall be formed or engaged to assure operation of the community water system.

(7) Finding of Sufficient Quantity

(a) Sources of Water

Water shall be supplied from legally and physically available water sources and may be supplied from on-site sources, off-site sources, or both.

(b) Required Water Supply

The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years. Sketch plans are not required to include documented evidence that the proposed water supply will meet the needs of the proposed subdivision for a period of 300 years.

(c) Determination of Water Demand

(i) Sketch Plan

The total 300-year water demand shall be estimated for the entire subdivision. Each phase of a subdivision shall be estimated independently. It is recognized that this estimate will be based on the general concept of the proposed subdivision and not final engineering plans. Acreages of community landscaping, lawn sizes, specific types of commercial and industrial uses, etc., may be based on estimates.

(ii) Preliminary Plan and Final Plat

Estimates shall be based on actual acreages and densities, engineering plans and designs, land surveys and restrictive covenants, as applicable.

(d) Presumptive Use Values

In the absence of data on water use to the contrary or other minimum values established as acceptable by the State Engineer, the following presumptive values will be used to calculate the annual water demand:

- Residential inside use 0.26 acre feet per year for single family residences and 0.20 acre feet per year for each occupancy unit in multiple family residences other than single family. A duplex contains 2 occupancy units, a triplex contains 3 occupancy units, etc;
- Residential and commercial landscaping use 0.0566 acre feet per 1,000 square feet of landscaping;
- Commercial and industrial inside use 0.1 gallon per day for each square foot of developed space; and
- Miscellaneous irrigation (landscaping, golf courses, etc.) use 2.46 acre feet per acre per year.

(e) Calculation of Unusual Water Demands

Unusual water demands for residential projects, such as large swimming pools, lakes, large fountains, irrigation of golf courses, greenbelts and pasture land, shall be determined and calculated separately.

(f) Water Use for Uses Not Itemized

For uses not itemized above the applicant shall conduct a site specific study.

(g) Water Demand of Comparable Projects

The applicant may also submit an estimate of annual water demand based on the water use of comparable projects, water reuse, groundwater recharge, water conservation, or other innovative methods. Complete documentation shall accompany these estimates, and it shall be the applicant's sole responsibility to demonstrate the validity of water demand estimates made from alternative calculations. If alternative calculations are included, calculations using the above presumptive values shall also be included. The BoCC will make the final determination of water demand.

(h) Adjustments to Water Demand Calculations

At the preliminary plan and final plat stage of a subdivision, the calculations of the water demand may be adjusted for the time required for subdivision buildout. The adjustment shall be in increments of whole years and the adjustment period shall not exceed 20 years from the date of final plat approval.

(8) Determination of Available Water

(a) Sketch Plan

Existing and potential water supplies shall be estimated for the entire subdivision. Proposed quantities of available water are considered general estimates and need not be based on court decrees, well permits or final engineering plans. The quantity of

water available from each proposed on-site and off-site source and each aquifer shall be determined and described separately. For phased projects the supply for each phase shall be estimated independently. The quantities of available water shall be expressed in acre feet per year and total acre feet for the proposed subdivision to evidence a 300-year supply. Because substantial differences may exist between the estimates included with the sketch plan submittal and actual water supplies available for preliminary plan and final plat submittals, acceptance of the estimates accompanying the sketch plan will not guarantee the number of dwelling units permissible in later stages of the subdivision approval process.

(b) Preliminary Plan and Final Plat

The quantity of water available from each proposed on-site and off-site source and each aquifer shall be determined and described separately. Calculations shall be based on court decrees, well permits, approved augmentation plans and determinations by the State Engineer. The quantities of available water shall be expressed in acre feet per year and total acre feet for the proposed subdivision to evidence a 300-year supply.

(9) Water Calculation by Category of Water Type

(a) Surface and Undergroundwater as Defined by Statute

Available surface and undergroundwater as defined in C.R.S. §37-92-103(11) are calculated as follows.

(i) Renewable Water Sources

Certain water as defined in C.R.S. §37-92-103(11) which is provided from surface water and underground sources is considered to be annually renewable and is therefore considered to have a minimum life of 300 years.

(ii) Well Permits and Court Decrees

The quantities of water available shall be derived from appropriate well permits, court decrees for water rights, changes of water rights, augmentation plans, and State Engineer approved temporary water exchange plans which will be legally and physically available for the proposed subdivision. In the event the court decreed quantity or well sited quantity of water has historically been unavailable at times because of a junior priority or for other reasons, the water supply may only be counted if an alternative supply, of equal quantity, is available when the surface supply is not. For example, if the priority of a surface water supply is such that water is only available seasonally, then an equal supply of reliable alternative water shall be available when the surface supply is not available.

(iii) Calculation of Quantity

The quantity of water available shall be calculated by multiplying the annual appropriation, in acre feet, times 300 years. If a supplemental water supply is required, reduce the number of years by the percentage of time the supply is not available. For example, if a supply of surface water is not available for 6 months out of the year, then the quantity of surface water available shall be reduced by 50%. The supplemental source shall be documented independently.

(b) Groundwater Outside Designated Basins

Available groundwater outside designated groundwater basins and subject to C.R.S. §37-90-137(4) (S.B. 5 (July 1, 1985) and S.B. 213 (July 6, 1973) groundwater) is calculated as follows:

(i) Quantity of Nontributary and Not-Nontributary Groundwater

The quantity of nontributary and not nontributary groundwater available is that quantity prescribed by court decrees, wells, or quantity determinations made by the State Engineer under rules and regulations adopted pursuant to C.R.S. §37-90-137(9), in response to water court request pursuant to C.R.S. §37-92-302(2) and in the referral and review process of C.R.S. §30-28-136(1)(h)(I). With respect to groundwater classified as not nontributary, the applicant shall furnish a court decree approving a plan of augmentation.

(ii) Calculation of Quantity

The quantity is calculated by multiplying the annual appropriation by 100 years. The quantity shall be adjusted for the quantity of groundwater used in prior years. Calculations of the quantity of groundwater available shall be based on the following priority: first, court decrees; second, well permits; and third, State Engineer's recommendations.

(c) Available Designated Groundwater

(i) Not Exceed Quantity Allocated by Commission or Court

The quantity of groundwater may not exceed the quantity of groundwater allocated by permits or determinations approved by the Colorado Groundwater Commission, or the quantity exhibited by court decrees plus the quantity of groundwater which occurs beneath the project site in Denver Basin formations for which the Colorado Groundwater Commission has not approved well permits.

(ii) Priority of Wells a Factor

If a court or the Colorado Groundwater Commission has decreed a priority appropriation list of wells in the basin, the priority and significance of the priority of the proposed wells to any condition of basin over-appropriation shall be a factor in determining sufficiency.

(iii) Quantity of Alluvial Groundwater

The quantity of renewable alluvial groundwater is calculated by multiplying the annual well appropriation or court decree, in acre feet, by 300 years. The appropriation shall be adjusted, if necessary, to account for a junior priority appropriation.

(iv) Quantity of Bedrock Groundwater

The quantity of nonrenewable bedrock groundwater is calculated by multiplying the annual appropriation, as specified in the Colorado Groundwater Commission determination or court decrees and well permits, in acre feet, by 100 years. The appropriation shall be adjusted, if necessary, to account for groundwater previously appropriated or extracted. Denver Basin groundwater underlying the project site for which Colorado Groundwater Commission determinations or court decrees or well permits have not been issued may be counted as part of the water supply. The estimates of Denver Basin groundwaters are only permissible for those deep aquifers which will not be needed during the first 20 years of the project.

(d) Available Perfected Groundwater

Available groundwater from groundwater rights perfected prior to enactment of Senate Bill 213 (July 6, 1973) is calculated as follows:

(i) Calculating Quantity of Groundwater

If renewable (i.e. alluvial) multiply the annual appropriation by 300 years; if nonrenewable (i.e. Denver Basin aquifers) multiply the annual appropriation by 100 years. If appropriate make adjustments for the 3/7 rule on the Arkansas River or other extraction limitations.

(ii) Calculating Quantity of Pre-1973 Court Decree and Groundwater

The quantity of groundwater from pre-1973 court decrees and well permits shall be calculated independently, and when appropriate the cylinder of appropriation of the well shall be subtracted from the area of other groundwater calculations.

(10) Finding of Sufficient Quality

In conjunction with applicable State and federal water quality standards and requirements, the proposed water supplies shall meet the following requirements:

(a) Chemical Analysis Required

A chemical analysis shall be performed on a representative water sample from every bedrock groundwater source which will be utilized by the subdivision during the first 5 years and from every non-bedrock source to be used by the subdivision. Large subdivisions may require multiple samples from the same source (not the same well) to ensure representative water quality analyses.

(b) Contaminant Levels to Meet Drinking Water Requirements

Maximum permissible contaminant levels shall meet the requirements of the Colorado Primary Drinking Water Regulations, as clarified by the EPCDHE.

(c) Analysis of Major Ions

Analyses of the major ions calcium, magnesium, potassium, sodium, bicarbonate/carbonate, chloride and sulfate may be required by the EPCDHE.

(d) Collection Techniques

Samples shall be collected by qualified personnel using standard collection and preservation methods and shall be analyzed within the limits of standard holding times. A chain of custody shall be maintained and documented from sampling to a laboratory analysis. Samples shall be analyzed by a Colorado certified testing laboratory.

(e) Sampling Location

Samples from bedrock aquifers shall be collected within ½ mile of the project site or off-site source. If the bedrock source will not be used during the first 5 years of the project and if wells are not available for sampling, the requirement for bedrock aquifer water quality analysis may be deferred as a condition of approval by the BoCC. Samples from shallow alluvial aquifers shall be collected within 500 feet of the project site or off-site source and shall be collected from the closest up-gradient well. All samples shall be representative of the source.

(f) Water Quality Not Meeting Standards

If the quality of the source water does not meet the standards specified in the Colorado Primary Drinking Water Regulations, as clarified by the EPCDHE, the applicant shall demonstrate that treatment facilities will be constructed and maintained which will bring the water within the standards.

(g) Presumption of Water Quality

In the absence of evidence to the contrary, a presumption is made that residential subdivisions of 4 or fewer lots will meet the water quality standards. In the absence of evidence to the contrary, it is presumed that water supplied from an existing Community Water Supply, which operates in conformance with the Colorado Primary Drinking Water Regulations and the CDPHE requirements, as clarified by the EPCDHE, is determined to meet the water quality standards as required by the section.

(h) Future Water Quality to Meet Standards

Under foreseeable and likely future conditions, the quality of the proposed water supply shall meet or exceed the water quality standards established herein. Both on-site and off-site source conditions shall be considered.

(i) Compliance Not to Diminish Other State and Federal Standards

Compliance with this Section is not intended to modify, displace, supersede or diminish compliance with other State and federal water quality requirements.

(C) General Requirements (Clarifications)

(1) Renewable Groundwater Life 300 Years

Water provided from renewable groundwater sources is considered to be annually renewable and, therefore, is considered to have a minimum life of 300 years.

(2) Recharge Not Used to Modify Bedrock Calculations

Groundwater recharge may not be used to modify the calculations of the quantity of extractable groundwater in bedrock aquifers unless it is included in court decrees, well permits, approved augmentation plans or determinations by the Colorado Groundwater Commission and the State Engineer.

(3) Alternative Supplies May be Considered Renewable

Alternative water supplies such as treated effluent may be considered renewable or nonrenewable and shall be evaluated on a case-by-case basis.

(4) Private Arrangements and Agreements

Any private or public arrangements, agreements or contracts that modify, limit, or condition the use of any water rights or water supplies may result in a reduction of the water calculated to be available for subdivision use.

(5) Nonrenewable Water from Off-Site

When nonrenewable water is provided to a development from an off-site location, the calculation of water for purposes of this Section is at the

point of delivery to the development or customer, rather than at the point of pumping of the well.

(D) Post-Approval Compliance

(1) Prior to Authorization of Building Permits

Prior to authorization by the ~~DSD~~PCD for the issuance of building permits, the following shall be accomplished. This provision does not apply to subdivisions supplied by individual wells.

- All required step drawdown tests shall be performed on production wells.
- For new community water supply systems a certification shall be issued by a qualified professional (knowledgeable with the water system) certifying that the water system is operational for the intended use. CDPHE TMF capacity analysis and approval thereof, as evidenced by issuance of a public water system Identification (PWSID) number shall be provided.
- For existing and established community water supply systems the certification may come from the water supplier's engineer or may be satisfied by the district or supplier's acceptance of the facilities.

(2) Proof of Well Permit Prior to Approval of Building Permits

Subdivisions subject to this Section shall provide proof of a well permit prior to the ~~DSD~~PCD's authorization for the issuance of building permits for residential usage for properties located within the designated groundwater basins and for individual lots within a subdivision dependent on an individual on lot well system.

(3) Water Provider No Longer Able to Supply

In the event that the applicant or his water provider is no longer able to supply the subdivision with the quality, quantity, or dependability of water identified in this Section and in the final plat and associated documents approved for the subdivision, the issuance of building permits for the subdivision may be limited by the BoCC until the problem is resolved to the satisfaction of the BoCC.

(4) Production Well Testing

The following shall apply:

(a) Step Drawdown Test Performed

A step drawdown test shall be performed on each production well which will be needed to meet the daily and peak water needs of the proposed subdivision and which meet the following criteria: (1) The well or anticipated production rate is for 40 gpm or more, or (2) The well is a community well and will ultimately serve more than 50 acres or 100 dwelling units or an equivalent commercial or industrial project which is subject to the provisions of this Section.

Step drawdown testing is encouraged for all wells. Step drawdown tests shall be an appropriate number of steps of adequate duration to allow evaluation of the production potential of the well. Step drawdown testing is not required for approval of sketch plans. It is recommended that the test results be included with the preliminary plan and final plat submittals.

(b) Test Results to Determine Capacity

Test results will be used to determine whether the production wells have adequate capacity to supply the needs of the subdivision. If test results indicate additional production wells are necessary, the additional wells shall be installed and tested prior to authorization by the ~~DSD~~PCD for issuance of building permits for the subdivision. Prior to issuance of building permits, the County Hydrogeologist shall review the test results and shall certify that the test results indicate that the production wells have, at the time of certification, adequate production capability to supply the needs of the subdivision.

(c) Sufficient Production Wells Required Before Approval of Building Permits

The ~~DSD~~PCD shall not authorize the issuance of a building permit for an approved subdivision until sufficient production wells needed to supply the subject phase of the subdivision are installed,, tested, and conveyance is established..

(5) Water Level Monitoring

The following monitoring and reporting is required until all plats for a proposed subdivision have been approved and all building permits for the subdivision have been issued:

- Monthly pumping volumes from each community production well shall be reported to the ~~DSD~~PCD semiannually;
- Water level and piezometric level monitoring is required for all projects using community or commercial wells. The purpose of this monitoring is to develop historical data of long-term water level changes. Measurements will usually be taken monthly. Monitoring shall be done in accordance with a monitoring plan approved by the County Hydrogeologist. It is anticipated that most monitoring programs will use existing wells. Deep bedrock wells may not be required for monitoring purposes only; and
- All required water level monitoring devices shall be maintained in good working order and the wells shall be available to County staff at reasonable times for water level measurements. The water supplier will be responsible for maintaining the water level monitoring devices.

(E) Substantial Change In Water Supply

(1) Substantial Change Requires Compliance

A substantial change in the water supply for a subdivision shall require compliance with this Section. A substantial change to the water supply includes, but is not limited to, the following:

- A change in the source of water which would result in a substantial decrease in the quality, quantity or dependability of the water supply;
- A change in the subdivision which would result in an increase in the annual water demand exceeding 10%;
- A change from a central water system to individual wells;
- A change from individual wells to a central water system;
- A change that causes modifications to an approved and recorded subdivision plat, covenants as they relate to water supply, a decree, or an augmentation plan;
- A change that results in the water being supplied from a different aquifer from that which was proposed in the review and approval of the subdivision; or
- A change from a renewable source of water to a non-renewable source which would provide less than a 300 year water supply.

(2) Administrative Determination of Whether Change is Substantial

The administrative determination whether the change in water supply is considered substantial shall be made by the ~~DSD~~PCD Director, in consultation with OCA and County staff. Factors to consider in this determination include, but are not limited to:

- The percent increase or decrease in water demand or water availability; or
- The absolute quantity increase or decrease in the water demand or water availability.

(3) Substantial Change Requires New Final Plat Submittal

In the event that the change is determined to be substantial, the application for a substantial change in water supply may be a customized submittal as determined by OCA and County Staff, and processed as a platting action which may require submittal of new plat documents, and which is subject to approval by the Board of County Commissioners.

(4) Administrative Approval of Change Granted

In the event that the change is determined to be not substantial, administrative approval of the change may be granted along with any other modifications to implement the administrative approval.

8.4.8. Wastewater Disposal

(A) General

(1) Purpose

The purpose of this Section is to establish the wastewater disposal provisions at the sketch plan or preliminary plan stage of subdivision development and ensure conformance of wastewater disposal with this Code at the time of approval of the final plat.

(2) Applicability

This Section shall apply to all development applications for subdivision and any other action that creates a new lot or parcel.

(B) Minimum Standards

(1) General

(a) Central Wastewater System Required

A central wastewater system is the required method of wastewater collection and treatment in all new subdivisions or zoning districts with a density greater than one dwelling unit per 2½ acres or where lot sizes are less than 2½ acres. Every reasonable effort shall be made to provide a central wastewater system.

(b) Compliance with EPCDHE Regulations

All wastewater disposals shall comply with the EPCDHE regulations and the CDPHE guidelines, as applicable.

(c) Favorable Recommendation from EPCDHE Required

The EPCDHE is considered the County's expert concerning the adequacy of a proposed sewage treatment system. No sketch or preliminary plan or final plat shall receive the approval of the BoCC unless EPCDHE has made a favorable recommendation regarding the proposed method of sewage disposal.

(d) Wastewater Treatment to Meet Requirements of this Section

In addition to the requirements of the EPCDHE, the provisions of this Section shall be used to evaluate the adequacy of the wastewater treatment system intended to serve a proposed subdivision.

(e) New and Replacement Systems Designed to Minimize Flood Impacts

New and replacement wastewater systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood water.

(C) Onsite Wastewater Treatment Systems (OWTS)

(1) Burden of Proof on Subdivider to Show OWTS Effective

The burden of proof for showing that an OWTS meets the spirit and intent of this Section shall be on the applicant. Reports, data, and other evidence shall illustrate that the subdivision, at a minimum, achieves the following:

- Non-contamination of surface or subsurface water resources;
- Non-interference with water resources of adjoining lots. The standard for determining interference shall be the probability of well deepening or the necessity to remove land from agricultural use;
- Non-interference with the enjoyment, use, or utility of adjoining land by virtue of pollution, odor, health hazard or water usage. Placement of leach fields within the cone of influence of a well shall constitute interference, unless otherwise approved by the EPCDHE;
- Lot sizes compatible with the limitations inherent in soils, geologic, and hydrologic characteristics of the site. Lot sizes in excess of 5 acres may be required in areas in which site characteristics dictate larger lots; and
- Compliance with any physical setback requirements of the EPCDHE regulations.

(2) Two OWTS Sites Required for All Lots or Parcels

All lots shall be designed to insure that each lot has a minimum of 2 sites appropriate for OWTS which do not fall in the restricted areas identified on the preliminary plan, soils and geology report, or other reports required under this Code.

(D) Public System

(1) Evidence Provision Made for System

If a public sewage disposal system is proposed, evidence shall be provided with the preliminary plan or final plat to establish that provision has been made for the system that complies with State and local laws and regulations.

(2) Public System Operated in Conformance with Regulations

At the time of preliminary plan submittal and final plat recording, the public sanitation district or company shall be operating in compliance with State and County regulations, or shall have received approval of a service plan in accordance with C.R.S. §§32-1-201, et seq., and approval of location or a 1041 Permit in accordance with Appendix B and site application in accordance with State regulations.

(3) Plans for Off-Site and New Facilities

The construction drawings shall include any plans and specifications for off-site facilities and any new facilities proposed within any existing or proposed County right-of-way.

(4) Construction Costs

The construction costs for wastewater facilities including any required wastewater lift stations or off-site facilities necessary to serve the subdivision which are not guaranteed by the wastewater provider or which are not the responsibility of the wastewater provider shall be included in the construction surety estimate required by the ECM and this Code.

(E) Report Requirements

(1) General

(a) Wastewater Disposal Report Required

All sketch plans, preliminary plans, and final plats submitted for review shall be accompanied with a wastewater disposal report. The requirements of the preliminary plan report shall not be deferred or postponed until the final plat application.

(b) New Report Not Required

A final plat is not required to be accompanied by a new report where a wastewater report was previously approved, unless there are modifications to the report.

(c) Letter of Commitment Required

A letter of commitment is required for all final plats involving creation of new lots within an area served by a public sewer system.

(d) Professional Engineer Required to Prepare Report

The wastewater disposal report shall be prepared by a professional engineer licensed to practice in the State of Colorado.

(2) Types of Reports

(a) Sketch Plan Report

The following information shall be included in the wastewater report submitted with the sketch plan application:

- Map showing relative location of point of connection to an existing system;
- Map showing relative location of the existing or proposed treatment facility;
- Estimate of projected population, units, and density, as related to wastewater production on an average daily basis;

- Capacity of the existing treatment plant and current utilization;
- Anticipated capacity of any proposed treatment plant; and
- Letter of commitment from the wastewater provider proposed for service, with identification of whether the sketch plan area is within the service boundaries of the proposed provider.

(b) Preliminary Plan Report

The following information shall be included in the wastewater report submitted with the preliminary plan application:

- All items required to be included with the sketch plan report; and
- Letter of commitment from the wastewater provider proposed for service, which includes whether the preliminary plan area is within the service boundaries of the proposed provider, and a statement by the wastewater provider that adequate capacity exists or will exist in order to provide service.

(c) Final Plat Report

The following information shall be included in the wastewater report submitted with the final plat application:

- Unless previously provided with a preliminary plan application for the property, all items required to be included with the sketch plan report; and
- Unless provided with the preliminary plan, a Letter of Commitment from the wastewater provider proposed for service, which includes information indicating that the land has been included into the boundaries of the provider's service area, or that contractual arrangements for service have been met.

(d) OWTS Report

(i) General Requirements

The following shall be fully addressed in or submitted with an OWTS Report. The EPCDHE may require the subdivider to submit additional engineering or geological applicant reports or data and to conduct a study of the economic feasibility of service by central sewage system prior to making its recommendations.

- A map, drawn at the same scale as the preliminary plan, locating all lots, drainage-ways, floodplains, slopes in excess of 30%, surface and sub-surface

soils hazards, geologic hazards, depth to bedrock, water table depth, and other hazards;

- Soil conditions, NRCS soils classification, slope of the terrain, undergroundwater table, subsurface rock, and limitations on site location of the system;
- Conditions which may cause deleterious effects to systems in the area, such as runoff or irrigation;
- The availability of a central sewage system and the feasibility of inclusion into the system;
- The proximity of water wells, lakes, streams, irrigation ditches, and other water sources in the area being subdivided;
- Soils test including a minimum of one percolation test per standard soils category. Additional tests may be required if necessary to evaluate the site. Conditions requiring additional tests shall include presence of steep slopes or major drainage channels in the area being subdivided. The percolation test procedure shall comply with the OWTS regulations.
- All test sites shall be clearly flagged in order that reviewing agencies may make field checks of test locations;
- Groundwater profile including an 8 foot deep soil/groundwater profile analysis at the site of each percolation test; and
- A narrative summary of the conditions of the land to be subdivided including any precautions to developers and residents, construction constraints, and special problems foreseen by the engineer: (1) all locations not suited for placement of leach fields due to soils, geologic, topographic, or hazard conditions shall be noted on the preliminary plan and final plat; (2) relationship of the leach fields to leach fields, wells, structures, lakes, streams, irrigation systems, and other water features on adjoining parcels and identification of any possible hazards; and (3) if private wells are to be utilized in conjunction with OWTS, the probability of contamination shall be analyzed.

(ii) Additional Requirements for Lot Sizes Between 2½ and 5 Acres

For lots of between 2½ and 5 acres where OWTS are proposed, the wastewater disposal report shall additionally address the following:

- Percolation tests conducted for no fewer than 20% of the total number of lots in the filing. In cases in which unique geologic, topographic, or soils conditions, such as: depth to bedrock, depth of water, slopes in excess of l0%, etc. are found, additional tests may be required ; and
- An analysis of the availability of a central sewage system and the feasibility of service by a central sewage system. If there is a central sewage system within one mile of the proposed subdivision, or if the subdivision is within an organized sewage district or municipal service area, the applicant shall submit documentation that the district or municipality is incapable of serving the site or that the costs of service are prohibitive.

(iii) Additional Requirements for OWTS on Lots Within 400 Feet of a Sewer Line

When a subdivision is proposed that is within 400 feet of a sewer line or triggers the connection requirements of the OWTS regulations, the following additional requirements apply:

- The EPCDHE requires connection to the central system unless the district refuses service to the property;
- Should the district accept the service connection from outside the district boundaries, then connection is required by the EPCDHE, unless otherwise approved; and
- The owners of any lot that meets this description are required to apply to the EPCDHE for an OWTS to repair or replace a failing approved secondary leach field area.

8.4.9. Geology and Soils Standards and Reports

(A) Geology and Soils Report Required

(1) Required with Sketch Plans and Preliminary Plans

All sketch plans and preliminary plans submitted for review shall be accompanied by geology and soils report. Where a preliminary plan is not required or where a geology and soils report has never been reviewed, the applicant may be allowed to utilize a modified report requirement, as determined by the ~~DSD~~PCD Director.

(2) Previously Submitted

Where a geology and soils report has been completed and reviewed at an earlier stage of the subdivision review process, a new report may not be required if in the determination of the ~~DSD~~PCD Director the existing

report provides the level of site specific detail necessary to review the subdivision application, and the recommendations of the report and CGS have been followed in the preparation of the preliminary plan.

(B) General

(1) Prepared by Professional Geologist

The geology and soils report shall be prepared by, or under the direction of, a professional geologist, as defined by State Statute.

(2) Combined with Wastewater Disposal Report

The geology and soils report requirements of this Section and wastewater disposal report may be combined in a single report.

(3) Roads, Drainage, Trail Improvements Avoid Natural Hazards

Roads, drainage improvements and trails shall be constructed away from geologic hazards or protected from geologic hazards in accordance with the provisions of the ECM.

(4) No Interference with Extraction of Commercial Mineral Deposits

Development of the subdivision shall not interfere with the extraction of any known commercial mineral deposit as defined in C.R.S. §34-1-302(1).

(C) Report Requirements

(1) Data to be Complete to Allow Review

It is recognized that certain geologic interpretations cannot be firm or complete, at least in advance of grading operations, but it is expected that all pertinent data will be presented fully and clearly so that interpretations and recommendations can be critically reviewed by others.

(2) Issues to be Addressed by Report

The following concerns shall be fully addressed in the geology and soils report. If any of these items are addressed in other reports, reference may be made to the appropriate reports.

(a) Mapping

(i) Large-Scale Map Required

A detailed large-scale map is required for geology and soils report on a tract or smaller area in which the geologic relationships are not simple.

(ii) Structure Sections Required

Where three-dimensional relationships are significant but cannot be described satisfactorily in words alone, the geology and soils report should be accompanied by one or more appropriately positioned structure sections.

(iii) Test Hole Locations Mapped

The locations of test holes and other specific sources of subsurface information should be indicated on the map and on any sections that are submitted with the geology and soils report, or, if none are submitted, in the text of the geology and soils report.

(b) General Information

The geology and soils report should include definite statements concerning the following matters:

- Location and size of subject area and its general setting with respect to major geographic and geologic features;
- Who did the geologic mapping on which the report is based and when the mapping was done;
- Any other kinds of investigations made by the geologist and, where pertinent, reasons for doing the work;
- Topography and drainage in the subject area;
- Abundance, distribution, and general nature of exposures of earth materials within the area; and
- Nature and source of available subsurface information. Suitable explanations should provide any technical reviewer with the means for assessing the probable reliability of the data. Subsurface relationships can be variously determined or inferred, for example, by projection of surface features from adjacent areas, by the use of test hole logs, and by interpretation of geophysical data. It is evident that different sources of the information can differ markedly from one another in degree of detail and reliability according to the method used.

(c) Geologic Descriptions

The geology and soils report should contain brief but complete descriptions of all natural materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for the interpretations should be clearly stated. The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

(i) Bedrock (Igneous, Sedimentary, Metamorphic Types)

- Identification as to rock type (e.g., granite, silty sandstone, mica schist);
- Relative age, and where possible, correlations with named formations;

- Distribution;
- Dimension features (e.g., thickness, outcrop breadth, vertical extent);
- Physical characteristics (e.g., color, grain size, nature of stratification, foliation, or schistocity, hardness, coherence);
- Special physical or chemical features (e.g., calcareous or siliceous cement, concretions, mineral deposits, alteration other than weathering);
- Distribution and extent of weather zones; significant differences between fresh and weathered rock; and
- Response to natural surface and nearsurface processes (e.g., raveling, gullying, and mass movement).

(ii) Structural Features

The geology and soils report should contain brief descriptions of the structural features, stratification, foliation, schistocity, folds, and zones of contortion or crushing, joints, shear zones, faults, etc., including information about:

- Occurrence and distribution;
- Dimensional characteristics;
- Orientation and shifts in orientation;
- Relative ages (where pertinent);
- Special effects on the bedrock (Describe conditions of planar surfaces); and
- Specific features of faults (e.g., zones of gouge and breccia, nature of offsets, timing of movements) and whether faults are active in either the geological sense or the historical sense.

(iii) Surficial (Unconsolidated) Deposits

The geology and soils report should contain brief description of surficial deposits include artificial (man-made) fill, topsoil, stream-laid alluvium, beach sands and gravels, residual debris, lake and pond sediments, swamp accumulations, dune sands, marine and non-marine terrace deposits, talus accumulations, creep and slopewash materials, various kinds of slump and slide debris, etc., including the following information:

- Distribution, occurrence, and relative age; relationships with present topography;
- Identification of material as to general type;
- Dimensional characteristics (e.g., thickness, variations in thickness, shape);

- Surface expression and correlation with features such as terraces, dunes, undrained depressions, anomalous protuberances;
- Physical or chemical features (e.g., moisture content, mineral deposits, content of expansible clay minerals, alteration, cracks and fissures, fractures);
- Physical characteristics (e.g., color, grain size, hardness, compactness, coherence, cementation);
- Distribution and extent of weathered zones; significant differences between fresh and weathered material; and
- Response to natural surface and near-surface processes (e.g., raveling, gullying, subsidence, creep, slope-washing, slumping, and sliding).

(iv) Drainage of Surface Water and Groundwater

The geology and soils report should contain information about surface and groundwater including:

- Distribution and occurrence (e.g., streams, ponds, swamps, springs, seeps, subsurface basins);
- Relations to topography;
- Relations to geologic features (e.g., previous strata, fractures, faults);
- Sources and permanence;
- Variations in amounts of water (e.g., intermittent spring and seeps, floods);
- Evidence for earlier occurrence of water at localities now dry; and
- The effect of water on the properties of the in-place materials.

(v) Features of Special Significance

The geology and soils report should describe features of special significance including:

- Features representing accelerated erosion (e.g., cliff reentrants, badlands, advancing gully heads);
- Features indicating subsidence or settlement (e.g., fissures, scarplets, offset reference features, historic records and measurements);
- Features indicating creep (e.g., fissures, scarplets, distinctive patterns of cracks or vegetation, topographic bulges, displaced or tilted reference features, historic records and measurements);
- Slump and slide masses in bedrock or surficial deposits; distribution, geometric characteristics,

correlation with topographic and geologic features, age and rates of movement;

- Deposits related to recent floods (e.g., talus aprons, debris ridges, canyon-bottom trash); and
- Active faults and their recent effects on topography and drainage.

(vi) Mineral Resources

The geology and soils report should contain brief description of mineral resources including the identification of the types, location and value of mineral resources within the land to be subdivided. These include, but are not limited to, limestone used for construction, coal, sand, gravel, and quarry aggregate, for which extraction by an extractor is or will be commercially feasible, or which is a deposit having significant economic or strategic value to the County, state, or nation. Any area known to contain a commercial mineral deposit shall not be subdivided until the deposit is extracted, unless the BoCC finds that extraordinary environmental damage or public hazard results from the extraction.

(d) Bearing of Geologic Factors on the Intended Land Use

Treatment of this general topic, whether presented as a separate section or integrated in some manner with the geologic descriptions, normally constitutes the principal contribution of the geologic and soils report. It involves: (1) the effects of geologic features on the proposed grading, construction, and land use; and (2) the effects of these proposed modifications on future geological processes in the area. The following checklist includes the topics that ordinarily should be considered in submitting discussion, conclusions, and recommendations in the geologic reports:

(i) Compatibility with Proposal

General compatibility of natural features with proposed land use related to:

- Topography;
- Lateral stability of earth materials;
- Problems of flood inundation, erosion, and deposition;
- Problems caused by features or conditions in adjacent properties; and
- Other general problems.

(ii) Proposed Cuts

- Prediction of what materials and structural features will be encountered;
- Prediction of stability based on geologic factors;
- Problems of excavation (e.g. unusually hard or massive rock, excessive flow of groundwater); and
- Recommendations for reorientation or repositioning of cuts, reduction of cut slopes, development of compound cut slopes, special stripping above daylight lines, buttressing, protection against erosion, handling of seepage water, setbacks for structures above cuts, etc.

(iii) Proposed Masses of Fill

- General evaluation of planning with respect to canyon-filling and sidehill masses of fill;
- Comment on suitability of existing natural materials for fill; and
- Recommendations for positioning of fill masses, provision for underdrainage, buttressing, special protection against erosion.

(iv) Onsite Waste Disposal (if applicable)

- Soil types, depths, distributions and relationship to bedrock;
- General slope conditions, and limitations of slope to building sites and disposal sites; and
- Present and expected percolation rates.

(v) Recommendations for Subsurface Testing and Exploration

- Cuts and test holes needed for additional geologic information; and
- Program of subsurface exploration and testing, based on geologic considerations that are most likely to provide data needed by the soils engineer.

(vi) Special Recommendations

- Areas to be left as natural ground;
- Removal or buttressing of existing slide masses;
- Flood protection;
- Problems of groundwater circulation; and
- Position of structures, with respect to active faults.

(e) Report Modification

Where a report modification is authorized by the ~~DSD~~PCD Director such as in the instance of a minor subdivision, the report

is not required to be prepared by a professional geologist but shall include information regarding the following:

- Streams, lakes, topography, and vegetation;
- Geologic characteristics of the area and a determination of the impacts of the characteristics on the proposed subdivision;
- Suitability of types of soil in the proposed subdivision, including where appropriate, maps and tables in accordance with any standard soil classification; and
- Identification of potential radiation hazards, where applicable.

(D) Relationship to ECM

In addition to these requirements, the ECM requires soils investigation reports and mitigation and outlines the basic criteria and procedures for soils investigations associated with construction of subdivision improvements.

(E) Referral to and Resolution of Issues Raised by the CGS

The geology and soils report will be referred to the CGS for review and recommendations. The applicant is responsible for payment of fees associated with the review by the CGS. The applicant is responsible for resolution of issues raised by the CGS, to the satisfaction of the ~~DSD~~PCD Director.

(F) Effect of Approval

The geology and soils report will be maintained in the subdivision file, available for public viewing. The applicant is responsible for implementation of the report recommendations and review agency recommendations to the satisfaction of the ~~DSD~~PCD Director. The resolution of an issue may be in the form of modification of the development design to mitigate the hazards, placement of notes on the plat to advise buyers of the hazard, restrictions on construction within a lot or within the subdivision, or a determination that the hazard may be mitigated by specialized engineering or construction techniques and identification of who is responsible for the mitigation.

8.5. DEDICATION AND FEE STANDARDS AND REQUIREMENTS

8.5.1. General

(A) Applicant or Owner Responsible

The applicant or owner is responsible for paying required fees and making the required land dedications at the time of filing the final plat for recording with the Clerk and Recorder in accordance with the following standards. Land dedication may include both public and private land dedications.

(B) Common Homeowner Land

(1) Homeowners Association Required

For a division of land that includes easements or tracts to be used for common facilities including common open space or areas, private roads,

detention facilities, water facilities, water augmentation obligations, landscaping or other features requiring maintenance, the owner shall establish a HOA or other entity approved by the OCA to be responsible for the maintenance. For subdivisions with 3 lots or less, maintenance responsibility may be placed on the individual lot owners in the covenants without having to create an HOA or other entity. Prior to recording the final plat for any subdivision with maintenance requirements, the applicant shall provide to ~~DSD~~PCD and the OCA for review and approval the appropriate legal documents (e.g., covenants, articles of incorporation, bylaws, maintenance agreements, etc.) necessary to create the HOA or other entity and to place maintenance responsibility on said HOA, other entity, or the individual lot owners.

(2) Conveyance of Common Homeowner Land

Easements, lots or tracts to be owned and maintained by the HOA shall be dedicated by both a statement on the final plat and warranty deed. A plat note concerning the responsibility for ownership and maintenance of the easements or tracts shall be included on the face of the final plat.

(C) Public Land Dedications and Payment of Fees in Lieu

(1) Dedication of Public Lands

(a) Dedication by Warranty Deed at Time of Filing of Plat

Dedications of land both on site and off site to be used for public uses and owned by the County, a public agency, special district or other corporate entity that are required by this Code, including lots, tracts, or parcels for open space, parks, schools or drainage facilities or where reversionary interests will exist shall be dedicated by warranty deed in favor of El Paso County or other corporate entity approved by the BoCC to receive the land dedication at the time the plat is filed for recording with the Clerk and Recorder. Prior to recording the final plat, the applicant shall provide said warranty deed to ~~DSD~~PCD and the OCA for review and approval. The legal description contained in the warranty deed shall be prepared by a licensed surveyor.

(b) Dedicated Land Free of Encumbrances

The title associated with the dedicated land shall be free and clear of any and all liens and encumbrances, including real property taxes prorated to the time of conveyance as evidenced by a current title insurance policy in the County's name, a certified survey, and a treasurer's certificate proving that current taxes, prorated to the date of deed transfer, have been paid at the time of conveyance.

(c) Indemnification to be Provided for County

If fee title interest in a lot, tract or parcel for open space, parks, schools or drainage facilities is to be dedicated to the County by warranty deed or where reversionary interests will exist, the

property owner shall indemnify the County from any and all damages, claims, losses, injuries and expenses including attorney's fees related to or arising out of the presence of solid waste, hazardous materials, or petroleum products whether known or unknown, including, without limitation, any cleanup costs for said materials. The indemnification shall be in a form and manner acceptable to the OCA.

(2) Payment of Fees in Lieu

(a) Payment Due at Time of Filing

Fees in lieu of required land dedications, where approved by the BoCC, shall be paid at the time the plat is filed for recording with the Clerk and Recorder.

(b) Deferral of Fees for Condominium or Townhome Lots

When a lot is platted which will require the filing of condominium plats, townhome plats or administrative plats prior to development of the lot, collection of park and school fees in lieu of required land dedications may be deferred to the time of recording of said administrative plats. Any deferral of the payment of fees in lieu of land dedication shall be expressly authorized by the BoCC.

(3) Dedication of Easements

(a) Plat to Show Easements

The plat shall show existing and proposed easements. Existing easements shall bear notation of dedication or conveyance by recordation information.

(b) Owner Required to Dedicate Easements

The owner shall dedicate or deed easements required by this Code, or the ECM, or to serve the division of land with utilities and other required services, or those easements that may be requested by public agencies including, but not limited to:

- Avigation easements;
- Trail easements;
- Open space and scenic easements;
- Utility easements;
- Wetlands or wetlands mitigation easements;
- Conservation easements;
- Easements relative to protected species; and
- Noise Easements.

(c) Shown in Standard Form

Easements shall be clearly labeled, identified, dimensioned and tied to reference points within the division of land and be shown by fine dashed lines. The beneficiary of and maintenance

responsibility for easements shall be designated and the disposition thereof indicated in the plat note section of the plat.

(d) Temporary Easements

Temporary easements, if reflected on the plat, shall include the trigger event and action necessary to relinquish them.

(4) Land Dedication and Fees Not Personal Obligation

Land dedications or fees in lieu of land dedications required by this Code are not personal, but are specific to the property being divided, and are not transferable to other divisions of land unless alternative arrangements are expressly authorized by the BoCC.

(5) Disposition of Dedicated Lands and Refund of Fees

(a) Disposition of Land

(i) Future Disposition of Dedicated School or Park Lands

If a dedicated park or school land is no longer needed by the County, the BoCC may sell the land, may trade the land for other park or school land, or dispose of the land in a manner allowed by statute. The owner shall have a right of first refusal to purchase all or a portion of any land dedicated by the owner to the County, school district, or other public entity before the land is sold, transferred, or conveyed to any party other than a school district. Statutory notice provisions to the owner shall be followed. Any such right of first refusal shall expire twenty (20) years from the date the land was dedicated by the owner to the County, school district, or other public entity.

(ii) Disposition of Other Dedicated Lands

The disposition of all other lands dedicated during the development review and permit process shall be governed by State Statute.

(b) Refund of Fees

(i) No Refunds of Fees Paid if Lower Densities Achieved

The failure to achieve the density stated in the development application or assumed based on the density allowed by the applicable zoning district shall not be grounds for a refund of any fees paid in lieu of land dedication, but may be used as a basis for establishing either fee or land credit within the same development.

(ii) Refund of Traffic or Transportation Fees Not Spent, Credits for Payment or Overpayment, Transfer of Credits

The refund, transfer and credit of traffic and transportation impact fees are governed by the

provisions of this Code concerning Off-Site Road Studies and Plans and Impact Assessments.

8.5.2.Park and Open Space Standards and Dedications

(A) General

(1) Purpose

The purpose of this Section is to provide the definition and structure, outline the requirements, and assigns the responsibility for providing, developing, operating and maintaining specific categories of public park lands within the unincorporated areas of El Paso County.

(2) Dedication of Land for Parks

It is hereby found and determined:

- That a part of the public need for both regional and urban parks, trails and open space generated by the influx of new subdivisions should be provided by a mandatory dedication of land, fees in lieu of land or a combination of land and fees as a condition of preliminary plan or final plat approval.
- That it is reasonable to require the dedication of land, payment of fees in lieu of land or a combination of land and fees to provide the following facilities: regional parks, open space, regional trails or urban parks (reserved land).
- That urban park lands acquired by the County as a result of land dedication under the provisions of this Section may be classified as "reserved lands" and held in reserve by the County in an essentially undeveloped state for another unit of government provided that the perpetual use of the park land shall be for park purposes and shall provide reasonable recreation opportunities for residents of the neighborhood or community planning unit from which the lands were originally dedicated to the County.
- That the decision on whether the dedications will consist of land, fees in lieu of land or a combination of land and fees will rest with the BoCC in consideration of recommendations of the Parks Advisory Board.

(3) Exemptions from Dedication or Fee Requirements

A division of land that is exempted from the definition of subdivision by the BoCC in accordance with the provisions of C.R.S. §30-28-101(10) shall be exempt from the park land dedication and fee in lieu of dedication requirements of this Code.

(4) Establishment of Agency to Acquire and Transfer Land

(a) Responsible Agency

The El Paso County Community Services Department (EPCCSD) shall be a Regional Park Agency and shall be charged with the responsibility of providing, developing,

operating and maintaining regional parks, trails and open space within El Paso County.

(b) Authority to Acquire and Transfer Park Land in Association

Within the unincorporated areas of the County, wherever urban density development occurs, the EPCCSD may, through the subdivision review process, function as a land acquisition agency for the purpose of acquiring and preserving urban category park lands for transfer to another unit of government.

(5) Banking Reserved Land

(a) Designation as Reserved Land and Land Bank

Land acquired in accordance with urban density subdivision requirements for urban park purposes shall become designated as "reserved land" and placed into a land bank category for future transfer to another governmental or quasi-governmental entity for urban park purposes.

(b) Agreement of Recipient Entity to Take Reserved Land

Governmental or quasi-governmental agencies, such as metropolitan districts, special districts, school districts, and homeowners associations providing a bonding or financing mechanism for maintenance and insurance, shall provide written intent to accept the reserved land prior to final plat approval by the BoCC. Property in the reserved land category shall become the development, operation and maintenance responsibility of the recipient governmental or quasi-governmental entity.

(B) Considerations in Locating Park Land

Land to be dedicated as park land shall generally conform to the following criteria. Generally, park land should be located in consideration of:

- Conservation and maintenance of the natural environment of the region;
- Combating air quality problems, enhancing the environment, and preserving community integrity in the most practical, attractive manner possible;
- The size, shape, topography, geology, presence and condition of ground cover and timber, condition of soil, drainage, location, access and availability of water to lands proposed for park, trail, and open space uses;
- An assessment of the suitability of proposed land dedications for both regional and urban park, trail, and open space needs;
- A determination of the population densities which will result from the proposed subdivision and their relation to both regional and urban park, trail, and open space needs;
- Compliance with regional plans, particularly the EPCCSD policies and development statement for regional parks, trails and open space per the current Master Plan;
- The protection of natural and historical features, scenic vistas, watersheds, timber and wildlife;

- The need to provide regional park land, trails, open space and facilities which will serve the entire region and will support outdoor recreation programs including, but not limited to, interpretation of the natural and historic qualities of the region;
- The continuity of open space links, trails and other major components of the regional open space system;
- A determination of the location of parks, trails open space and recreational facilities within specific subdivisions and the broad scope of the County regional park, open space and regional trail system; and
- The provision of urban park lands as "reserved lands" which, with future development, will reasonably serve the needs of the intended neighborhood or community planning unit.

(C) Standards for Dedicated Land

(1) Dedicated Land Reasonably Adaptable for Park Use

The dedicated park land shall be reasonably adaptable for use as regional park, open space, regional trail or urban park. Factors to be used in evaluating the adequacy of proposed park areas shall include, but not be limited to, size, shape, topography, geology, flora, fauna, access, and location.

(2) Associated Water Rights to be Dedicated

Unless otherwise negotiated between the County and owner, the dedicated park land shall include the real property together with tributary and non-tributary water rights owned by the applicant as a consequence of ownership of the dedicated property, water rights underlying the property, well rights, ditches and ditch rights appurtenant to the property, mineral rights and improvements thereon.

(3) Conveniently Located and Free of Hazards

The dedicated park land shall be conveniently located and have public access. The land shall be free of hazards that would threaten the safety of those using the land.

(4) Served by Roads, Utilities and Required Infrastructure

The dedicated park land shall be served by the required roads, traffic signalization, utilities, and other public infrastructure necessary to support the use of the dedicated land for parks. A SIA and appropriate collateral shall be required in lieu of providing the required facilities prior to recording the final plat.

(D) Dedication Requirements

Land, fees in lieu of land, or a combination of land and fees for public parks and open space may be required when a proposed subdivision will generate a need for parks or open space. The presumed need shall be determined in accordance with the following standards. The need shall be based on the subdivision density category of the proposed subdivision. The subdivision density category is based

on a per acre dwelling unit density, or the average lot size of a residential use classification within a proposed subdivision or portions of a proposed subdivision.

(1) Park Land Dedication Requirements

Dedication of land for regional parks, open space, regional trails, or urban parks (reserved land) purposes shall be based on the following subdivision density categories:

(a) Rural Density Subdivisions

(i) Commercial/Industrial Use

In rural density subdivisions, the minimum land dedicated for regional park purposes shall be .05 acre of land for each gross acre of commercial/industrial use contained within the proposed subdivision. For land dedication requirements, refer to the current Schedule of Park Fees in Lieu of Land as adopted by the BoCC.

(ii) Residential Use

In rural density subdivisions, the minimum land dedicated for regional park purposes shall be .0194 acre of land for each dwelling unit contained within the proposed subdivision.

(b) Urban Density Subdivisions

(i) Regional Park Requirements

- Commercial/Industrial Use: In urban density subdivisions, the minimum dedication for regional park purposes shall be .05 acre of land for each gross acre of commercial/industrial use contained within the proposed subdivision. For land dedication requirements, refer to the current Schedule of Park Fees in Lieu of Land as adopted by the BoCC.
- Residential Use: In urban density subdivisions, the minimum dedication for regional park purposes shall be .0194 acre of land for each dwelling unit contained within the proposed subdivision.

(ii) Urban Park Requirements

- Commercial/Industrial Use: For land dedication requirements, refer to the current Schedule of Park Fees in Lieu of Land as adopted by the BoCC.
- Residential Use: The combined urban park standard for park land dedication shall be 4 acres of park land per 1,000 projected residents. The number of projected residents shall be based on 2.5 residents per dwelling unit. The combined urban park standard shall provide for both the neighborhood and community park needs in accordance with the

following standards: (a) the neighborhood park standard is 1.5 acres of park land per 1,000 projected residents or 0.00375 acres of park land for each dwelling unit contained within an urban density subdivision; and (b) the community park standard is 2.5 acres of park land per 1,000 projected population of the combined urban park dedication standard or 0.00625 acres of park land for each dwelling unit contained within an urban density subdivision.

- Neighborhood Park Size and Location: The minimum size of a neighborhood park to be dedicated shall be 3 acres. Neighborhood parks should be located adjacent to elementary schools and within a ½ mile radius of the residential units that they are intended to serve.
- Community Park Size and Location: The minimum size of a community park to be dedicated shall be 24 acres. Community parks should be located adjacent to junior high or senior high schools and within a one mile radius of the residential communities that they are intended to serve.

(iii) Consideration of Reductions in Land Dedication

Dedication of less than the required urban park dedications may be considered in association with a specific plat if agreements provide for the dedication of park land on adjacent properties such that the composite park land area will result in: (1) a park area meeting the minimum area of the specific type of urban park required; and (2) the overall minimum park land dedication requirements being met on dedication of the park land on the adjacent properties.

(2) Trail Dedication Requirements

If the proposed subdivision is in an area where the Master Plan identifies a regional trail, a 25 foot trail easement shall be provided.

(3) Fees in Lieu of Park Land Dedication

(a) Requirement for Fee in Lieu of Land

When dedication of required regional park, open space, regional trail or urban park lands is not deemed feasible or not in the public interest, the BoCC shall require the applicant to pay to El Paso County a fee in lieu of land.

(b) Fees Established Annually by Subdivision Density Category

Fees in lieu of land shall be established each year by resolution of the BoCC. Fees in lieu of land for regional park, open space, regional trail, or urban park purposes shall be based on the

same subdivision category standards used to establish land dedication requirements.

(c) Fees Credited to Park Fee Fund

Fees paid to the County in lieu of land dedication shall be credited to the proper park fee fund and utilized for the defined purpose of that fund.

(4) Combination of Land and Fees in Lieu of Land

When either dedication of required regional park, open space, regional trail or urban park lands alone or payment of required fees in lieu of land alone is not deemed feasible or in the public interest, or not sufficient to mitigate impacts the BoCC shall require the owner to dedicate and to pay to El Paso County a combination of land and fees in lieu of land. The combination of land dedication and payment of fees in lieu of land shall not exceed the fair market value of the land area required.

(5) Adjustments to Park Land Dedication Requirements

(a) Existing Dwelling Units Excluded

Existing dwelling units shall be excluded from the calculation of the park land dedication requirement if they have previously been included in the calculation for park land dedication unless the lot on which the existing dwelling will be located allows for greater residential density, in which case the dedication requirements shall be calculated based on the maximum potential residential density.

(b) Calculating Dedication for Replats or Resubdivisions

(i) Land Platted Before July 17,1972

Land subdivided or platted prior to July 17, 1972 which is replatted or resubdivided shall be subject to the land dedication and fee in lieu of dedication requirements of this Code.

(ii) Land Where Park Land Dedicated Previously Made

Land replatted or resubdivided shall be exempt from the land dedication and fee in lieu of dedication requirements of this Code if fees in lieu of land have been paid or park land has been dedicated when the land was previously subdivided, unless as a result of the replat or resubdivision residential acreage or density or commercial/industrial acreage is increased.

(iii) Residential Acreage or Density Increased

Where the replat or resubdivision increases the residential acreage or density, the replatted or resubdivided land shall be subject to the fee in lieu of land dedication and park land dedication requirements of this Code as applied only to the additional number of

residential units or the additional number of residential units that are a result of increased acreage.

(iv) Residential Acreage or Density Altered to Reach Urban Density

Where the replat or resubdivision either increases the average dwelling unit density per acre or decreases the average lot size, such that the resulting subdivision meets the definition of urban density subdivision, the entire park and open space requirement will be recalculated and amended based on fee in lieu of land dedication and park land dedication requirements of this Code. Previously paid fees in lieu of land or park land dedication will be credited to the appropriate amended requirements.

(v) Commercial/Industrial Acreage or Density Increased

Where the replat or resubdivision increases the commercial/industrial acreage, the replatted or resubdivided land shall be subject to the fee in lieu of land dedication and park land dedication requirements of this Code as applied only to the additional commercial/industrial acreage. Where the replat or resubdivision increases commercial/ industrial density, the entire park and open space requirement will be recalculated and amended based on fee in lieu of land dedication and park land dedication requirements of this Code. Previously paid fees in lieu of land or park land dedication will be credited to the appropriate amended requirements.

(6) Credit for Required Park Land Dedication

Credit for park land dedication may be approved by the Parks Advisory Board on a case-by-case basis.

(7) Regional Park Requirements

Credit for park land dedication may be approved if a unique opportunity to expand the regional park system in the respective region and the value meets or exceeds the required land dedication or fees in lieu of land.

(8) Credit for Joint Use for School and Park Sites

Credit for park land dedication for joint use of park and school sites may be approved.

(E) Park Land Dedications to Other Entities

(1) Dedication to Governmental or Quasi-Governmental Entity

If the subdivision is located within the service area of a governmental or quasi-governmental entity that is willing and capable of acquiring, developing, operating and maintaining the required urban park property,

the Parks Advisory Board may recommend that the required urban park land dedication be deeded directly to the entity.

(2) Dedication to Future Quasi-Governmental Entity

If the subdivision is located within the service area of a future quasi-governmental entity that would be organized and formed by the applicant, either prior to or concurrently with the approval of the plat, and that the entity would be capable of acquiring, developing, operating and maintaining the required urban park property, the Parks Advisory Board may recommend that the required urban park land dedication be deeded directly to the approved entity after formation.

8.5.3. School Land Standards and Dedications

(A) General

(1) Purpose

The purpose of this Section is to ensure that adequate land areas and funds for the acquisition of school sites and other capital outlay are made available through the subdivision process to meet the needs of future County residents. It is reasonable that those who accommodate population increases through the subdivision of land should provide for the additional need for school sites that the subdivision creates.

(2) Exemptions from Dedication or Fee Requirements

A division of land that is exempted from the definition of subdivision by the BoCC in accordance with the provisions of C.R.S. §30-28-101(10) shall be exempt from the school land dedication and fee in lieu of dedication requirements of this Code.

(3) Division of Responsibility

(a) School District Responsibilities

The appropriate school district shall, pursuant to statute and after review of the subdivision, make recommendations to the Planning Commission and the BoCC concerning the adequacy of provisions for school needs to serve the subdivision. When a subdivision results in lots which are split among more that one school district, the school district which will include the largest land area of affected lots or the greatest number of dwelling units is considered the appropriate school district.

(b) BoCC Responsibilities

The BoCC shall make the final determination of the method by which the dedication requirement shall be satisfied.

(B) Criteria for Determining Appropriateness of Dedication

When reviewing a subdivision, the appropriate school district shall consider the following criteria prior to making recommendation to the Planning Commission and the BoCC concerning the dedication:

- The assurance that areas set aside for schools within the subdivision have been examined for compliance with regional plans, particularly the Master Plan;
- The determination of the population densities which will result from the proposed subdivision and their relations to school needs;
- The assessment of the suitability of proposed land dedications for school uses;
- The examination of the size, shape, topography, geology, presence, and condition of ground cover and timber, condition of soil, drainage, location, access and availability of water to lands proposed for school uses;
- The assurance of the protection of natural and historical features, scenic vistas, watersheds, timber and wildlife; and
- The demonstration of a present or future need for a school site.

(C) Standards for Dedicated Land

(1) Land Centrally Located and Public Access

The dedicated school land shall be centrally located and have public access and public road frontage.

(2) Dedication Reasonably Provides for Future Residents

The dedication of land shall be reasonably necessary to serve the proposed subdivision's future residents.

(3) Land Free of Hazards

The dedicated school land shall be free of hazards that would threaten the safety of those using the land, or be capable of having the hazards eliminated through subdivision improvements.

(4) Land Served by Required Roads, Utilities and Infrastructure

The dedicated school land shall be served by the required roads, traffic signalization, utilities, and other public infrastructure necessary to support the use of the dedicated land for schools prior to platting. A SIA and appropriate collateral shall be required in lieu of providing the required facilities prior to filing the plat for recording with the Clerk and Recorder.

(5) Land to Accommodate Intended Use

The dedicated school land shall be a single parcel, meet minimum area requirements, and be sufficiently configured to be usable for the intended use.

(6) School Site Area Standards

The minimum acreage for the dedication of school sites shall be based on the site area guidelines in Table 8-1.

Table 8-1. School Site Area Guidelines.

Type of Facility	Minimum Site Area Required
Elementary schools	10 acres
Junior high schools	20 acres
Senior high schools	45 acres

(D) Standards for Dedication

Dedication of land, fees in lieu of dedication, or a combination of land dedication and fees shall be required to meet school needs. The following standards will be employed by the appropriate school district in making recommendations concerning dedication of land or fees in lieu of dedication or a combination thereof and by the BoCC in their decision.

(1) General

(a) Requirements Independent of Other Contributions

Applicability of this Section is independent of voluntary contributions or impact fees which may be negotiated between the appropriate school district and the applicant.

(b) Credit for Joint Use for School and Park Sites

Joint use or credit for park and school sites may be considered on a case by case basis

(c) Land Dedication and Fees Not Personal Obligation

School land dedication or fees in lieu of land dedication are not personal, but are specific to the property being subdivided, and are not transferable to other subdivisions unless alternative arrangements are expressly authorized by the BoCC.

(d) Resulting Dedication Inadequate for School Site

Where the subdivision does not generate the required land dedication area for a school site or there is not an acceptable location for a school site within the subdivision, the owner may enter into an agreement for the acquisition of a school site located outside the subdivision so long as the site will reasonably serve the subdivision. The owner shall receive credits against the dedication requirement if approved by the BoCC. The agreement shall be executed by the owner, the owner of the subject property, the guarantor, and the BoCC. The owner shall provide proof of ownership. The agreement shall include a legal description of the property to be dedicated and shall be recorded with the Clerk and Recorder. The agreement shall be binding on the owner's and the owner's heirs, legal representatives, successors in interest, and assigns.

(e) Type of Dedication at Option of School District

When dedication of all or portions of required school lands is not deemed feasible or in the public interest, the appropriate school district may recommend to the BoCC one of the other options authorized by State Statute and this Code.

(2) Dedication Requirements

Dedication of land for school purposes shall be based on the dedication standards in Table 8-2. If in the opinion of the BoCC following the recommendation by the appropriate school district, adequate land for school purposes is not provided by the applicant to meet the demand by the development under consideration, the application may be denied.

Table 8-2. Land Area Dedication Requirements per Dwelling Unit.

School District	Area to be Dedicated per Single Family Detached Unit[1,]	Area to be Dedicated for Each Other Residential Unit[2,]
Lewis Palmer District 38	697 sq. ft.	384 sq. ft.
Academy District 20	697 sq. ft.	384 sq. ft.
Falcon District 49	675 sq. ft.	371 sq. ft.
Widefield District 3	653 sq. ft.	359 sq. ft.
Other Districts	653 sq. ft.	359 sq. ft.

[1]Single Family Detached Unit: A residential dwelling unit completely separate of other units and situated on its own lot. A mobile home subdivision or manufactured home shall be included within this definition for dedication requirement calculation, as well as patio home or townhome where not attached.
[2]Other Residential Units: All other types of residential units not included as single family detached units, including but not limited to attached single family homes, townhomes, condominiums, apartments, and mobile home parks.

(3) Adjustment to School Land Dedication Requirements

(a) Existing Dwelling Units

Existing dwelling units shall be excluded from the calculation of the school land dedication requirement if they have previously been included in the calculation for school land dedication unless the lot on which the existing dwelling will be located allows for greater residential density in which case the dedication requirements shall be calculated based on the maximum potential residential density.

(b) Number of Dwellings Undefined

When a division of land results in the creation of a new parent parcel where the number of dwelling units is undefined, the maximum density allowed by the zoning district will be used in the calculation of land dedication or fees in lieu of land requirements.

(4) Fees in Lieu of Land Dedication

When, after recommendation of the appropriate school district, dedication of all or portions of required school lands is not deemed feasible or in the public interest, the BoCC shall require the payment of fees in lieu of land dedication. The fees in lieu of land dedication shall be established and reviewed each year by the BoCC.

(E) Guarantee of Future School Land Dedication

Guarantee of future land dedication may be requested by the appropriate school district when dedication of all or portions of required school lands is not deemed feasible or in the public interest in a particular phase of the subdivision. Prior to

or in conjunction with final plat approval, the owner and the BoCC shall enter into an SIA or development agreement in which the applicant guarantees the future dedication of land for school sites. The agreement shall be executed by the owner of the site, the guarantor, and the BoCC. The owner shall provide proof of ownership. The agreement shall include a legal description of the property to be dedicated in a subsequent phase of the subdivision and shall be recorded with the Clerk and Recorder. The agreement shall also be binding on the owner and the owner's heirs, legal representatives, successors in interest, and assigns.

(F) Reservation of School Sites for Future Acquisition by a School District

(1) Purpose of Reservation

The purpose of reserving a school site on a plat is to allow flexibility in planning for school needs. When the dedication of land or fees in lieu of dedication or a combination thereof will not be adequate to meet school needs, reservation of a school site for future acquisition may be used to set aside the land needed and to be acquired by the appropriate school district.

(2) Reservation for 5 Years Does Not Constitute Conveyance

The reservation of land for school purposes merely sets aside land as specified on the plat for public school purposes for a period of 5 years and does not constitute a conveyance of that land to the BoCC or appropriate school district.

(3) Reservation Not a Substitute for Dedication

Reservation of a school site does not operate as a substitute for the dedication of school land and is only an option in addition to the requirements of either the dedication of land or the payment of fees in lieu of dedication of land or a combination thereof.

(4) Compensation of Owner by School District

The owner of the property is entitled to compensation by the school district when the appropriate school district elects to take reserved land for school purposes. Acquisition of a reserved school site from the owner shall be the responsibility of the appropriate school district.

(5) Reserved Land Not to be Used Inconsistently with Reservation

Until the designation of a site as reserved for school purposes is removed by the County from the plat, the owner shall not utilize the property in a manner inconsistent with the reservation.

(6) Plat Designation and Plat Note Required

The owner shall indicate the designated school site on the plat as "reserved for public school purposes for 5 years from the date of recording of this instrument" and shall include a specific plat note referencing the reservation.

(7) Extension of 5 Year Reservation by Mutual Agreement

The 5 year period for reservation of school sites may be extended by the mutual consent of the appropriate school district and the owner, or the

owner's successors and assigns. The agreement shall be in writing and shall be recorded with the Clerk and Recorder, and a copy of the agreement shall be provided to the ~~DSD~~PCD.

(8) Removal of the Plat Restriction Reserving School Land

(a) Before Expiration of 5-Year Reservation

The designation of land as reserved for public school purposes may be removed from the plat by the County prior to the expiration of the 5-year period utilizing the procedures for amending a plat if mutually agreed to by the owner or the owner's successors and assigns and the appropriate school district.

(b) Expiration of 5 Year Reservation

After expiration of the 5 year period, the owner may petition to remove the designation of land as reserved for public school purposes from the plat using the procedures for amending a plat or replatting.

(G) Transfer of Land and Fees to School District

(1) Transfer of Land to School District

(a) School District Request for Land and Transfer of Land

The BoCC shall give written notification to the appropriate school district of the dedication. Following notice, an appropriate school district may request the property and shall demonstrate to the BoCC a need for the land. On approval by the BoCC of the school district's request for the land, the property shall be immediately conveyed by the BoCC to the school district. The deed conveying the land to the school district shall include a reverter clause providing that the land shall revert to El Paso County if the land is not used for public school purposes. If a dedicated school site is not requested by the appropriate school district within 20 years from the date of dedication, the BoCC may consider disposal of the dedicated school land pursuant to this chapter.

(b) Disposal of Dedicated Land

If a dedicated school site is no longer needed by a school district, the BoCC may sell the land at the request of the appropriate school district. The owner who previously dedicated the school land shall be given the right of first refusal for a 20 year time period from the date the land was dedicated by the owner to the County or school district to purchase all or part of the land, after payment of the current fees in lieu of school land dedication. The proceeds of the sale of dedicated school land shall be held by the BoCC until the appropriate school district demonstrates a need for the use of the fees pursuant to State Statute.

(c) Request by School District to Transfer Fees

Periodically, the BoCC shall give written notification of the receipt of school fees to the appropriate school district. A school district may request the fees in accordance with County Policy and shall demonstrate to the BoCC a need for the use of the fees pursuant to State Statute. On approval by the BoCC of the school district's request for fees, the fees shall be transferred to the school district.

8.5.4. Road Dedication and Fees

(A) Dedication of Right-of-Way

(1) Dedication of Right-of-Way Required

The owner shall dedicate the entire right-of-way for roads, trails, and other public improvements associated with the division of land in accordance with standards in this Code, the ECM and the MTCP. Dedications shall be shown on the plat and meet the general dedication requirements of this Code. The County requirements regarding Roadway Functional Classification, Roadway Design Criteria, and Access Criteria are included in Chapter 2 of the ECM.

(2) Subdivision Adjoining Existing Road

Where the division of land adjoins an existing right-of-way, the ordinary obligation of the owner is for one-half of the required additional right-of-way required by the ECM or the MTCP, if any.

(3) Section Line Road Dedication

Where a division of land borders a section line road, the dedication shall include the ownership to the section line.

(4) Dedication of Half of Road Right-of-Way

The dedication of ½ of a required road right-of-way is only allowed with the approval of the BoCC where evidence is provided that the owner is unable to secure the entire right-of-way.

(5) Dedication Modified When Not Proportional to Impact

Dedication requirements may be modified where the BoCC determines the dedication is not roughly proportional to the impact caused by the division of land.

(B) Fair Share Reimbursement Fees Paid Before Recording

Where a Fair Share Reimbursement applies to the subject property, the owner shall submit payment in the amount established by the BoCC to the ~~DSD~~PCD prior to filing the plat for recording with the Clerk and Recorder.

(C) Traffic or Transportation Fee Paid Before Recording

Where an Off-Site Road Improvement Study and Plan has been approved and a specific mechanism has been established requiring payment of fees, no plat shall be filed for recording with the Clerk and Recorder within the study and plan area boundaries until all required fees have been paid, unless otherwise provided by the resolution approving the Off-Site Road Improvement Study and Plan.

8.5.5. Drainage Facilities Dedication and Fees

(A) Purpose

The purpose of this Section is to:

- Provide uniform and consistent standards for drainage and bridge facilities and related easements necessary to serve the proposed division of land and implement the provisions of the ECM;
- Implement the provision of BoCC Resolution 99-383 as it may be amended regarding equitable contribution to the total costs of the drainage and bridge facilities in the drainage basin in which the subdivision is located; and
- Implement the provisions of the Master Plan for Drainage Basins of Mutual Concern.

(B) Dedication of Right-of-Way Required

The owner shall dedicate the entire easement or right-of-way for drainage improvements associated with the division of land in accordance with this Code and the ECM. Dedications shall be shown on the plat and meet the general dedication requirements of this Code.

(C) Drainage Basin Fees and Bridge Fees

(1) Drainage Basin Fees Established

Drainage basin fees shall consist of a drainage fee and, where applicable, a bridge fee. The drainage basin fee schedule, which includes bridge fees, is set by the BoCC. A request to modify a fee requires BoCC approval.

(2) Fees Paid at Time of Filing of Plat for Recording

Drainage basin fees shall be paid at the time of filing the plat for recording with the Clerk and Recorder. The required fees shall be those in effect at the time the final plat is submitted for approval.

(3) Fee Reductions, Credits or Reimbursement for Facilities

(a) Credit for Construction of Planned Facilities

The owner will be credited for fees related to eligible drainage and bridge facility construction costs when the applicant constructs facilities identified in the applicable drainage basin planning study in accordance with the provisions of this Code, the ECM, and the drainage fee resolution. The mechanism and details for receiving a fee reduction or credit shall either be included within the drainage fee calculation required with the drainage report or within a separate SIA or development agreement, at the discretion of the County.

(b) Determining Allowable Credits or Reimbursements

(i) Reduction of Fees by Cost of Reimbursable Facilities

When the engineer's cost estimate for reimbursable drainage facilities is less than the drainage fees for the subdivision, the amount of the engineer's cost estimate is subtracted from the fees due to obtain the balance

due in cash at the time of filing the plat for recording with the Clerk and Recorder.

(ii) Excess Costs Eligible for Credit or Reimbursement

When the engineer's cost estimate for providing reimbursable drainage facilities is greater than the drainage fees due for a subdivision, no cash fees are paid at the time of filing the plat for recording with the Clerk and Recorder. Actual costs of the facilities in excess of the fees due are eligible for credit or reimbursement from the drainage basin fund as funds become available.

If the plat is applicable to only a portion of the ownership and located in the same drainage basin as the remainder of the ownership, the credit for the cost of facilities installation in excess of the drainage basin fees may be credited to the drainage basin fees due at the time of subdivision of the balance of the ownership.

(c) Determining Fee Reductions and Credit Allowances

(i) Lots of 2.5 Acres or Larger

A fee reduction of 25% occurs for those portions of subdivisions that consist entirely of 2.5 acre and larger lots.

(ii) Prudent Line and Dedications

If the prudent line is determined by the ECM Administrator to be appropriate in a proposed subdivision, a fee reduction of up to the total fee may be granted for the land in excess of the floodplain which is required to be dedicated. If the reduction exceeds the total fee, the remainder of the credit will be paid by the County when the basin account has sufficient funds. In addition, a reasonable construction cost for channel improvements associated with the prudent line will be eligible for credits or reimbursement.

(iii) Credit for Small On-Site Ponds

50% of the reasonable construction cost of small on-site ponds (less than 15 acre-feet) that meet County criteria will be eligible for credits or reimbursements.

(iv) Credit for Large On-Site Ponds

100% of the reasonable land and construction cost of large on-site ponds that are either required facilities in a drainage basin planning study or an addendum to a drainage basin planning study and that are accepted by the County and paid for other than by the County are eligible for credits or reimbursement.

(v) Credit for Other Regional Facilities

100% of the reasonable land and construction cost of other regional facilities that are identified as reimbursable in a drainage basin planning study will be eligible for credits or reimbursements.

(vi) Approved Drainage Basin Planning Studies

100% of the cost of approved drainage basin planning studies will be eligible for credits or reimbursements.

(vii) Credit for Fees Previously Paid

When drainage basin fees for a lot or development have been previously paid and a subsequent development permit results in an increase in the impervious area, the drainage basin fee assessed in association with the development permit shall equal the difference between the current drainage basin fees and the previous drainage and bridge fees paid.

(d) Appeal of Fee Reduction or Credit Decisions

The ECM Administrator is responsible for decisions regarding fee reductions or credits. Appeal of a decision shall be in accordance with the applicable provisions of the ECM.

8.6. CONSTRUCTION AND ACCEPTANCE OF REQUIRED IMPROVEMENTS

8.6.1. General

(A) Construction of Common Development and Public Improvements

The owner shall be responsible for constructing the required common development and public improvements unless otherwise explicitly provided, including roads, drainage facilities, bridges and related structures, utilities, etc.

(B) Improvements to Division of Land Require Construction Permit

No common development or public improvements shall be constructed until a Construction Permit and Notice to Proceed have been secured from the ECM Administrator in accordance with the ECM.

8.6.2. Responsibility for Road Construction

(A) Road Construction to Conform to this Code and ECM

Roads shall be constructed in conformance with the roadway standards specified in this Code, the ECM, related technical documents, and other applicable County standards, regulations, and ordinances. The County requirements regarding roadway functional classification, roadway design criteria, and access criteria are included in Chapter 2 of the ECM.

(B) Capital Cost of Adequate Transportation Facilities

Capital costs for new roadway systems and transportation system improvements directly assignable to the needs generated by the division of land shall be paid by those who would benefit.

(C) Construction of Required Road Improvements

The owner is responsible for construction of the road and related improvements necessary to serve the division of land and connect the division of land to existing roads, which may include but are not limited to curbs, gutters, sidewalks, roads, traffic control devices, drainage facilities, drainage structures and trails.

(1) Internal Roads

The entire cost associated with construction of the internal roads and related facilities is the responsibility of the owner, including any costs associated with the construction of a road with an arterial classification or below as identified in the MTCP, the TIS, or both, which is located entirely within the division of land.

(2) Adjacent Roads and Related Improvements

Where an existing County road must be extended to serve the division of land, the owner of the division of land shall pay the entire cost of the extension. For review purposes, the improvements shall be considered a part of the division of land.

(3) Half Road Construction

If ½ of a required road right-of-way is approved for dedication, the entire road cross-section may be required to be constructed in the dedicated half if approved by the ECM Administrator.

(4) Railroad Grade Separations Required

Where railroad crossings are proposed or are affected, provisions for grade separation, buffer strips, and safety protection devices shall be provided by the owner. Obtaining approval from the affected railroad company and the Colorado Public Utilities Commission, where applicable, shall be the owner's responsibility.

8.6.3. Responsibility for Drainage Improvements

(A) Owner Responsible for Drainage Improvements

The owner shall construct the required drainage, bridge, and related structures. Drainage, bridge, and related structures shall be constructed in conformance with ECM requirements.

(B) Extension of Facilities Outside Boundaries of Subdivision

Where drainage structures must be extended to or beyond the subdivision, the owner shall pay the entire cost of the extension, subject to appropriate reimbursement provisions of the Drainage Fee Resolution and the drainage criteria. For review purposes, the improvements shall be considered a part of the division of land, shall be included in the surety estimate, and shall be constructed to County standards. If the owner is not authorized to extend drainage facilities beyond the owner property, the owner shall redesign the drainage plan in conformance with the ECM.

8.6.4. Acceptance of Public Improvements

(A) Acceptance of Public Improvements Required Before Maintenance Begins

The BoCC shall withhold public maintenance of rights-of-way, easements or public improvements that have not been accepted by the BoCC in accordance with the provisions of the ECM and this Code.

(B) County Acceptance of Public Improvements

The ECM provides an acceptance process and warranty period for new or upgraded public roads, drainage facilities, and other improvements. The acceptance process requires financial surety to ensure that the public will not be forced to bear the cost of maintaining or correcting inadequately designed or constructed improvements.

8.7. PUBLIC INFRASTRUCTURE FINANCING PROVISIONS

8.7.1. Off-Site Road Studies, Plans and Impact Assessments

The Cost Recovery for Off Site Improvements section has been replaced by the El Paso County Road Impact Fee Program Resolution (Resolution No. 16-454), or any amendments thereto.

~~8.7.1.~~8.7.2. Cost Recovery for Off Site Improvements

(A) General

(1) Purpose

The purpose of this Section is to state the conditions and procedures under which an applicant subdivider may be required to reimburse requestor subdivider for a fair share of the cost of certain improvements that the County required to have installed as part of the development approval, and which improvements would benefit the proposed development.

(2) Applicability

This section shall apply to applications for divisions of land which fall under the definition of “subdivision” and to development applications and actions that fall within the purview of this Code.

(3) Retroactive Application

A requestor subdivider may apply for a fair share reimbursement for any plat, including any amendment thereto, approved by the BoCC and recorded on or after August 8, 2001. A request for a fair share reimbursement shall only be applicable, however, to an applicant subdivider's petition for final plat approval that is accepted as a complete submittal by the DSD on or after the date of BoCC approval of the requestor subdivider's plat.

(B) Eligibility

(1) Improvements that May be Eligible for Cost Recovery

An improvement may be eligible for cost recovery if it is adjacent to the applicant subdivider's subdivision or the applicant subdivider's subdivision receives the presumed use of the improvement. An

improvement located within the boundary of the requestor subdivider's subdivision may also be eligible for cost recovery.

(2) Right to Apply for Cost Recovery Approved by DSD Director

Whether a requestor subdivider may apply for cost recovery is an administrative decision to be made by the DSD Director.

(3) Assignments

Unless the instrument of assignment provides otherwise, the assignee shall have the same rights and obligations as the assignor. The instrument of assignment shall be in writing signed by the assignor and assignee, and each signature shall either be acknowledged or subscribed and sworn before a notary public. The instrument of assignment shall provide a full and complete description in clear and plain language of the rights being assigned. The DSD Director shall have the sole and complete discretion to accept or reject the instrument of assignment.

(4) Metropolitan Districts, Local Improvement Districts, Regional Transportation Authorities, or Similar Governmental Entities

A metropolitan district, local improvement district, regional transportation authority, or similar type of governmental entity may qualify as a requestor subdivider when a document under the subdivision approval process identifies the metropolitan district, local improvement district, regional transportation, or similar type of governmental entity as being responsible for the installation of an improvement. The metropolitan district, local improvement district, regional transportation authority, or similar type of governmental entity may seek fair share reimbursement as an assignee of requestor subdivider.

(5) Limits to Cost Recovery

Under no circumstances may a requestor subdivider recover more than the actual costs incurred for the improvement less the actual costs of improvement attributable to use by the requestor subdivider's subdivision.

(6) Ineligibility to Pursue Cost Recovery

A requestor subdivider is not eligible to seek fair share reimbursement if the DSD Director determines that there is another procedure under this Code that enables the requestor subdivider to otherwise receive a fair share reimbursement for the cost of an otherwise eligible improvement.

(C) Approval and Effect of Private Agreements

(1) Allowed and Limited Rights to Seek Cost Recovery

Nothing prohibits a requestor subdivider and an applicant subdivider from entering into a private agreement for the recovery of the fair share reimbursement; however, a private agreement renders a requestor subdivider ineligible to seek cost recovery for the relevant improvement with respect to property that is the subject of a private agreement.

(2) Private Agreement to be Reviewed and Approved by DSD Director

A private agreement considered for review by the DSD shall be in a writing signed by the requestor subdivider and the applicant subdivider, or benefited property, and each signature shall either be acknowledged or subscribed and sworn before a notary public. The private agreement shall provide a full and complete description in clear and plain language of the rights and obligations contained in the private agreement. The DSD Director shall have the sole and complete discretion to accept or reject a private agreement.

(D) Process for Request and Approval of Fair Share Reimbursement

(1) Application for Fair Share Reimbursement

A requestor subdivider seeking fair share reimbursement for the costs of an improvement shall file a cost recovery statement, which shall include the submittals required below, with the DSD no earlier than the date of final plat approval and no later than one year after the date of completion of the improvement. Different improvements in a subdivision may have different application dates and different application deadlines. Furthermore, there may be multiple applications per subdivision, but under no circumstances shall a requestor subdivider be entitled to submit more than one application for a particular improvement. The requestor subdivider shall submit the following with the cost recovery statement:

- A clear description and drawing of the improvement together with an itemized statement of the total actual costs of the improvement together with copies of paid receipts or other evidence of payment of the costs. This does not preclude preparation of a cost recovery statement based upon estimated costs;
- A statement, report, or study, including supporting data, prepared or certified by a professional engineer or other professional in the relevant field, that expresses the maximum and net remaining capacity of the improvement in quantitative terms generally accepted by professionals in the relevant area of expertise and consistent with any procedures maintained by the County;
- A calculation that relates the quantitative measurement derived per the requirements of the above-stated paragraph to a dollar cost per the quantitative measurement. For example, in the case of a road the amount should generally be expressed in terms of dollar cost per ADT or similar terms; and
- A list of all properties, identified by address (if available), legal description, and tax parcel number, to which the requestor subdivider may desire to make a request for fair share reimbursement, any of which hereinafter shall be referred to as a potential benefited property, together with a scaled drawing or survey establishing the location of the relevant improvement in relation to these properties. For all properties, a list of the names

and mailing addresses of the property owners, any of which may be referred to as a potential benefited property owner. For purposes of determining a property owner's address, the requestor subdivider may use the most current records of the El Paso County Assessor's Office.

(2) Request Based on Estimated Cost of Improvement

A requestor subdivider may submit a request for fair share reimbursement based only upon the estimated costs of an improvement. The estimated costs of an improvement shall be the those established for the improvement in the surety estimate associated with the SIA, exclusive of any percentage of overage (i.e. contingency) required by the County.

A requestor subdivider that has selected the estimated cost approach may change that selection to actual cost approach; however, in changing the selection, the requestor subdivider shall follow the procedures as if submitting a new request for fair share reimbursement. Furthermore, in changing the selection, the requestor subdivider shall not be entitled to seek fair share reimbursement from an applicant subdivider who received a final determination of fair share reimbursement or from the owner of any property that is no longer subject to cost recovery due to the passage of time.

(3) Review of Cost Recovery Statement

The DSD Director shall review the cost recovery statement. The review shall include, but is not limited to, an analysis of the following: the accuracy and veracity of the costs, the reasonableness and appropriateness of the costs; a comparison of the costs to prevailing rates; consistency of the cost recovery statement with technical and professional standards, in order to generally assure that the cost recovery statement does not disproportionately or inequitably attempt to shift the cost of constructing the improvement to other property owners; and general conformance with the requirements of this Section. The DSD Director may request additional information from the requestor subdivider. A request for additional information shall be made within 30 days after submission of the cost recovery statement and the requestor subdivider shall have 30 days following the date of the request to submit the additional material requested.

(4) Initial Notice to Potential Benefited Property Owners

Within 10 days after submission of the cost recovery statement to the DSD, the DSD Director shall prepare a notification to potential benefited property owners.

(5) Approval or Denial of Cost Recovery Statement

Within 60 days after submission of the cost recovery statement, or within 30 days after the receipt of the requested additional materials, whichever is later, the DSD Director shall prepare and issue a written determination, which includes a description of the reasons for the determination, to: (1) approve the cost recovery statement as submitted, or (2) approve the

cost recovery statement with adjustments, or (3) deny the cost recovery statement because of failure to produce required or requested materials or because the improvements do not provide benefits to other property owners.

(6) Notice of DSD Director Decision

As soon as practicable after making its determination, the DSD Director shall send the written determination to the requester subdivider and to each potential benefited property owner. The DSD Director shall include with the written determination a notice of right to appeal to both the requester subdivider and any benefited property owner.

(7) Notice of Fair Share Reimbursement Recorded

As soon as practicable after the issuance of the BoCC's final determination upon appeal, or, if no appeal is taken, after the expiration of the period for appeal from the determination of the DSD Director, the DSD shall prepare and record a Notice of Fair Share Reimbursement in the chain of title for each benefited property. The DSD shall mail a copy of the recorded notice to the requester subdivider and each benefited property owner.

(E) Notification

(1) Notification by Mail

Whenever a notice or a mailing is required, the notice shall always be sent to the person or entities both by first class mail, postage prepaid return receipt requested, and by first class mail, postage prepaid. Notice shall be deemed received when mailed. In the event the last day for giving or receiving notice falls on a day when DSD is not open for business, the last day shall be deemed to extend to the next business day in which the DSD is open for business.

(2) Address to be Used for Notice

Notice to a potential benefited property owner shall be sent to the address in the El Paso County Assessor's Office current property records. Notice to a requestor subdivider shall be sent to the last known address of the requestor subdivider provided with the request for fair share reimbursement. Notice to any applicant subdivider shall be sent to the address in the DSD files for the relevant subdivision.

(3) Burden to Keep County Informed of Current Address

It is the obligation of the requestor subdivider and applicant subdivider to keep the DSD informed of a current mailing address. The sole and exclusive method to keep the DSD informed is to mail an address notification to the DSD. The notice shall reference the relevant file number for the requestor subdivider or applicant subdivider. The absence of address notification in a requestor subdivider or applicant subdivider file at the DSD shall be conclusive proof that the notice was not received.

(F) Appeal

(1) Notice of Appeal

The requestor subdivider or any benefited property owner may appeal the decision of the DSD to the BoCC by filing a written request for appeal in accordance with the Procedures Manual and this Code. In order to be considered for appeal, the notice of appeal shall be received by the DSD no later than 30 calendar days after the date of mailing of notice of the DSD Director's determination.

(2) Notice of Hearing

The DSD Director shall set the matter for hearing before the BoCC, which hearing shall be held in an open and public meeting no later than 45 calendar days after the DSD receives a copy of a notice of appeal. The DSD shall send notice of the hearing to the requestor subdivider and each potential benefited property owner.

(3) BoCC Hearing Procedure

The hearing shall be de novo. At the hearing, the DSD, the requestor subdivider, and any benefited property owner shall be entitled to present evidence or comments to the BoCC. The BoCC shall make its findings and determinations on the public record. No later than 30 calendar days after the hearing, the BoCC shall issue its written findings and determinations as found on the record. In making its determination, the BoCC shall generally consider the factors set forth in the review of cost recovery statement.

(4) Notice of BoCC Determination

The DSD shall send a copy of the BoCC's final determination to the requestor subdivider and each property owner who was originally noticed.

(5) Review of BoCC Determination

The benefited property owner and the requestor subdivider's sole and exclusive remedy concerning the BoCC's final determination shall be to seek a judicial review of the decision.

(6) Limit of Effect of Request for Judicial Review

Although a regulation enacted by the BoCC cannot generally bind a court of competent jurisdiction, it is the intent of the BoCC in the adoption of this Section that disputes concerning the amount of fair share reimbursement should not result in an order prohibiting final plat approval or recording of the final plat; disputes should only result in the applicant subdivider depositing a sum certain or other security in the registry of the relevant court in the approximate amount of the disputed fair share reimbursement. The purpose of these provisions is to assure that the applicant subdivider receives the protections guaranteed to it by the United States Constitution, and specifically the protections guaranteed by the decisions of the United States Supreme Court.

(G) Payments, Interest and Duration of Cost Recovery Obligations

(1) Reimbursement Limited to15 years

A requestor subdivider is only entitled to receive a fair share reimbursement from an applicant subdivider for a period not to exceed 15 years from the date of completion of the improvement.

(2) Amount Due for Fair Share Reimbursement

(a) Calculation of Fair Share Reimbursement

In the final plat approval process for the applicant subdivider's subdivision, the extent of the applicant subdivider's usage of the relevant improvement shall be determined. The extent of this usage shall be multiplied by the rate determined and stated in the Notice of Fair Share Reimbursement. The requestor subdivider shall be entitled to simple interest on this amount at the rate of 8% per annum, calculated from the date of recording of the Notice of Fair Share Reimbursement.

(b) Studies Required to Determine Usage of Improvement

As a condition of allowing an applicant subdivider's subdivision to proceed to a hearing on final plat approval, the DSD Director shall require the applicant subdivider to submit a statement, report, or study, including data in support thereof, which should be prepared or certified by a professional engineer or other professional in the relevant field, concerning the applicant subdivider's subdivision's anticipated use of the improvement, which proposed use shall be stated in a quantity consistent with the rate established in the Notice of Fair Share Reimbursement for the relevant Improvement.

(3) BoCC May Limit Obligation

If supported by the evidence provided by the applicant subdivider, the BoCC shall have the right to make a determination that the applicant subdivider's subdivision does not make use of the improvements and is therefore not under an obligation to pay a fair share reimbursement to the requestor subdivider,.

(4) Hearing Concerning Requestor Subdivider's Request for Reimbursement

(a) Notice of Hearing

At least 14 days before the date of the hearing before the Planning Commission and the BoCC, the DSD shall send notice of the hearing to the requestor subdivider.

(b) DSD Director’s Recommendation Presented

At the hearing, the DSD shall present the DSD Director’s recommendation pursuant to the fair share reimbursement obligation of the applicant subdivider. The applicant subdivider and the requestor subdivider shall also have an opportunity to

present evidence and comment concerning the proposed subdivision's anticipated use of the relevant improvement.

(c) BoCC Findings and Determination

The BoCC shall make a findings and determination concerning the applicant subdivider's subdivision's anticipated use of the improvement and the applicant subdivider's fair share assessment at the hearing on the applicant subdivider's final plat. The BoCC findings and determination shall be final on the matter. The applicant subdivider's and the requestor subdivider's sole and exclusive remedy concerning the BoCC's final determination shall be to seek a judicial review of the decision.

(5) DSD Director Actions Upon Receipt of Funds

Upon receipt of the funds, the DSD Director shall record a Notice of Release of Claim for Fair Share Reimbursement in the chain of title for each relevant benefited property. The DSD Director shall send a copy of the recorded Notice of Release to the applicant subdivider and the requestor subdivider. The DSD Director shall then mail the amount received to the requestor subdivider. After mailing the amount received, the DSD shall record in the chain of title for the relevant property a Release of Notice of Fair Share Reimbursement. In the event that the release is only for a partial release of a property, the DSD Director shall consult with the OCA before preparing or recording a release. In the event that a title company, etc. requests a different release than as set forth in the Procedures Manual, the DSD Director shall consult with the OCA before preparing, executing, or recording any other release. The DSD Director shall provide a copy of the recorded release to the requestor subdivider and the applicant subdivider.

(6) Return of Funds

In the event the mailing is returned to the DSD, the DSD Director shall have the discretion to either deposit the funds to the Great Colorado Payback Program, C.R.S. §§30-13-110, et seq., as amended, or to interplead the funds in the Registry of the El Paso County District Court.

(H) Release of Notice of Fair Share Reimbursement After Expiration of 15-Year Period

(1) Filing of Release

Upon the expiration of the 15-year period following the date of completion of a particular improvement, the DSD Director shall prepare and record in the chain of title for the relevant property a Release of Notice of Fair Share Reimbursement. The DSD Director shall mail a copy of the recorded release to the requester subdivider and any benefited property owner not previously released from any obligation related to that improvement.

(2) Erroneously Recorded Release

In the event a Release of Notice of Fair Share Reimbursement is erroneously recorded, erroneous release shall not exempt the property from performance of its obligations. The property shall perform its obligations as the recording of the Notice of Fair Share Reimbursement is merely a statement that a unique government land use regulation may apply to a property; the Notice is thus not a lien or any other type of encumbrance on the chain of title for the property.

(3) Effect of Release Upon Re-Subdivision/More Intensive Development

The Notice of Fair Share Reimbursement recorded in the chain of title is not an encumbrance upon real estate; it is merely a notice that the property may be subject to a local land use regulation. Accordingly, the fact that a Release of Notice of Fair Share Reimbursement may have been recorded for a particular property, shall not preclude the particular property from being subject to obligation to participate in a fair share reimbursement upon a re-subdivision of the particular property to a higher density or more intensive development.

Chapter Nine

SPECIAL DISTRICTS

9.1. GENERAL PROVISIONS AND PROCEDURES

9.1.1. Purposes

The purpose of this Chapter is to implement the BoCC's authority to review and approve service plans for proposed special districts and amendments of existing service plans under C.R.S. §§32-1-201, et seq. ('Control Act'), 1993, as amended. All provisions of this Chapter are intended to be in compliance with the authority and procedures specified in the Control Act and related statutes. To the extent that this Chapter does not expressly incorporate all applicable provisions of the Control Act and related statutes, those provisions shall still govern as stated in the Control Act or related statutes.

The procedures recognized in the Control Act and set forth in this Chapter are necessary for the orderly creation of special districts and for the logical extension of special district services throughout the County. The Control Act as implemented herein serves the purposes of preventing unnecessary proliferation and fragmentation of local government and avoiding excessive diffusion of local tax sources pursuant to C.R.S. §32-1-102.

The policies of the County regarding special districts are included with the Special District Policies, Model Service Plans and Annual Reports and Disclosure Forms, as adopted by the BoCC and as amended from time to time, and referenced in this Code.

Any special district requirements or policies as referenced in this Chapter are available through the Clerk to the BoCC.

9.2. SERVICE PLAN APPLICATION STEPS AND REQUIREMENTS

9.2.1. Application Submittal

Any person proposing the organization of a special district which includes property in the unincorporated County shall submit a service plan to the BoCC and obtain approval of the draft service plan from the BoCC prior to filing a petition for the organization of the special district in district court in accordance with the requirements of this Chapter (C.R.S. §32-1-202).

9.2.2. Pre-Submission Requirements (Early Assistance)

(A) Materials to be Submitted

The applicant shall submit the required copies of a letter of intent and all materials to the ~~DSD~~PCD including such other information as necessary to adequately describe the proposed service plan.

(B) Initial Review of Submitted Materials

The letter of intent and information submitted are circulated to the Clerk to the Board, OCA, and any involved county departments for initial review and comment. Issues or comments identified in the initial review shall be addressed and included in the draft service plan.

9.2.3. Draft Service Plan

(A) Materials to Be Submitted

The applicant shall submit the required copies of the materials identified in the Procedures Manual to the ~~DSD~~PCD, along with any required fee as identified in the fee schedule. The applicant shall provide a copy to the Clerk to the BoCC pursuant to C.R.S., §32-1-202(1).

(B) Review of Draft Service Plan

To the extent time allows prior to the hearing, the ~~DSD~~PCD Director shall, at his/her discretion, refer information concerning the draft service plan to interested governmental units and any other relevant review agencies.

(C) Schedule Hearing

The ~~DSD~~PCD will coordinate the scheduling of the Planning Commission hearing and the BoCC hearing with the Clerk to the BoCC.

(D) State Reporting

The Clerk to the BoCC is responsible for any State reporting requirements regarding the filing of the draft service plan.

(E) Staff Report and Comments

The ~~DSD~~PCD is responsible for providing to the Planning Commission and BoCC any staff reports and written comments regarding the draft service plan.

(F) Planning Commission Review of Draft Service Plan

The following review procedure has been adopted pursuant to the procedure outlined in C.R.S. §30-28-112, and required by C.R.S. §32-1-202(1):

(1) Public Hearing

The Planning Commission shall consider the draft service plan or any major amendment to a service plan at a public hearing. The applicant for the draft service plan shall receive prior notice of the hearing. The applicant shall comply with applicable public hearing notice requirements in C.R.S. §32-1-204.

(2) Planning Commission Recommendation

The Planning Commission shall review the draft service plan and make a written recommendation in the form of a resolution on the draft service plan to the BoCC. The action by the Planning Commission may be in the form of recommending approval, disapproval, or approval with conditions. The Planning Commission shall make its recommendation within 30 days following the submission of the draft service plan with the Clerk and Recorder. The Planning Commission also may continue the hearing to a set date and time to resolve any outstanding issues, but shall not continue the hearing beyond the established recommendation deadline without the consent of the applicant. The applicant's consent to the continuance shall relieve the Planning Commission from having to make their recommendation within 30 days following submission of the draft service plan with the Clerk and Recorder.

(G) BoCC Review of and Action on Service Plan

The following review procedure has been adopted pursuant to the procedure required by C.R.S. §32-1-202 and C.R.S. §32-1-204:

(1) Set Hearing Date

At the next regular meeting of the BoCC which is held at least 10 days after the final Planning Commission action on the draft service plan, the BoCC shall set a date within 30 days for a public hearing on the draft service plan.

(2) Notice to Colorado Division of Local Government

The Clerk to the BoCC shall provide written notice of the date, time, and location of the public hearing to the Colorado Division of Local Government.

(3) Notice to Applicant

The BoCC shall provide written notice of the date, time, and location of the public hearing to the applicant for the special district and to the governing body of any existing municipality or special district which has levied an ad valorem tax within the preceding tax year and which has boundaries within a radius of 3 miles of the proposed special district boundaries. The governmental units noticed shall be interested parties in the public hearing process.

(4) Published Notice

The BoCC shall publish notice of the public hearing in a newspaper of general circulation in the County, the first publication of which shall be at least 20 days prior to the public hearing date. The publication shall constitute constructive notice to the residents and property owners within the boundaries of the proposed special district. The residents and property owners within the boundaries of the proposed special district shall be interested parties at the public hearing.

The published newspaper notice shall contain the following information:

- The date, time, location, and purpose of the hearing;
- A general description of the land contained within the boundaries of the proposed special district; and
- Information outlining the methods and procedures concerning the filing of a petition for exclusion of territory from the proposed district.

(5) Property Owner Notification

Not more than 30 days nor less than 20 days prior to the public hearing, the applicant for the special district shall send letter notification of the hearing to the property owners within the boundaries of the proposed special district, all as further required by C.R.S. §32-1-204(1.5). The written notification shall indicate that this is a notice of a hearing for the organization of a special district and shall indicate the date, time,

location, and purpose of the hearing, a reference to the type of special district and any other requirements of the statute, and shall include a complete return address, and shall include a point of contact for the applicant and stipulate that written requests for exclusion be directed to the Clerk to the BoCC.

(6) Joint Hearing

If the boundaries of the proposed special district include territory within the County and another County or counties, the BoCC of each of the respective counties, at their discretion, may hold a joint hearing on the proposed special district in accordance with the procedural requirements applicable to BoCC hearings on draft service plans (C.R.S. §32-1-205(1), referencing the hearing requirements of §32-1-204).

(7) Required Public Hearing Procedures

The hearing held by the BoCC shall be open to the public, and a record of the proceedings shall be made. Interested parties at the hearing shall be the following:

- The governing bodies of any existing municipality or special district which has levied an ad valorem tax within the preceding tax year and which has boundaries within a radius of 3 miles of the proposed special district; and
- The residents and property owners within the boundaries of the proposed special district.

All interested parties shall be afforded an opportunity to be heard under the rules of procedure as may be established by the BoCC. Any testimony or evidence which in the BoCC's determination is relevant to the organization of the special district shall be considered.

(8) Exclusions of Property from Proposed District

(a) Requesting Exclusion from the Special District

Any person owning property within the boundaries of the proposed special district who requests that their property be excluded from the special district prior to approval of the draft service plan shall submit the request to the Clerk to the BoCC no later than 10 days prior to the BoCC's public hearing on the draft service plan, but the BoCC shall not be limited in their action with respect to exclusion of territory based upon such request.

(b) Consideration of Requests for Exclusion

The BoCC may exclude certain properties from within the proposed boundaries of the special district prior to approval of the draft service plan, and shall consider those requests for exclusion of property filed in accordance with C.R.S. §32-1-203. The ~~DSD~~PCD shall provide an analysis of any requests for exclusion of property, which may be used as a basis for BoCC action pursuant to individual request for exclusion.

The applicant for the special district shall have the burden of proving that the exclusion of any property requested to be excluded is not in the best interests of the proposed special district.

The BoCC shall act on all requests for exclusion before they take final action issuing a resolution of approval for the special district.

(9) BoCC Authority to Act on Service Plan

The findings of the BoCC on the draft service plan shall be based solely upon the draft service plan and the evidence or recommendations presented at the BoCC's public hearing by the applicant for the special district, the Planning Commission, and any interested party.

The BoCC has the following authority in the review of any proposed draft service plan:

- To approve the draft service plan as submitted without condition or modification.
- To disapprove the draft service plan as submitted.
- To conditionally approve the draft service plan subject to the submission of additional information relating to, or the modification of, the draft service plan. The BoCC may exercise this power of conditional approval if they have satisfactory evidence, based on the public hearing, that the draft service plan does not comply with the required criteria for approval (C.R.S. §32-1- 203(2)) . The BoCC's final approval shall then be contingent upon the applicant modifying the draft service plan to include the changes, or providing the additional information, as the BoCC shall specifically state in their findings on the draft service plan. If the BoCC requires changes, modifications or additional information to the draft service plan before approval, the hearing will be continued until the changes, modifications, or additional information requirements are satisfied and incorporated into the draft service plan. Unless the continuation is to a date and time specific as announced at the hearing, re-notification of interested parties and parties requesting exclusion is required.

(10) Notice Concerning Decision

Within 20 days following BoCC action on the draft service plan, the BoCC shall advise the applicant for the proposed special district in writing of the BoCC action on the draft service plan.

(11) Recording the BoCC Action

(a) Approval

If the draft service plan is approved as submitted, a resolution of approval shall be issued to the proponent incorporating the findings of the BoCC.

(b) Disapproval

If the draft service plan is disapproved as submitted, the specific detailed reasons for the disapproval shall be set forth in writing.

(c) Conditional Approval

If the draft service plan is conditionally approved, the BoCC shall set forth in writing the conditions, changes or modifications to be made in, or the additional information relating to, the draft service plan, together with the reasons for the changes, modifications, or additional information. Upon incorporation of the specified conditions, changes, modifications, or additional information into the draft service plan (applicant shall provide 4 copies of the revised draft service plan to the ~~DSD~~PCD and shall provide a copy to the Clerk and Recorder) the BoCC shall issue a resolution of approval to the proponent of the special district.

(H) Criteria for Approval of Draft Service Plan

(1) Territory Which District May Cover

A special district may be entirely within or entirely without, or partly within and partly without, one or more municipalities or counties, and may consist of noncontiguous tracts or parcels of property (C.R.S. §32-1-107(1)).

(2) Limitations on Approval of a Service Plan

No special district may be organized wholly or partly within an existing special district providing the same service (C.R.S. §32-1-107(2) and §32-1-202(2.1)). Nothing in this provision, however, shall prevent a special district providing different services from organizing wholly or partly within an existing special district.

(3) Petition Filed

No draft service plan shall be approved if a petition objecting to the draft service plan and signed by the owners of taxable real and personal property, which equals more than 50 percent of the total valuation for assessment of all taxable real and personal property to be included in the proposed special district, is filed with the BoCC no later than 10 days prior to the BoCC's public hearing on the draft service plan, unless such property has been excluded by the BoCC (C.R.S. §32-1-203(3.5)).

(I) Mandatory Criteria for Disapproval

The BoCC shall disapprove the draft service plan unless evidence satisfactory to it of each of the following is presented or, in the BoCC's discretion, the BoCC conditionally approves the draft service plan to cause compliance with these criteria (C.R.S. §32-1-203(2)):

- There is sufficient existing and projected need for organized service in the area to be served by the proposed special district;
- The existing service in the area to be served by the proposed special district is inadequate for present and projected needs;
- The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries;
- The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

(J) Discretionary Criteria for Disapproval

The BoCC may disapprove the draft service plan if evidence of the following, at the BoCC's discretion, is not presented (C.R.S. §32-1-203(2.5)):

- Adequate service is not, or will not be, available to the area through the County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;
- The facility and service standards of the proposed special district are compatible with the facility and service standards of each County within which the proposed special district is to be located and each municipality which is an interested party as defined in C.R.S. §32-1 -204 and this Code;
- The proposal is in substantial compliance with the El Paso County Master Plan;
- The proposal is in compliance with any duly adopted County regional, or State long-range water quality management plan for the area; or
- The creation of the proposed special district will be in the best interests of the area proposed to be served.

(K) Filing of Approved Service Plan

The approved service plan shall be filed as part of the petition for the organization of the special district in district court in accordance with State Statute. The approved service plan shall be considered the final service plan when an order is entered by the district court declaring the special district organized.

9.3. MATERIAL MODIFICATIONS TO COUNTY-FINAL SERVICE PLAN

9.3.1. County Approval of Substantial Modifications to Final Service Plan

Once a special district with territory in the unincorporated County has been organized pursuant to the terms of this Chapter and the Control Act, the Board of Directors of the special district may make material modifications to the final service plan only by petition to and approval by the BoCC pursuant to the procedures governing the review and approval of the original service plan submittals (C.R.S. §32-1-207(1)-(3), as amended).

9.3.2. Material Modification Defined

A material modification of a final service plan shall be a change of a basic or essential nature, including but not limited to the following:

- Any addition to the types of services provided by the special district;
- A decrease in the level of services provided by the special district;
- A decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or
- A decrease in the existing or projected need for organized service in the area.
- Any service provided outside of the district boundaries or approved service area which reduces service capabilities within the district.
- Any modification that is contrary to a condition imposed by the BoCC in the final service plan or which is identified as a material modification within the final service plan.

9.3.3. Change of District Boundaries

A material modification may be found to exist if an approved special district changes its boundaries to include territory in the unincorporated County when the district previously included no territory in the unincorporated County. If the special district changes its boundaries in this fashion, it shall notify the BoCC, who may review the inclusion of territory. If the BoCC determine based on this review that the inclusion constitutes a material modification to the special district's final service plan, the Board of Directors of the special district shall file a petition for approval of a material modification of the final service plan.

9.3.4. Excluded Modifications

Approval for modifications of a final service plan shall not be required for changes necessary only for the execution of the final service plan, or for changes in the boundaries of the special district other than to include territory in the unincorporated County when the special district previously included no territory in the unincorporated County.

9.3.5. Processing Fee

The processing fee for review of a petition for approval of a material modification is identified in the fee schedule and shall be submitted prior to consideration of the application.

9.3.6. Judicial Enforcement Against Material Departures or Modifications to Approved Service Plans

The BoCC may seek an injunction in the district court which approved the petition for the organization of the special district for any material departure from the final service plan, or, if the plan has been modified, from the final service plan as modified, which constitutes a material modification of the final service plan.

9.3.7. Initiating Action Against Material Departure or Modification

No action may be brought to enjoin the construction of any facility, the issuance of bonds or other financial obligations, the levy of taxes, the imposition of rates, fees, tolls and charges, or any other proposed activity of the special district unless the action is commenced within 45 days after the special district has published notice of its intention to undertake the activity.

The notice shall describe the activity proposed to be undertaken by the special district and provide that any action to enjoin the activity as a material departure from the final service plan must be brought within 45 days from publication of the notice.

The notice shall be published one time in a newspaper of general circulation in the special district, and shall be provided to the district court, as well as mailed to the BoCC on or before the date of publication of the notice.

9.4. ANNUAL REPORTING REQUIREMENTS

9.4.1. Request for Required Reports from Any Special District

(A) Require Annual Report to be Filed

Any special district located wholly or partly within the unincorporated County shall file, not more than once a year, a special district annual report (C.R.S. §32-1-104(2) and §32-1-207(3)(C)-(D)). The detailed requirements of the annual report and disclosure form are stipulated in BoCC Resolution 06-472, as may be amended. The annual report shall be filed with the BoCC, the Colorado Division of Local Government, and the State Auditor, and shall be placed on file with the Clerk and Recorder for public inspection. A copy of the report shall also be made available by the special district to any interested party.

(B) Contents of Annual Report

The annual report shall include but shall not be limited to information on the progress of the special district in the implementation of its final service plan.

(C) Review of Annual Reports

The BoCC may review the annual reports in a regularly scheduled public meeting, and such review shall be included as an agenda item in the public notice for such meeting. In addition, the State Auditor will review the annual report and report to the Colorado Division of Local Government any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the final service plan. In such event, the Colorado Division of Local Government shall confer with the BoCC of the special district and with the BoCC regarding such condition.

(D) Recording of Annual Reports

The Annual Report and Disclosure Form is recorded in conjunction with the recording of a final plat located within the special district.

9.4.2. Special District to Provide Contact Information Annually

On or before January 15 of each year, each special district located in the unincorporated County shall notify the BoCC, the County Assessor, the County Treasurer, and the County Clerk and Recorder (in addition to the other entities specified in C.R.S. §32-1-104(2)), of the name of the chair of the Board of Directors, the contact person, the telephone number, and the business address of the special district. If the persons and address are not located within the special district, the special district shall notify the County Clerk and Recorder of the name, address, and telephone number of a contact person located within the special district, if such person is available.

9.4.3. Failure to Provide Information or Annual Report

If a special district fails to file an annual report or provide any information required to be submitted within 9 months of the date of the request for the annual report or information, the BoCC, after notice to the special district, may notify any County treasurer holding moneys of the special district to prohibit release of any moneys until the special district complies with the applicable requirement.

9.5. SERVICE PLAN PROCESSING FEES

The fees for processing any Service Plan are established by State Statute and implemented by resolution and the fee schedule. The processing fee shall be used to reimburse the County for the reasonable direct costs related to processing the service plan and conducting the public hearings on the plan, including but not limited to the costs of notice, publication, and recording of testimony.

If it is determined that more in-depth review of a particular service plan is required, an additional service fee as provided in C.R.S. §32-1-202(3) and identified in the fee schedule may be imposed at submittal, to reimburse the County for the reasonable direct costs related to the in-depth review.