



OTERO COUNTY LAND USE CODE

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OTERO COUNTY LAND USE CODE

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ARTICLE 1 GENERAL ADMINISTRATION

DIVISION 1 GENERAL PROVISIONS

Section 1-101 **Title and Short Title.** These Regulations and all future amendments shall be known as the “Otero County Land Use Code”, and are also referred to herein as “Land Use Code,” “Code” or “Regulations.”

Section 1-102 **Authority.** It is the intention of the Board of County Commissioners in adopting the Otero County Land Use Code to fully exercise all relevant powers conferred by the laws of the State of Colorado, including but not limited to:

A. Colorado Constitution. All of the powers reserved to the County by the Colorado Constitution.

B. State Enabling Legislation. All of the powers granted to the County by:

1. Title 22, Article 32, Section 124, *et seq.*, C.R.S., (Zoning, Planning, and Building Code Duties of School District Boards);
2. Title 24, Article 65.1, Section 101, *et seq.*, C.R.S., (Areas and Activities of State Interest);
3. Title 29, Article 20, Section 101, *et seq.*, C.R.S. (Land Use Control Enabling Act);
4. Title 30, Article 11, Section 101, *et seq.*, C.R.S. (County Powers and Functions);
5. Title 30, Article 11, Section 107, C.R.S., (Powers of the Board of County Commissioners);
6. Title 30, Article 15, Section 401, *et seq.*, C.R.S., (County Regulations Under Police Power);
7. Title 30, Article 28, Section 111, C.R.S., (Zoning Plan);

8. Title 38, Article 30.5, Section 101, et seq., C.R.S., (Conservation Easements);
9. Title 43, Article 1, Section 401, et seq., C.R.S., (Outdoor Advertising Act);
10. Title 43, Article 2, Section 101, C.R.S., (County Highways);

Section 1-103

Purpose and Intent.

A. **General Purposes.** The general purposes of this Land Use Code are:

1. **Protect Quality of Life.** To protect and promote the health, safety and general welfare of the present and future residents of Otero County.
2. **Protect the Environment and Environmental Resources.** To ensure the use of land does not degrade or threaten the quality of the environment and environmental resources.
3. **Regulate Land Use Based On Impacts.** To regulate the use of land based on impacts to the surrounding areas and the community and to eliminate, minimize or mitigate conflicts between different land uses.
4. **Simplify Land Use Planning and the Regulatory Review Process.** To simplify, expedite and provide uniform application of the land use planning and regulatory review process.
5. **Encourage Innovations.** To encourage innovations in residential, commercial and industrial development to meet the growing demands of the population through a greater variety in type, design and layout of development.
6. **Promote the Economic Well-Being of the Community.** To encourage economic diversity in the County and to protect and enhance the County's economic strength and well-being.

7. Provide for Orderly Development of the County. To manage development in a manner that provides for balanced and orderly growth patterns and to provide efficient, phased government services to accommodate existing and future residents.

8. Protect Property Rights. To preserve and promote the value of property, to protect the tax base of the County and to respect the property rights of citizens.

9. Protect and Enhance Agriculture and Rural Character. To protect and enhance agricultural uses, traditional agricultural practices, and the rural characteristics of the County.

Section 1-104 **Jurisdiction.** This Land Use Code shall apply to all land within the unincorporated areas of Otero County.

Section 1-105 **Building Permits.** No building permit will be issued unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all applicable provisions of this Land Use Code.

Section 1-106 **Repealer, Enactment and Effective Date.**

A. Enactment. This Land Use Code shall be enacted upon its approval by the Board of County Commissioners, after review and recommendation by the Otero County Planning Commission, following a public hearing.

B. Effective Date. This Land Use Code, including any future amendments, shall take effect immediately upon adoption by the Board of County Commissioners, unless otherwise set forth in the Board's motion of approval.

C. Repeal of County's Prior Land Use Regulations. The Otero County Land Development Code and amendments thereto are hereby repealed on the date of the County's adoption of this Land Use Code.

Section 1-107 **Saving Provisions.**

A. Permit Applications Pending Review. The enactment or amendment of this Land Use Code shall not apply to any permits that the County has approved under prior land use regulations or pending applications that the County has determined to be complete under prior land use regulations.

B. Penalties Accruing or About to Accrue. The enactment or amendment of this Land Use Code shall not be construed as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue.

C. Waiver of Rights by County. The enactment or amendment of this Land Use Code shall not be construed as waiving any right of the County under any provision existing prior to the adoption of this Land Use Code.

D. Vacation or Annulment of Rights Obtained by Individual. The enactment or amendment of this Land Use Code shall not be construed as vacating or annulling any rights obtained by any person by lawful action of the County.

Section 1-108

Implementation of Intergovernmental Agreements and Other Master Plans for Land Use.

Enactment, amendment and administration of this Land Use Code shall be in accordance with, and shall serve to implement, the goals and policies of any jointly adopted intergovernmental agreement, memorandum of understanding, or master plan governing the use and development of land of mutual concern to the County and another governmental entity or special district.

Section 1-109

Interpretation, Rules of Construction of Language and Computation of Time.

A. Interpretation of the Provisions of This Land Use Code.

1. Minimum Required. The provisions of this Land Use Code shall be regarded as the minimum requirements for the protection of the public health, safety, and general welfare.

2. Liberal Construction. This Land Use Code shall be liberally construed to further its underlying purposes.

3. Conflict. If a conflict occurs between provisions of this Land Use Code, or between provisions of this Land Use Code and a State statute or other applicable codes and regulations, the more restrictive provision controls unless otherwise specified in these Regulations.

4. Application of Requirements of the Land Use Code. Unless otherwise specified in these Regulations, the requirements of this Land Use Code are presumed to apply to actions related to a change in land use as defined by this Code.

B. Rules of Construction of Language.

1. Words and phrases shall be read in context and construed according to common usage. Words and phrases that have acquired a technical or particular meaning, by legislative definition or otherwise, shall be construed accordingly.

2. The particular controls the general.

3. The word “shall” is always mandatory. The words “may” and “should” are permissive.

4. Unless the context clearly indicates otherwise, words used in the singular number include the plural and words used in the plural number include the singular.

5. If there is a conflict between figures and words expressing a number, the words govern.

6. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”

C. Computation of Time. 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.

1. Unless otherwise specified in these Regulations, the term “days” shall refer to calendar days.

Section 1-110

Incorporation and Interpretation of Maps.

A. **Official Zone District Maps.** The location and boundaries of the zone districts established by this Land Use Code are shown on the Otero County Zoning Map and incorporated into this Land Use Code. The Otero County Zoning Map shall be maintained by the Land Use Administrator and shall be located in the Land Use Department. It is the expressed intent of the Board of County Commissioners that all unincorporated areas within Otero County be located within a zone district.

B. **Flood Plain Maps.** The following reports and maps designate the location and boundaries of the Flood Plain District. The Flood Plain District Maps shall be maintained by the Land Use Administrator and shall be located in the Land Use Department:

1. County-specific flood insurance studies and reports.
2. Flood Insurance Rate Maps (FIRM) [prepared for the County by FEMA].
3. U.S. Geological Survey Flood-prone Area Maps.
4. Any further flood plain studies that have been approved by the Board of County Commissioners with the prior concurrence of the Colorado Water Conservation Board.

C. **County Road Maps.** The Otero County road maps are maintained by the Engineering Office and GIS Office and located in said offices.

D. **Interpretation of Zone District Boundaries.** If for any reason the location of a zone district boundary line is not readily determinable from the Otero County Zoning Map, the location of the zone district boundary line shall be determined by the Land Use Administrator in accordance with the following provisions. Where more than one of the following provisions is applicable in

any given situation, the first stated and applicable provision shall prevail over all other provisions:

1. Where a zone district boundary line is given a position within or abutting a highway, road, street or alley right-of-way which does not appear to be located within any zone district, the zone district boundary line shall be deemed to be in the center of such right-of-way.
2. Where a zone district boundary line is shown as closely and approximately following subdivision plat lot lines, municipal boundary or County boundary lines, the zone district boundary line shall be deemed to coincide with such known lot lines or boundaries.
3. Where a parcel within a zone district has a boundary line shown by a specific dimension, that dimension shall control.
4. Where a zone district boundary line is located with reference to a fixture, monument, or natural feature, the location of the boundary with respect to the attribute shall control.
 - a. The location of a zone district boundary line located with reference to a natural feature shall be at the outer edge or boundary of the natural feature.
5. In all other circumstances, the location of the zone district boundary line shall be determined by scaling from the Otero County Zoning Map.

E. **Interpretation of Flood Plain District Boundaries.** If interpretation is needed as to the exact location of the boundaries of the Flood Plain District, or there appears to be a conflict between a mapped boundary and actual field conditions based upon an engineering study by the applicant, the Land Use Administrator shall make the necessary interpretation, referring to the following sources:

1. The engineering study upon which the maps and elevations are based.

2. The professional engineers who prepared the study.

3. The Colorado Water Conservation Board and/or the Federal Emergency Management Agency. The base flood elevations, as shown on the flood profiles and in the floodway tables of the Flood Insurance Study prepared by the Federal Emergency Management Agency, shall be the governing factor in determining accurate boundaries.

F. **Public Inspection of Maps.** Copies of the maps and reports incorporated by this Section shall be kept on file and available for public inspection at the location specified.

Section 1-111 **Amendment to Text of This Land Use Code.** The process for amendments to text of this Land Use Code is set forth in Article 4, Section 4-205, *Land Use Code Text Amendment*.

Section 1-112 **Severability.**

A. **Provision Declared Invalid.** If any provision of this Land Use Code is declared invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that provision which is expressly declared invalid and shall not affect any other provision of this Land Use Code.

B. **Application to Tract of Land Declared Invalid.** If the application of this Land Use Code to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, then the effect of such decision shall be limited to the tract of land involved. Such decision shall not affect this Land Use Code or the application of any provision thereof to any other tract or land.

DIVISION 2 VESTED PROPERTY RIGHTS

Section 1-201 **Purpose.** The purpose of this Division is to establish a system of vested property rights for this Land Use Code as authorized by Title 24, Article 68, C.R.S, as amended

Section 1-202 **Establishment of Vested Property Rights.**

A. **General.** Pursuant to this Land Use Code, a vested property right shall be deemed established for a period of three (3) years with the approval of a Site Specific Development Plan as

defined in Section 1-202 B of this Article. When a Site Specific Development Plan is approved with a Land Use Change Permit, the permit shall confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the Site Specific Development Plan. If the term of approval for the Site Specific Development Plan is extended pursuant to these Regulations, the term of vested property rights is extended to conform to the extended approval term.

B. Site Specific Development Plan. For the purposes of this Section, the following documents shall constitute a Site Specific Development Plan establishing a vested property right:

1. A Final Plat for Subdivision; a Subdivision Exemption Plat; a Cluster Subdivision Exemption Plat; or a Final PUD Plan.
2. The document that triggers a vested property right shall be so identified at the time of its approval.

*[NOTE: Section 24-68-102 (4) (b), C.R.S. provides that the following shall **not** constitute a Site Specific Development Plan: variance; preliminary plan; sketch plan, final architectural plan; public utility filings; or final construction drawings and related documents.]*

C. Development Agreement and Extension of Vested Property Rights. The Board of County Commissioners may enter into a development agreement with the landowner for the extension of vested property rights where, in the discretion of the Board, an extension is warranted due to project size and/or phasing of the development. The Board may also consider an extension of vested property rights for economic cycles and/or market conditions.

D. Approval and Effective Date. A Site Specific Development Plan shall be deemed approved upon the effective date of the Board of County Commissioners' approval action, following a public hearing conducted in accordance with these Regulations. The Board's approval of a Site Specific Development Plan may include such terms and conditions as may be reasonably necessary to protect the public health, safety and general welfare. The approval shall result in a vested property right, although

failure to abide by such terms and conditions will result in forfeiture of the vested property right.

1. Within fourteen (14) days of approval of the Site Specific Development Plan by the Board of County Commissioners, the County shall publish a notice of Site Specific Development Plan approval and creation of a vested property right in a newspaper of general circulation in Otero County. The period of time for exercise of vested property rights shall not begin to run until the date of publication of the notice. [See Section 24-68-103 (1) (c), C.R.S.]

E. Exceptions to Vesting of Property Rights. Once established pursuant to these Regulations, a vested property right precludes any zoning or land use action by the County during the period of time that the property right is established to be vested that would alter, impair, prevent, diminish, or otherwise delay the development or use of the land subject to the Site Specific Development Plan consistent with the terms and conditions of the Site Specific Development Plan, except under one or more of the following conditions:

1. Landowner's Consent. With the consent of the affected landowner.

2. Just Compensation Paid to Landowner. The affected landowner receives just compensation for all costs, expenses, and liabilities incurred by the landowner, including, but not limited to, all fees paid in consideration for financing and all architectural, planning, marketing, legal and other consultants' fees incurred after approval of the Site Specific Development Plan by the County, together with interest at the current market rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.

3. Hazards. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of the approval of the Site Specific Development Plan, and which hazards, if uncorrected,

would pose a serious threat to the public health, safety and welfare.

4. **General Ordinances and Regulations.** The establishment of a vested property right shall not preclude the application of ordinances, resolutions or regulations which are general in nature and are applicable to all property subject to land use regulations by the County, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.

DIVISION 3

DUTIES AND RESPONSIBILITIES OF REVIEW AND DECISION-MAKING BODIES

Section 1-301

Board of County Commissioners.

A. Membership and Term. Colorado State Statutes, at Section 1-4-205, C.R.S., describe the membership requirements and term of office for members of the Board of County Commissioners.

B. Powers and Duties.

1. **Powers and Duties Authorized by State Statute.** The authority granted to the Board of County Commissioners under State Statute includes, but is not limited to:

a. Adoption and Amendment of Zoning and Subdivision Regulations. Authority to adopt and amend zoning and subdivision regulations, including regulations for planned unit developments and areas and activities of state interest.

b. Regulations for Removal of Weeds and Rubbish. Authority to enact regulations compelling the removal of weeds and rubbish.

c. Adoption of Building Code. Authority to adopt a building code.

d. Review of Service Plans for Special Districts. Authority to review service plans for proposed special districts.

e. Intergovernmental Agreements for Land Use and Development. Authority to enter into intergovernmental agreements to plan for and control land uses and development.

2. Powers and Duties Under Provisions of This Land Use Code.

a. Implementation of Land Use Code. In addition to authority granted to the Board of County Commissioners by general or special law, the Board has authority to take such other action not delegated to the Planning Commission, the Board of Adjustment or the Land Use Administrator, as the Board of County Commissioners may deem desirable and necessary to implement the provisions of this Land Use Code.

Section 1-302

Planning Commission.

A. Membership and Term.

1. Appointment. The Board of County Commissioners shall appoint five (5) regular Planning Commission members.

2. Qualifications. All members must be residents of the County. No member of the Board of County Commissioners shall serve on the Otero County Planning Commission.

3. Term of Office. The term of members shall be staggered so that no more than two members' terms expire in any one year.

4. Removal from Office. Any member of the Otero County Planning Commission may be removed for cause (misconduct or nonperformance of duty) by the Board of County Commissioners upon written charges and after a

public hearing.

5. Vacancy. Whenever a vacancy occurs on the Otero County Planning Commission, the member's or associate member's position shall remain vacant until a new member or associate member can be appointed by the Board of County Commissioners. The vacancy shall be filled for the unexpired term in the same manner as the original appointment.

6. Compensation. Section 30-28-103, C.R.S., provides that members of the Planning Commission shall receive such compensation as determined by the Board of County Commissioners.

B. Powers and Duties.

1. Development of Master Plan. The Planning Commission is responsible for the development and adoption of a Master Plan and any amendments to that Plan.

2. Advisory Body. The Planning Commission is an advisory body on matters including rezoning requests and certain land use change permit applications.

3. Public Meetings.

a. The Planning Commission shall hold regularly scheduled public meetings to take official action on the matters before the Commission. The meetings shall be noticed in compliance with the requirements for public notice set forth in this Code.

b. Three members of the Planning Commission shall constitute a quorum necessary for official action.

c. The Planning Commission shall keep a record of its proceedings, and the record shall be open to inspection by the public during the normal business hours for County offices.

Section 1-303

Board of Adjustment.

A. Membership.

1. **Appointment.** The Board of Adjustment shall consist of the Board of County Commissioners. (See *Fedder v. McCurdy*, 768 P.2d 711 (Colo App 1989)).

B. Powers and Duties.

1. **Variance.** The Board of County Commissioners sitting as the Board of Adjustment is the decision-making body for requests for variance from certain zoning dimensional requirements of this Land Use Code.

a. The Board of County Commissioners sitting as the Board of Adjustment shall consider a request for variance based on the procedure set forth in Article 4, Section 4-501, *Request for Variance*. In order for the Board of County Commissioners sitting as the Board of Adjustment to grant a variance, at least two members of the Board must vote in favor of the applicant.

b. The Board of County Commissioners sitting as the Board of Adjustment does *not* have the authority to grant the following:

(1) Variance from uses allowed in a zone district.

(2) Variance from any definition.

2. **Public Meetings.**

a. The Board of County Commissioners sitting as the Board of Adjustment shall meet as called by the Chairman to take official action on the matters before the Board of County Commissioners sitting as the Board of Adjustment. The meetings shall be open to the public, noticed in compliance with the applicable requirements for public notice set forth in this Code.

b. Two members of the Board of County Commissioners sitting as the Board of Adjustment shall constitute a quorum necessary for official action.

c. The Board of County Commissioners sitting as the Board of Adjustment shall keep a record of its proceedings, and the record shall be open to inspection by the public during the normal business hours for County offices.

Section 1-304 **Land Use Administrator.**

The Land Use Administrator is responsible for the administration of the Land Use Department, including, but not limited to, the processing of applications for master plan amendments, amendments to the Land Use Regulations, and Zoning and Subdivision Regulations approvals. The Administrator is authorized to enforce the County's Zoning Regulations, to administer and enforce all provisions of the Land Use Code, and to oversee the Otero County Building Official in the administration of the County Building Code.

Section 1-305 **Otero County Building Official.**

The Otero County Building Official is responsible for the administration of the Otero County Building Code, including, but not limited to, the issuance of building permits and conducting the necessary building inspections, the determination of hazardous or life-threatening situations, and the withholding of building permits for the enforcement of zoning violations.

Section 1-306 **Floodplain Administrator.**

A. **Designation of Floodplain Administrator.**

1. The Otero County Land Use Administrator shall serve as the Floodplain Administrator to administer, implement and enforce the provisions of the Land Use Code and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. Duties and Responsibilities.

1. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - a. Maintain and hold open for public inspection all records pertaining to the provisions of this Land Use Code, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Article 3, Section 3-208, L. (3).
 - b. Review, approve, or deny all applications for Floodplain Development Permits required by this Land Use Code.
 - c. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 - d. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - e. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Land Use Code, including proper elevation of the structure.
 - f. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the

ARTICLE 1
GENERAL ADMINISTRATION

Floodplain Administrator shall make the necessary interpretation using the criteria set forth in Article 1, Section 1-110 (E) of this Land Use Code.

- g. When Base Flood Elevation data has not been provided, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 7.
- h. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- i. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- j. Administer, implement and enforce the duties and responsibilities of the Floodplain Administrator set forth in Article 3, *Zoning*, Article 4, *Permit Application and Review Procedures*, and Article 7, *Standards*.

Section 1-307

Otero County Health Department.

The Otero County Health Department shall review all plats where on-site sewage disposal systems are proposed for the purpose of determining the adequacy of the soil involved to properly absorb subsurface sewage effluent and shall also investigate other factors contributing to environmental pollution as well as reviewing the proposed domestic water supply system to ensure a properly-functioning system.

Section 1-308

Referral Agencies and Individuals.

Any application to the Land Use Department is referred to the agencies responsible for the provision of services to or affected by

the proposed development as determined by the Land Use

Administrator, and to individuals affected by the proposed development. The purpose of this referral is to define any conflict which the agencies or individuals may have with the proposal, and to allow for the resolution, to the extent possible, of these conflicts through the processing of the application. It is the responsibility of the agency or individual receiving the referral to define any potential conflict with the proposal or to provide other appropriate response to the application, and to return the referral response to the Otero County Land Use Department within the specified time period. Any referral responses which are not received in a timely manner may not be included in the processing of the application. The lack of response to a referral shall be interpreted as no conflict with the proposal.

DIVISION 4 RIGHT TO FARM

Section 1-401 **Integral Element and Necessary Activity.** It is the policy of the Board of County Commissioners that ranching, farming and all manner of agricultural activities and operations throughout Otero County are integral elements of and necessary for the continued vitality of the County’s history, economy, landscape, lifestyle and culture. Given their importance to the County and the State, agricultural lands and operations are worthy of recognition and protection.

Section 1-402 **Agricultural Activities and Operations Within the County Shall Not Be Considered To Be Nuisances.** Colorado is a “Right to Farm State” pursuant to Section 35-3.5-101, *et seq.*, C.R.S. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds and smells of Otero County agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and a healthy agricultural sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells as inconveniences, eyesores, noises and odors. However, state law and County policy provides that ranching, farming or other agricultural activities and operations within the County shall not be considered to be nuisances so long as they are operated in conformance with the law and in a non-negligent manner. Therefore, all landowners, residents and visitors must be prepared to encounter sounds, smells, lights, mud, dust, smoke, chemicals, machinery on public

roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, any one or more of which may naturally occur as a part of legal and non-negligent agricultural operations.

Section 1-403

Rights and Responsibilities of All Landowners. All owners of land, regardless of use, have obligations under State law and County regulations with regard to maintenance of fences. Irrigators have the right to maintain irrigation ditches through established easements that transport water for their use, and said irrigation ditches are not to be used for the dumping of refuse. Landowners are responsible for controlling weeds, keeping pets under control, and other aspects of using and maintaining property in accordance with County regulations. Residents and landowners are encouraged to learn about these rights and responsibilities and to act as good neighbors and citizens of the County.

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ARTICLE 2 LAND USE CHANGE
PERMIT

Section 2-101 **Applicability.** The requirement for a **Land Use Change Permit** (defined as “*approval by the County for any land use change subject to County review by this Land Use Code*”) and the permit provisions set forth in this Article apply to any proposed **change in land use** (defined as “*any development, grading, construction, activity or operation that changes the basic character, configuration, use or zoning of land or buildings and structures after the enactment of this Land Use Code*”), including divisions of land, for property located in unincorporated Otero County.

Section 2-102 **Permit Required for Land Use Changes.** Any person seeking a change in land use shall obtain a Land Use Change Permit before commencing the use or activity associated with the land use change, unless the proposed use or activity is expressly exempted under Section 2-104, *Exemptions from Land Use Change Permit Requirements*. Failure to obtain a Land Use Change Permit shall be a violation of the Otero County Land Use Code and subject to the enforcement provisions in Article 12, *Enforcement, Violations and Penalties*.

A. Land Use Changes Other Than Division of Land. For land use changes that do not involve division of land, approval of the proposed land use change in compliance with these Regulations constitutes a Land Use Change Permit.

B. Land Use Changes Involving Division of Land. For land divisions, approval of a request for Minor or Major Subdivisions or Cluster Subdivision Exemption shall constitute a Land Use Change Permit.

C. Signs. A sign permit constitutes a Land Use Change Permit.

Section 2-103 **Permit Runs With the Land.** Any Land Use Change Permit for land use approved in compliance with this Code shall be binding upon and run with the land, unless otherwise stated as a condition of approval.

Section 2-104

Exemptions from Land Use Change Permit Requirements. Those uses and activities identified in Article 3, *Zoning*, as a “use by right” are exempt from the requirement to obtain a Land Use Change Permit. Exemption from Land Use Change Permit requirements is **not** an exemption from other Federal, State and local permit requirements or standards and other applicable provisions of this Land Use Code.

Section 2-105

Levels of Permit Review for Land Use Change Permits. Land Use Change Permits are subject to different levels of review, as follows:

A. **Land Use Changes Other Than Division of Land.** Unless otherwise exempted from review under these Regulations, a change in land use that does not involve division of land is subject to one of the following three levels of review, according to the level of impact. The level of review for specific land use is set forth in Article 3, Section 3-401, *Use Table*.

1. **Administrative Review Process.** A change in land use that will have insignificant impact is subject to the Administrative Review Process set forth in Article 4, Section 4-201, *Administrative Review Process*.

2. **Limited Impact Review Process.** A change in land use that will have limited or minimum impact is subject to the Limited Impact Review Process set forth in Article 4, Section 4-202, *Limited Impact Review Process*.

3. **Major Impact Review Process.** A change in land use that will have significant impact is subject to the Major Impact Review Process set forth in Article 4, Section 4-203, *Major Impact Review Process*.

B. **Land Use Changes Involving Division of Land.**

1. **Subdivision.** Unless otherwise provided by these Regulations, division of land shall be classified as Minor Subdivision or Major Subdivision, based upon the level of impact.

a. **Minor Subdivision Review Process.**
Division of land considered to be a minor subdivision

pursuant to Article 5, Section 5-202, *Minor Subdivision*, shall be subject to the Minor Subdivision Review Process, which is an abbreviated subdivision review process set forth in Article 5, Section 5-401, *Minor Subdivision Review Process*.

b. **Major Subdivision Review Process.** Division of land considered to be a major subdivision pursuant to Article 5, Section 5-203, *Major Subdivision*, shall be subject to the Major Subdivision Review Process set forth in Article 5, Section 5-402, *Major Subdivision Review Process*.

2. **Exempt Subdivision.** An exemption from subdivision regulations shall be subject to the review process set forth in Article 5, Section 5-501, *Request for Subdivision Exemption and Exemption Plat or Legal Description Approval*.

3. **Other Divisions of Land.** Rural Land Use Cluster Development is exempt from subdivision regulations and is subject to the review process set forth in Article 5, Section 5-601, *Exempt Cluster Development Review Process*.

C. **PUD.** A change in land use which proposes a PUD shall be subject to the PUD Plan Review process set forth in Article 6, *Planned Unit Development*. The regulatory provisions for PUD set forth in this Code are pursuant to Title 24, Article 67, C.R.S.

D. **Signs.** Signs shall be subject to a specific review and approval process set forth in Article 11, Division 2 of this Code.

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ARTICLE 3 ZONING

DIVISION 1 GENERAL PROVISIONS

Section 3-101 **Establishment of Zone Districts.** The following zone districts are established. Section 3-401, *Use Table*, explains the uses that are allowed and the type of review required in each zone district.

<u>DISTRICT</u>	<u>DESIGNATION</u>
Agriculture (Irrigated and Non-Irrigated)	A-1
Fragile Lands	A-2
Single Family Residential	R-1
Mixed Residential	R-2
Commercial, Local	C-1
Commercial, Highway	C-2
Industrial	I-1
Flood Plain	F-1

A. **Agriculture District (A-1)**

1. **Purpose.** The purpose of this District is to protect irrigated and non-irrigated croplands from subdivision and urbanization that would substantially reduce its productivity, without restricting the appropriate use of the land in keeping with its natural characteristics and agricultural functions.

2. **Use by Right.** A use by right (defined as “a use or activity that is permitted in a zoned district without obtaining a Land Use Change Permit **if** the proposed use or activity complies with the applicable zone district

regulations and use restrictions set forth in this Article 3, Zoning, but is not exempt from other Federal, State or local permit requirements or standards and other applicable provisions of this Land Use Code”) in an A-1 District is any of the following uses:

- a. Accessory Building or Structure
- b. Accessory Dwelling Unit
- c. Agricultural Operations, Customary Accessory Buildings and Structures, and Uses Accessory to Agricultural Operations
- d. Agricultural Products and Storage
- e. Christmas Tree Lots (Temporary)
- f. Electric Power Service Line to Accessory Building or for Accessory Use
- g. Equestrian Arena
- h. Farm Market
- i. Farming
- j. Firework Stands (Temporary)
- k. Greenhouse
- l. Helistop
- m. Home Occupation
- n. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)
- o. Manufactured Home
- p. Natural Gas Transmission Line to Accessory Building or for Accessory Use

- q. Nursery
- r. Outdoor Recreation
- s. Parking Lot or Parking Garage (as the principal use of the property)
- t. Ranching
- u. Residence, Single Family (a.k.a. Single-Family Dwelling Unit)
- v. Solar Panels, Solar Arrays (Solar Energy), Non-Commercial
- w. Storage: Supplies, Machinery, Equipment or Products Customary or Accessory to Agriculture Operations
- x. Water Diversion Structures, Ditches and Pipeline to Convey Water or Designed to Serve as a Domestic Supply
- y. Water Impoundment
- z. Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit [WPU] a.k.a. Wind Energy Converter [WEC] a.k.a. Aerogenerator), Non-Commercial

3. Use by Review. A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

B. Fragile Land District (A-2)

1. Purpose. The standards of this District are designed to protect the District according to the fragile character of the natural environment and to preserve and protect the District’s present land use.

2. Use by Right. A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is any of the following uses:

- a. Accessory Building or Structure
- b. Accessory Dwelling Unit
- c. Agricultural Operations, Customary Accessory buildings and Structures, and Uses Accessory to Agricultural Operations
- d. Agricultural Products and Storage
- e. Christmas Tree Lots (Temporary)
- f. Electric Power Service Line to Accessory Building or for Accessory Use
- g. Equestrian Arena
- h. Farm Market
- i. Firework Stands (Temporary)
- j. Greenhouse
- k. Helistop
- l. Home Occupation
- m. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)
- n. Manufactured Home
- o. Natural Gas Transmission Line to Accessory Building or for Accessory Use
- p. Nursery
- q. Outdoor Recreation
- r. Parking Lot or Parking Garage (as the principal use of the property)

- s. Ranching
- t. Residence, Single Family (a.k.a. Single-Family Dwelling Unit)
- u. Solar Panels, Solar Arrays (Solar Energy), Non-Commercial
- v. Storage: Supplies, Machinery, Equipment or Products Customary or Accessory to Agriculture Operations
- w. Water Diversion Structures, Ditches and Pipeline to Convey Water or Designed to Serve as a Domestic Supply
- x. Water Impoundment
- y. Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit [WPU] a.k.a. Wind Energy Converter [WEC] a.k.a. Aerogenerator), Non-Commercial

3. **Use by Review.** A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

C. **Single Family Residential District (R-1)**

1. **Purpose.** The standards of this District are designed to retain and provide areas of low-medium density development characteristically and exclusively for single-family dwelling units.

2. **Use by Right.** A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is any of the following uses:

- a. Accessory Building or Structure
- b. Accessory Dwelling Unit
- c. Christmas Tree Lots (Temporary)

- d. Electric Power Service Line to Accessory Building or for Accessory Use
- e. Fireworks Stands (Temporary)
- f. Home Occupation
- g. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)
- h. Manufactured Home
- i. Natural Gas Transmission Line to Accessory Building or for Accessory Use
- j. Residence, Single Family (a.k.a. Single-Family Dwelling Unit)
- k. Solar Panels, Solar Arrays (Solar Energy), Non-Commercial
- l. Water Diversion Structures, Ditches and Pipeline to Convey Water or Designed to Serve as a Domestic Supply
- m. Water Impoundment
- n. Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit [WPU] a.k.a. Wind Energy Converter [WEC] a.k.a. Aerogenerator), Non-Commercial

3. **Use by Review.** A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

D. Mixed Residential District (R-2)

1. **Purpose.** The standards of this District are designed to retain and provide areas with co-mingling of single-family dwelling units and limited multiple-family dwelling unit structures.

2. **Use by Right.** A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is any of the following uses:

- a. Accessory Building or Structure
- b. Accessory Dwelling Unit
- c. Christmas Tree Lots (Temporary)
- d. Duplex
- e. Electric Power Service Line to Accessory Building or for Accessory Use
- f. Fireworks Stands (Temporary)
- g. Home Occupation
- h. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)
- i. Manufactured Home
- j. Multi-Family Dwelling Unit
- k. Natural Gas Transmission Line to Accessory Building or for Accessory Use
- l. Residence, Single Family (a.k.a. Single-Family Dwelling Unit)
- m. Solar Panels, Solar Arrays (Solar Energy), Non-Commercial
- n. Water Diversion Structures, Ditches and Pipeline to Convey Water or Designed to Serve as a Domestic Supply
- o. Water Impoundment
- p. Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit [WPU] a.k.a.

Wind Energy Converter [WEC] a.k.a.
Aerogenerator), Non-Commercial

3. **Use by Review.** A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

E. **Local Commercial District (C-1)**

1. **Purpose.** The standards of this District are designed to provide for appropriately located groups of retail stores and service outlets serving the daily needs of the local neighborhood, and of such character, scale and operation as to be compatible with the character of predominantly residential areas.

2. **Use by Right.** A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is any of the following uses:

- a. Accessory Building or Structure
- b. Agricultural Equipment, Repairs and Sales
- c. Art Gallery
- d. Automobile, Trailers and Accessory Sales and Rental
- e. Automobile Repair Service (Vehicle Service Center)
- f. Bakery
- g. Bank
- h. Bar
- i. Barber and/or Beauty Shop
- j. Bed & Breakfast
- k. Boarding House/Rooming House

- l. Broadcasting Studio
- m. Business and Professional Offices
- n. Campground
- o. Car Wash
- p. Christmas Tree Lots (Temporary)
- q. Church
- r. Clinic, Medical and Dental
- s. Convenience Store
- t. Dental Office
- u. Drive-in Restaurant
- v. Drugstore (Pharmacy)
- w. Educational Facility
- x. Electric Power Service Line to Accessory Building or for Accessory Use
- y. Farm Market
- z. Fast Food Restaurant
- aa. Fire Station
- bb. Fireworks Stand (Temporary)
- cc. Funeral Home (Mortuary)
- dd. Garden Supply Store
- ee. General Service Establishment – Plumbing Contractor, Electrical Contractor, Building Contractor, Blacksmith, Service and Repair of Appliances, Equipment and Machinery

- ff. Government Offices
- gg. Greenhouse
- hh. Helistop
- ii. Hotel
- jj. Indoor Recreation, Amusement
- kk. Laundromat, Laundry or Dry-Cleaning Facility
- ll. Library
- mm. Liquor Store
- nn. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)
- oo. Manufactured Home/Mobile Home Sales
- pp. Mass Transit Facility
- qq. Medical Office
- rr. Mortuary (Funeral Home)
- ss. Motel
- tt. Museum
- uu. Natural Gas Transmission Line to Accessory Building or for Accessory Use
- vv. Nursery
- ww. Nursing Facility/Convalescent Home
- xx. Outdoor Recreation
- yy. Parking Lot or Parking Garage (as the principal use of the property)

- zz. Professional or Business Office
- aaa. Recycling Collection or Drop Off Center
- bbb. Resort, Lodge, Conference Center
- ccc. Restaurant
- ddd. Retail or Personal Service Facility
- eee. RV Park
- fff. Solar Panels, Solar Arrays (Solar Energy),
Non-Commercial
- ggg. Storage: Mini
- hhh. Storage: Wholesale Business
- iii. Tavern
- jjj. Theater
- kkk. Vehicle Service Center (see Automobile Repair
Service)
- lll. Veterinary Clinic
- mmm. Warehouse (Mini)
- nnn. Warehouse & Distribution Center
- ooo. Water Diversion Structures, Ditches and
Pipeline to Convey Water or Designed to Serve as a
Domestic Supply
- ppp. Water Impoundment
- qqq. Welding Shops
- rrr. Wind Powered Electric Generator (a.k.a.
Wind Turbine a.k.a. Wind Power Unit [WPU]
a.k.a. Wind Energy Converter [WEC] a.k.a.

Aerogenerator, Non-Commercial

3. **Use by Review.** A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

F. **Highway Commercial District (C-2)**

1. **Purpose.** The standards of this District are intended to provide a commercial district permitting those uses which are compatible with automobile traffic and limited neighborhood use.

2. **Use by Right.** A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is any of the following uses:

- a. Accessory Building or Structure
- b. Agricultural Equipment, Repairs and Sales
- c. Art Gallery
- d. Automobile, Trailers and Accessory Sales and Rental
- e. Automobile Repair Service (Vehicle Service Center)
- f. Bakery
- g. Bank
- h. Bar
- i. Barber and/or Beauty Shop
- j. Bed & Breakfast
- k. Boarding House/Rooming House
- l. Broadcasting Studio
- m. Business and Professional Offices

- n. Campground
- o. Car Wash
- p. Christmas Tree Lots (Temporary)
- q. Church
- r. Clinic, Medical and Dental
- s. Convenience Store
- t. Dental Office
- u. Drive-in Restaurant
- v. Drugstore (Pharmacy)
- w. Educational Facility
- x. Electric Power Service Line to Accessory Building or for Accessory Use
- y. Farm Market
- z. Fast Food Restaurant
- aa. Fire Station
- bb. Fireworks Stand (Temporary)
- cc. Funeral Home (Mortuary)
- dd. Garden Supply Store
- ee. General Service Establishment – Plumbing Contractor, Electrical Contractor, Building Contractor, Blacksmith, Service and Repair of Appliances, Equipment and Machinery
- ff. Government Offices
- gg. Greenhouse

- hh. Helistop
- ii. Hotel
- jj. Indoor Recreation, Amusement
- kk. Laundromat, Laundry or Dry-Cleaning Facility
- ll. Library
- mm. Liquor Store
- nn. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)
- oo. Manufactured Home/Mobile Home Sales
- pp. Mass Transit Facility
- qq. Medical Office
- rr. Mortuary (Funeral Home)
- ss. Motel
- tt. Museum
- uu. Natural Gas Transmission Line to Accessory Building or for Accessory Use
- vv. Nursery
- ww. Nursing Facility/Convalescent Home
- xx. Outdoor Recreation
- yy. Parking Lot or Parking Garage (as the principal use of the property)
- zz. Professional or Business Office

- aaa. Recycling Collection or Drop Off Center
- bbb. Resort, Lodge, Conference Center
- ccc. Restaurant
- ddd. Retail or Personal Service Facility
- eee. RV Park
- fff. Solar Panels, Solar Arrays (Solar Energy),
Non-Commercial
- ggg. Storage: Mini
- hhh. Storage: Wholesale Business
- iii. Tavern
- jjj. Theater
- kkk. Vehicle Repair Shop/Body Shop/Paint
Shops
- lll. Vehicle Service Center (see Automobile
Repair Service)
- mmm. Veterinary Clinic
- nnn. Warehouse (Mini)
- ooo. Warehouse & Distribution Center
- ppp. Water Diversion Structures, Ditches and
Pipeline to Convey Water or Designed to Serve as a
Domestic Supply
- qqq. Water Impoundment
- rrr. Welding Shops
- sss. Wind Powered Electric Generator (a.k.a.
Wind Turbine a.k.a. Wind Power Unit [WPU]
a.k.a. Wind Energy Converter [WEC] a.k.a.

Aerogenerator, Non-Commercial

3. **Use by Review.** A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

G. **Industrial District (I-1)**

1. **Purpose.** The standards of this District are designed to retain and provide areas for the manufacture, warehousing, jobbing and limited retailing of products which, by their inherent characteristics and the operations involved, are not obnoxious to one another or surrounding uses.

2. **Use by Right.** A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is any of the following uses:

- a. Accessory Building or Structure
- b. Agricultural Equipment, Repairs and Sales
- c. Agricultural Products and Storage
- d. Agricultural Products Processing, Storage and Distribution
- e. Concrete/Asphalt Batch Plant
- f. Electric Power Service Line to Accessory Building or for Accessory Use
- g. Fabrication: Cabinet Making, Equipment, Glazing, Machinery, Metalworking, Small Appliances, Structures, Vehicles and Woodworking
- h. Fire Station
- i. Helistop
- j. Livestock-Related Uses (as set forth in the “Livestock Use Matrix” attached to the Use Table found in Section 3-401)

- k. Machine Shop
- l. Manufacturing
- m. Natural Gas Transmission Line to Accessory Building or for Accessory Use
- n. Parking Lot or Parking Garage (as the principal use of the property)
- o. Processing: Batch Plant
- p. Processing: Brewing, Bottling Plant
- q. Processing: Custom Meat and Poultry
- r. Processing: Food and Beverages
- s. Processing: Recyclable Material
- t. Recycling Collection or Drop Off Center
- u. Recycling Plant
- v. Salvage Yard
- w. Solar Panels, Solar Arrays (Solar Energy), Non-Commercial
- x. Solid Waste Transfer Facility
- y. Storage: Automobile, RVs, Boats, Commercial
- z. Storage: Bulk Materials, Commercial
- aa. Storage: Cold Storage Plants
- bb. Storage: Heavy Equipment/Machinery
- cc. Storage: Supplies, Machinery, Equipment or Products Customary or Accessory to Oil and Gas Drilling Operations

- dd. Storage: Wholesale Business
- ee. Telecommunication Facilities
- ff. Temporary Batch Plant
- gg. Vehicle Repair Shop/Body Shop/Paint Shop
- hh. Warehouse & Distribution Center
- ii. Water Diversion Structures, Ditches and Pipeline to Convey Water or Designed to Serve as a Domestic Supply
- jj. Water Impoundment
- kk. Welding Shop
- ll. Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit [WPU] a.k.a. Wind Energy Converter [WEC] a.k.a. Aerogenerator), Non-Commercial

3. **Use by Review.** A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code.

H. **Flood Plain District (F-1)**

1. **Purpose.** The purpose of the Flood Plain District is:

a. **Minimize Flood Loss.** To minimize flood loss and disruption of business and commerce by restricting or prohibiting land use within the flood plain that is dangerous to public health, safety and property in times of flooding.

b. **Minimize Flood Damage to Infrastructure.** To minimize flood damage to public utilities, streets and bridges.

c. Promote Effective Expenditures for Flood Control and Relief. To insure the most effective expenditure of public funds for necessary flood control projects and flood relief measures.

d. Minimize Adverse Impact to Flood-Carrying Capacity. To minimize and prevent adverse effects of land use and development activity on the flood-carrying capacity within the flood plain.

e. Minimize Flood Plain Impacts on Other Tracts of Land. To regulate development which would alter or increase the potential damage or impacts of a major storm or exacerbate the flood plain impacts on other tracts of land.

f. Minimize Threat of Pollution of Water Resources. To minimize and prevent pollution of water resources during a major storm by prohibiting the disposal of garbage and other solid waste materials within the flood plain.

g. Promote Agricultural Use. To promote use of the flood plain for agricultural, open space and wildlife refuge purposes.

In order to accomplish the foregoing purposes, Otero County may use any or all of the following methods:

a. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

d. Control filling, grading, dredging and other development which may increase flood damage;

e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;

2. Use by Right. A use by right, as defined in Article 16, *Definitions*, of this Land Use Code, is set forth in Section 3-208 (7), (8) and (9).

3. Use by Review. A use by review is any use that is not a “use by right” as defined in Article 16, *Definitions*, of this Land Use Code, or a “Prohibited Use”.

4. Prohibited Uses. Uses prohibited in a Flood Plain District are set forth in Section 3-208 (7), (8) and (9).

Section 3-102

Planned Unit Development (PUD). The PUD is a type of customized zoning district, intended to encourage greater flexibility and innovation. The PUD provides an opportunity for a mixture of uses in a coordinated manner that may not be possible in a traditional zoning district. PUDs are allowed by statute at Section 24-67-101, *et seq.*, C.R.S. The PUD process is set forth in Article 6 of these Regulations.

A. Purpose.

1. Integration of Uses. To allow development concepts which integrate commercial, recreational, and educational facilities with residential development.

2. Efficient Land Use. To facilitate efficient land use that promotes and expands opportunities for public transportation and for efficient networks of streets and utilities.

Section 3-103

Land Use Not Included in These Regulations. Land use not included in 3-401, *Use Table* of this Article, shall be considered a “use by review”, as defined in Article 16, *Definitions*, of this Land Use Code. The applicant must file an application for land use change subject to Major Impact Review as set forth in Article 2, Section 2-105 A, *Land Use Changes Other Than Division of Land*, and shall be subject to the review process found in Article 4,

Section 4-203, *Major Impact Review Process*, and the standards set forth in Section 7-903, *Review Criteria for Request to Add Use(s) to Zone District Regulations*, as well as any other applicable provisions of this Land Use Code.

DIVISION 2 ZONE DISTRICT REGULATIONS

Unless otherwise provided in these Regulations, land uses and activities are subject to the following lot and building requirements, in addition to the applicable land use standards set forth in Article 7, *Standards*. Minimum requirements for lot size, setbacks and height are summarized for each zone district in Section 3-402, *Table: Lot Size and Setback Requirements*.

Section 3-201 **Agriculture District (A-1)** (See definition at Section 3-101 (A))

A. **Lot Area.** No parcel of land shall be less than one-half acre (or 21,780 square feet) in size if in the A-1 Zone.

B. **Lot Dimensions.** No parcel of land shall be less than seventy (70) feet in width and one hundred forty (140) feet in depth, while complying with lot area standards.

C. **Lot Coverage.** The total ground area covered by all buildings on the parcel shall not exceed fifty (50) percent of the total ground area of the parcel.

D. **Building Heights.**

1. Farm use: none

2. Non-farm use: forty-five (45) feet

E. **Front Yard Setback.** All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. **Side Yard Setback.** All buildings shall be set back a minimum of ten (10) feet from a side lot line.

G. **Rear Yard Setback.** All buildings shall be set back a minimum of ten (10) feet from a rear lot line.

H. **Parking Space.** Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. None required.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

L. Performance Standards and Best Management Practices.

1. No person(s) owning, leasing or renting land in the A-1, Agriculture District, is to undertake any activity that would cause any erosion of soil, most specifically by wind. Land owners in this District are responsible for maintaining their land using NRCS standards for soil conservation. The following best management practices are minimum standards to ensure that the fragile nature of the land is best protected:

a. **Planning.** Soil erosion by wind is a serious threat to growing crops, our land resource and the air we breathe. The best solution to soil erosion is long-term planning.

(1) Be aware of and monitor highly erodible areas such as knolls, wheel traffic areas, blowouts, and areas where native vegetation, crop stands or crop yield is low.

(2) Plan activities that might disturb soils during months when strong winds are least likely and when soil moisture is at its highest. Generally, February to May are the windiest months with prevailing winds from the southwest.

(3) The single most practical and effective method of wind erosion control is maintaining sufficient vegetative cover on the soil surface. Conservation practices such as planting wind breaks, control of harmful vegetation, and condition-appropriate stocking rates are to be used, whenever

applicable, to maintain and encourage adequate vegetative cover.

b. Grazing and Stocking Rates. Recommended grazing and stocking rates established by the NRCS are to be utilized for maximum protection of the land. Grazing practices and stocking rates are based on information found in the individual range site descriptions, published by the NRCS, for land in the A-1, Agriculture District Zone. Environmental and climatic conditions in this Zone may preclude the grazing of any livestock.

c. Emergency Control. Emergency control techniques can lessen anticipated soil erosion or slow wind erosion once started. These techniques are last-resort options and should not be relied upon for continued use or primary erosion control. The following emergency control methods are available to reduce damage from wind-induced soil erosion that already has started or is anticipated:

- (1) Tillage to produce ridges and clods and bring moisture to the surface;
- (2) Addition of crop residue;
- (3) Application of livestock manure or biosolids;
- (4) Temporary, artificial wind barriers;
- (5) Soil additives or spray-on adhesives;

Section 3-202

Fragile Lands District (A-2) (See definition at Section 3-101 (B))

A. Lot Area. No parcel of land shall be less than one-half acre (or 21,780 square feet) in size if in the A-2 Zone.

B. Lot Dimensions. No parcel of land shall be less than seventy (70) feet in width and one hundred forty (140) feet in depth, while complying with lot area standards.

C. **Lot Coverage.** The total ground area covered by all buildings on the parcel shall not exceed fifty (50) percent of the total ground area of the parcel.

D. **Building Heights.**

1. Ranching use: none
2. Non-ranching use: forty-five (45) feet

E. **Front Yard Setback.** All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. **Side Yard Setback.** All buildings shall be set back a minimum of ten (10) feet from a side lot line.

G. **Rear Yard Setback.** All buildings shall be set back a minimum of ten (10) feet from a rear lot line.

H. **Parking Space.** Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. **Loading Space.** None required.

J. **Fences, Walls and Hedges.** See Article 3, *Zoning*, Section 3-301 (B).

K. **Signs.** Signs shall be as provided in Article 11, *Signs*.

L. **Performance Standards and Best Management Practices.**

1. No person or persons owning, leasing or renting land in the A-2, Fragile Land District, is to undertake any activity that would cause any erosion of soil, most specifically by wind. Land owners in this District are responsible for maintaining their land using NRCS standards for soil conservation. The following best management practices are minimum standards to ensure that the fragile nature of the land is best protected:

- a. **Planning.** Soil erosion by wind is a serious threat to growing crops, our land resource and the

air we breathe. The best solution to soil erosion is long-term planning.

(1) Be aware of and monitor highly erodible areas such as knolls, wheel traffic areas, blowouts, and areas where native vegetation, crop stands or crop yield is low.

(2) Plan activities that might disturb soils during months when strong winds are least likely and when soil moisture is at its highest. Generally, February to May are the windiest months with prevailing winds from the southwest.

(3) The single most practical and effective method of wind erosion control is maintaining sufficient vegetative cover on the soil surface. Conservation practices such as planting wind breaks, control of harmful vegetation, and condition-appropriate stocking rates are to be used, whenever applicable, to maintain and encourage adequate vegetative cover.

b. Grazing and Stocking Rates. Recommended grazing and stocking rates established by the NRCS are to be utilized for maximum protection of the land. Grazing practices and stocking rates are based on information found in the individual range site descriptions, published by the NRCS, for land in the A-2, Fragile Land District Zone. Environmental and climatic conditions in this Zone may preclude the grazing of any livestock.

c. Emergency Control. Emergency control techniques can lessen anticipated soil erosion or slow wind erosion once started. These techniques are last-resort options and should not be relied upon for continued use or primary erosion control. The following emergency control methods are available to reduce damage from wind-induced soil erosion that already has started or is anticipated:

- (1) Tillage to produce ridges and clods and bring moisture to the surface;
- (2) Addition of crop residue;
- (3) Application of livestock manure or biosolids;
- (4) Temporary, artificial wind barriers;
- (5) Soil additives or spray-on adhesives;

Section 3-203

Single Family Residential District (R-1) (See definition at Section 3-101 (C))

A. Lot Area. No parcel of land shall be less than seven thousand (7000) square feet, nor shall any parcel of land existing in single ownership at the time of passage of this Regulation henceforth be divided for sale in units of less than seven thousand (7000) square feet.

B. Lot Dimensions. No parcel of land shall be less than fifty (50) feet in width and one hundred forty (140) feet in depth, while complying with lot area standards.

C. Lot Coverage. The total ground area covered by all buildings on the parcel shall not exceed fifty (50) percent of the total ground area of the parcel.

D. Building Heights. The height of any principle structure shall not exceed thirty (30) feet and the height of any accessory structure shall not exceed thirty (30) feet.

E. Front Yard Setback. All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. Side Yard Setback. All buildings shall be set back a minimum often (10) feet from a side lot line.

G. Rear Yard Setback. All buildings shall be set back a minimum often (10) feet from a rear lot line.

H. Parking Space. Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. None required.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

Section 3-204

Mixed Residential District (R-2) (See definition at Section 3-101 (D))

A. Lot Area. No parcel of land shall be less than seven thousand (7000) square feet, nor shall any parcel of land existing in single ownership at the time of passage of this Regulation henceforth be divided for sale in units of less than seven thousand (7000) square feet.

B. Lot Dimensions. No parcel of land shall be less than fifty (50) feet in width and one hundred (100) feet in depth, while complying with lot area standards.

C. Lot Coverage. The total ground area covered by all buildings on the parcel shall not exceed fifty (50) percent of the total ground area of the parcel.

D. Building Heights. The height of any principle structure shall not exceed thirty (30) feet and the height of any accessory structure shall not exceed thirty (30) feet.

E. Front Yard Setback. All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. Side Yard Setback. All buildings shall be set back a minimum often (10) feet from a side lot line.

G. Rear Yard Setback. All buildings shall be set back a minimum often (10) feet from a rear lot line.

H. Parking Space. Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. Off-street loading requirements shall be as

provided in Article 7, *Standards*, Division 3, Section 7-304.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

Section 3-205

Local Commercial District (C-1) (See definition at Section 3-101 (E))

A. Lot Area. No parcel of land shall be less than five thousand (5000) square feet, nor shall any parcel of land existing in single ownership at the time of passage of this Regulation henceforth be divided for sale in units of less than five thousand (5000) square feet.

B. Lot Dimensions. No parcel of land shall be less than fifty (50) feet in width and fifty (50) feet in depth, while complying with lot area standards.

C. Lot Coverage. The buildings on the parcel may cover 100% of the total ground area of the parcel, excluding parking/loading zones.

D. Building Heights. The height of any principle structure shall not exceed sixty (60) feet and the height of any accessory structure shall not exceed thirty (30) feet.

E. Front Yard Setback. No requirement.

F. Side Yard Setback. No requirement.

G. Rear Yard Setback. No requirement.

H. Parking Space. Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. Off-street loading requirements shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

Section 3-206

Highway Commercial District (C-2) (See definition at Section

3-101 (F))

A. Lot Area. No parcel of land shall be less than ten thousand (10,000) square feet, nor shall any parcel of land existing in single ownership at the time of passage of this Regulation henceforth be divided for sale in units of less than ten thousand (10,000) square feet.

B. Lot Dimensions. No parcel of land shall be less than fifty (50) feet in width and fifty (50) feet in depth, while complying with lot area standards.

C. Lot Coverage. The total ground area covered by all buildings on the parcel shall not exceed fifty (50) percent of the total ground area of the parcel.

D. Building Heights. The height of any principle structure shall not exceed sixty (60) feet and the height of any accessory structure shall not exceed thirty (30) feet.

E. Front Yard Setback. All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. Side Yard Setback. All buildings shall be set back a minimum of ten (10) feet from a side lot line.

G. Rear Yard Setback. All buildings shall be set back a minimum of ten (10) feet from a rear lot line.

H. Parking Space. Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. Off-street loading requirements shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

L. Performance Standards.

1. Sounds resulting from the commercial or business activity shall not exceed the maximum permissible noise levels set forth in Section 25-12-103, C.R.S.
2. No vibration resulting from the commercial or business activities shall be measurable at the outer boundaries of the parcel.
3. No obnoxious or noxious odors resulting from the commercial or business activities shall be discernible at the outer boundaries of the parcel.
4. All commercial or business activities must meet or exceed State of Colorado Air Quality standards. (See 25- 7-101, *et seq.*, C.R.S.)
5. No noxious gases resulting from the commercial or business activity shall be discernible at the outer boundaries of the parcel.
6. No glare of heat shall be discernible beyond the outer boundaries of the parcel.
7. Commercial wastes shall be so deposited, stored, and transported from the parcel as to not be objectionable to adjacent properties or create a public nuisance.
8. All outdoor storage areas shall be screened in tight fencing or closely planted landscape material, sufficient in height to totally obscure the storage areas from the view of any State or Federal Highway, and such areas and all others shall be maintained to have an orderly appearance.
9. Areas along the County road or highway frontage and/or visible from the highway are to be landscaped with lawn, plant materials, and/or trees. These areas are to be maintained in an aesthetically pleasant manner.

Section 3-207

Industrial District (I-1) (See definition at Section 3-101 (G))

- A. **Lot Area.** No parcel of land shall be smaller than ten thousand (10,000) square feet, nor shall any parcel of land existing in single ownership at the time of passage of this Regulation

henceforth be divided for sale in units smaller than ten thousand (10,000) square feet.

B. Lot Dimensions. No parcel of land shall be less than fifty (50) feet in width and fifty (50) feet in depth, while complying with lot area standards.

C. Lot Coverage. No requirement.

D. Building Heights. No limit except as provided by other requirements of this Regulation.

E. Front Yard Setback. All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. Side Yard Setback. All buildings shall be set back a minimum of ten (10) feet from a side lot line.

G. Rear Yard Setback. All buildings shall be set back a minimum of ten (10) feet from a rear lot line.

H. Parking Space. Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. Off-street loading requirements shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

L. Performance Standards.

1. Sounds resulting from the industrial or business activity shall not exceed an intensity of sixty (60) decibels at the outer boundaries of the parcel.

2. No vibration resulting from the industrial or business activities shall be measurable at the outer boundaries of the parcel.

3. No obnoxious or noxious odors resulting from the industrial or business activities shall be discernible at the outer boundaries of the parcel.
4. All commercial or business activities must meet or exceed State of Colorado Air Quality standards. (See 25-7-101, *et seq.*, C.R.S.)
5. No obnoxious or noxious odors resulting from the industrial or business activities shall be discernible at the outer boundaries of the parcel.
6. No glare of heat shall be discernible beyond the outer boundaries of the parcel.
7. Industrial wastes shall be so deposited, stored, and transported from the parcel as to not be objectionable to adjacent properties or create a public nuisance.
8. All outdoor storage areas shall be screened in tight fencing or closely planted landscape material, sufficient in height to totally obscure the storage areas from the view of any State or Federal Highway, and such areas and all others shall be maintained to have an orderly appearance.
9. Areas along the County road or highway frontage and/or visible from the highway are to be landscaped with lawn, plant materials and/or trees. These areas are to be maintained in an aesthetically pleasant manner.

Section 3-208

Flood Plain (F-1) (See definition at Section 3-101 (H))

- A. Lot Area.** No parcel of land shall be less than one-half acre (or 21,780 square feet) in size if in the F-1 Zone.
- B. Lot Dimensions.** No parcel of land shall be less than fifty (50) feet in width and one hundred (100) feet in depth, while complying with lot area standards.
- C. Lot Coverage.** The total ground area covered by all buildings on the parcel shall not exceed fifty percent (50%) percent of the total ground area of the parcel.

D. Building Heights. The height of any principle structure shall not exceed thirty-five (35) feet and the height of any accessory structure shall not exceed twenty (20) feet.

E. Front Yard Setback. All buildings shall be set back not less than thirty (30) feet from the front lot line.

F. Side Yard Setback. All buildings shall be set back a minimum of ten (10) feet from a side lot line.

G. Rear Yard Setback. All buildings shall be set back a minimum of ten (10) feet from a rear lot line.

H. Parking Space. Off-street parking shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

I. Loading Space. Off-street loading requirements shall be as provided in Article 7, *Standards*, Division 3, Section 7-304.

J. Fences, Walls and Hedges. See Article 3, *Zoning*, Section 3-301 (B).

K. Signs. Signs shall be as provided in Article 11, *Signs*.

L. Supplementary Regulations:

1. **Applicability and Liability and Disclosure.**

a. **Applicability.**

(1) These Regulations shall apply to all areas located within the Flood Plain District.

(2) If a structure, lot or parcel of land lies partly within the Flood Plain District, the part of the structure, lot or parcel lying within the District shall meet all requirements for the District.

b. **Liability.** The degree of flood protection intended to be provided by these Regulations has been determined to be reasonable for the protection of life and property and is based upon engineering and scientific methods of study; floods of greater

magnitude may occur and flood heights could be increased by man-made or natural causes. These Regulations do not imply that the areas outside the Flood Plain District will be free from flooding or flood damages, or that compliance with these regulatory provisions will prevent flood loss or flood damage to land uses allowed within the Flood Plain District. These Regulations shall not create a liability on the part of, or a cause of action against Otero County or any officer or employee thereof for any flood damages that may result from reliance on these regulatory provisions or any administrative decision.

c. **Disclosure to Purchaser or Lessee.** If a permit issued pursuant to these Regulations allows a building or structure to be located in the flood plain, that the building or structure is located in a flood plain must be disclosed to the purchaser or lessee in the purchase contract, deed or lease.

2. Other Permits and Approvals. In addition to the permit and approval requirements of these Regulations, the applicant shall meet all other permit and approval requirements of local, State and Federal agencies, such as grading and access permits and Section 404 permit requirements of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

3. Maintenance of Records of Flood Plain Development. The Land Use Administrator shall maintain for public inspection all records pertaining to existing and new development within the Flood Plain District and to administration of the regulatory provisions of the Flood Plain District, including permits issued or denied and the disposition of requests for variance.

a. **Record of Permit Application.**

(1) The application materials.

(2) Written materials submitted to the County by an individual or agency regarding the application.

- (3) The Staff Report, consultant reports, and referral agency reports.
- (4) Written documentation of application approval or denial.
- (5) If applicable, documentation of application to appeal the decision, or Call-up by the Board of County Commissioners.
- (6) Record of decision regarding appeal.
 - (i) The audio tape or videotape record of the public hearing proceedings.
 - (ii) The minutes of the public hearing.
 - (iii) Written documentation of the Board's decision. [e.g. adopted Resolution]

b. **Record of Variance Requests.** The record of request for variance from the requirements of these flood plain development regulations shall consist of the following:

- (1) The application materials.
- (2) Written materials submitted to the County by an individual or agency regarding the application.
- (3) The Staff Report, consultant reports, and referral agency reports.
- (4) Record of decision by the Board of County Commissioners.
 - (i) The audio tape or video tape record of the public hearing proceedings.

(ii) The minutes of the public hearing by the Board of County Commissioners.

(iii) Written documentation of the decision by the Board of County Commissioners. [e.g. adopted Resolution]

(5) If the property is located in a Floodplain District, the record of request for variance shall be reported to the Federal Emergency Management Agency upon request.

c. Record of Lowest Floor Elevations and Flood Proofing.

(1) Records establishing the actual elevation of the lowest floor, including the basement, for all new or substantially improved structures.

(2) For all new or substantially improved structures that have been flood proofed, records that contain the following information:

(i) The elevation to which the structure is flood proofed.

(ii) Certification, pursuant to the requirements of these Regulations, that the flood proofing methods meet the flood proofing criteria of these Regulations.

4. Designation of Boundaries of Flood Plain District.

a. The Flood Plain District shall be comprised of the 100-year flood plain of the rivers and creeks in unincorporated Otero County, and includes the following:

(1) Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Otero County, Colorado and unincorporated areas," dated August 19, 1985, with accompanying Flood Insurance Rate Map (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Land Use Code. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Land Use Code and may be supplemented by studies designated and approved by Otero County. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

(2) Areas in and adjacent to a stream or other watercourse within the unincorporated area of Otero County which could be inundated by a 100-year flood for that water course.

(3) Areas in and adjacent to a stream channel or other watercourse which are subject to flooding as the result of a base flood and are equivalent to the "Area of Special Flood Hazards" designated on Flood Insurance Rate Maps, and "Flood-prone Areas" on US Geological Survey Flood-prone Area Maps.

(4) Areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F).

b. The Land Use Administrator shall review flood plain reports approved by the Colorado Water Conservation Board and make recommendations to the Planning Commission and Board of County Commissioners regarding necessary amendments or additions to the Flood Plain District.

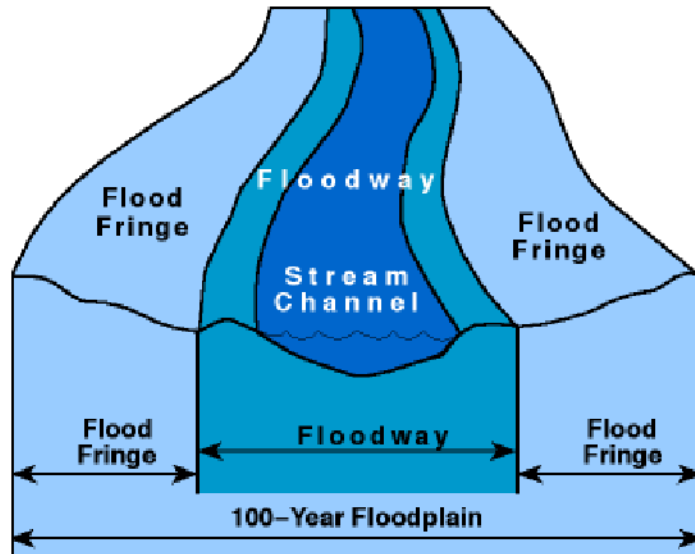
c. The Land Use Administrator shall obtain, review and reasonably utilize any base flood elevation data available from State, Federal and other sources.

5. **Division of Flood Plain by Degree and Nature of Flooding.** To maximize opportunity for appropriate land use within the Flood Plain District, the flood plain shall be divided into the following areas, based upon the degree and nature of flooding:

a. **Floodway.** The Floodway is the high hazard area comprised of the channel of a stream or other watercourse plus any adjacent flood plain areas which are reasonably required to carry and discharge the floodwaters of a base flood, and which must be kept free of development so the base flood can pass with no increase in the water surface elevation or the energy grade line, or pass with no more than a 0.5' increase in flood height.

b. **Flood Fringe.** The Flood Fringe is a low hazard area comprised of the area between the outer boundary of the Floodway and the outer limit of the 100-year flood plain.

(1) For all rivers, the Floodway-Flood Fringe boundary shall be a minimum of twenty-five (25) feet from the natural streambank.



c. **Flood-prone Area.** The Flood-prone Area is an approximate location encompassing the area in and adjacent to a stream or other watercourse, which is subject to flooding as the result of a base flood, the water surface elevations of which have not been determined by detailed engineering study. The Flood-prone Area is equivalent to the Area of Special Flood Hazards designated as “Zone A” on Flood Insurance Rate Maps (FIRM), and to the Flood-prone Areas designated on U.S. Geological Survey Flood-prone Area maps.

(1) The specific extent of the flood hazard has not been determined in a Flood-prone Area. The boundaries of the Flood-prone Area are based upon physical factors indicating flow and direction of water, historical flood experience, or other readily available data.

6. **Determination of Location Within Floodway or Flood Fringe Areas.** The Land Use Administrator shall make the determination as to whether the site of a proposed land use is within a Floodway or Flood Fringe Area.

a. **Notice of Floodway or Flood Fringe Determination.** The Land Use Administrator shall inform the applicant in writing whether the site of

the proposed land use is within a Floodway or Flood Fringe Area.

(1) Applications for proposed land use located within the Floodway shall be subject to the regulatory provisions set forth in Section 3-208, L, 7, *Floodway Use Restrictions*.

(2) Applications for proposed land use located within the Flood Fringe Area shall be subject to the regulatory provisions set forth in Section 3-208, L, 8, *Flood Fringe Area Use Restrictions*.

b. Studies Required for Determination of Flood Hazard in Flood-Prone Area. Public health, safety and welfare require that an application for land use in a Flood-prone Area, which proposes use or activity other than that allowed pursuant to Section 3-208, L, 9, *Flood-Prone Area Use Restrictions* shall not be accepted as complete unless it is accompanied by the results of studies necessary for the Land Use Administrator to determine whether the proposed development is located in a Floodway or Flood Fringe Area.

(1) The required studies shall meet the technical criteria established by the Colorado Water Conservation Board and FEMA.

c. Areas Not Previously Mapped. The applicant shall be responsible for flood plain studies and appropriate maps, prepared by a qualified professional engineer, if there is reasonable indication that an area of the site for a proposed land use is located within the 100-year flood plain, but no studies or maps have been prepared.

(1) The studies and maps shall determine the depth and elevation of the base flood for the entire area of the site and for two hundred yards upstream and

downstream from the site, with appropriate cross sections.

(2) The flood plain studies shall meet the technical criteria established by the Colorado Water Conservation Board and the Federal Emergency Management Agency for the review and designation of flood plain delineation studies. The Land Use Administrator shall determine the map scales that will be required.

7. **Floodway Use Restrictions.** The following use restrictions shall apply to areas within the Flood Plain District that are designated as a Floodway:

a. **Prohibited Uses and Activities.** No development, encroachment, use or alteration in, on or over any part of the Floodway shall be permitted which alone or cumulatively with other uses would cause or result in:

(1) Occupation of permanent or temporary structures.

(2) Development or use of overnight campgrounds or recreational vehicle (RV) parks.

(3) Development of solid waste disposal sites and central collection sewage treatment facilities.

(4) Storing or processing of materials that are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal or plant life.

(5) The potential of solid debris (including garages, storage sheds, decks, fences) or waste (including septic systems) being carried downstream by floodwaters.

(6) An increase in the level or likelihood of flooding on the property or on any other

properties that may be impacted by the proposed land use.

(7) An adverse effect on the efficiency and capacity of the floodway or change the direction of flow or cause any increase in the base flood elevation or velocities during the occurrence of the base flood discharge.

b. **Allowed Uses and Activities.** The following uses are allowed within the Floodway to the extent that the proposed uses comply with applicable standards for the zone district, the use restrictions set forth in Section 3-208, L., 7., a., *Prohibited Uses and Activities*, and the standards set forth in Article 7, Section 7-701, *Additional Standards Within Flood Plain Districts*.

(1) Agricultural uses such as farming, pasture, grazing, sod farming and wild crop harvesting.

(2) Lawns, gardens, open areas and driveways that are accessory to residential uses.

(3) Recreational and open space uses not requiring permanent or temporary structures designed for human habitation.

(4) Roadways, highways, bridges and railroads.

(5) If the applicant can demonstrate through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that a proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge, the encroachment would be allowed in this instance; however, all new construction and substantial improvement shall comply with all

applicable flood hazard reduction provisions of this Land Use Code.

(6) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a Community (as defined in Article 16 of this Land Use Code) may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the Community first applies for a Conditional Letter of Map Revision (CLOMR) and floodway revision through FEMA.

8. **Flood Fringe Area Use Restrictions.** The following use restrictions shall apply to all areas within the Flood Plain District that are designated as a Flood Fringe:

a. **Prohibited Uses and Activities.** No development, encroachment, use or alteration in, on or over any part of the Flood Fringe areas shall be permitted which alone or cumulatively with other uses would cause or result in:

(1) Disposal of garbage or other solid or liquid waste materials.

(2) Storing or processing of materials that are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal or plant life.

(3) An adverse effect on the efficiency and capacity of the floodway or change the direction of flow or cause any increase in the base flood elevation or velocities during the occurrence of the base flood discharge.

(4) The potential of solid debris (including storage sheds, decks, fences) or waste (including septic systems) being carried downstream by floodwaters.

b. **Allowed Uses and Activities.** The following uses are allowed within the Flood Fringe

to the extent that the proposed uses comply with applicable standards for the zone district, the use restrictions set forth in Section 3-208, L., 8., a., *Prohibited Uses and Activities*, and the standards set forth in Article 7, Section 7-701, *Additional Standards Within Flood Plain Districts*.

- (1) Residential buildings and structures.
- (2) Non-residential buildings and structures.
- (3) Agricultural uses such as farming, pasture, grazing, wild crop harvesting, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry and sod farming.
- (4) Recreational uses including golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, trap and skeet ranges, hunting and fishing areas, fish hatcheries and hiking, biking and equestrian trails.
- (5) Lawns, open areas, gardens, driveways, and play areas that are accessory to residential uses.
- (6) Uses accessory to open space.
- (7) Storage yards for equipment or machinery easily moved or not subject to flood damage.
- (8) Dams, power plants, spillways, water monitoring devices, water supply ditches, irrigation ditches and laterals, structures for irrigation, structures for drainage and flood control, utility lines and pipelines.

(9) Roadways, highways, bridges, railroads, parking areas, loading areas, and airport landing strips.

9. **Flood-Prone Area Use Restrictions.** The following use restrictions shall apply to any area identified as a Flood-prone Area pursuant to these Regulations:

a. **Prohibited Uses and Activities.** No development, encroachment, use or alteration in, on or over any part of a Flood-prone Area shall be permitted which alone or cumulatively with other uses would cause or result in:

(1) Disposal of garbage or other solid waste materials.

(2) Storing or processing of materials that are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal or plant life.

(3) The potential of solid debris (including garages, storage sheds, decks, fences) or waste (including septic systems) being carried downstream by floodwaters.

(4) An increase in the level or likelihood of flooding on the property or on any other properties that may be impacted by the proposed land use.

(5) An adverse effect on the efficiency and capacity of the floodway or change the direction of flow or cause any increase in the base flood elevation or velocities during the occurrence of the base flood discharge.

b. **Allowed Uses and Activities.** The following uses are allowed within the Flood-prone Areas to the extent that proposed use complies with applicable standards for the zone district, the use restrictions set forth in Section 3-208, L., 9., a., *Prohibited Uses and Activities*, and the standards set

forth in Article 7, Section 7-701, *Additional Standards Within Flood Plain Districts*.

(1) Agricultural uses such as farming, pasture, grazing, wild crop harvesting, outdoor plant nurseries, horticulture, viticulture, forestry truck farming and sod farming.

(2) Private and public recreational uses including golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, trap and skeet ranges, hunting and fishing areas, fish hatcheries and hiking, biking and equestrian trails.

(a) Structures accessory to such uses shall not be located in a Flood-prone area.

10. Regulatory Floodway Not Designated.

a. When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Flood Insurance Rate Maps (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the County.

b. The County may approve certain development within Zones A1-30, AE, AFT on the Flood Insurance Rate Maps (FIRM) which increases the water surface elevation of the base flood by more than one-half foot, provided that the County first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), pursuant to 44 CFR Chapter 1, Section

65.12, of the National Flood Insurance Program regulations.

11. **Alteration of a Watercourse.** For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

a. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

b. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

c. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

d. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.

e. All activities within the regulatory floodplain shall meet all applicable Federal, State and Otero County floodplain requirements and regulations.

f. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section 3-208, L. (7) b. of this Article.

g. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

12. **Properties Removed from the Floodplain by Fill.**

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

a. **Residential Construction.** The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

b. **Nonresidential Construction.** The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

13. **Critical Facilities.** A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

a. **Classification.** Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal

Services.

(1) **Essential Services.** Essential facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines and consist of:

- i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions);
- iii. Designated emergency shelters;
- iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- vi. Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions, and associated infrastructure [aviation control towers, air traffic control centers, and emergency equipment aircraft hangars]).

1. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

2. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of Otero County Commissioners that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that

redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood.

Evidence of ongoing redundancy shall be provided to the Otero County Commissioners on an as-needed basis upon request.

(2) **Hazardous Materials.** Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:

- i. Chemical and pharmaceutical

plants (chemical plant, pharmaceutical manufacturing);

ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;

iii. Refineries;

iv. Hazardous waste storage and disposal sites; and

v. Above ground gasoline or propane storage or sales centers.

1. Hazardous materials facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also

known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29

C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this Land Use Code, but exclude later amendments to or editions of the regulations.

2. Specific exemptions to this category include:

a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.

b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material

does not pose a major threat to the public.

- c. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

(1) These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this *Article*.

(3) **At-Risk Populations.** At-risk population facilities include medical care, congregate care and schools. These facilities consist of:

- i. Elder care (nursing homes);
- ii. Congregate care serving 12 or more individuals (day care and assisted living);
- iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

(4) **Vital to Restoring Normal Services.** Facilities vital to restoring normal services including government operations. These facilities consist of:

- i. Essential government operations (public records, courts, jails, building permitting and inspection services, community

administration and management, maintenance and equipment centers);

ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

1. These facilities may be exempted if it is demonstrated to the Otero County Commissioners that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Land Use Code, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Otero County Commissioners on an as-needed basis upon request.

b. **Protection for Critical Facilities.** All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Land Use Code, protection shall include one of the following:

- (1) Location outside the Special Flood Hazard Area; or
- (2) Elevation of the lowest floor or

floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

- c. **Ingress and Egress for New Critical Facilities.** New Critical Facilities shall, when practicable as determined by the Otero County Commissioners, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

14. **Variance.** Any request for variance from the requirements of the flood plain development regulations shall follow the procedure set forth at Section 4-501 of the Land Use Code.

a. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Article 7, Section 7-701 (B) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

b. Upon consideration of the factors noted above, the Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of the flood plain development regulations found in Article 3, Section 3-101 (H.).

c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

e. Variances shall only be issued upon:

(1) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(2) Showing a good and sufficient cause;

(3) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(4) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

g. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

(1) The criteria outlined in Article 3, Section 3-208 (L) (14) (a) – (e) are met, and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

15. **Prior Approved Activities.** Any activity for which a Floodplain Development Permit was issued by Otero County or a CLOMR was issued by FEMA prior to December 23, 2013, may be completed according to the standards in place at the time of the permit or CLOMR

B. Dimensional Limitations. An Accessory Dwelling Unit shall conform to all setback, height and other dimensional limitations of the underlying zone district.

C. Compliance with Standards. An Accessory Dwelling Unit shall comply with the standards set forth in Article 7, Section 7-802, *Additional Standards Applicable to Accessory Dwelling Unit*.

Section 3-303

Campground/Recreational Vehicle Park.

A. Minimum Setbacks.

1. Vehicles. Recreational vehicles and/or tents shall be set back a minimum of twenty (20) feet from each other.

2. Boundaries. The Campground/Recreational Vehicle Park shall comply with the following minimum setbacks:

a. Front Yard. The Campground /Recreational Vehicle Park shall be set back a minimum of fifty (50) feet from an arterial or collector road or twenty-five (25) feet from a local road.

b. Side or Rear Property Line. The Campground/Recreational Vehicle Park shall be set back a minimum of twenty (20) feet from any side or rear property line.

B. Minimum Park Area. A Campground/Recreational Vehicle Park shall contain a minimum of five (5) acres.

C. Maximum Park Density. A Campground/Recreational Vehicle Park shall not contain more than twelve (12) campsites per acre.

D. Recreational Vehicle Use Restricted. Use of a recreational vehicle for storage purposes, as an accessory structure, or as a dwelling unit for any purpose other than a temporary dwelling unit for travel, recreation or vacation use is prohibited.

E. Compliance with Standards. A Campground/Recreational Vehicle Park shall comply with the standards set forth in Article 7,

Section 7-803, *Additional Standards Applicable to Campground / Recreational Vehicle (RV) Park.*

Section 3-304

Church.

A. The structural height limitations of the zone district shall not apply to church spires, belfries, or cupolas.

Section 3-305

Concentrated Animal Feeding Operation.

A. **Location.** All new Concentrated Animal Feeding Operations shall be located:

1. At least one-half mile from a U.S. or State highway;
2. At least two miles from an incorporated town/city;
3. At least two miles from a residential or cluster development;

B. **Expansion.** Any expansion of a Concentrated Animal Feeding Operation shall be considered a “Use by Review” as defined in Article 16, *Definitions*.

C. **Compliance with Standards.** A Concentrated Animal Feeding Operation shall comply with the standards set forth in Article 7, Section 7-804, *Additional Standards Applicable to Concentrated Animal Feeding Operation*.

Section 3-306

Confined Animal Feeding Operation.

A. **Location.** In an A-1, A-2 and F-1 Zone District, a Small Confined Animal Feeding Operation shall be located:

1. At least one-half mile from an incorporated town/city;
2. At least one-half mile from a residential or cluster development;

B. **Expansion.** Any expansion of a confined animal feeding operation shall be considered as a “Use by Review” as defined in Article 16, *Definitions*.

C. **Compliance with Standards.** A Confined Animal Feeding Operation shall comply with the standards set forth in Article 7,

Section 7-804, *Additional Standards Applicable to Confined Animal Feeding Operation.*

Section 3-307 **Home Occupation.**

A. **Compliance with Standards.** All Home Occupations shall comply with the approval standards for Home Occupation set forth in Article 7, *Standards*, Section 7-808.

Section 3-308 **Manufactured Home.**

A. **Use.** A manufactured home shall be used for the purpose of a single-family dwelling unit. Use of a manufactured home as an accessory structure or for the purpose of storage is allowed if the structure meets HUD-building standards and Building Regulations. Those manufactured homes already in existence, properly permitted, and currently in use at the time of the passage of this Land Use Code shall be treated as a nonconforming land use in accordance with Article 10 of this Land Use Code.

B. **Temporary Use as Construction Office.** A manufactured home may be used as a temporary office located at a construction site. Any other use of a manufactured home as a temporary structure shall be considered a “use by review” and subject to the review process found in Article 4, Section 4-203, Major Impact Review Process.

C. **Compliance with Standards.** A manufactured home shall comply with the standards set forth in Article 7, *Standards*, 7-810.

Section 3-309 **Recycling Collection Center.**

A. Collection and drop-off centers shall be considered customary and incidental to solid waste transfer facilities.

Section 3-310 **Salvage Yard.**

A. **Minimum Lot Size.** A minimum lot size of five (5) acres not part of a platted subdivision shall be required.

B. **Compliance with Standards.** Storage of salvage materials shall conform with the applicable standards set forth in Article 7, Section 7-814, *Additional Standards Applicable to Personal Property Placement, Retention or Storage.*

Section 3-311 **Solid Waste Disposal Site.**

A. Lot Size. A minimum lot size of five (5) acres not part of a platted subdivision shall be required.

B. Certificate of Designation. Solid waste disposal sites shall require a Certificate of Designation pursuant to Section 30-20-102, C.R.S.

Section 3-312

Prohibited Uses.

A. Medical Marijuana. The issuance of licenses for the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers is prohibited within the unincorporated boundaries of Otero County, Colorado. (See Resolution No. 2011-006 adopted February 22, 2011.)

DIVISION 4 USE, LOT SIZE AND SETBACK TABLES

Section 3-401

Use Table. This Table identifies the uses allowed in each zone district and the level of review the use shall be subject to. Unless otherwise specified, the level of review required is based upon the use as a principal use of the property.

- Use by Right Use Permitted Pursuant to Article 2, Section 2-104
- A Use Permitted Subject to Administrative Review
- L Use Permitted Subject to Limited Impact Review
- M Use Permitted Subject to Major Impact Review
- 1041 Use Permitted Pursuant to 1041 Regulations

Use	Agriculture (A-1)	Fragile Lands (A-2)	Single Family Residential (R - 1)	Mixed Residential (R - 2)	Commercial Local (C - 1)	Commercial Highway (C - 2)	Industrial	Flood Plain (F-1)
Accessory Building or Structure	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Accessory Dwelling Unit ¹	Use by Right	Use by Right	Use by Right	Use by Right	M	M	M	See Note 3
Agricultural Equipment, Repairs and Sales	M	M	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Agricultural Operations, Customary Accessory Buildings and Structures, and Uses Accessory to Agricultural Operations	Use by Right	Use by Right	M	M	M	M	M	See Note 3
Agricultural Products Processing and Storage	Use by Right	Use by Right	M	M	M	M	Use by Right	See Note 3
Agricultural Products Processing, Storage and Distribution	M	M	M	M	M	M	Use by Right	See Note 3
Agricultural Products Retail Sales	M	M	M	M	M	M	M	See Note 3
Aircraft Landing Strip [Private]	M	M	M	M	M	M	M	See Note 3

Use	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-2)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Animal-Related (Livestock)	See Livestock below	See Livestock below	See Livestock below	See Livestock below	See Livestock below	See Livestock below	See Livestock below	See Livestock below
Art Gallery	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Automobile, Trailers and Accessory Sales and Rental	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Automobile Repair Service (Vehicle Service Center)	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Bakery	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Bank	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Bar	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Barber and/or Beauty Shop	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Bed & Breakfast	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Boarding House/Rooming House	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Broadcasting Studio	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Business or Professional Offices	M	M	M	M	Use by Right	Use by Right	M	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-2)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Campground	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Car Wash	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Cemetery	M	M	M	M	M	M	M	See Note 3
Church	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Clinic, Medical and Dental	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Communication Facility	M	M	M	M	M	M	M	See Note 3
Community Meeting Facility, Reception Hall, or Auditorium	M	M	M	M	M	M	M	See Note 3
Composting Facility	M	M	M	M	M	M	M	See Note 3
Concentrated Animal Feeding Operation	M	M	M	M	M	M	M	See Note 3
Concrete/Asphalt Batch Plant	M	M	M	M	M	M	Use by Right	See Note 3
Convenience Store	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Corrections Facility	M	M	M	M	M	M	M	See Note 3
Day Care Center	M	M	M	M	M	M	M	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-1)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Dental Office	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Drive-in Restaurant	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Drugstore (Pharmacy)	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Duplex	M	M	M	Use by Right	M	M	M	See Note 3
Educational Facility	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Electric Power Distribution Line and Facilities (Public Utility)	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Electric Power Generating Facility (Public Utility)	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Electric Power Service Line to Primary Dwelling Unit or Accessory Building or for Accessory Use	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Electric Power Transmission Line (Public Utility)	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Equestrian Arena	Use by Right	Use by Right	M	M	M	M	M	See Note 3
Equestrian Center	M	M	M	M	M	M	M	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-1)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Heliport	M	M	M	M	M	M	M	See Note 3
Helistop	Use by Right	Use by Right	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Home Occupation	Use by Right	Use by Right	Use by Right	Use by Right	M	M	M	See Note 3
Hospital	M	M	M	M	M	M	M	See Note 3
Hotel	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Indoor Recreation, Amusement	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Kennel	M	M	M	M	M	M	M	See Note 3
Laundromat, Laundry or Dry-Cleaning Facility	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Library	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Liquor Store	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Livestock	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix	See Attached Livestock Use Matrix
Machine Shop	M	M	M	M	M	M	Use by Right	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-1)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Major New Domestic Water Treatment Systems and Major Extension of Such Systems	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Manufactured Home	Use by Right	Use by Right	Use by Right	Use by Right	M	M	M	See Note 3
Manufactured Home/Mobile Home Sales	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Manufacturing	M	M	M	M	M	M	Use by Right	See Note 3
Mass Transit Facility	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Medical Office	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Mineral Waste Disposal Areas	M	M	M	M	M	M	M	See Note 3
Mortuary (Funeral Home)	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Motel	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Motor Sports Center	M	M	M	M	M	M	M	See Note 3
Multi-Family Dwelling Unit	M	M	M	Use by Right	M	M	M	See Note 3
Municipal and Industrial Water Project	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-2)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Museum	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Natural Gas Transmission Line to Primary Dwelling Unit or Accessory Building or for Accessory Use	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Nursery/Greenhouse	Use by Right	Use by Right	M	M	Use by Right	Use by Right	M	See Note 3
Nursing Facility/Convalescent Home	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Other (see Notes at end of Table) ²								
Outdoor Recreation	Use by Right	Use by Right	M	M	Use by Right	Use by Right	M	See Note 3
Parking Lot or Parking Garage [as Principal use of Property]	Use by Right	Use by Right	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Processing –Batch Plant	M	M	M	M	M	M	Use by Right	See Note 3
Processing - Brewing, Bottling Plant	M	M	M	M	M	M	Use by Right	See Note 3
Processing – Custom Meat and Poultry	M	M	M	M	M	M	Use by Right	See Note 3
Processing – Food and Beverages	M	M	M	M	M	M	Use by Right	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-2)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Processing of Natural Resources – Petroleum, Oil Shale, Coal, Wood Products	M	M	M	M	M	M	M	See Note 3
Processing – Recyclable Material	M	M	M	M	M	M	Use by Right	See Note 3
Professional or Business Office	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Ranching	Use by Right	Use by Right	M	M	M	M	M	See Note 3
Recycling Collection or Drop Off Center	M	M	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Recycling Plant	M	M	M	M	M	M	Use by Right	See Note 3
Residence, Single Family	Use by Right	Use by Right	Use by Right	Use by Right	M	M	M	See Note 3
Resort, Lodge, Conference Center	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Restaurant	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Retail or Personal Service Facility	M	M	M	M	Use by Right	Use by Right	M	See Note 3
RV Park	M	M	M	M	Use by Right	Use by Right	M	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-1)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Salvage Yard	M	M	M	M	M	M	Use by Right	See Note 3
Sanitary Landfill (Commercial)	M	M	M	M	M	M	M	See Note 3
Shooting Range (Commercial)	M	M	M	M	M	M	M	See Note 3
Single-Family Dwelling Unit	Use by Right	Use by Right	Use by Right	Use by Right	M	M	M	See Note 3
Solar Panels, Solar Arrays (Solar Energy), Commercial	M	M	M	M	M	M	M	See Note 3
Solar Panels, Solar Arrays (Solar Energy), Non-commercial	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Solid Waste Disposal Site or Facility	M	M	M	M	M	M	M	See Note 3
Solid Waste Transfer Facility	M	M	M	M	M	M	Use by Right	See Note 3
Storage: Automobile, RVs, Boats, Commercial	M	M	M	M	M	M	Use by Right	See Note 3
Storage: Bulk Materials, Commercial	M	M	M	M	M	M	Use by Right	See Note 3
Storage: Cold Storage Plants	M	M	M	M	M	M	Use by Right	See Note 3
Storage: Heavy Equipment/Machinery	M	M	M	M	M	M	Use by Right	See Note 3
Storage: Mini	M	M	M	M	Use by Right	Use by Right	M	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-2)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Storage: Supplies, Machinery, Equipment or Products Customary or Accessory to Agriculture Operations	Use by Right	Use by Right	M	M	M	M	M	See Note 3
Storage: Supplies, Machinery, Equipment or Products Customary or Accessory to Oil and Gas Drilling Operations	M	M	M	M	M	M	Use by Right	See Note 3
Storage: Wholesale Business	M	M	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Tavern	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Telecommunication Facility	M	M	M	M	M	M	Use by Right	See Note 3
Telephone/Telecommunications Service Line to Primary Dwelling Unit or Accessory Building or for Accessory Use	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Temporary Batch Plant	M	M	M	M	M	M	Use by Right	See Note 3
Temporary Fireworks Stands and Christmas Tree Lots	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	M	See Note 3
Theater	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Utility Distribution Facility (Public Utility)	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Utility Substation (Public Utility)	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential (R-1)	Commercial Local (C-1)	Commercial Highway (C-2)	Industrial	Flood Plain (F-1)
Vehicle Repair Shop/Body Shop/Paint Shop	M	M	M	M	M	Use by Right	Use by Right	See Note 3
Veterinary Clinic	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Warehouse (Mini)	M	M	M	M	Use by Right	Use by Right	M	See Note 3
Warehouse & Distribution Center	M	M	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Wastewater Projects/Wastewater Treatment Facility	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Water Diversion Structures, Ditches and Pipelines to Convey Water or Designed to Serve as a Domestic Supply	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Water Impoundment	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	Use by Right	See Note 3
Water Storage Facility	M	M	M	M	M	M	M	See Note 3
Water Treatment Systems (SEE Major New Domestic Water Treatment Systems and Major Extension of Such Systems)	1041	1041	1041	1041	1041	1041	1041	1041 and See Note 3
Welding Shops	M	M	M	M	Use by Right	Use by Right	Use by Right	See Note 3
Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit (WPU) a.k.a. Wind Energy Converter (WEC) a.k.a. Aerogenerator), Commercial	M	M	M	M	M	M	M	See Note 3

USE	Agriculture (A-1)	Fragile Lands	Single Family Residential (R-1)	Mixed Residential	Commercial Local (C - 1)	Commercial Highway (C - 2)	Industrial	Flood Plain (F-1)
Wind Powered Electric Generator (a.k.a. Wind Turbine a.k.a. Wind Power Unit (WPU) a.k.a. Wind Energy Converter (WEC) a.k.a. Aerogenerator), Non- Commercial	Use By Right	Use By Right	Use By Right	Use By Right	Use By Right	Use By Right	Use By Right	See Note 3
*NOTE: Land Use Not Included Above ²								

Notes:

1. Accessory Dwelling Unit not allowed in conjunction with Duplex or Multi-family dwelling units.
2. Land use not included in this Use Table shall be considered a “use by review” and will be subject to the review process found in Article 4, Section 4-203, Major Impact Review Process.
3. See Article 3, Zoning, Section 3-208, L., 7, 8, and 9, for Flood Plain Restrictions (i.e., Prohibited Uses and Activities as well as Allowed Uses and Activities); however, a land use not included in Article 3, Zoning, Section 3-208, L., 7, 8, and 9 shall be considered a “use by review” and will be subject to the review process found in Article 4, Section 4-203, Major Impact Review Process.

Section 3-402

Table: Lot Size and Setback Requirements.

Zoning District	Lot Size	Setbacks ¹			Height ²
	Minimum Lot Area	Front	Rear	Side	
Agriculture (A -)	1/2 Acre	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	Farm: none Non-farm: 45'
Fragile Lands (A -)	1/2 Acre	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	Ranching: none Non-ranching: 45'
Single Family Residential (R -)	7000 square feet	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	Prin: 30' Acc: 30'
Mixed Residential (R -)	7000 square feet	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	Prin: 30' Acc: 30'
Commercial Local (C-1)	5000 square feet	No Requirement	No Requirement	No Requirement	Prin: 60' Acc: 30'
Commercial Highway (C-2)	10,000 square feet	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	Prin: 60' Acc: 30'
Industrial (I-1)	10,000 square feet	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	No Limit
Flood Plain (F-1)	1/2 Acre	All bldgs: 30'	All bldgs: 10'	All bldgs: 10'	Prin: 35' Acc: 20'
<p>NOTES:</p> <p>1 – Measured from lot line</p> <p>2 – Measured from highest point of final grade to highest point of roof</p>					

ARTICLE 4
PERMIT APPLICATION AND REVIEW PROCEDURES

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Agency Review Fees. The costs of consultant and referral agency review are the responsibility of the applicant. The costs of consultant and referral agency review shall be paid pursuant to Section 4-602 B2, *Fees*.

Section 4-103

Common Review Procedures. Unless otherwise provided in these Regulations, the following review procedures apply to all land use change applications, including those proposing division of land.

A. Pre-Application Conference. Unless otherwise provided in these Regulations, all land use change applications begin with a pre-application conference between the applicant and the Land Use Administrator or staff.

1. Purpose. The pre-application conference is intended to provide information pertinent to the site and the proposal, to provide an understanding of the applicable review procedures and the standards to be met for approval of the application, and to explain the application materials required for submittal.

2. Procedure. An applicant for a land use change shall make a request for a pre-application conference through the Land Use Department.

a. Scheduling of Pre-application Conference. The Land Use Administrator shall schedule a pre-application conference to be held within fourteen (14) days of receipt of request for a pre-application conference. The pre-application conference may be held in the Land Use Department Office or at the site at the discretion of the Land Use Administrator.

b. Materials. Unless otherwise specified by these Regulations, the applicant shall bring a conceptual site plan to the conference. The conceptual site plan shall be of sufficient detail to accurately convey the concept, character, location, parcel size and the magnitude of the proposed development.

c. Participants. In addition to the Land Use Department staff, if the Land Use Administrator feels that the proposal raises potential issues for roads, access, parking, traffic, water supply, sanitation and/or natural resource protection, the appropriate staff shall be included in the pre-application conference.

d. Determination of Level of Review. The Land Use Administrator shall determine the appropriate review process for the land use change that is being sought.

e. Staff Comments and Written Summary. Any comments made by County staff during the pre-application conference are preliminary in nature and not binding. Formal comments cannot be made by staff until after the complete application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to comment. The Land Use Administrator shall prepare a written summary which describes the review process and anticipated time frames, and sets forth any concerns or conflicts raised by the applicant's proposal. The information provided in the written summary shall be valid for a period of six months from the date of the written summary.

B. Application. Applications for land use change shall be submitted to the Land Use Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

C. Determination of Completeness. Within fifteen (15) days of receipt of the application materials, the Land Use Administrator shall determine whether the application is complete based on compliance with the submittal requirements for the applicable review process.

- 1. Application is Not Complete.** If the application is not complete, the Land Use Administrator or staff shall inform the applicant of the deficiencies in writing or other

appropriate communication and shall take no further action on the application until the deficiencies are remedied.

2. Application is Complete. If the application is complete, the Land Use Administrator shall certify it as complete and stamp it with the date of determination of completeness.

a. Completeness Is Not A Determination of Compliance. A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these Regulations.

3. Extension of Time for Determination of Completeness. The Land Use Administrator may extend the time to complete review for Determination of Completeness, up to an additional thirty (30) calendar days. The extension of time for Determination of Completeness shall be based upon the following considerations:

a. Scope of Application. The scope of the land use change application is sufficient to require additional time for the Land Use Administrator to review the application for a Determination of Completeness.

b. Staff Workload. The Planning Department's workload due to the volume and scope of pending land use change applications justifies the need for an extension of time to review the application for a Determination of Completeness.

D. Review by Referral Agency.

1. Comment Period. Unless otherwise provided by these Regulations, the comment period for referral agency review shall be within twenty-one (21) calendar days¹ from the date that the application is deemed complete, unless a necessary extension of not more than thirty (30) calendar days has been consented to by the applicant and by the Board of County Commissioners. Responses not received

¹C.R.S. §30-28-136 requires referral agency review within 21 days; maximum 30-day extension.

in a timely manner may not be included in the processing of the application. A lack of timely response shall be interpreted as no comment.

2. Review Fee by Referral Agency. A referral agency may impose a fee for the review of a proposed land use change pursuant to Section 4-102, *Consultants*.

3. Referral Agencies.

a. Each municipality within a 1-mile radius of a proposed business or agricultural land use identified in § 31-15-501 (1) (a) and (1) (d), C.R.S.

b. Any local government or agency which has entered into an intergovernmental agreement with the County that applies to the area where the use will occur.

c. Each county or municipality within a 2-mile radius of a proposed subdivision or subdivision exemption.

d. The appropriate school districts.

e. Any utility, local improvement or service district or ditch company.

f. County, district or regional health department or CDPHE.

g. State Engineer.

h. The Colorado State Forest Service.

i. The Conservation District Board.

j. Colorado Geologic Survey.

k. Otero County Historic Preservation Advisory Board.

l. A land use change application may be referred to the Planning Commission as a referral

agency if the proposal is not subject to review and public hearing by the Commission.

E. Evaluation of Land Use Administrator, Staff Review.

The Land Use Administrator shall review the land use change application to determine if the proposal satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements and recommended conditions for approval to ensure that standards are satisfied, and additional information pertinent to review of the application.

1. **Staff Report.** Ten (10) calendar days prior to the date of a public hearing, the Land Use Administrator shall submit a staff report to the Otero County Health Department, County Attorney, and to the hearing body. A copy of the staff report shall also be available for public review prior to the hearing.

F. Notice of Public Hearing. Certain land use change applications will require a public hearing. Unless otherwise provided in these Regulations or law, when a public hearing is required the following public notice shall be required:

1. **Notice by Publication.** At least ten (10) calendar days prior to the date of a scheduled public hearing before the Planning Commission, and at least ten (10) calendar days prior to the date of a scheduled public hearing before the Board of County Commissioners (sitting as the Board of County Commissioners or the Board of Adjustment), the Land Use Department shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

2. **Notice to Adjacent Property Owners.** At least ten (10) calendar days prior to the date of a scheduled public hearing, the Land Use Department shall send by regular mail a written notice of the public hearing to the owners of record of all adjacent property within a 500' radius. The notice shall include an abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

3. Notice to Owner/Applicant. At least ten (10) calendar days prior to the date of a scheduled public hearing, the Land Use Department shall send by certified mail, return receipt requested, and by regular mail, a written notice of the public hearing to the owners and applicant (if not the owner) of the property that is the subject of the application. The notice shall include an abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

4. Proof of Notice. At the public hearing, the Land Use Department shall provide proof of publication, proof of notification to adjacent property owners, and proof of notification to the owner/applicant.

5. Validity of Notice. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

G. Conduct of Public Hearing. Public hearing proceedings on quasi-judicial decisions may be conducted according to the following recommended process or such other similar process that is established by the hearing body:

1. Rights of All Persons. Any person may appear at a public hearing and submit evidence, including oral testimony, either individually or as a representative of an organization. Comment also may be submitted in written form before or during the hearing, or within a designated period of time if the hearing is continued pursuant to paragraph 6 below.

2. Time Limits for Testimony. The decision-making body may set reasonable time limits for testimony or presentation of evidence during the public hearing. Oral testimony may be limited based upon relevancy, redundancy or time constraints.

3. **Order of Proceedings.** The order of the proceedings shall be as follows:

a. Confirmation of Adequate Public Notice. The decision-making body shall determine whether or not adequate notice has been accomplished pursuant to the Code requirements for notice of public hearing.

b. Decision-Making Body Presentation. The decision-making body shall describe the proposed land use change and identify the standards that apply and whether the application meets those standards.

c. Applicant's Presentation. The applicant may make an oral or a written presentation on behalf of the application. The burden of proof is on the applicant to demonstrate that the proposed land use change satisfies the applicable standards.

d. Questions by Decision-Making Body. The decision-making body may ask questions of the staff, the applicant, or members of the public in attendance at any time.

e. Public Comments. The decision-making body shall hear public comments following the presentation by the applicant. Written comments that have been received before the hearing shall be reported by the Land Use Administrator and acknowledged to be part of the hearing record.

f. Land Use Administrator/Staff Response. The Land Use Administrator or staff may respond to any statement made by the applicant, the public, or the hearing body.

g. Applicant Response. The applicant may respond to any comments made by the public, the Land Use Administrator or the decision-making body.

4. **Close of Public Testimony.** At the conclusion of

the public testimony, no further public comment shall be accepted.

5. Deliberation and Decision. Following close of public testimony, the decision-making body shall proceed with deliberations. The decision-making body's recommendation or decision to approve, approve with conditions or deny the application shall be set forth in the minutes of the public hearing.

6. Continuation of Public Hearing. The decision-making body may continue the public hearing to a fixed date and time. An applicant shall have the right to request, and be granted on a showing of good cause, a continuance of the required hearing. Any subsequent continuances shall be granted at the discretion of the decision-making body and upon a finding that good cause has been shown for the continuance.

7. Record of Public Hearing. The hearing body shall record the public hearing by any appropriate means.

8. Record of Decision. The record of decision shall include the following materials:

- a. The record of the public hearing proceedings.
- b. The minutes of the public hearing(s) and of other related meetings of the recommending and decision-making bodies reviewing the application.
- c. The application materials.
- d. Written materials submitted to the County by an individual or agency regarding the application.
- e. The Staff Report and consultant and referral agency reports, if any.
- f. Documentation of decisions by the recommending and decision-making bodies.

**DIVISION 2 REVIEW PROCEDURES FOR LAND USE CHANGE
APPLICATIONS WHICH DO NOT INCLUDE DIVISION OF
LAND**

Section 4-201 **Administrative Review Process.** Applications for land use change subject to Administrative Review as set forth in Article 2, Section 2-105 A shall be reviewed by the Land Use Administrator as follows:

A. **Outline of Process.** The Administrative Review process consists of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Decision by Land Use Administrator

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.
2. **Application.** The application materials required for a land use change subject to Administrative Review are set forth in Section 4-601 A.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.
4. **Evaluation by Land Use Administrator, Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7. A staff report shall be prepared pursuant to Section 4-103 E.

a. Review by Referral Agencies. The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*.

b. Notice to Adjacent Property Owners. Notice to adjacent property owners shall be required if the Land Use Administrator determines that the proposed use is likely to affect adjacent property owners. If notification is required, the Land Use Department shall mail a written notice by regular mail to the owners of record of all property adjacent to the property within a 500' radius. The notice shall include the property's abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and the contact information and deadline for comments to be submitted. The comment period for adjacent property owners shall be within twenty-one (21) calendar days from the date of the notice.

c. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

5. Land Use Administrator's Decision. Within fourteen (14) days of the date of determination of completeness, or close of the comment period if the application is referred for comment, the Land Use Administrator shall approve, approve with conditions or deny the land use change application subject to Administrative Review. The Land Use Administrator decision shall be based upon compliance of the proposed use with the applicable standards set forth in Article 7.

a. Approval of Application. If the application satisfies the applicable standards, the application shall be approved.

b. Denial of Application. If the application fails to satisfy the applicable standards, the application may be denied; or

c. Conditional Approval of Application. The application may be approved with conditions determined necessary for compliance with applicable standards.

6. **Written Notice of Decision.** The Land Use Administrator shall inform the applicant and adjacent property owners of the approval, conditions of approval or basis for denial in writing within seven (7) calendar days of the date of decision. Notice of the Land Use Administrator's decision shall also be provided to the Board of County Commissioners.

C. Reconsideration of Land Use Administrator's Decision or Call-up by Board of County Commissioners.

1. **Request by Applicant or Adjacent Property Owner for Reconsideration of Decision.** An applicant or adjacent property owner affected by the decision may request reconsideration of the Land Use Administrator's decision by the Board of County Commissioners. The aggrieved party may file a written request within fourteen (14) calendar days of the date of written notice of the decision by the Land Use Administrator.

a. Schedule Public Hearing. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of receipt of the request for reconsideration.

b. Notice by Publication. At least ten (10) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the Land Use Department shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

c. Notice to Adjacent Property Owners. At least ten (10) calendar days prior to the date of the

scheduled public hearing, the Land Use Department shall send by regular mail a written notice of the public hearing to the owners of record of all adjacent property within a 500' radius. The notice shall include the property's abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

d. Notice to Owner/Applicant. At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by certified mail, return receipt requested, and by regular mail, a written notice of the public hearing to the applicant and/or owner. The notice shall include the property's abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

e. Validity of Notice. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

f. Decision by Board. The Board shall conduct a hearing pursuant to the provisions of Section 4-103 G, *Conduct of Public Hearing*. The Board shall uphold the Land Use Administrator's decision, modify the decision or reverse the decision, based upon compliance of the proposed land use change with the applicable standards set forth in Article 7.

2. **Call-up by Board.** Within fourteen (14) calendar days of the date of written notice of the decision by the Land Use Administrator, the Board may, at its discretion, decide to reconsider the Land Use Administrator's decision at the next regularly scheduled meeting of the Board for which proper notice of hearing can be accomplished.

a. Notice by Publication. At least ten (10) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the Land Use Department shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

b. Notice to Adjacent Property Owners. At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Administrator shall send by regular mail a written notice of the public hearing to the owners of record of all adjacent property within a 500' radius. The notice shall include the property's abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

c. Notice to Owner/Applicant. At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by certified mail, return receipt requested, and by regular mail, a written notice of the public hearing to the applicant and/or owner. The notice shall include the property's abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

d. Validity of Notice. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

e. Decision by Board. The Board shall conduct a hearing pursuant to the provisions of Section 4-103 G, *Conduct of Public Hearing*. Upon completion of the hearing, the Board shall uphold

the Land Use Administrator's decision, modify the decision or reverse the decision, based upon compliance of the proposed land use change with the applicable standards set forth in Article 7.

D. Legal Remedies. The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

Section 4-202

Limited Impact Review Process. Applications for land use change subject to Limited Impact Review as set forth in Article 2, Section 2-105 A2 shall be subject to the following review process:

A. Outline of Process. The Limited Impact Review process shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Public Hearing and Decision by the Otero County Planning Commission

B. Review Process.

1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.
2. **Application.** The application materials required for a land use change subject to Limited Impact Review are set forth in Section 4-601 C.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.
4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall

schedule the application for consideration by the Otero County Planning Commission.

- a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.
- b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

5. Evaluation by Land Use Administrator, Staff Review. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7. A staff report shall be prepared pursuant to Section 4-103 E.

- a. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*.

6. Review and Action by Otero County Planning Commission. An application for land use change subject to Limited Impact Review shall be considered by the Otero County Planning Commission at a public hearing, after proper notice, conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*.

- a. **Decision by Planning Commission.** Following the public hearing, the Planning Commission shall approve, approve with conditions or deny the application, based upon compliance with the applicable standards in Article 7.

- (1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved.

- (2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

7. **Written Notice of Decision.** The Otero County Planning Commission shall inform the applicant of the approval, conditions of approval or basis for denial in writing within seven (7) calendar days of the date of decision. Notice of the Planning Commission's decision shall also be provided to the Board of County Commissioners.

C. Reconsideration of Otero County Planning Commission's Decision.

1. **Request by Applicant for Reconsideration of Decision.** An applicant may request reconsideration of the Otero County Planning Commission's decision by the Board of County Commissioners. The aggrieved party may file a written request within fourteen (14) calendar days of the date of written notice of the decision by the Planning Commission.

a. **Schedule Public Hearing.** Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of receipt of the request for reconsideration.

b. **Notice by Publication.** At least ten (10) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the Land Use Department shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

c. **Notice to Adjacent Property Owners.** At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by regular mail a written notice of the public hearing to the owners of record of all adjacent property within a 500' radius. The notice

shall include the property's abbreviated legal

description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

d. Notice to Owner/Applicant. At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by certified mail, return receipt requested, and by regular mail, a written notice of the public hearing to the applicant and/or owner. The notice shall include the property's abbreviated legal description, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

e. Validity of Notice. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

f. Decision by Board. The Board shall conduct a hearing pursuant to the provisions of Section 4-103 G, *Conduct of Public Hearing*. The Board shall uphold the Planning Commission's decision, modify the decision or reverse the decision, based upon compliance of the proposed land use change with the applicable standards set forth in Article 7.

D. Legal Remedies. The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

Section 4-203

Major Impact Review Process. Applications for land use change subject to Major Impact Review as set forth in Article 2, Section 2-105 A3 shall be subject to the following review process.

A. **Outline of Process.** The Major Impact Review process shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Public Hearing and Recommendation by the Planning Commission
6. Public Hearing and Decision by the Board of County Commissioners

B. **Review Process.**

1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.

2. **Application.** The application materials required for land use changes subject to Major Impact Review are set forth in Section 4-601D.

3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.

4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Planning Commission.

a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing* of this Article.

5. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land

Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7. A staff report shall be prepared pursuant to Section 4-103 E.

a. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*.

6. **Review and Recommendation by the Planning Commission.** A land use change application subject to Major Impact Review shall be considered by the Planning Commission at a public hearing, after proper notice, conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval, approval with conditions or denial of the application, based upon compliance with the applicable standards set forth in Article 7.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable standards, the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards.

7. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

8. **Review and Action by the Board of County Commissioners.** The final decision to approve, approve with conditions or deny an application subject to Major Impact Review shall be made by the Board of County Commissioners at a public hearing.

a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, approve with conditions or deny the application, based upon compliance with the applicable standards in Article 7.

(1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

C. **Legal Remedies.** The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

Section 4-204

Amendments to an Approved Site Plan. Any proposal to change a site plan approved under these Regulations shall require application to the Land Use Administrator for Amendment of an Approved Site Plan. The Land Use Administrator shall review the application to determine whether the proposed change constitutes a substantial modification to the approved plan.

A. **Outline of Process.** The review process for a proposed Amendment of an Approved Site Plan shall consist of the following procedures.

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by Land Use Administrator, Staff Review
5. Decision by Land Use Administrator

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.
2. **Application.** The application materials required for amendment of an approved site plan are set forth in Section 4-601 G.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.
4. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land Use Administrator shall evaluate the application to determine if the proposed amendment(s) constitutes substantial modification to the approved site plan. A staff report shall be prepared pursuant to Section 4-103 E.
5. **Land Use Administrator Decision.** Within thirty (30) days of the date of determination of completeness, the Land Use Administrator shall make a determination as to

whether the proposed change(s) constitutes a substantial modification to the approved plan.

a. No Substantial Modification. If the Land Use Administrator determines that the change does not constitute a substantial modification to the approved site plan, the Land Use Administrator shall approve the proposed amendment to the site plan.

b. Substantial Modification. If the Land Use Administrator determines that the change constitutes a substantial modification, the site plan shall be considered a new site plan subject to full review under the applicable review process for the land use change application.

6. Written Notice of Decision. The Land Use Administrator shall inform the applicant of the determination in writing within seven (7) calendar days of the date of decision. Notice of the Land Use Administrator's decision shall also be provided to the Board of County Commissioners.

7. Request by Applicant for Reconsideration of Decision. An applicant may request reconsideration of the Land Use Administrator's decision by the Board of County Commissioners. The aggrieved party may file a written request within fourteen (14) calendar days of the date of written notice of the decision by the Land Use Administrator.

a. Schedule Public Hearing. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of receipt of the request for reconsideration.

b. Notice by Publication. At least ten (10) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the Land Use Department shall have published a notice of public hearing in a newspaper of general circulation in the area that the proposed land use change is located.

c. Notice to Adjacent Property Owners. At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by regular mail a written notice of the public hearing to the owners of record of all adjacent property within a 500' radius. The notice shall include the property's abbreviated legal description, a short narrative describing the proposed Site Plan amendment(s), and an announcement of the date, time and location of the scheduled hearing.

d. Notice to Owner/Applicant. At least ten (10) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by certified mail, return receipt requested, and by regular mail, a written notice of the public hearing to the applicant and/or owner. The notice shall include the property's abbreviated legal description, a short narrative describing the proposed Site Plan amendment(s), and an announcement of the date, time and location of the scheduled hearing.

e. Validity of Notice. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

f. Decision by Board. Following a public hearing conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall uphold the Land Use Administrator's decision, modify the decision, or reverse the decision.

C. Legal Remedies. The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

Section 4-205

Land Use Code Text Amendment. Amendments to the text of this Land Use Code may be initiated by the Board of County Commissioners, the Planning Commission or the Land Use Administrator.

A. **Outline of Process.** The review process for land use code text amendments shall consist of the following procedures:

1. Proposed Amendment
2. Evaluation by Land Use Administrator, Staff Review
3. Public Hearing and Recommendation by the Planning Commission
4. Public Hearing and Decision by the Board of County Commissioners

B. **Review Process.**

1. **Proposed Amendment.** The materials required for text amendment are set forth in Section 4-601 B, and shall be submitted to the Land Use Administrator.

2. **Schedule Public Hearing.** Within forty-five (45) days from receipt of the proposed text amendment, the Land Use Administrator shall schedule the proposed amendment for consideration by the Planning Commission.

a. Public hearing by the Planning Commission shall be held at the next regularly scheduled meeting of the Commission for which proper notice of hearing can be accomplished.

b. Public notice of the hearing shall be published by the Land Use Administrator in a newspaper of general circulation in the County at least fourteen (14) calendar days prior to the date of public hearing by the Commission.

3. **Evaluation by Land Use Administrator/Staff Review.** The Land Use Administrator shall review the proposed text amendment and prepare a Staff Report pursuant to Section 4-103 E. The Land Use Administrator may recommend modifications or alternatives to the proposed amendment.

4. **Recommendation by the Planning Commission.** The proposed text amendment, together with any proposed modifications or alternatives, shall be considered by the Planning Commission at the public hearing. The Planning Commission may recommend approval, modification or denial of the proposed text amendment.

5. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission's recommendation.

b. Public notice of the hearing shall be published by the Land Use Administrator in a newspaper of general circulation in the County at least fourteen (14) calendar days prior to the date of the public hearing by the Board.

c. **Validity of Notice.** If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of the hearing or other conduct of the reviewing or decision-making body.

6. **Review and Action by the Board of County Commissioners.** Following a public hearing, the Board of County Commissioners shall determine whether the text should be amended and the content of any such amendment.

7. **Effective Date.** Unless otherwise specified by the Board of County Commissioners, an approved amendment to the text of this Land Use Code shall become effective immediately upon adoption by the Board of County Commissioners, unless otherwise set forth in the Board's motion of approval.

Section 4-206

Plowing and Cultivation of Native Rangelands. The plowing of native rangelands in Otero County will result in a serious problem of accelerated soil erosion from both wind and water. Therefore, the Otero County Board of County Commissioners has deemed it necessary to regulate the plowing and cultivation of native rangeland located within the A-2, Fragile Lands District, lying within the unincorporated areas of Otero County. Any person(s) seeking to cultivate or plow any native rangelands lying within the unincorporated areas of Otero County currently zoned A-2, Fragile Lands, shall apply for a permit.

A. **Outline of Process.** The process to apply for a permit to engage in the cultivation or plowing of native rangelands shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Public Hearing and Recommendation by the Planning Commission
6. Public Hearing and Decision by the Board of County Commissioners

B. **Review Process.**

1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.
2. **Application.** The application materials required for land use changes for Plowing and Cultivation of Native Rangelands are set forth in Section 4-601E.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.
4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall

schedule the application for consideration by the Planning Commission.

- a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.
- b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing* of this Article.

5. Evaluation by Land Use Administrator/Staff Review. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7. A staff report shall be prepared pursuant to Section 4-103 E.

- a. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*.

6. Review and Recommendation by the Planning Commission. A land use change application for Plowing and Cultivation of Native Rangelands shall be considered by the Planning Commission at a public hearing, after proper notice, conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*.

- a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval, approval with conditions or denial of the application, based upon compliance with the applicable standards set forth in Article 7.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable

standards, the Planning Commission may recommend that the application be denied; or

(3) Recommendation of Conditional Approval. The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards.

7. Schedule Public Hearing. The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

8. Review and Action by the Board of County Commissioners. The final decision to approve, approve with conditions or deny an application for Plowing and Cultivation of Native Rangelands shall be made by the Board of County Commissioners at a public hearing.

a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, approve with conditions or deny the application, based upon compliance with the applicable standards in Article 7.

(1) Approval of Application. If the application satisfies the applicable standards, the application shall be approved.

(2) Denial of Application. If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

C. Legal Remedies. The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

In the event of a denial of the request of plowing or cultivation of native rangeland by the Otero County District Court, no new application containing substantially the same subject matter and property shall be made for a period of one (1) year from the date of such decision.

D. Successors in Interest. Should any landowner within the unincorporated areas of the County obtain a permit for the plowing or cultivation of native rangelands, the plan adopted by the Board of County Commissioners shall be binding upon any subsequent person or other entity that may have an interest in the subject property by virtue of sale, devise, gift, judicial proceedings, or other transfer of title.

Section 4-207

Vacation of Streets and/or Alleys (Pursuant to 43-2-301, CRS).

A. Outline of Process. The review process for the vacation of streets and/or alleys shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Decision by the Board of County Commissioners

B. Review Process.

1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.

2. Application. The application materials required for a land use change requesting the vacating of a street and/or alley are set forth in Section 4-601 H.

3. Determination of Completeness. The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.

4. Schedule Hearing/Notice. Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Notice of the hearing shall be made pursuant to Section 43-2-303 (2) (b), C.R.S., i.e., no later than ten days prior to any County Commissioner meeting at which a Resolution to vacate a County roadway is to be presented, the County Commissioners shall mail a notice by first-class mail to the last-known address of each landowner who owns one acre or more of land adjacent to the roadway. Such notice shall indicate the time and place of the County Commissioner meeting and shall indicate that a resolution to vacate the County roadway will be presented at the meeting.

5. Evaluation by Land Use Administrator, Staff Review. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7, Section 7-908. A staff report shall be prepared pursuant to Section 4-103 E.

a. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*, as well as the letters required in Section 4-601 (H) (5).

6. Review and Action by Board of County Commissioners. An application for land use change

requesting the vacating of a street and/or alley shall be considered by the Board of County Commissioners at a scheduled meeting as set forth above.

a. **Decision by Board of County Commissioners.** Following the meeting to consider the application, the Board of County Commissioners shall approve, approve with conditions or deny the application, based upon compliance with the applicable standards in Article 7.

(1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

7. **Written Notice of Decision.** Pursuant to Section 43-2-303 (2) (b), a roadway shall not be vacated by any method other than a resolution rendered by the Board of County Commissioners.

C. **Legal Remedies.** The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

DIVISION 3

REVIEW PROCEDURES FOR REZONING

Section 4-301

Rezoning. Rezoning may be initiated by the Board of County Commissioners, the Planning Commission, the Land Use Administrator, or an applicant for land use change. No rezoning request shall be processed unless it is accompanied by a request to conduct a specific land use. The rezoning request may be

processed concurrently with the land use change application and review process.

A. **Outline of Process.** The review process for rezoning requests shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Public Hearing and Recommendation by the Planning Commission
6. Public Hearing and Decision by the Board of County Commissioners

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.
2. **Application.** The application materials required for review of a rezoning request are set forth in Section 4-601 F.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.
4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Planning Commission.
 - a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.
 - b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

5. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the approval criteria set forth in Article 7, Section 7-901, *Review Criteria for Rezoning Request*. A staff report shall be prepared pursuant to Section 4-103 E.

a. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*.

6. **Review and Recommendation by the Planning Commission.** A rezoning application shall be considered by the Planning Commission at a public hearing, after proper notice, conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval or denial of the application based upon compliance with the approval criteria set forth in Article 7, Section 7-901, *Review Criteria for Rezoning Request*.

(1) **Recommendation of Approval.** If the application satisfies the approval criteria, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the approval criteria, the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the approval criteria.

7. **Schedule Public Hearing.** The Land Use

Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission's recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

8. **Review and Action by the Board of County Commissioners.** The final decision to approve or deny a rezoning application shall be made by the Board of County Commissioners at a public hearing.

a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, conditionally approve or deny the application based upon compliance with the approval criteria set forth in Article 7, Section 7-901, *Review Criteria for Rezoning Request*.

(1) **Approval of Application.** If the application satisfies the approval criteria, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the approval criteria, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with the approval criteria.

C. **Legal Remedies.** The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

**DIVISION 4 REVIEW PROCEDURES FOR MAJOR ELECTRIC,
NATURAL GAS OR TELEPHONE FACILITY**

Section 4-401 **Major Electric, Natural Gas or Telephone Facility Requirements.** Any proposed use or change involving a Major Electric, Natural Gas or Telephone Facility is subject to Article 14, *Areas and Activities of State Interest*, (specifically Chapter 6 of the Guidelines and Regulations for Areas and Activities of State Interest, commonly referred to as “1041 Regulations/Guidelines”) as well as any requirements imposed by State law.

DIVISION 5 REVIEW PROCEDURES FOR VARIANCES

Section 4-501 **Request for Variance.** Variances are deviations from the zoning requirements set forth in Article 3 that would not be contrary to the public interest when, owing to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness or the shape of a specific piece of property, the literal enforcement of the provisions of this Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property. Variance requests are heard by the Board of County Commissioners sitting as the Board of Adjustment.

A. **Outline of Process.** The review process for variance requests shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Public Hearing and Recommendation by the Planning Commission
6. Public Hearing and Decision by the Board of County Commissioners sitting as the Board of Adjustment

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 4-103 A, *Pre-Application Conference*.

2. **Application.** The application materials required for review of a variance request are set forth in 4-601 (I). If the property is located within a Floodplain District, the application materials required for review of a variance request shall also include the materials set forth in 4-604.

3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 4-103 C, *Determination of Completeness*.

4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Planning Commission.

a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

5. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the approval criteria set forth in Article 7, Section 7-902, *Review Criteria for Request for Variance* and with the standards and relevant factors set forth in Article 7, Section 7-701, *Additional Standards Within Flood Plain District*, if the property is located in a Floodplain District. A staff report shall be prepared pursuant to Section 4-103 E.

a. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Section 4-103 D, *Review by Referral Agency*.

6. **Review and Recommendation by the Planning Commission.** A variance application shall be considered by the Planning Commission at a public hearing, after

proper notice, conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval or denial of the application based upon compliance with the approval criteria set forth in Article 7, Section 7-902, *Review Criteria for Request for Variance* and if in the Flood Plain District, with the standards and relevant factors set forth in Article 7, Section 7-701, *Additional Standards Within Flood Plain District*.

(1) **Recommendation of Approval.** If the application satisfies the approval criteria, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the approval criteria, the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the approval criteria.

7. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners sitting as the Board of Adjustment.

a. Public hearing by the Board of County Commissioners sitting as the Board of Adjustment shall be held within forty-five (45) calendar days of the date of the Planning Commission's recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

8. **Review and Action by the Board of County Commissioners sitting as the Board of Adjustment.** The final decision to approve or deny a variance application shall be made by the Board of County Commissioners sitting as the Board of Adjustment at a public hearing.

a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners sitting as the Board of Adjustment shall approve, conditionally approve or deny the application based upon compliance with the approval criteria set forth in Article 7, Section 7- 902, *Review Criteria for Request for Variance*, and if in the Flood Plain District, with the standards and relevant factors set forth in Article 7, Section 7-701, *Additional Standards Within Flood Plain District*.

(1) **Approval of Application.** If the application satisfies the approval criteria, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the approval criteria, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with the approval criteria;

C. **Legal Remedies.** The decision of the Board of County Commissioners sitting as the Board of Adjustment shall be final, and an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the action by said Board.

DIVISION 6 SUBMITTAL REQUIREMENTS FOR LAND USE CHANGE APPLICATIONS

Section 4-601 **Application Materials.** Following are the application materials required for Land Use Change applications which do not include

division of land. (**SEE ARTICLE 5, DIVISION 7, for application materials required for Land Use Change applications which do include division of land.**) A detailed description of each submittal requirement is set forth in Section 4- 602, *Description of Submittal Requirements*. The Land Use Administrator may waive or alter any of these requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

A. **Administrative Review.** The Administrative Review Process is set forth in Section 4-201, *Administrative Review Process*, and requires the following materials:

1. Application Form and Fees
2. Vicinity Map
3. Site Plan

B. **Land Use Code Text Amendment.** The review process for land use code text amendment is set forth in Section 4-205, *Land Use Code Text Amendment* and requires the following materials:

1. Written Description of proposed land use code text amendment and justification for amendment.

C. **Limited Impact Review.** The Limited Impact Review Process is set forth in Section 4-202, *Limited Impact Review Process* and requires the following materials:

1. Application Form and Fees
2. Vicinity Map
3. Site Plan
4. Impact Analysis
5. Land Suitability Analysis

D. **Major Impact Review.** The Major Impact Review Process is set forth in Section 4-203, *Major Impact Review Process* and requires the following materials:

1. Application Form and Fees
2. Vicinity Map
3. Site Plan
4. Impact Analysis
5. Land Suitability Analysis

6. Landscape Plan
7. Erosion and Sediment Control Plan

E. Plowing and Cultivation of Native Rangelands. The Plowing and Cultivation of Native Rangelands Review Process is set forth in Section 4-206, *Plowing and Cultivation of Native Rangelands*, and requires the following materials:

1. Application Form and Fees
2. Legal Description of the Subject Property
3. Map Delineating the Proposed Land Use Change
4. Conservation Plan reviewed by the local NRCS Office which will specify the conditions under which the plowing or cultivation of native rangeland will be permitted

F. Rezoning. The review process for rezoning is set forth in Section 4-301, *Rezoning* and requires the following materials:

1. Application Form and Fees
2. Vicinity Map
3. Rezoning Justification Report
4. Application Materials for Proposed Land Use Change accompanying the Rezoning Request

G. Site Plan Amendment. The process for Site Plan Amendment is set forth in Section 4-204, *Amendments to an Approved Site Plan* and requires the following materials:

1. Application Form
2. Written Statement of proposed amendment(s)
3. Supporting documents necessary to evaluate the proposed amendment(s)

H. Vacation of Streets and/or Alleys. The process for the vacation of a street and/or alley is set forth in Section 4-207, *Vacation of Streets and/or Alleys* and requires the following materials:

1. Application Form and Fees
2. Petition for Vacation
 - (a) The Petition form shall be provided by the Land Use Department

3. An accurate drawing suitable for recording prepared by a Colorado licensed land surveyor depicting and legally describing the public street, alley, easement or public way to be vacated, and said drawing shall also note all reservations, if any (unless waived by the Land Use Administrator).
4. Verified documentation that the requested vacation will not leave any land adjoining the roadway without an abutting established public road or private access easement connecting the land with another established road.
5. A letter from the Fire Department, School District(s), all applicable utility companies and special districts which serve the area in and around the property whose vacation is being sought, if deemed necessary by the Land Use Administrator, which shall state the respective authorities' position concerning the proposed vacation.

I. **Variances.** The review process for request for variance is set forth in Section 4-501, *Request for Variance* and requires the following materials:

1. Application Form and Fees
2. Written Statement of variance requested and description of hardship
3. Site Plan

Section 4-602

Description of Submittal Requirements. This section describes the materials that are required to be submitted, subject to Section 4-102, *Consultants*.

A. **Professional Qualifications.** The professional qualifications for preparation and certification of certain documents required by these Regulations are as follows:

1. **Civil Engineer.** Improvement plans and reports for water supply, sanitation, drainage, utilities, soils grading, roads, structures and other civil engineering required to satisfy the development standards of these Regulations shall be prepared and certified by a professional engineer qualified in the specific discipline and licensed by the State of Colorado.

2. **Surveyor.** All documents containing land survey descriptions shall be prepared and certified by a certified Colorado Professional Land Surveyor.

3. **Geologist.** Geology reports shall be prepared by either a member of the American Institute of Professional Geologists or a member of the Association of Engineering Geologists.

4. **Other.** Other professionals retained by the applicant to provide studies and analyses required by these Regulations shall demonstrate qualification in the specific field to the satisfaction of the reviewing body.

B. **Basic Application Materials.** The following basic materials are required for all applications for land use change permit, including division of land:

1. **Application Form.** Application forms for a land use change permit shall be obtained from the Land Use Department. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, or any other person having a recognized fee title interest in the land for which a land use change is proposed or by any agent acting through written authorization of the owner.

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

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

2. **Fees.** Any application for a land use change permit must be accompanied by the appropriate fees. A schedule of fees is available through the Land Use Department.

a. **Payment of Consultant Fees.** Pursuant to Section 4-102, *Consultants*, the cost of consultant and referral agency review are the responsibility of the applicant.

(1) The County may require a deposit for payment of consultant and referral agency review fees, based upon estimated consultant review costs, at the time of application and in addition to the application fees.

(2) The County may suspend the application review process pending payment of consultant costs.

C. **Maps and Plans.**

1. **Basic Requirements for Maps and Plans.** The following are basic requirements for any map or plan submitted under the application and review procedures of these Regulations:

a. Name or identifying title of the proposed development or use.

b. Total area of the site, in acres.

c. Name, address and telephone number of the applicant, person preparing the map or plan, designer, engineer, surveyor, and any other consultants of the applicant.

d. Date of preparation, revision box, written scale, graphic scale, and north arrow.

e. Scale of 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size, unless otherwise specified by these Regulations or directed by the Land Use Administrator.

2. **Vicinity Map.** An 8 1/2" x 11" vicinity map locating the parcel in the County. The vicinity map shall clearly

show the boundaries of the subject property and all property within a 1-mile radius of the subject property.

3. **Site Plan.** The Land Use Administrator may require, or the applicant may choose, to submit a more detailed version of all or part of the site plan. The Land Use Administrator shall dictate which of the following elements shall be included in the site plan:

- a. Legal description of the property in digitized form compatible with the County Land Use software.
- b. Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range.
- c. Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the development and storm drainage.
- d. Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.
- e. Existing and proposed parking areas, driveways, emergency turn-outs and emergency turnarounds, sidewalks and paths, shown by location and dimension.
- f. Existing and proposed roads, railroad tracks, irrigation ditches, fences and utility lines on or adjacent to the parcel, shown by location and dimension.

- g. Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension.
 - h. Area of the individual parcels and the total square feet of existing buildings, driveways and parking area.
 - i. Zone district in which the site is located.
 - j. Location and dimension of all structures, existing and proposed, and distance of structures from property lines.
 - k. Elevation drawings showing existing grade, finished grade, and height of the proposed structures above existing grade.
 - l. Description of the proposed wastewater treatment system, including location and size of leach field, sewer service lines, and treatment facilities to serve the proposed use.
 - m. Description of the source and capacity of the water supply, including location and size of well(s) and/or water lines to serve the proposed use.
 - n. Description of legal and adequate access to the property.
 - o. Location and size of signs for the purpose of identification, advertising and traffic control.
 - p. Additional information that may be reasonably requested by the Land Use Administrator to enable an adequate evaluation of the proposal.
4. **Landscape Plan.** The landscape plan shall be prepared by a person or entity acceptable to the Land Use Administrator, and may include the following elements as directed by the Land Use Administrator:

- a. Topographic information at two (2) foot contour intervals.
 - b. Location of all lot lines and improvements to the property, and location of any easements of record.
 - c. Identification of all existing deciduous and coniferous trees of six inches (6") in caliper or greater, and which trees will be preserved and which trees will be removed or relocated; areas where other existing vegetation will either be preserved or removed; the type, location, size and number of plants that will be installed; specified seed mixtures.
 - d. An estimate of the cost of supplying and installing the materials depicted in the landscape plan.
 - e. A description of the proposed program to maintain the landscaping after it has been installed.
5. **Erosion and Sediment Control Plan.** The Erosion and Sediment Control Plan may include the following elements as directed by the Land Use Administrator:
- a. **Site Map.** A site map showing locations of any existing structures, waterbodies or hydrologic features on the site, including intermittent water features, wetlands and the 100-year flood plain boundaries.
 - b. **Drainage Structures.**
 - (1) Locations of existing and proposed drainage structures or natural drainage features affecting site drainage on the parcel and within 100 feet adjacent to the site boundary, including: street gutters, storm sewers, drainage channels and other water conveyance structures; and wetlands or

other waterbodies receiving storm runoff from the site.

(2) Preliminary engineering design and construction features for drainage structures to be constructed.

c. Drainage Plan. Proposed drainage plan.

d. Topography. Existing topography at reasonable contour intervals, to provide necessary detail of the site. The map should extend a minimum of 100 feet beyond the property line and show the location of the property line.

e. Grading Plan. A grading plan showing the proposed topography at reasonable contour intervals that provide necessary detail of the site. The plan shall show elevations, dimensions, location, extent and slope of all proposed clearing and grading including building site and driveway grades.

f. Soil Stockpile and Snow Storage Areas. Probable locations of soil stockpiles and snow storage areas.

g. Equipment Storage Areas. Location of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill containment structure.

h. Temporary Roads. Location of temporary roads designed for use during the construction period.

i. Areas of Steep Slope. Areas with slope of twenty (20) percent or greater shall be identified by location and percentage of slope, both for the existing site conditions and within the developed area.

j. Construction Schedule. Construction schedule indicating the anticipated starting and completion time periods of the site grading and/or

construction sequence including the installation and removal of erosion and sediment control measures, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.

k. Permanent Stabilization. A brief description of how the site will be stabilized after construction is completed.

l. Erosion Control Measures. Plan view drawings of all erosion and sediment control measures showing approximate locations and site drainage patterns for construction phases and final design elements. Text may be necessary to accompany and explain the drawings. Typical erosion control measures should be depicted using standard map symbols.

m. Estimated Cost. Estimated total cost (installation and maintenance) of the required temporary soil erosion and sediment control measures.

n. Calculations. Any calculations made for determining rainfall, runoff, sizing any sediment basins, diversions, conveyance or detention/retention facilities.

o. Additional Information or Detail. Other information or data, and additional detail as may be reasonably required by the Land Use Administrator.

p. Signature Blocks. Signature block for owner or legal agent acknowledging the review and acceptance of responsibility, and a signature and stamped statement by the qualified individual acknowledging responsibility for the preparation of the Erosion and Sediment Control Plan.

D. Land Suitability Analysis. The Land Suitability Analysis is a written analysis of conditions on-site and off-site which have an influence on the proposed use of the land. The Land Suitability

Analysis may include the following information as directed by the Land Use Administrator:

1. **Site Features.** A description of site features such as streams, areas subject to flooding, lakes, high ground water areas, vegetative cover, climatology, and other significant natural and man-made features.
2. **Drainage Features.** A description of the existing drainages and impoundments, natural and man-made.
3. **Soil Characteristics.** A description of soil characteristics of the site.
4. **Geology and Hazard.** A description of the geologic characteristics of the area including any potential natural or man-made hazards.
5. **Topography and Slope.** A description of the topography and the slope determination.
6. **Existing Water Supply and Adequacy of Supply for Existing and Future Requirements.** A description of the source of water supply, the existing and future domestic and agricultural requirements, and the capacity of the source of water supply to meet existing and future requirements. The description shall include detail of historic irrigation, tailwater issues, and water demands.
7. **Groundwater and Aquifer Recharge Areas.** A description of the relationship of the subject parcel to flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal, the slope of the land, the effect of sewage effluents, and the pollution of surface runoff, stream flow and groundwater.
8. **Flood Plain.** A description of the Flood Plain designations affecting the subject property.
9. **Environmental Conditions.** A description of the existing environmental conditions.
 - a. Existing flora and fauna habitat, wetlands, migration routes.

b. Significant archaeological, cultural, paleontological, and historic resource areas.

c. Potential radiation hazard that may have been identified by the State or the Otero County Health Department.

10. Use of Adjacent Property. A description of the existing and historic use of adjacent property and neighboring properties within a 500' radius.

11. Easements. A description of all easements defining, limiting or allowing use types and access.

12. Access.

a. Public Access to Site. A description of historic public access to or through the site.

b. Access to Adjoining Roadways. A description of access to adjoining roads and site distance and intersection constraints.

E. Impact Analysis. The Impact Analysis shall provide a description of the impacts that the proposed land use change may cause, based upon the standards that the proposed use must satisfy. The Impact Analysis shall include a complete description of how the applicant will ensure that impacts will be mitigated and standards will be satisfied.

F. Rezoning Justification Report. A report that explains how the rezoning will satisfy the approval criteria for a rezoning, set forth in Article 7, Section 7-901 *Rezoning Criteria*.

G. Statement of Appeal. A written statement of the administrative interpretation or decision to be appealed, the date of the written interpretation or decision, and the reasons why the appellant believes that the interpretation or decision is incorrect, including any materials or evidence to support the appeal.

H. Traffic Study. A Traffic Study shall be submitted as part of the Impact Analysis (if required by the Land Use Administrator). The Traffic Study shall contain a Basic Traffic

Analysis and, depending on the results of that analysis, a Detailed Traffic Analysis where certain thresholds are exceeded. Both the Basic and Detailed Traffic Analyses shall contain sections addressing projected construction and development traffic impacts. A Detailed Traffic Analysis shall be prepared by a registered professional with experience in Transportation Engineering.

1. **Information Requirements for a Basic Traffic Analysis.**

a. Maps. A map or maps depicting the parcel or activity area, showing existing and proposed internal roads, adjoining roads, access points and activity areas for construction activity, access points for the finished development, all County roads within a 1-mile radius of the development, and the nearest proximate intersections with State or Federal highways likely to receive traffic impacts from the development.

b. Existing Land Use and Traffic. A narrative description of existing land uses on the parcel, with current trip generation estimates at existing access points, the current status of those access points regarding County access permits, any permits for access to a State highway, railroad crossings, access easements and their legal status and other appropriate current traffic information and legal constraints that may apply.

c. Proposed Land Use and Traffic. A narrative description of proposed land uses and likely trip generation projections for each, based on current trip generation manuals or other credible and defensible analysis, both for the construction phase(s) and the completed development, with a breakdown of traffic into heavy trucks and 'other', for existing, temporary or proposed new access points.

d. Construction Phases. A narrative description of the construction phase(s) of the development including staging and storage areas, temporary access points, duration, types and

frequency of heavy truck traffic, access road segments to be impacted, any projected County or state permits required, projected lane closures or traffic interruption, and a statement of intended mitigation measures to minimize disruption and damage.

e. **Average Daily Traffic Count Information.** Depict existing Average Daily Traffic Count information for all County road segments and State or Federal highway intersections at the appropriate map scale, and show on the same map the likely increase in average daily truck traffic for construction activity and average daily traffic for the completed development. Where a development has two or more access points, show anticipated trip distribution and assignment for each access point, provide a narrative rationale for the projected allocation of trips by access points and road segment.

2. Thresholds Requiring a Detailed Traffic Analysis. If the Basic Traffic Analysis shows that any of the following thresholds are exceeded, such determination to be made by the County, a Detailed Traffic Analysis shall be required:

a. Traffic volumes projected at any intersection with a State or Federal highway exceed current volumes by twenty percent (20%), as determined by CDOT using current traffic counts and CDOT approved methodology.

b. Traffic volumes projected on any County road segment exceed current volumes by thirty percent (30%).

c. Traffic volumes on any road segment identified or contained within an approved Municipal Street Plan within a 1-mile radius exceed current volumes by thirty percent (30%).

3. Elements of a Detailed Traffic Analysis. In addition to the information provided in the Basic Traffic

Analysis, the following information shall be provided in a Detailed Traffic Analysis. The Detailed Traffic Analysis must show the highest probable volumes from the proposed uses and densities to be allowed at build out. The Land Use Administrator shall be consulted to determine levels of service and capacity definitions and information as currently available and applicable to County roads.

a. Access points to and from the development shall be analyzed for AM and PM peak hour use for turning movements to determine the necessity for traffic control and signalization, geometrics including turning lanes, and acceleration and deceleration lanes, and signage.

b. County road segments where traffic is expected to increase by over 30% shall be characterized in detail by current level of service, roadway condition and type, lane width, shoulder characteristics and condition, available right-of-way, speed limits, any weight limits, existing safety concerns and considerations and likely increases in maintenance requirements. Probable maintenance and improvement cost estimates shall be provided.

c. County road intersections where traffic is expected to increase by over 30% shall have information provided about existing traffic control and signalization, AM and PM peak hour utilization with turning movements, projections for levels of service, and recommended modifications for intersection geometrics including turning lanes, control or signalization devices, acceleration or deceleration lanes and advance signage where appropriate. Probable cost estimates shall be provided.

d. State or Federal highway intersections where traffic is expected to increase by over 20% shall have information provided about existing traffic control and signalization, AM and PM peak hour utilization with turning movements, through movements as applicable, projections for levels of service, and recommended modifications for

intersection geometrics including turning lanes, control or signalization devices, acceleration or deceleration lanes and advance signage. Consultation with the Colorado Department of Transportation is required and shall be documented. Probable cost estimates shall be provided.

4. Calculation of On-Site and Off-Site Improvements and Fees.

a. A narrative description shall be included for on-site improvements to be donated or constructed relating to traffic control and accommodation (i.e. donated right-of-way, improvement of existing access points, addition of new access points, signalization, turning lanes, acceleration/deceleration lanes, etc.).

b. A narrative description and site plans shall be provided for improvements for any off-site County road segments and intersections necessary to maintain the level of service.

c. A narrative description and site plans shall be provided for improvements for any State highway intersections deemed necessary by CDOT.

d. Calculation of a County Road impact fee due for the proposed development and any off-site costs identified.

e. A proposed funding and phasing plan shall be provided for work necessary to be performed off-site.

5. Additional Submittal Requirements and Documentation.

a. Existing County permits, including access permits.

b. Existing access easements.

- c. Existing permits from CDOT, railroads or other applicable entities.
- d. Evidence of consultation with the County for future access locations.
- e. Evidence of consultation with CDOT for future access permits, as applicable.
- f. Any proposed access easements, agreements and modifications and current status.
- g. Any proposed Noise Barrier or Sound Wall improvements.

Section 4-603

Description of Additional Submittal Requirements for Campgrounds/RV Park, Group Home and Manufactured Home Park.

A. Additional Application Materials for Campground/RV Park.

- 1. Plot Plans.** Typical plot plans for individual recreational vehicle spaces and campsites at a scale of 1 inch equals 50 feet.
- 2. Space Size and Density.** The number, location and size of all recreational vehicle spaces and camp sites, and the gross density of such spaces and camp sites.
- 3. Typical Sections.** Typical street and walkway sections.
- 4. Roadway and Walkway Detail.** The location, surfacing and width of roadways, sidewalks, pathways.

B. Additional Application Materials for Group Homes.

- 1. Management Plan.** An approved management plan may be required by the Board in considering the application for final approval.
 - a. Elements of a Management Plan.** The management plan shall define the operating

characteristics of a group home facility. The management plan may contain the following information, as directed by the Land Use Administrator:

- (1) Hours of operation.
- (2) Client arrival and departure times.
- (3) Coordinated times for deliveries and trash collection.
- (4) Mitigation of noise impacts.
- (5) Security.
- (6) The facility's drug and alcohol policy.
- (7) Loitering.
- (8) Employee education.
- (9) Neighborhood outreach and methods for future communication.
- (10) Dispute resolution with the surrounding neighborhood.

b. **Management Plan as a Condition of Approval.** The approved management plan shall be incorporated into the conditions of approval.

C. **Additional Application Materials for Manufactured Home Park.**

1. **Plot Plans.** Typical plot plans for individual manufactured home spaces, at a scale of 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size, unless otherwise specified by these Regulations or directed by the Land Use Administrator.

2. Space Size and Density. The number, location and size of all manufactured home spaces and the gross density of such spaces.

3. Typical Sections. Typical street and walkway sections.

4. Roadway and Walkway Detail. The location, surfacing and width of roadways, sidewalks, pathways.

Section 4-604

Description of Additional Submittal Requirements for Land Use in Flood Plain District.

A. Site Plan. In addition to the site plan requirements set forth in Section 4-602 C3, the site plan shall include the following elements. The Land Use Administrator may require, or the applicant may choose to submit, a more detailed version of all or part of the site plan.

1. Base flood boundary and water surface elevations.
2. Floodway boundary.
3. Channel of the watercourse.
4. Existing and proposed topographic contours shown at vertical intervals of no greater than 2'.
5. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
6. Elevation (in relation to mean sea level) to which any nonresidential structure will be floodproofed.
7. Location, dimension and elevation of proposed landscape alterations.
8. Elevations of existing streets, water supply, and sanitation facilities.
9. Boundaries and total land area of all existing and proposed impervious surfaces, including structures.

10. Location of existing water supply ditches, irrigation ditches and laterals.

11. A certificate from a Colorado Professional Engineer or architect that any nonresidential floodproofed structure shall meet the floodproofing criteria of Article 7.

B. Channel Cross-Section. A typical cross-section showing the following elements:

1. Channel of the watercourse.
2. Boundaries of flood plain adjoining each side of channel.
3. Area to be occupied by the proposed land use.
4. Existing and proposed base flood elevations.

C. Construction Specifications. Specifications for construction and materials of buildings, flood proofing, filling, dredging, grading, channel improvements, storage of materials, water supply, and sanitation facilities, as applicable.

D. Alteration of Watercourse or Natural Drainage. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed development.

E. Floodway Analysis. A floodway analysis prepared by a qualified professional engineer shall be required for *all* land use proposed to be located in a Floodway and shall meet the following guidelines. If a detailed hydraulic floodway analysis has not been performed, the Land Use Administrator shall require the applicant to provide the analysis necessary for determining the floodway boundary.

1. The Floodway Analysis shall be completed using methodology acceptable to the Federal Emergency Management Agency (FEMA) and Colorado Water Conservation Board.
2. The Land Use Administrator may require a detailed hydraulic floodway analysis based on the identical

hydraulic model used to develop the current engineering study adopted by the Board of County Commissioners, if available.

3. The hydraulic model shall be updated to reflect existing hydraulic conditions, to determine any increase in the 100-year water surface elevation levels that has occurred as a result of development since the flood plain was established.

a. Alternate floodway configurations may then be analyzed based on methods as outlined in the current U.S. Army Corps of Engineers HEC-RAS Water Surface Profiles Users Manual and submitted to the Land Use Administrator for review and approval.

b. The analysis shall provide a determination of the cumulative effects of the proposed development, plus the effects of development since the original flood hazard area was established, on the base flood elevation.

c. At the Land Use Administrator's discretion, where a regulatory floodway has been designated, it may not be necessary to determine the cumulative effects of existing development.

4. Floodway boundary configurations shall be examined and approved by the Land Use Administrator. The following information shall be included for the stream reach 1000 feet upstream and 1000 feet downstream from the proposed encroachment:

a. A copy of the printout for the hydraulic computer model representing the base flood profile run for conditions existing at the time the currently effective flood plain was developed. The printout must include the full input and output listing.

b. A copy of the printout from the hydraulic computer model representing the floodway run for the proposed floodway configuration and including developments and other hydraulic changes within

the flood plain since the currently effective flood plain was established. The printout must include the full input and output listing with all input changes from the original model highlighted.

c. A copy of the floodway data table representing data for the proposed floodway configuration.

d. A copy of the currently effective official engineering study showing the existing flood plain and the proposed floodway configuration.

e. Certification from a Colorado Registered Professional Engineer that the proposed floodway configuration, in combination with current flood plain hydraulic conditions, meets FEMA and CWCB requirements when evaluated against flood elevations established when the original flood plain study was completed.

F. **Flood Plain Impact Report.** An engineering report addressing the standards set forth in Article 7, Section 7-701.

ARTICLE 5
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ARTICLE 5 DIVISIONS OF LAND

DIVISION 1 GENERAL PROVISIONS

Section 5-101 **Types of Land Division.** Division of land into two or more parcels is classified by the County as either a subdivision or a subdivision exemption.

Section 5-102 **Plat or Exemption Plat Approval Required.** The division of land into five or more new lots requires plat approval or approval of an exemption plat by the Board of County Commissioners.

Section 5-103 **Sales Prohibited Prior to Subdivision Plat Approval.** No person with any interest in land located within a subdivision or a proposed subdivision shall transfer or agree to sell or offer to sell or sell any land before the subdivision or proposed subdivision is approved as provided by this Land Use Code.

DIVISION 2 SUBDIVISION/VACATION

Section 5-201 **Classification.** Subdivisions are classified by the County as either Minor Subdivisions or Major Subdivisions.

Section 5-202 **Minor Subdivision.** The review process for Minor Subdivision is set forth in Section 5-401, *Minor Subdivision Review Process*.

A. **Number of Lots.** For purposes of this Land Use Code, a Minor Subdivision is a subdivision which creates four (4) or less new lots, not counting the “mother” lot.

Section 5-203 **Major Subdivision.** The review process for Major Subdivision is set forth in Section 5-402, *Major Subdivision Review Process*.

A. **Number of Lots.** For purposes of this Land Use Code, a Major Subdivision is a subdivision which creates five (5) or more new lots, not counting the “mother” lot.

Section 5-204 **Vacation Plat.** Any plat or any part of any plat that has been duly recorded and approved by the Board may be vacated by the owner of the

premises by submitting to the Land Use Administrator a written application and obtaining approval thereof. The review process for a Vacation Plat is set forth in Section 5-406, *Vacation Plat Review Process*.

DIVISION 3 SUBDIVISION EXEMPTION

Certain divisions of land are exempt from the subdivision regulations if the division is not defined as a subdivision by 30-28-101, C.R.S., or if the Board of County Commissioners determines that such a division is not within the purposes of the subdivision statute, Section 30-28-133, C.R.S., *et seq.*, or the subdivision regulations of this Land Use Code. An application requesting subdivision exemption is subject to the approval process in Section 5-501, *Request for Subdivision Exemption Plat or Legal Description Approval*. Although exempt from the subdivision regulations, uses of land on parcels of land created through subdivision exemption are subject to other County regulations. All subdivision exemptions shall meet the basic exemption criteria in Article 7, Section 7-501.

Section 5-301 **Types of Subdivision Exemptions.** The Board of County Commissioners has established the following types of subdivision exemptions:

A. **Statutory Exemptions.** The divisions of interests in land to which the term “subdivision” and “subdivided land” does not apply pursuant to Section 30-28-101 (10) (b) (c) and (d), C.R.S. are statutory exemptions. Easements and rights-of-way shall not be considered interests for the purposes of this Section 5-301.

1. Large-lot land divisions.

a. All tracts of land thirty-five (35) acres or greater in size created after January 1, 1973 and which are not part of a recorded subdivision are considered to be parcels created by exemption, pursuant to 30-28-101 (10) (b), C.R.S.

b. Any division of land which creates parcels of land comprising thirty-five or more acres of land and none of which is intended for use by multiple owners.

2. Any division of land created by the court pursuant to the procedure set forth in Section 30-28-101 (10) (c) (II), C.R.S. if the Board of County Commissioners has been given the notice and opportunity to join as a party of interest in the proceeding for the

purpose of raising the issue of an intent to evade the statutory requirements for subdivision of land.

3. Any division of land which is created by a lien, mortgage, deed of trust, or any other security instrument.

4. Any division of land which is created by a security or unit of interest in any investment trust regulated under state law or any other interest in an investment entity.

5. Any division of land which creates cemetery lots.

6. Any division of land which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property.

7. Any division of land which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common. Any such interest shall be deemed as only one interest for purposes of satisfying the requirements of this Section 5-301.

8. Any combination of contiguous parcels of land into one larger parcel which meets the following conditions:

a. If the resulting parcel is less than thirty-five acres in land area, only one interest in the land is allowed.

b. If the resulting parcel is thirty-five (35) acres or greater in land area, the land area divided by the number of interests in the resulting parcel equals thirty-five (35) or more acres per interest.

c. Consolidation of contiguous parcels or lot mergers initiated by the County shall comply with the statutory requirements of Section 30-28-139, C.R.S.

B. Boundary or Lot Line Revision or Correction. Revisions to boundary lines or lot lines under the following conditions are subdivision exemptions. Refer to Article 7, Section 7-502 for the approval criteria for boundary or lot line revisions or corrections.

1. A revision of boundary lines or lot lines which does not increase the number of parcels previously recorded or approved.
2. A revision of boundary lines or lot lines for the purpose of correcting an engineering or survey error in a recorded plat.

C. **Correction Plats.** Corrections of technical errors in approved and recorded final plats are subdivision exemptions. Technical errors include errors to legal descriptions, acknowledgments, dedication language, plat notes and other items which do not constitute substantial modification of the approved plat. Refer to Article 7, Section 7-503 for approval criteria for correction plats.

Section 5-302

Cluster Development. Cluster development approved as a Rural Land Use Cluster Development is a subdivision exemption. The review process for exempt cluster development is set forth in Section 5-601.

A. **Cluster Well Exemption.** The Rural Land Use Cluster Development is authorized by 30-28-101 (10) (c) (X), C.R.S. and 30-28-401, C.R.S., *et seq.* A development approved pursuant to the statutory rural land use process is eligible for the cluster well exemption set forth in 30-28-404, C.R.S.

DIVISION 4

SUBDIVISION REVIEW PROCESS

Section 5-401

Minor Subdivision Review Process. The Minor Subdivision Review Process is a shortened review process for divisions of land identified as minor subdivision in Section 5-202, *Minor Subdivision*.

A. **Outline of Process.** The Minor Subdivision Review Process shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Review and Action by Otero County Planning Commission
6. Public Hearing
7. Review and Decision by Board of County Commissioners

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Article 4, Section 4-103 A, *Pre-Application Conference*.

2. **Application.** The application materials required for a land use change subject to Minor Subdivision Review are set forth in Section 5-701 C.

3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Otero County Planning Commission.

a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness. The Planning Commission may continue the public hearing to a fixed date and time.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

5. **Evaluation by Land Use Administrator, Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7, *Standards*, and in Article 7, Section 7-904, *Review Criteria for Approval for Minor Subdivision*.

a. **Staff Report.** A staff report shall be prepared pursuant to Article 4, Section 4-103 E.

b. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Article 4, Section 4-103 D, *Review by Referral Agency*.

6. **Review and Action by Otero County Planning Commission.** An application for Minor Subdivision shall be

considered by the Otero County Planning Commission at a public hearing, after proper notice, conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval, approval with conditions or denial of the application, based upon compliance with the applicable standards/criteria set forth in Article 7.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards/criteria, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable standards/criteria, the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards/criteria.

7. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

8. **Review and Action by the Board of County Commissioners.** An application for Minor Subdivision shall be considered by the Board of County Commissioners at a public hearing, after proper notice, conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*.

a. **Decision by Board.** The Board shall approve, approve with conditions or deny the application based upon compliance with the applicable standards in Article 7, *Standards*, and in Article 7, Section 7-904, *Review Criteria for Approval for Minor Subdivision*.

(1) **Approval of Application.** If the application satisfies the applicable standards/criteria, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the applicable standards/criteria, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards/criteria.

(4) **Written Decision.** The Board of County Commissioners shall issue a written documentation of its decision [ex.: Resolution approving or letter of denial].

(5) **Submittal of Land Survey Plat for Signature by Board.** If an application is approved, as set forth above, the Land Survey Plat shall be submitted to the Board for signature within thirty (30) calendar days from the date of approval of the application.

(6) **Recordation.** The Land Survey Plat shall be filed for recording with the County Clerk and Recorder within thirty (30) calendar days from the date of signature by the Board of County Commissioners. Simultaneous with the recording of the Land Survey Plat, the applicant shall record all required and necessary deeds of conveyance as directed by the Land Use Administrator.

C. **Legal Remedies.** The decision of the Board of County Commissioners shall be final, and an appeal may be taken to the Otero

County District Court within thirty (30) days from the date of the written decision by said Board.

Section 5-402

Major Subdivision Review Process.

A. **Outline of Process.** The Major Subdivision Review process shall consist of the following procedures, which must be completed in the order stated:

1. Pre-Application Conference
2. Sketch Plan Review (optional)
3. Preliminary Plan Review –
Public Hearing and Recommendation by Planning Commission;
Public Hearing and Decision by Board
4. Final Plat Review –
5. Approval of Final Plat by Board (Based Upon Preliminary Plan Approvals), no Public Hearing Required

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Article 4, Section 4-103 A, *Pre-Application Conference*.
2. **Sketch Plan Review (optional).** The process for Sketch Plan Review is set forth in Section 5-403, *Sketch Plan Review*.
3. **Preliminary Plan Review.** The process for Preliminary Plan Review is set forth in Section 5-404, *Preliminary Plan Review*.
4. **Final Plat Review.** The process for Final Plat Review is set forth in Section 5-405, *Final Plat Review*.

Section 5-403

Sketch Plan Review. The Sketch Plan Review process is an optional plan review process intended to review at a conceptual level the feasibility and design characteristics of the proposed division of land.

A. **Outline of Process.** The Sketch Plan Review process shall consist of the following procedures:

1. Application

2. Determination of Completeness
3. Evaluation by Land Use Administrator, Staff Review
4. Review by Planning Commission

B. Review Process.

1. Application. The application materials required for Sketch Plan Review are set forth in Section 5-701 F.

2. Determination of Completeness. The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

3. Schedule Conceptual Review by Planning Commission. Upon a determination of completeness, the Land Use Administrator shall schedule the application for review by the Planning Commission.

- a. The Planning Commission shall review the application at a public meeting within sixty (60) calendar days of the date of determination of completeness.

4. Evaluation by Land Use Administrator, Staff Review. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards at a conceptual level and prepare a staff report pursuant to Article 4, Section 4-103 E.

5. Conceptual Review by Commission. The Planning Commission shall conduct a conceptual review of the proposal's feasibility and design characteristics based upon compliance with applicable standards.

- a. **Written Notice of Conceptual Review Comments.** The Land Use Administrator shall provide the applicant with written notice of the Planning Commission's conceptual review comments and recommendations within five (5) calendar days of the date of the Commission's meeting.

- b. **Recommendations are Preliminary.** The

Commission's comments and recommendations are preliminary, based on conceptual review, and not binding upon formal review of the application.

Section 5-404

Preliminary Plan Review. The preliminary plan review process will consider the feasibility and design characteristics of the proposed land division based on the applicable standards set forth in Article 7, *Standards*. The preliminary plan process will also evaluate preliminary engineering design. The Land Use Administrator may allow the preliminary plan and the final plat process to be combined at his discretion.

A. **Outline of Process.** The Preliminary Plan Review process shall consist of the following procedures:

1. Application
2. Determination of Completeness
3. Evaluation by Land Use Administrator, Staff Review
4. Public Hearing and Recommendation by Planning Commission
5. Public Hearing and Decision by Board of County Commissioners

B. **Review Process.**

1. Application. The application materials required for Preliminary Plan review are set forth in Section 5-701 D.

2. Determination of Completeness. The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

3. Schedule Public Hearing by Planning Commission. Upon a determination of completeness, the Land Use Administrator shall schedule the application for review by the Planning Commission.

a. Public hearing by the Planning Commission shall be held within sixty (60) calendar days of the date of determination of completeness.

b. Public notice of the hearing shall be made pursuant

to Article 4, Section 4-103 F, *Notice of Public Hearing*.

4. **Evaluation by Land Use Administrator, Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7, *Standards*.

a. **Staff Report.** The Land Use Administrator shall prepare a staff report pursuant to Article 4, Section 4-103 E.

b. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Article 4, Section 4-103 D, *Review by Referral Agency*.

5. **Review and Recommendation by the Planning Commission.** A preliminary plan shall be considered by the Planning Commission at a public hearing, after proper notice, conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval, approval with conditions or denial of the application based upon compliance with the applicable standards set forth in Article 7, *Standards*.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable standards the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards.

6. **Schedule Public Hearing by Board of County Commissioners.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within thirty (30) calendar days of the date of the Planning Commission's recommendation.

b. Public notice of the hearing shall be made pursuant to Article 4, Section 4-103 F, *Notice of Public Hearing*.

7. **Review and Action by the Board of County Commissioners.** The final decision to approve, approve with conditions or deny a preliminary plan shall be made by the Board of County Commissioners at a public hearing.

a. **Decision by Board.** Following the public hearing conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the applicable standards in Article 7, *Standards*.

(1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

[NOTE: Subdivision approval process requires public hearings by Planning Commission and Board of County Commissioners for Preliminary Plan approval; Final Plat Approval does not require public hearing.]

Section 5-405

Final Plat Review. Unless otherwise provided by these Regulations, the applicant must receive preliminary plan approval before beginning the final plat process.

A. **Outline of Process.** The Final Plat Review process shall consist of the following procedures:

1. Application
2. Determination of Completeness
3. Evaluation by Land Use Administrator, Staff Review
4. Review and Action by Board of County Commissioners (no public hearing required)

B. **Review Process.**

1. **Application.** The application materials required for final plat review are set forth in Section 5-701 A.

2. **Determination of Completeness.** The Land Use Administrator shall review the Final Plat materials for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

3. **Schedule Review by Board of County Commissioners.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for review by the Board of County Commissioners. The Board of County Commissioners shall consider the final plat at a regularly scheduled public meeting to be held within sixty (60) calendar days of the date of determination of completeness. Final Plat approval does not require a public hearing.

4. **Evaluation by Land Use Administrator, Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the Final Plat for compliance with the conditions set forth in Article 7, Section 7-905, *Review Criteria for Final Plat Approval*, and prepare a staff report pursuant to Article 4, Section 4-103 E.

5. **Review and Action by the Board of County Commissioners.** A Final Plat shall be considered by the Board of County Commissioners at a regularly scheduled public meeting.

a. **Decision by Board.** The Board of County Commissioners shall approve the Final Plat if it satisfies the approval conditions in Article 7, Section 7-905, *Review Criteria for Final Plat Approval*.

(1) **Approval of Application.** If the Final Plat satisfies the applicable standards/criteria, the Final Plat shall be approved.

(2) **Denial of Application.** If the Final Plat fails to satisfy the applicable standards/criteria, the Final Plat may be denied; or

(3) **Conditional Approval of Application.** The Final Plat may be approved with conditions determined necessary for compliance with applicable standards/criteria.

b. **Submittal of Final Plat for Signature by Board.** The approved Final Plat shall be submitted to the Board for signature within one hundred twenty (120) calendar days from the date of approval of the final plat. All conditions of approval shall be met prior to submitting the plat for signature by the Board of County Commissioners.

C. **Recordation.** The Final Plat shall be filed for recording with the County Clerk and Recorder within thirty (30) calendar days from the date of signature by the Board of County Commissioners.

1. **Completion of Conditions of Approval.** The applicant must complete all conditions of Final Plat approval prior to recording the plat and associated documents.

2. **Approval of Improvements Agreement.** The Final Plat shall not be filed for recording until the Board has approved a Subdivision Improvements Agreement.

3. **Effective Upon Recording.** The Final Plat does not become effective until it is properly filed for recording with the County Clerk and Recorder.

4. **Public Sale of Lots.** A subdivision becomes complete and eligible for public sale of lots and development only after the Final Plat and associated documents are recorded.

Section 5-406

Vacation Plat Review Process.

A. **Outline of Process.** The Vacation Plat Review Process shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator, Staff Review
5. Review and Action by Otero County Planning Commission
6. Public Hearing
7. Review and Decision by Board of County Commissioners

B. **Review Process.**

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Article 4, Section 4-103 A, *Pre-Application Conference*.

2. **Application.** The application materials required for a Vacation Plat Review are set forth in Section 5-701 H.

3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

4. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Otero County Planning Commission.

a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness. The Planning Commission may continue the public hearing to a fixed date and time.

b. Public notice of the hearing shall be made pursuant

to Section 4-103 F, *Notice of Public Hearing*.

5. **Evaluation by Land Use Administrator, Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Article 7, Section 7-906, *Review Criteria for Vacation Plat Approval*.

a. **Staff Report.** A staff report shall be prepared pursuant to Article 4, Section 4-103 E.

b. **Review by Referral Agencies.** The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Article 4, Section 4-103 D, *Review by Referral Agency*.

6. **Review and Action by Otero County Planning Commission.** An application for a Vacation Plat shall be considered by the Otero County Planning Commission at a public hearing, after proper notice, conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval, approval with conditions or denial of the application, based upon compliance with the applicable standards set forth in Article 7, *Standards*.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable standards, the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards.

7. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing shall be made pursuant to Section 4-103 F, *Notice of Public Hearing*.

8. **Review and Action by the Board of County Commissioners.** A Vacation Plat shall be considered by the Board of County Commissioners at a regularly scheduled public meeting.

a. **Decision by Board.** The Board of County Commissioners shall approve the Vacation Plat if it satisfies the approval conditions in Article 7, Section 7-906, *Review Criteria for Vacation Plat*.

(1) **Approval of Application.** If the Vacation Plat satisfies the applicable standards/criteria, the Vacation Plat shall be approved.

(2) **Denial of Application.** If the Vacation Plat fails to satisfy the applicable standards/criteria, the Vacation Plat may be denied; or

(3) **Conditional Approval of Application.** The Vacation Plat may be approved with conditions determined necessary for compliance with applicable standards/criteria.

b. **Submittal of Vacation Plat for Signature by Board.** The approved Vacation Plat shall be filed and recorded in the County Clerk and Recorder's Office by the Land Use Administrator at the applicant's expense. The Vacation Plat shall divest all public rights in the streets, alleys, and public ways, and in all dedications laid out or

described in the subdivision plat except where reservation is made therefrom.

9. **Effective Upon Recording.** The Vacation Plat does not become effective until it is properly filed for recording with the County Clerk and Recorder.

DIVISION 5 SUBDIVISION EXEMPTION REVIEW PROCESS

Section 5-501

Request for Subdivision Exemption and Exemption Plat or Legal Description Approval. Divisions of land that may be exempt from subdivision review are identified in Section 5-301, *Types of Subdivision Exemptions*. An application requesting subdivision exemption and approval of an exemption plat or a new legal description shall be subject to the following review process:

A. **Outline of Process.** The review process for Request for Subdivision Exemption shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by Land Use Administrator, Staff Review and Decision

B. **Review Process.**

1. **Pre-Application Conference.** A Pre-Application Conference shall be held in accordance with the provisions of Article 4, Section 4-103 A, *Pre-Application Conference*.
2. **Application.** The application materials required for Request for Subdivision Exemption and Exemption Plat Approval are set forth in Section 5-701 G.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.
4. **Evaluation by Land Use Administrator, Staff Review**

and Decision. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the approval criteria set forth in Article 7, Section 7-501, *Basic Subdivision Exemption Criteria* and Article 7, Section 7-907, *Review Criteria for Exemption Plat Approval* and for compliance with the following:

a. In the case of any claimed exemption under C.R.S. 30-28-101 (10) (c) (VIII) dealing with the combination of contiguous parcels of land into one larger parcel, the following requirements must also be satisfied:

(1) If any portion of the “Mother Parcel” is not combined into the new parcel (the “Resulting Parcel”), then any remaining portion of the Mother Parcel must be 35 acres or more after the combination of the contiguous parcels.

(2) If the Resulting Parcel is less than 35 acres in land area, only one interest in said Resulting Parcel will be allowed.

(3) If the Resulting Parcel is more than 35 acres in land area, such land area, divided by the number of interests in the Resulting Parcel, must result in 35 or more acres per interest.

(4) Both the Mother Parcel (if any portion is left after the combination) and the Resulting Parcel must comply with all Land Use Code provisions.

(5) New legal descriptions must be constructed for the Mother Parcel (if any portion is left after the combination) and the Resulting Parcel which properly and legally describe the Parcels in question. This may be by use of government survey description; metes and bounds description; or plat description. The type of description to be used shall be at the sole discretion of the Land Use Administrator.

b. In the case of a claimed exemption under any

provision of C.R.S. 30-28-101 (10) (c) other than subsection VIII, the Land Use Administrator shall review the application for compliance with the applicable approval criteria set forth herein, and shall either approve or deny the application.

5. **Recordation.** An approved exemption plat or Certificate of Approval of Exemption issued by the Land Use Administrator shall be filed for recording with the County Clerk and Recorder within thirty (30) calendar days of approval. Such approved exemption plat or Certificate of Approval of Exemption shall be deemed to be *prima facie* evidence of compliance with this Land Use Code as concerns the exemption in question.

6. **Reconsideration of Land Use Administrator's Decision.**

a. **Request by Applicant for Reconsideration of Decision.** The applicant affected by the decision may request reconsideration of the Land Use Administrator's decision by the Board of County Commissioners. The aggrieved party may file a written Statement of Appeal within fourteen (14) calendar days of the date of written notice of the decision by the Land Use Administrator. The Statement of Appeal shall include a written statement of the administrative decision to be appealed, the date of the written decision, and the reasons why the appellant believes that the decision is incorrect, including any materials or evidence to support the appeal.

b. **Hearing.** The Board of County Commissioners shall hold a reconsideration hearing with the Applicant (Appellant) and the Land Use Administrator within thirty (30) days of the request by the Applicant (Appellant). The Board of County Commissioners may affirm the Land Use Administrator's decision or take such other action as it deems appropriate.

7. **Notice of Violation.** Should any person fail to make a request or fail to follow the procedure for exemption provided above and should said person nevertheless record a deed or transfer instrument that the Land Use Administrator believes should have gone through the exemption process, the Land Use Administrator

is authorized to prepare and record with the County Clerk and Recorder a “Notice of Violation”. This Notice shall list the property in question, the violation in question, and the fact that such property is in violation of the Land Use Code.

DIVISION 6 EXEMPT CLUSTER DEVELOPMENT REVIEW PROCESS

Section 5-601 **Exempt Cluster Development Review Process.**

A. **Outline of Process.** The Cluster Development review process shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by Land Use Administrator, Staff Review
5. Review and Recommendation by Planning Commission
6. Public Hearing and Decision by Board of County Commissioners

B. **Review Process.**

1. Pre-Application Conference. A Pre-Application Conference shall be held in accordance with the provisions of Article 4, Section 4-103 A, *Pre-Application Conference*.

2. Application. The application materials required for Rural Land Use Cluster Development are set forth in Section 5-701 E.

3. Determination of Completeness. The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

4. Review for Cluster Development Creating More than 10 lots. A Cluster Development shall require public hearings by the Planning Commission and the Board of County Commissioners.

a. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for review by the Planning Commission.

(1) Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.

(2) Public notice of the hearing shall be made pursuant to Article 4, Section 4-103 F, *Notice of Public Hearing* of this Article.

b. Evaluation by Land Use Administrator, Staff Review. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with standards and prepare a staff report pursuant to Article 4, Section 4-103 E.

(1) The basic standards for Cluster Subdivision Exemption are set forth in Article 7, Section 7-601.

c. Review by Referral Agencies. The Land Use Administrator's evaluation of the application may include comment by referral agencies received under Article 4, Section 4-103 D, *Review by Referral Agency*.

d. Recommendation of Planning Commission. Following a public hearing conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*, the Planning Commission shall recommend approval, approval with conditions or denial of the application, based upon compliance with applicable standards in Article 7.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards, the Planning Commission shall recommend that the application be approved.

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable standards the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend

approval with conditions determined necessary for compliance with the applicable standards.

e. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

(1) Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

(2) Public notice of the hearing shall be made pursuant to Article 4, Section 4-103 F, *Notice of Public Hearing*.

f. **Decision by Board.** Following a public hearing, conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the applicable standards in Article 7.

(1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved.

(2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards.

5. **Submittal of Cluster Development Plat for Signature by Board.** The plat for an approved Rural Land Use Cluster Development shall be submitted to the Board for signature within one hundred twenty (120) calendar days from the date of approval of the application. All conditions of approval shall be met prior to submitting the plat for signature by the Board of County

Commissioners.

a. The plat shall be signed by all owners of record.

6. **Recordation.** The plat shall be filed for recording with the County Clerk and Recorder within thirty (30) calendar days from the date of signature by the Board of County Commissioners.

a. **Completion of Conditions of Approval.** The applicant shall complete all conditions of plat approval prior to recording the plat and associated documents.

b. **Approval of Improvement Agreement.** The plat shall not be filed for recording until the Board has approved a Subdivision Improvements Agreement.

c. **Effective Upon Recording.** The plat does not become effective until it is properly filed for recording with the County Clerk and Recorder.

d. **Public Sale of Lots.** The subdivision becomes complete and eligible for public sale of lots and development only after the plat and associated documents are recorded.

DIVISION 7

SUBDIVISION AND EXEMPT SUBDIVISION APPLICATION MATERIALS

Section 5-701

Application Materials Required for Divisions of Land. Following are the application materials required for permits and approvals required by the Land Use Code for divisions of land. A detailed description of each submittal requirement is set forth in Section 5-702, *Description of Submittal Requirements*. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

A. **Final Plat.** The Final Plat review process is set forth in Section 5-405, *Final Plat Review* and requires the following materials:

1. Application Form and Fees
2. Vicinity Map

3. Final Plat
4. Final Engineering Reports and Plans
 - a. streets, trails, walkways and bikeways
 - b. engineering design and construction features for any bridges, culverts or other drainage structures to be constructed
 - c. mitigation of geologic hazards
 - d. wastewater collection, and water supply and distribution system
 - e. soil suitability information
 - f. groundwater drainage
 - g. Erosion and Sediment Control Plan
 - h. final cost estimates
5. Landscape Plan
6. Open Space Plan
7. Open Space Management Plan
8. Letter of Intent for service from the sanitation service provider
 - a. Contract for Service, required prior to Final Plat recordation.

B. **Major Subdivision.** The Major Subdivision Review process is set forth in Section 5-402, *Major Subdivision Review Process* and requires the following materials:

1. Application Form and Fees
2. Sketch Plan (optional)
3. Preliminary Plan
4. Final Plat

C. **Minor Subdivision.** The Minor Subdivision Review process is set forth in Section 5-401, *Minor Subdivision Review Process* and requires the following materials:

1. Application Form and Fees
2. Site Plan
3. Land Survey Plat

D. **Preliminary Plan.** The Preliminary Plan Review process is set forth in Section 5-404, *Preliminary Plan Review* and requires the following materials:

1. Application Form and Fees
2. Vicinity Map
3. Preliminary Plan Map
4. Open Space Plan, preliminary
5. *Draft* Open Space Management Plan
6. Conceptual Landscape Plan
7. Impact Analysis
8. Land Suitability Analysis
9. Preliminary Engineering Reports and Plans
 - a. streets, trails, walkways and bikeways
 - b. engineering design and construction features for any bridges, culverts or other drainage structures to be constructed
 - c. identification and mitigation of geologic hazards
 - d. wastewater collection, and water supply and distribution system
 - e. soil suitability information
 - f. groundwater drainage
 - g. Erosion and Sediment Control Plan
10. Subdivision Improvements Agreement, Covenants and Restrictions and other operative documents

E. **Rural Land Use Cluster Development.** The review process for Rural Land Use Cluster Development is set forth in Section 5-601, *Exempt Cluster Development Review Process* and requires the following materials:

1. Application Form and Fees
2. Vicinity Map
3. Cluster Development Exemption Plat
4. Open Space Plan Map
5. Open Space Management Plan
6. Land Suitability Analysis
7. Impact Analysis
8. Engineering Reports and Plans
 - a. streets, trails, walkways and bikeways
 - b. mitigation of geologic hazards

- c. wastewater collection, and water supply and distribution system
- d. soil suitability information
- e. groundwater drainage
- f. Erosion and Sediment Control Plan

F. **Sketch Plan.** The Sketch Plan review process is set forth in Section 5-403, *Sketch Plan Review* and requires the following materials:

- 1. Application Form and Fees
- 2. Vicinity Map
- 3. Sketch Plan
- 4. Land Suitability Analysis

G. **Subdivision Exemption and Exemption Plat Approval.** The review process for requests for exemption from subdivision review, for proposals other than exempt cluster subdivision, is set forth in Section 5-501, *Request for Subdivision Exemption and Exemption Plat or Legal Description Approval*, and requires the following materials:

- 1. Application Form and Fees
- 2. Vicinity Map
- 3. Exemption Plat
- 4. Written Narrative explaining reason for request for exemption from subdivision

H. **Vacation Plat Approval.** The Vacation Plat review process is set forth in Section 5-406, *Vacation Plat Review Process*, and requires the following materials:

- 1. Application Form and Fees
- 2. Petition for Vacation of Plat
 - (a) The Petition form shall include a statement of facts which the applicant believes justifies the vacation, including, but not limited to, a general description of the area surrounding the proposed vacation which will be thereby affected. Such description shall address, but not be limited to, the environmental, economic, and traffic effect of the proposed vacation.
- 3. Vacation Plat
- 4. Title Insurance Commitment or Policy

- (a) The commitment or policy shall be issued by a title insurance company, certified to a date not more than thirty (30) days prior to the submittal of the plat vacation to the Land Use Department showing the names of the owners of the land and all other persons who have an interest in or an encumbrance on the property described on the vacation plat.
- 5. Certificate of Taxes Paid/Due (issued by Treasurer)
 - (a) The certification shall state that all prior years' taxes have been paid.
- 6. A letter from the Fire Department, School District(s), all applicable utility companies and special districts which serve the area in and around the property whose vacation is being sought, if deemed necessary by the Land Use Administrator, which shall state the respective authorities' position concerning the proposed vacation.

Section 5-702

Description of Submittal Requirements. This section describes the materials that are required to be submitted. The Land Use Administrator may waive or alter any of the submittal materials if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

A. Professional Qualifications. The professional qualifications for preparation and certification of certain documents required by these Regulations are set forth in Article 4, Section 4-602 A, *Professional Qualifications*.

B. Basic Application Materials. The basic materials required for all applications for land use change permit are set forth in Article 4, Section 4-602 B, *Basic Application Materials*.

C. Maps and Plans.

- 1. **Basic Requirements for Maps and Plans.** The basic requirements for any map or plan submitted pursuant to the application and review procedures of these Regulations are set forth in Article 4, Section 4-602 C1.
- 2. **Vicinity Map.** The requirements for a Vicinity Map are set forth in Article 4, Section 4-602 C2.

3. **Sketch Plan Map.** The applicant shall submit a copy of the sketch plan map at the reduced size of 8 inches x 14 inches, legible and suitable for non-technical review of the proposal. The sketch plan map shall include the following information and supplemental materials. The Land Use Administrator may require, or the applicant may wish to submit, a more detailed version of all or part of the sketch plan map.

a. Legal description of the property in digitized form compatible with the County Land Use software.

b. Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range.

c. Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the development and storm drainage.

d. Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.

e. Existing and proposed parking areas, driveways, emergency turn-outs and emergency turnarounds, sidewalks and paths, shown by location and dimension.

f. Existing and proposed roads, railroad tracks, irrigation ditches, fences and utility lines on or adjacent to the parcel, shown by location and dimension.

g. Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension.

h. Schematic and narrative representation of the

proposed land use including:

- (1) Existing and proposed zoning of land to be subdivided.
- (2) Total proposed subdivision area in acres and a percentage breakdown of areas devoted to specific land uses, with acreage and square footage, (e.g. percentage and area of residential development and/or nonresidential development; percentage and area of open space; percentage and area of parking and driveways, and so forth).
- (3) Approximate lot sizes.
- (4) Total number, size, general location and type of proposed dwelling units.
- (5) Location, size and use of major improvements.
- (6) Total number of square feet of proposed nonresidential floor space.
- (7) Off-street parking areas and anticipated number of spaces.
- (8) Recreation areas and open space.
- (9) School sites.
- (10) Approximate location of wastewater treatment system, including location and size of leach field, service lines, and treatment facilities to serve the proposed use.
- (11) Source and capacity of the water supply, including approximate location and size of well(s) and/or water lines to serve the proposed use.
- (12) Utilities and service facilities.

(13) Landscaping.

- i. Additional information that may be reasonably requested by the Land Use Administrator to enable an adequate conceptual evaluation of the proposal.

4. **Preliminary Plan Map.** The Preliminary Plan Map shall include the following information and supplemental materials.

- a. The Preliminary Plan Map shall be scaled as follows, unless otherwise directed by the Land Use Administrator. To the extent practicable, the Preliminary Plan Map shall show the entire area proposed for subdivision on one 18" x 24" sheet (**or** 24" x 36" sheet, if required by the Land Use Administrator).

<u>Subdivision Lot Area</u>	<u>Scale</u>
160 acres or less	1 inch to 100 feet
More than 160 acres	1 inch to 200 feet

- b. Legal description of the property in digitized form compatible with the County Land Use software.

c. Site data in chart form presenting:

(1) Total area of the proposed subdivision; total area of the developed buildings, driveways and parking areas; total area of non-residential floor space.

(2) Total number of proposed lots; breakdown of the lot total by number of lots per use (i.e. residential use, business or commercial and industrial use, and other public and non-public uses).

(3) Total number of proposed off-street parking spaces.

(4) Total number of dwelling units; total number of dwelling units per structure proposed.

- (5) Total gross density proposed.
- d. Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range.
- e. Topography at the following minimum contour intervals:
 - (1) Subdivision with one or more lots less than two (2) acres in size, topography shown at two foot contour intervals.
 - (2) Subdivision with all lots two (2) acres or greater in size, topography shown at five (5) foot contour intervals.
 - (3) Areas having slopes 30% or more, or other significant topographic conditions, topography shown at 5-foot contour intervals.
- f. Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.
- g. Known, identified or designated one hundred (100) year flood plains and localized areas subject to periodic flooding. The distance between the mean identifiable high water mark of any creeks, streams or rivers and the nearest proposed development within the site shall also be shown.
- h. Public access to site, and internal circulation. Location, dimension, alignment and names of all existing and proposed streets, drives, alleys and roads on or adjoining the property. The general location and right-of-

way width for all arterials and collectors shall be shown.

i. The location of and preliminary engineering for any existing or proposed wastewater systems, water mains, culverts, storm drains, sidewalks, gutters, fire hydrants along with the width and depth of pavement or sub-grading to be provided, the depth of burial of all underground lines, pipes and tubing and typical cross sections of the proposed grading of roadways and sidewalks.

j. Uses and grantees of all existing and proposed easements and rights-of-way on and adjacent to the property, shown by location and dimension.

k. The location, use and gross square footage of proposed structures within the subdivision.

(1) Anticipated number of employees for proposed commercial or industrial uses.

l. Building envelopes in hazardous areas to protect trees and other natural resources, if deemed appropriate by planning staff.

m. Location and layout of lots and blocks, with lots and blocks numbered consecutively, and the dimensions and acreage of each lot.

n. Areas for landscaping, and delineation of the type and extent of vegetative cover on the site.

o. Zoning districts on the site and any zoning changes to be requested.

p. Existing land uses and zoning on adjoining properties.

q. Public or private sources of utility services and facilities.

r. Location and dimension of land to be held in common, open space devoted to community use, and land

to be dedicated to County.

s. Supplemental Information: The Preliminary Plan Map shall be accompanied by the following information:

(1) A copy of a current certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado setting forth the names of all owners of property included within the proposed subdivision and a list of all mortgages, judgments, liens, easements, contracts and agreements of record which shall affect the property within the proposed subdivision.

(2) A corporate property owner or corporate applicant shall provide evidence of registration or incorporation in the State of Colorado.

(3) A list from the County Assessor's office of current property owners of record and their complete mailing address for property within five hundred (500) feet of the boundaries of the proposed subdivision. This distance provision may be expanded up to two thousand five hundred (2500) feet in the case of large subdivisions and other special circumstances that so warrant, based upon the Land Use Administrator's determination.

(4) A list of the owners of subsurface mineral interests and their lessees, if any, on the proposed site and their complete mailing addresses.

(5) Description of proposed phasing plan, if applicable.

5. **Final Plat.** The Final Plat shall contain the following information, in a format prescribed by the County. The Final Plat shall be prepared in a clear and legible manner on reproducible film stock measuring 18" x 24" (or larger, if required by the Land Use Administrator) with clear margins of two (2) inches on the left hand side and one-half inch on the remaining sides.

a. Final Plat shall be scaled at 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size, unless otherwise specified by these Regulations or directed by the Land Use Administrator.

b. The name and address of the owner(s) of record of the land being platted and the same information for the applicant(s), if other than the owners.

c. The name, address and seal of the certifying registered land surveyor and the other individuals preparing the Final Plat.

d. Legal description of the property in digitized form compatible with the County Land Use software.

e. The township, range, section and quarter section(s).

f. Location and full description of all monuments as required by this Code and by Title 38, Article 51, C.R.S.

(1) Permanent monuments shall be set on the external boundary of the subdivision pursuant to Section 38-51-101, C.R.S.

(2) Block and lot monuments shall be set pursuant to Section 38-51-101, C.R.S.

(3) Information adequate to locate all monuments shall be noted on the plat.

g. Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township range.

h. The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field.

i. Lot location and layout.

- (1) All lots and blocks shall be numbered consecutively.
 - (2) The dimensions of all lots and the acreage of each lot shown to two decimal places.
 - (a) No ditto marks shall be used for dimensions.
 - (b) All unidentified angles will be presumed to equal 90 degrees.
- j. Location and width of existing and proposed roadways, road rights-of-way and parking areas within the site.
- (1) All street and road names shall be shown.
 - (2) If any road in the subdivision is a continuation or approximately a continuation of an existing public road, the conformity or the amount of conformity of the new road to the existing roads shall be accurately shown.
- k. Names and widths of all existing or recorded streets and roads intersecting the plat boundaries or paralleling them within two hundred (200) feet, the names and map numbers of all bordering subdivisions, and any municipal limits within two hundred (200) feet of the boundaries of the plat.
- l. Area of the site, area of individual parcels, and areas of all development including developed driveways, parking and buildings.
- m. The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned.
- n. The purpose and owner(s) of all easements and

statements from all utility companies, as applicable, that the stated services will be provided to the proposed development after platting. A plat note may be necessary to provide complete information regarding the purpose of the easement.

o. The boundary lines and dimensions, shown accurately, of all property to be reserved and dedicated, with the means of access to such property clearly shown and its intended uses noted.

p. A legally acceptable land description and dedication block placed on the plat by the applicant dedicating streets, rights-of-way, public sites and other such features. The transfer to the County of dedicated land shall take place by a legally acceptable instrument prior to or concurrent with Final Plat acceptance, but before recording of the Final Plat.

q. The names of abutting subdivisions or, in the case of abutting unplatted property, the notation “unplatted” shall appear.

r. Identification of lots with slope in excess of thirty (30) percent and any other lots where special studies are required prior to obtaining a development permit.

s. Delineation of all known, identified or designated one hundred (100) year flood plains and localized areas subject to periodic inundation along the required stream setback lines, if any.

t. Design and layout of all water and wastewater service lines, treatment facilities and other elements of the wastewater system, including the location of soil percolation tests as applicable.

u. All lands within the boundary of the subdivision shall be accounted for as a lot, tract, parcel, open space, street, right-of-way, alley and so forth, and all areas of such lands shall be shown on the plat to the nearest one hundredth of an acre.

v. All plat notes required by the County under Preliminary Plan approval or as a condition of Final Plat Approval.

w. Supplemental information.

(1) A copy of a current certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado attesting to the accuracy and validity of the title to the property being platted and stating that the applicant is the land owner or is duly authorized by the land owner(s). The certificate shall be submitted within seven calendar days of the application submittal date.

(a) The certificate or certification shall also list all mortgages, liens, judgments, easements, contracts, and agreements of record regarding the land to be platted and the Board of County Commissioners may require, at its discretion, that the holders of such mortgages, liens, judgments, easements, contracts or agreements shall be required to join in and approve the application for Final Plat approval before such Final Plat is accepted for review.

(b) All other exceptions from title shall be delineated.

(2) The Final Plat shall include executed certificates, notices, and statements in the standard format provided by the County, including the following certifications:

(a) Certificate for acceptance by Board of County Commissioners.

(b) Certification by a Surveyor.

(c) Owners and Mortgagee certification.

(d) Certificate for County Clerk and Recorder.

6. **Exemption Plat.** The exemption plat shall include the following information and supplemental materials. The Land Use Administrator may require, or the applicant may wish to submit, a more detailed version of all or part of the exemption plat.

a. Current certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado setting forth the names of all owners of property included within the proposed exemption and a list of all mortgages, judgments, liens, easements, contracts and agreements of record which shall affect the property within the proposed subdivision exemption.

b. Names and addresses of mineral estate owners of record of the property proposed for exemption from subdivision.

c. Evidence of registration or incorporation in the State of Colorado for corporate property owners or corporate applicant.

d. Legal description of the property in digitized form compatible with the County Land Use software.

e. Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range.

f. Adjacent subdivided, unsubdivided and public lands, and the names and addresses of property owner(s) and mineral estate owners of record within 200' of the proposed subdivision exemption.

g. Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension.

- h. Location and dimension of easements for protected significant on-site features.
- i. Location and layout of lots and blocks, with lots and blocks numbered consecutively, and the dimensions and acreage of each lot.
- j. Location and dimension of roadways, driveways, sidewalks, paths and trails, and parking areas.
- k. Location and dimensions of open space parcels and preserved areas.
- l. Location of utilities.
- m. Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.
- n. Description of wastewater treatment and disposal system, and proof that the system is adequate to serve each of the lots that will be created and meets the standards for wastewater treatment and disposal systems set forth in Article 7, *Standards*.
- o. Description of physical water supply and distribution system, and proof that the physical water supply is adequate to serve each of the lots that will be created and meets the standards for water supply and distribution system set forth in Article 7, *Standards*.
- p. Proof of adequate fire protection for each of the lots that will be created, meeting the requirements of the applicable fire protection district.
- q. Supplemental Information:

(1) A copy of a current certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado attesting to the accuracy and validity of the title to the property being platted and stating that the applicant is the land owner or is duly authorized by the land owner(s). The certificate shall be submitted within seven calendar days of the application submittal date.

(a) The certificate or certification shall also list all mortgages, liens, judgments, easements, contracts, and agreements of record regarding the land to be platted and the Board of County Commissioners may require, at its discretion, that the holders of such mortgages, liens, judgments, easements, contracts or agreements shall be required to join in and approve the application for Final Plat approval before such Final Plat is accepted for review.

(b) All other exceptions from title shall be delineated.

(2) The plat shall contain executed certificates, notices, and statements on a single sheet in a standard form.

7. **Cluster Development Exemption Plat.** The Cluster Development Exemption Plat for a Rural Land Use Cluster Development shall include the following information and supplemental materials:

a. Legal description of the property in digitized form compatible with the County Land Use software.

b. Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range.

c. Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.

d. Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension.

e. Location and dimension of easements for protected significant on-site features.

f. Location and layout of subdivision lots, buildable lots, and building envelopes, and the dimensions and acreage of each lot.

g. Location and dimension of roadways, driveways, sidewalks, paths and trails, and parking areas within the subdivision.

h. Location and dimension of land to be held in common, open space devoted to community use, and land to be dedicated to the County or preserved through conservation easement.

i. Location of all water and wastewater service lines, treatment facilities and other elements of the wastewater system, including the location of soil percolation tests.

j. Location of utilities.

k. Supplemental Materials:

(1) A copy of a current certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado attesting to the accuracy and validity of the title to the property

being platted and stating that the applicant is the land owner or is duly authorized by the land owner(s). The certificate shall be submitted within seven calendar days of the application submittal date.

(a) The certificate or certification shall also list all mortgages, liens, judgments, easements, contracts, and agreements of record regarding the land to be platted and the Board of County Commissioners may require, at its discretion, that the holders of such mortgages, liens, judgments, easements, contracts or agreements shall be required to join in and approve the application for exempt cluster development before the plat is accepted for review.

(b) All other exceptions from title shall be delineated.

(2) The plat shall contain executed certificates, notices, and statements on a single sheet in a standard form.

8. **Open Space Plan Map.** The Open Space Plan map shall be scaled at 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size, unless otherwise specified by these Regulations or directed by the Land Use Administrator, and shall include the following elements:

- a. Residential lot layout, roadways and site access.
- b. Delineation of open space areas.
- c. Trails and structures located within the open space areas.
- d. Existing and planned open space on adjacent property.

9. **Open Space Management Plan.** The Open Space

Management Plan shall include the following elements:

- a. Ownership and responsibility for management of the open space. Ownership shall be deeded to the final controlling entity.
 - b. Details for maintenance of the open space, including noxious weed control.
 - c. Responsibility for the cost of maintenance of the open space.
 - d. Uses allowed within the open space.
 - e. Stipulations preserving the designated open space and maintenance of the open space in the event of future amendments to the approved land use.
- 10. Site Plan.** The requirements for a Site Plan are set forth in Article 4, Section 4-602 C3.
- 11. Landscape Plan.** The requirements for a Landscape Plan are set forth in Article 4, Section 4-602 C4.
- 12. Erosion and Sediment Control Plan.** The requirements for an Erosion and Sediment Control Plan are set forth in Article 4, Section 4-602 C5.
- 13. Water Supply Plan.** The Water Supply Plan shall include the following elements, in graphic or written form:
- a. Evidence that an adequate water supply sufficient in terms of quality, quantity and dependability shall be available to the proposed land use.
 - (1) Evidence of ownership or right of acquisition or use of existing and proposed water rights.
 - (2) Historic use and estimated yield of claimed water rights.

(3) Amenability of existing water right to change in use.

(4) Evidence that the public or private water owners can and will supply water to the proposed land use, including the amount of water available for use by the providers, the feasibility of extending service to the area, proof of the legal dependability of the proposed water supply, and representation that all the necessary water rights have been obtained or will be obtained.

(5) Total gross density proposed and number of dwelling units as a ratio to the total development area.

b. If a central supply and distribution system is to be provided, a general description of the system, as designed by a qualified licensed professional engineer. The description shall include the following information.

(1) The legal entity that will own and operate the water system.

(2) The proposed method of financing the water system.

c. If connection is to be made to an existing public water system, a letter of commitment for service from an authorized representative of the entity that owns and operates the system.

(1) The letter shall include evidence that the existing water system possesses an adequate legal water supply to serve the proposed land use.

d. If an individual water system is proposed, a report indicating the availability of potable groundwater at reasonable depths throughout the proposed development and the expected quality and long-term yield of the proposed wells. The report shall be prepared by a qualified licensed professional engineer.

e. If applicable, a Plan of Augmentation and a plan for subdivision water supplies, with supporting documentation prepared by a qualified licensed professional engineer.

14. **Wastewater Plan.** The Wastewater Plan shall include the following elements, in graphic or written form:

a. A general description of the proposed collection system and treatment facilities, designed by a qualified licensed professional engineer. The following information shall be included.

(1) A copy of the completed Colorado Department of Health Waste Water Treatment Plant Site Location Approval Application.

(2) Description of the legal entity that will own and operate the collection and treatment facilities.

(3) Description of the proposed method of financing the collection and treatment facilities.

b. If the proposed land use is to be served by an existing public collection system and treatment facilities, evidence that provision has been made for adequate service to the proposed land use, in compliance with State and local regulations.

(1) Evidence that the existing collection system and treatment facilities can and will provide adequate service for the proposed land use.

(2) A letter of commitment for service from an authorized representative of the entity that owns and operates the system. The letter shall include evidence that the facility and system is adequate to serve the proposed land use.

(3) Description of the legal entity that owns and operates the collection and treatment facilities.

(4) Description of the proposed method of financing the collection and treatment facilities.

c. If individual sewage disposal systems are proposed, the following information shall be provided:

(1) Evidence that the individual sewage disposal systems will comply with the County's Individual Sewage Disposal Requirements and requirements of the Colorado Department of Public Health, Water Quality Control Commission.

(2) Documentation of soil percolation tests and other studies required to determine maximum seasonal groundwater level and depth to bedrock, in compliance with requirements of the County's Individual Sewage Disposal Requirements.

(a) Test locations shall be indicated on the plat.

(b) Tests may be performed by a qualified licensed professional engineer.

(3) A proposed management plan for operation and maintenance of on-site systems.

D. Land Suitability Analysis. The requirements for a Land Suitability Analysis are set forth in Article 4, Section 4-602 D.

E. Impact Analysis. The requirements for an Impact Analysis are set forth in Article 4, Section 4-602 E.

F. Visual Analysis.

1. **Visual Analysis with Sketch Plan.** Within the sketch plan review application, the applicant shall submit an initial investigation of potential visual impacts and mitigation techniques, containing the following materials:

a. **Map.** A map of the property that depicts the general location of ridgeline areas in relationship to

development areas.

b. **Written Statement.** A brief written statement describing, in a general manner, where the development is proposed to be located in relation to the ridgeline areas and the design elements that will be used to mitigate visual impacts.

2. **Visual Analysis with Preliminary Plan.** Within the preliminary plan review application, the applicant shall submit a detailed visual analysis that illustrates the existing features of the site, as viewed from the roadway corridor, and depicts the location and design of the proposed development. The visual analysis shall include:

a. **Illustrations.** Illustrations of the mass and form of the proposed development. These may be provided as a photograph of the property, onto which the development has been rendered, a computer simulation, an architectural site section or other similar visual display technique.

b. **Map.** A map locating proposed roads and utilities and identifying the area proposed for development.

c. **Plans.** Grading, landscaping and illumination plans.

d. **Written Statement.** A written statement depicting how the development mitigates visual impacts on affected ridgelines.

ARTICLE 6
PLANNED UNIT DEVELOPMENT

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ARTICLE 6 PLANNED UNIT DEVELOPMENT (PUD)

DIVISION 1 GENERAL PROVISIONS

Planned Unit Developments are authorized by State statute at Title 24, Article 67, C.R.S., and are defined as “*An area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for 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*”.

Section 6-101 **Allowed Uses.** All uses that are allowed in the underlying zone district where the PUD is located, and any other uses that are consistent with the Master Plan, if any, and compatible with the site’s physical and environmental characteristics may be allowed in a PUD.

Section 6-102 **Waiver or Modification of Requirements.** The Board of County Commissioners may waive or modify specifications, standards and requirements such as density, setbacks, height restrictions, land dedications, improvement standards and related requirements that would be otherwise applicable to a particular land use, if such waiver or modification furthers the objectives of these PUD regulations.

Section 6-103 **Relationship to Zoning and Subdivision.** The PUD is a type of customized zoning district. If a PUD consists of individual lots, subdivision plat or exemption plat approval also will be required.

DIVISION 2 PLANNED UNIT DEVELOPMENT REVIEW PROCESS

Section 6-201 **Outline of Procedure.** The PUD Review Process shall consist of the following procedures:

- A. Pre-Application Conference
- B. Preliminary PUD Plan Review

- C. Final PUD Plan Review
- D. Recordation
- E. Legal Remedies

Section 6-202

Review Procedures.

A. Pre-Application Conference. A Pre-Application Conference shall be held in accordance with the provisions of Article 4, Section 4-103 A, *Pre-Application Conference*.

1. **Concept Narrative.** The applicant shall present a Concept Narrative of the proposed PUD in sufficient detail to accurately convey the general concept of the proposal. Detail shall include:

a. Concept Description. Location of property; existing zoning, use and density; proposed zoning, use, densities and lot sizes; existing zoning and use of surrounding property, including densities; existing and proposed access; existing and proposed source of water; existing and proposed wastewater treatment system; phasing if entire project is not being done at one time; unique features on the site which might enhance the site and proposed use; a discussion of the anticipated impacts and proposed mitigation.

b. Additional Information Required. At the request of the Land Use Administrator, the applicant shall provide any reasonable additional conceptual information as needed to help clarify the proposal being made.

B. Preliminary PUD Plan Review. The following procedures shall apply to the Preliminary PUD Plan Review. The Land Use Administrator may allow combined review of the Preliminary PUD Plan and the Final PUD Plan.

1. **Application.** The application materials required for Preliminary PUD Plan Review are set forth in Section 6- 302 A.

2. **Determination of Completeness.** The Land Use Administrator shall review the application for

determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

3. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the Preliminary PUD Plan for consideration by the Planning Commission.

a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.

b. Public notice of the hearing shall be made pursuant to Article 4, Section 4-103 F, *Notice of Public Hearing*.

4. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the applicable standards set forth in Section 6-203, *PUD Approval Standards*.

a. **Staff Report.** A staff report shall be prepared pursuant to Article 4, Section 4-103 E.

b. **Review by Referral Agencies.** The Land Use Administrator evaluation of the application may include comment by referral agencies received under Article 4, Section 4-103 D, *Review by Referral Agency*.

5. **Review and Recommendation by the Planning Commission.** An application for Preliminary PUD Plan shall be considered by the Planning Commission at a public hearing, after proper notice, conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*.

a. **Recommendation by Planning Commission.** The Planning Commission shall review the application based upon compliance with the standards set forth in Section 6-203, *PUD Approval Standards*.

(1) **Recommendation of Approval.** If the application satisfies the applicable standards, the Planning Commission shall recommend that the application be approved;

(2) **Recommendation of Denial.** If the application fails to satisfy the applicable standards, the Planning Commission may recommend that the application be denied; or

(3) **Recommendation of Conditional Approval.** The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards;

6. **Schedule Public Hearing.** The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within thirty (30) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing shall be made pursuant to Article 4, Section 4-103 F, *Notice of Public Hearing*.

7. **Review and Action by the Board of County Commissioners.** The final decision to approve, approve with conditions or deny an application for Preliminary PUD Plan shall be made by the Board of County Commissioners at a public hearing.

a. **Decision by Board.** Following a public hearing conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the standards set forth in Section 6-203, *PUD Approval Standards*.

(1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved;

(2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards;

C. **Final PUD Plan Review.** The following review procedures shall apply to Final PUD Plan Review:

1. **Application.** The application materials required for PUD Final Plan Review are set forth in Section 6-302 A.

2. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Article 4, Section 4-103 C, *Determination of Completeness*.

3. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the Final PUD Plan for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of determination of completeness.

b. Public notice of the hearing shall be made pursuant to Article 4, Section 4-103 F, *Notice of Public Hearing*.

4. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for

compliance with the standards set forth in Section 6-203, *PUD Approval Standards*, and prepare a staff report pursuant to Article 4, Section 4-103 E.

5. **Review and Action by the Board of County Commissioners.** The final decision to approve, approve with conditions, or deny an application for Final PUD Plan shall be made by the Board of County Commissioners at a public hearing.

a. **Decision by Board.** Following a public hearing conducted pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*, the Board of County Commissioners shall approve, approve with conditions, or deny the application based upon compliance with the standards set forth in Section 6-203, *PUD Approval Standards*.

(1) **Approval of Application.** If the application satisfies the applicable standards, the application shall be approved;

(2) **Denial of Application.** If the application fails to satisfy the applicable standards, the application may be denied; or

(3) **Conditional Approval of Application.** The application may be approved with conditions determined necessary for compliance with applicable standards;

6. **Revisions to Zoning District Maps.** Approval of a PUD Final Plan shall be recorded on the Official Zoning Maps filed in the Planning Department as soon as practicable after the PUD becomes effective.

D. Recordation.

1. **Completion of Conditions of Approval.** The applicant must complete all conditions of Final PUD Plan approval prior to recording the Final PUD Plan and associated documents.

2. Approval of PUD Development Guide. The Final PUD Plan may not be filed for recording until the Board has approved a PUD Development Guide (see Division 3, Section 6-302, B, 8).

3. Effective Upon Recording. The Final PUD Plan does not become effective until it is properly filed for recording with the County Clerk and Recorder.

4. Public Sale of Lots. A PUD becomes complete and eligible for public sale of lots and development only after the Final PUD Plan and associated documents are recorded.

E. Legal Remedies. The decision of the Board of County Commissioners shall be final. If the application fails to satisfy the applicable standards and is denied, an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the written decision by said Board.

Section 6-203

PUD Approval Standards. In addition to the applicable standards set forth in Article 7, *Standards*, the following approval standards may apply to PUD applications, at the Land Use Administrator's discretion:

A. Conformity with Master Plan, if any, and Intergovernmental Agreements. The PUD shall conform to the County's Master Plan, if any, and applicable intergovernmental agreements.

B. Relationship to Surrounding Area. The PUD will not have an adverse impact on the surrounding area. The PUD is compatible with the scale, intensity and type of uses located on adjacent property.

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

D. Street Circulation System. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience

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and access. Private internal streets may be allowed, provided that adequate access for police and fire protection is maintained. Bicycle traffic shall be provided for when the site is used for residential purposes.

E. Pedestrian Circulation. The PUD shall provide pedestrian ways throughout the PUD that allow residents to walk safely and conveniently among areas of the PUD.

F. Open Space. The PUD shall preserve at least twenty-five (25) percent of the area as open space unless the use is predominately commercial or industrial, in which case common areas such as pedestrian plazas, gathering areas, fountains and similar features may be included in lieu of open space.

G. Housing Variety. The PUD shall provide for variety in housing types, price and ownership forms.

H. Affordable Housing. The PUD shall comply with affordable housing requirements of the Otero County Housing Authority.

I. Fire Hazards. Fire hazards will not be created or increased.

J. Recreation Amenities. The PUD shall provide recreational opportunities and amenities to residents of the PUD.

K. Compliance with Preliminary PUD Plan Approvals. The Final PUD Plan complies with all conditions of Preliminary PUD Plan approval.

L. Adequacy of Supporting Materials. The Final PUD Plan meets all planning, engineering, and surveying requirements of these Regulations for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.

M. Taxes. All taxes applicable to the land have been paid, as certified by the County Treasurer's Office.

DIVISION 3

**PLANNED UNIT DEVELOPMENT SUBMITTAL
REQUIREMENTS**

Section 6-301 **Basic Requirements.** Any materials to be prepared by qualified professionals shall be prepared and certified as set forth in Article 4, Section 4-602A.

Section 6-302 **Application Materials.**

A. **Submittal Requirements.** Following are the application materials required for a PUD. The Land Use Administrator may waive or alter any of these requirements if they are determined to be inappropriate or unnecessary in determining if the application satisfies applicable standards.

1. Application Form and Fees
2. Vicinity Map
3. Preliminary PUD Plan
 - a. Site Plan
 - b. Written Description
 - c. Land Suitability Analysis
 - d. Impact Analysis
 - e. Erosion Control and Drainage Report
 - f. PUD Development Guide
4. Final PUD Plan
 - a. Site Plan
 - b. Street/Road Plans and Profiles
 - c. Covenants, Conditions, Restrictions
 - d. PUD Development Guide, approved

B. **Description of Submittal Requirements.**

1. **Application Form.** Application forms for a land use change application proposing PUD development shall be obtained from the Planning Department. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, or any other person having a recognized fee title interest in the land for which a land use change is proposed, or their authorized agent.

- a. **Applicant is not the owner.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.

b. **Applicant is not the sole owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by the other owners or an association representing the owners consenting to or joining in the application.

2. **Fees.** The application must be accompanied by the appropriate fees. A schedule of fees is available through the Planning Department.

a. **Payment of Consultant Fees.** Pursuant to Article 4, Section 4-102, *Consultants*, the cost of consultant and referral agency review are the responsibility of the applicant.

(1) The County may require a deposit for payment of consultant and referral agency review fees, based upon estimated consultant review costs, at the time of application and in addition to the application fees.

(2) The County may suspend the application review process pending payment of consultant costs.

3. **Basic Requirements for Maps and Plans.** The following are basic requirements for the maps and plans submitted under these application and review procedures:

a. Name or identifying title of the proposed development or use.

b. Total area of the site, in acres.

c. Name, address and telephone number of the applicant, person preparing the map or plan, designer, engineer, surveyor, and any other consultants of the applicant.

d. Date of preparation, revision box, written scale, graphic scale, and north arrow.

4. Vicinity Map. An 8 1/2" x 11" vicinity map locating the parcel in the County. The vicinity map shall clearly show the boundaries of the subject property, and all property within a 1-mile radius of the subject property.

5. Site Plan, Preliminary PUB Plan. The site plan for a Preliminary PUD Plan shall include the following information:

a. Prepared on 18" x 24" or 24" x 36" sheets, unless otherwise directed by the Land Use Administrator.

b. Adjacent land owned by the applicant that is not part of the proposed request and the current and intended use of the land.

c. Topography at ten-foot contours, with delineation of areas having slopes twenty percent or more and other significant topographic conditions at more defined contours.

d. Public access to site, and internal circulation. The widths, lines, and names of all existing and proposed streets, drives, alleys and roads on or affecting the site, and names of existing streets and alleys, if known, on or adjoining the property. The general location and right-of-way widths for all arterials and collectors shall be shown.

e. Existing land uses and zoning on adjoining properties.

f. Public or private sources of utility services and facilities.

g. Areas for landscaping.

h. Location of all land uses and proposed densities, where applicable.

i. Proposed use and gross square footage of structures and anticipated number of employees if commercial or industrial uses.

j. Depiction of all natural and man-made water courses, retention areas, streams and lakes. Any known one hundred year flood plains affecting the property shall also be delineated as per the national Flood Plain Insurance Map or those maps provided by the US Army Corps of Engineers or another recognized source.

k. Land to be held in common, open space devoted to community use, and land to be dedicated to County.

l. Water supply plan approved by the State Division of Water Resources.

m. Wastewater treatment system which meets the requirements of the State Engineer and regulations adopted by the Otero County Health Department.

n. Building envelopes in hazardous areas to protect trees and other natural resources, if deemed appropriate by planning staff.

o. Signature block.

6. **Final PUB Plan.** The Final PUD Plan shall include:

a. Location or vicinity map to scale.

b. Drawing at a scale of 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size, unless otherwise specified by these Regulations or directed by the Land Use Administrator. Photo Mylar shall be used with outer dimensions of 18" x 24" **or** 24" x 36" unless otherwise directed by the Land Use Administrator.

- c. Legal description in digitized form compatible with the County Land Use software.
- d. Primary control points, or descriptions and “ties” to such control points to which all dimensions, angles, bearings, and similar data on the plat shall be referred.
- e. Location and description of monuments.
- f. Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles and radius, arcs, and central angles of all curves.
- g. Names and right-of-way width of each street or other right-of-way, even if for private maintenance and responsibility.
- h. Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension.
- i. Statement by owner dedicating streets, rights-of-way, and any sites for public use.
- j. Number to identify each lot or site, such as lot and block numbers.
- k. Purposes of sites other than residential lots that are dedicated or reserved.
- l. Gross and net acreage of individual lots or sites, calculated to two decimal places.
- m. Flood plains and building envelopes.
- n. Certification of title showing the applicant is the land owner or option-holder.

- o. Certification by the project surveyor certifying to the accuracy of the survey and plat.
- p. Certification of Planning Department.
- q. Certification for approval of the Board of County Commissioners.
- r. Certification for the County Clerk and Recorder.
- s. Additional Materials.
 - (1) Streets/roads plans and profiles.
 - (2) Covenants, Conditions, Restrictions.
 - (3) Estimated construction costs and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required of the applicant by the County.
 - (4) Development Guide.
 - (5) Erosion control and drainage report.
 - (6) Mechanism for maintaining and preserving open space and common areas.
 - (7) Certification of taxes paid.

7. **PUD Written Description.** A written description of the proposal shall include the following information:

- a. The names and addresses of owner, applicant and representative.
- b. General project concept and purpose of the request.

- c. Relationship of the proposed PUD development to the existing land uses and adjacent property land uses.
- d. The staging and timing for the proposed development.
- e. Compliance with the Master Plan, if any.
- f. Source of and legal right to water. Written confirmation of service availability from a water and sanitation district if the property lies within the district boundaries.
- g. Method of wastewater treatment and disposal.
- h. Type or method of fire protection.
- i. The names and addresses of mineral rights owners on the affected property and mineral rights lessees; names and addresses of water rights owners.
- j. Description of natural and manmade hazards.
- k. Discussion of impacts on services, including but not limited to County services, town services and schools.
- l. Discussion of impacts on existing flora and fauna, air quality, wildlife, historical lands or sites, drainage or mineral extraction.

8. **PUD Development Guide.** Any PUD must submit a PUD Development Guide prior to approval of the PUD. The Development Guide may also be incorporated into any development agreement.

- a. The PUD Development Guide shall comply with goals and policies of the Master Plan, if any, and any intergovernmental agreement affecting land use or development.

b. The PUD Development Guide shall contain landscape design guidelines that include design criteria for the construction of parks, trails, rightsof-ways and all other land held in common.

c. The PUD Development Guide shall propose development and site design standards and requirements for the PUD development. Appropriateness of standards and requirements for development shall be evaluated on the basis of the environmental and impact assessment, referral agency response, professional and academic reports and studies, adjacent land uses and natural environment, locations and other information available to the County. The current and future owners and their assigns shall be required to develop the proposed project in accordance with the approved and recorded PUD Plan.

9. Impact Analysis. The requirements for an Impact Analysis are set forth in Article 4, Section 4-602 E.

10. Land Suitability Analysis. The requirements for a Land Suitability Analysis are set forth in Article 4, Section 4-602 D.

ARTICLE 7
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 - B. Adequacy of Supporting Materials
 - C. Taxes
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A. **Determination of Adequacy and Reliability of the Water Supply.** In determining adequacy and reliability of the proposed water supply the following considerations shall apply:

1. **Adequacy of Water Source.** In addition to the requirements of the State Engineer and the Otero County Health Department, the following criteria shall be used to evaluate the adequacy of the water source intended to serve the proposed land use:

a. **Adequate Water to Meet Required Landscaping.** Each lot shall have adequate water to maintain required landscaping.

b. **Irrigation Water.** The demand for irrigation water shall be based upon the type of vegetation to be maintained, soil characteristics, the historic yield of the property and available water rights.

2. **Fire Protection Requirements.** The water supply demand for fire protection shall be based upon recognized and customary engineering standards and requirements of the applicable fire protection district. Subdivision developments shall also comply with the provisions of Section 7-404, *Fire Protection*, of this Article.

Section 7-105

Adequate Water Distribution and Wastewater Systems. The land use change shall be served by water distribution and wastewater systems that are adequate to serve the proposed use and density and shall meet the requirements of the State Engineer and the Otero County Health Department.

Section 7-106

Adequate Public Utilities. Adequate public utilities shall be available to serve the land use change.

Section 7-107

Access and Roadways. All access and roadways shall be reviewed by the County Engineer.

A. **Compliance with Standards.** All new roads and access shall be constructed in conformance with the standards for roadway and access applicable to the specific land use as required by the County Engineer.

1. For land use proposing division of land, multi-unit residential development, and commercial and industrial use, the standards for roadway design and arrangement are set forth in Section 7-307, *Basic Roadway and Access Design and Arrangement*.

2. Additional roadway and access standards for campgrounds/RV parks are set forth in Section 7-803, *Additional Standards Applicable to Campgrounds/RV Parks*.

3. Additional roadway and access standards specific to Manufactured Housing Parks are set forth in Section 7-810, *Additional Standards Applicable to Manufactured Home Park*.

B. Access to Public Right-of-Way. All lots and parcels shall have direct access to a public right-of-way.

C. Safe Access. Access to and from the use shall be safe and in conformance with access standards set forth in Article 7-307, *Roadway and Access Standards*. Where the land use change causes warrant(s) for improvements to state or federal highways, the developer shall be responsible for paying for those improvements.

D. Adequate Capacity. Roads serving the proposed use shall have the capacity to accept the additional traffic generated by the use safely and efficiently. The use shall not cause traffic congestion or unsafe traffic conditions, and all impacts to the County and State roadway system shall be mitigated through roadway improvements or impact fees, or both.

Section 7-108

No Significant Risk from Natural Hazards. The use is not subject to significant risk from natural hazards and will not exacerbate existing natural hazards.

A. Platting of Land Subject to Natural Hazards Prohibited or Restricted. Land subject to identified natural hazards such as falling rock, land slides, mud flows, radiation, flooding or high water tables, shall not be platted for any use other than open space or an uninhabitable portion of a lot over two acres unless mitigation is proposed by a qualified professional engineer licensed by the State of Colorado and approved by the County.

**DIVISION 2 NATURAL RESOURCE PROTECTION STANDARDS FOR
LAND USE CHANGE PERMITS.**

Unless otherwise specified, the following natural resource protection standards shall apply to all land use changes:

Section 7-201 **Protection of Unique Natural Features.** The land shall be developed in a manner that preserves the natural terrain, drainage, unusual rock formations, lakes, rivers, streams, existing topsoil and vegetation, including tree masses and large individual trees.

Section 7-202 **Protection of Agricultural Lands.**

A. No Adverse Affect to Agricultural Operations. Land use changes on lands adjacent to or directly affecting agricultural operations shall not adversely affect existing agricultural operations. Proposed division and development of the land shall minimize the impacts of residential development on agricultural lands and agricultural operations, and maintain the opportunity for agricultural production on the most productive and viable parcels of land.

B. Irrigation Ditches.

1. Maintenance. Where irrigation ditches cross or adjoin the land proposed to be developed, the developer shall insure that the use of those ditches, including maintenance, can continue uninterrupted.

2. Rights-of-Way. The land use change shall not interfere with the ditch rights-of-way.

3. Maintenance Easement. A maintenance easement reasonably sufficient for the purpose required (i.e., maintenance and use of the ditch) shall be preserved and indicated on any final plat for subdivision or the final development plan for any non-subdivision use.

Section 7-203 **Protection of Wetlands and Waterbodies.**

A. Waterbody. A “waterbody” shall include rivers, lakes, creeks, arroyas, drybed streams, and irrigation canals, but shall

specifically not include irrigation ditches and laterals.

B. Inner Buffer Zone Setback.

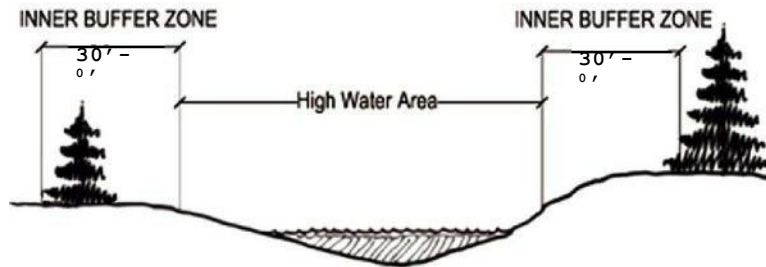


Figure 7-203 B, Inner Buffer Zone Setback

1. Minimum Setback. The Inner Buffer Zone Setback consists of a minimum setback of thirty (30) feet measured horizontally from the typical and ordinary high water mark in average hydrologic years on each side of a waterbody or wetland.

2. Structures and Activity Allowed in the Inner Buffer Zone Setback. Irrigation and water diversion facilities, flood control structures, culverts, bridges and other reasonable and necessary structures requiring some disturbance within this setback may be allowed.

3. Structures and Activity Prohibited in the Inner Buffer Zone Setback. Unless otherwise allowed by these Regulations, the following activities and development shall be prohibited in the Inner Buffer Zone Setback:

- a. Placement of material, including soil, sand, gravel, mineral, aggregate, organic material, or snow plowed from roadways and parking areas.
- b. Construction, installation, or placement of any obstruction, building or structure not allowed under Section 7-203 B2, *Structures and Activities Allowed in the Inner Buffer Zone Setback*.
- c. Removal, excavation, or dredging of solid material, including soil, sand, gravel, mineral, aggregate, or organic material.

d. Disturbance or removal of any existing live vegetation or conducting any activity which will cause any loss of vegetation, unless it involves the approved removal of noxious weeds, non-native species, dead or diseased trees.

e. Disturbance of existing natural surface drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics by any means including grading and alteration of existing topography, except for the purpose of restoring existing topography or to improve drainage, flow patterns, and flood control.

C. **Outer Buffer Zone.**

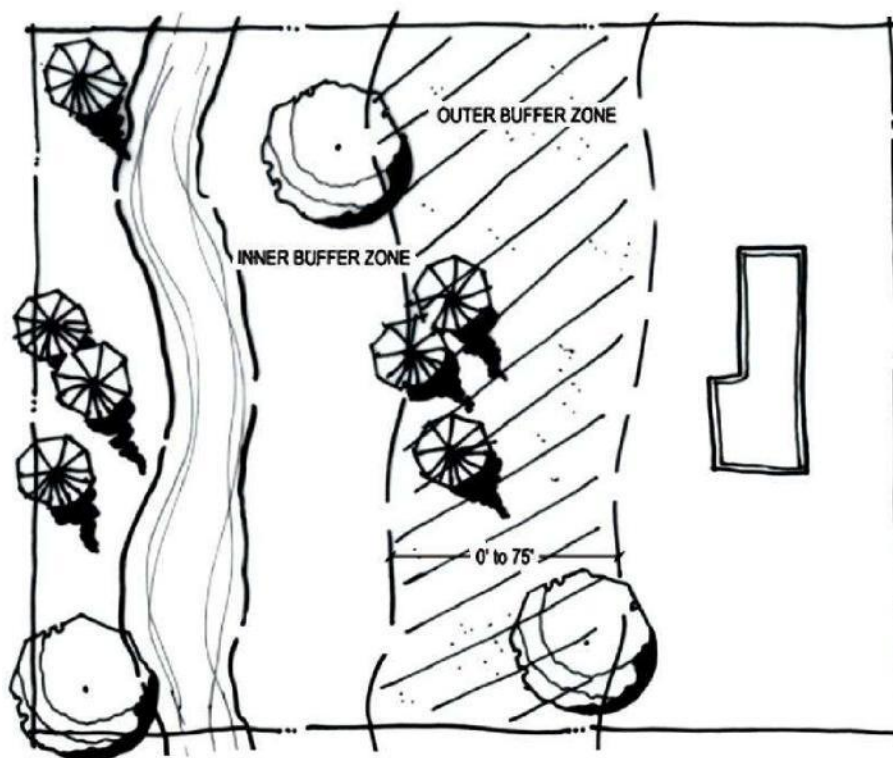


Figure 7-203 C, Outer Buffer Zone

1. **Width of Outer Buffer Zone.** The width of the Outer Buffer Zone may vary across the property as necessary to protect the integrity of the waterbody, watershed, or other site-specific features outside the Inner

Buffer Zone Setback. For a specific site, the width of the Outer Buffer zone may range from zero feet (0') to seventy-five feet (75') beyond the outer edge of the Inner Buffer Zone Setback.

2. Structures and Activity Prohibited in the Outer Buffer Zone. Disturbance of existing soil material and live vegetation and development in areas immediately outside the Inner Buffer Zone shall be limited and appropriate mitigation required where necessary to protect the integrity of the waterbody or special site-specific features identified in Section 7-203 C3, below.

3. Site Features that Trigger Application of Outer Buffer Zone. Site specific features that may trigger the need for mitigation through application of an outer buffer zone include:

- a. Steep slopes draining into the waterbody or wetland.
- b. Highly erodable soils.
- c. Unstable streambank conditions.
- d. Trees, shrubs, or other natural features that provide for streambank stability, habitat enhancement for aquatic environments, riparian area protection, or to maintain pre-development riparian plant or animal communities.
- e. Habitat for plant, animal, or other wildlife species listed as threatened or endangered by the United States Fish and Wildlife Service.
- f. Habitat for plant, animal, or other wildlife species listed by the State of Colorado as rare, threatened, or endangered, species of special concern, or species of undetermined status.
- g. The proposed use of the property presents a special hazard to water quality or wetlands (e.g., storage or handling of hazardous or toxic materials).

- h. The area is within the 100-year flood plain.
- i. The area is needed to prevent or minimize flood damage by preserving storm and flood water storage capacity.
- j. The area is needed to protect fish spawning, breeding, nursery and feeding grounds.
- k. The area is needed to preserve areas of special recreational, historical, archeological, scenic, or scientific interest.

Section 7-204

Protection of Water Quality from Pollutants. The following regulations shall apply to all non-residential land use changes:

A. **Compliance with State and Federal Regulations.** At a minimum, all hazardous materials shall be stored and used in compliance with applicable State and Federal hazardous materials regulations.

B. **Storage Near Waterbodies Restricted.**

1. The storage of hazardous materials within one hundred (100) horizontal feet of any waterbody is prohibited except when no practical alternative exists. Suitable site specific best management practices shall be utilized to minimize potential adverse water quality impacts.

2. Sand and salt for road traction shall not be stored within one hundred (100) horizontal feet of any waterbody unless there is no practicable alternative, in which case suitable site-specific best management practices shall be utilized.

C. **Spill Prevention.** Measures shall be implemented to prevent spilled fuels, lubricants or other hazardous materials from entering a waterbody during construction or operation of equipment and/or facility. If a spill occurs it shall be cleaned up immediately and disposed of properly.

D. **Machine Maintenance.** Maintenance of vehicles or mobile machinery is prohibited within one hundred (100) feet of

any waterbody. Emergency maintenance may be conducted until the vehicle or machinery can be moved.

E. Fuel Storage Areas. Containment measures shall be provided for all fuel storage areas to prevent release into any waterbody. Inventory management or leak detection systems may be required.

F. Waste Storage. Areas used for the collection and temporary storage of solid or liquid waste shall be designed to prevent discharge of these materials in runoff from the site. Collection sites shall be located away from the storm drainage system. Other best management practices such as covering the waste storage area, fencing the site, and constructing a perimeter dike to exclude runoff may also be required.

Section 7-205

Erosion and Sedimentation. In addition to any applicable Federal or State requirements, the following requirements may apply to land disturbances within twenty-five (25) feet of a waterbody and to all land development disturbing more than one-half (1/2) acre, at the discretion of the Land Use Administrator:

A. Minimize Erosion On Site.

1. Phase Construction. The staging and timing of earth disturbing construction activities such as clearing, grading, road construction, and utilities installation shall be designed to minimize soil exposure.

2. Install Erosion and Sediment Control Measures. Erosion and sediment control measures shall be installed before site grading or other construction.

3. Soil Stabilization. Disturbed areas and soil stockpiles shall be stabilized or protected to effectively control erosion. These areas should be surface roughened, mulched, or seeded and mulched, or otherwise protected from erosive forces if they will remain exposed and inactive for periods longer than fourteen (14) days. This requirement also applies if soil is expected to be exposed during winter, to minimize erosion from occurring during spring snow melt. Disturbed areas shall be mulched, or seeded and mulched, within seven (7) days after final grade is reached, weather permitting.

a. On slopes steeper than fifteen percent (15%), or within one hundred (100) feet of any waterbody, exposed soils shall be stabilized using appropriate techniques such as hydromulching, erosion control blankets, bonded fiber matrices or other equally protective measures. Grass or straw mulch shall be crimped, tracked or tacked in place to promote surface anchoring.

4. Temporary and Permanent Revegetation.

Disturbed areas that will not be built upon for one (1) year shall incorporate a temporary cover crop to promote soil stability. Areas exposed for two (2) or more years must be revegetated with a perennial, native grass mix (or other grass mixtures as recommended by the local Natural Resources Conservation Service Office). Within two (2) full growing seasons of project completion, vegetative site coverage shall have a perennial herbaceous component equal to or greater than seventy percent (70%) of the adjacent undisturbed areas.

5. Cut and Fill Slopes. Where cut and fill cannot be avoided, slopes shall be designed for long term stability.

a. Permanent vegetation shall be used as the priority approach to stabilization of cut and fill areas where slopes are less than or equal to 3:1.

b. On steeper cut and fill slopes, stabilization shall be attained by utilizing a combination of retaining walls, rock walls, up-slope runoff diversions, terracing, slope drains, soil nailing, mulch binders, erosion control blankets, vegetation or other measures appropriate for the specific situation.

B. Minimize Sediment Leaving the Site.

1. **Manage Stormwater Runoff.** Stormwater runoff shall be managed to minimize erosion and sediment transport off-site. Concentrated flows shall be diverted away from disturbed slopes and the length and steepness of disturbed slopes or use of slope drains shall be minimized.

Standards specific to management of stormwater runoff are set forth in Section 7-207, *Stormwater Runoff*.

2. Protection of Access Routes. Access routes shall be protected to prevent sediment or mud from leaving the site by either immediate placement of street base or construction of mud pads. Mud pads shall be at least fifty (50) feet in length and comprised of angular rock and/or a wheel washing facility.

3. Protection of Adjacent Properties. Adjacent properties shall be protected from sediment laden runoff by using sediment fences, and sediment or silt traps or other appropriate control options.

4. Protection of Storm Sewer Inlets. Storm sewer inlets shall be protected from flows of sediment-laden water. This may be accomplished by straw bales, supported silt fence structures, dumped rock or other barriers.

5. Diversion of Off-Site Runoff. Off-site runoff shall be diverted around the construction site when practical.

C. Incorporate Drainageways. Significant drainageways shall be incorporated in site development as open space, wildlife areas, and trails. Whenever possible, drainageways should be left in a natural state.

D. Detention and Treatment.

1. Construction of Sedimentation Basins. When the contributing drainage area, including off-site area (unless bypassed), is greater than five (5) acres, one or more sedimentation basin(s) shall be constructed to provide a total of 1800 cubic feet of basin volume for every acre contributing runoff into the basin. The outlet of the sediment basin should be designed to empty the storage volume in no less than twelve (12) hours. The basin's length shall be no less than twice the basin's width -- otherwise a baffle may be installed to minimize short circuiting. If the discharge from the basin is passed through a filtration device (i.e. a vegetated field, forested area, or a constructed wetland) the basin volume requirements may be reduced.

2. No Sedimentation Basin Required. Where the contributing drainage area, including off-site area (unless bypassed), is less than five (5) acres, a specific engineered design for sediment trapping facilities is not necessary and silt traps may be used to detain and treat runoff.

3. Removal of Sediment Basins. Sedimentation basins shall be removed after successful revegetation of the site. Embankments to be left as permanent facilities shall have a capacity to safely pass the 100-year flood and meet any relevant dam and diversion requirements of the Colorado State Engineer's Office (also see requirements in Section 7-207, *Stormwater Runoff*).

E. Construction De-Watering.

1. Construction de-watering activities will conform to the Colorado Department of Public Health and Environment (CDPHE) construction de-watering permit requirements.

2. Discharges from construction de-watering operations shall be done in a manner which minimizes erosion and utilizes best management practices such as velocity reducers, sediment basins, straw bales or other measures.

F. Inspection and Maintenance of Erosion and Sediment Control Devices.

1. Inspection. The applicant shall be responsible for inspection and repair of all erosion and sediment control devices after any precipitation that creates runoff. An inspection log shall be kept on-site for review by the Land Use Administrator until the project is complete and submitted to the County upon request.

2. Maintenance. Erosion and sediment control devices shall be maintained in a manner to support their effectiveness. Accumulated sediment shall be removed periodically from sediment basins and traps; straw bale and silt fence barriers shall be checked for undermining and bypass, and repaired or expanded as needed; and mulched

soils shall be re-mulched where mulch has been lost or damaged.

Section 7-206

Drainage.

A. Site Design to Facilitate Positive Drainage. Lots shall be laid out to provide positive drainage away from all buildings.

B. Coordination with Area Storm Drainage Pattern. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area.

1. Minimum Slope for Drainage Ditches. Drainage ditches shall have a minimum slope of no less than 0.75%. Energy dissipaters or retention ponds shall be installed in drainage ditches where flows are in excess of 5 feet/second. Ditches adjacent to roads shall have a maximum slope of 3:1 on the inside and outside edges, except where there is a cut slope on the outside edge where the edge of the ditch shall be matched to the cut slope.

2. Subdrains Required. Subdrains shall be required for all foundations where possible and shall divert away from building foundations and daylight to proper drainage channels.

3. Avoid Drainage to Adjacent Lots. Drainage shall be designed to avoid concentration of drainage from any lot to an adjacent lot.

Section 7-207

Stormwater Run-Off. These standards shall apply to any commercial or industrial development, new subdivisions, new development within 100 feet of a waterbody, and to any other development creating 10,000 square feet or more of impervious surface area.

A. Avoid Direct Discharge to Streams or Other Waterbodies. Stormwater runoff from project areas likely to contain pollutants shall be managed in a manner that provides for at least one of the following, and is sufficient to prevent water quality degradation, disturbance to adjoining property and degradation of public roads.

1. Runoff to Vegetated Areas. Direct runoff to

stable, vegetated receiving areas capable of maintaining sheetflow for infiltration. Vegetated receiving areas should be resistant to erosion from a design storm of 0.5 inches in 24 hours.

2. On-Site Treatment. On-site treatment of stormwater by use of best management practices designed to detain (see Section 7-207C, *Detain and Treat Run-off* below) or infiltrate the runoff prior to discharge to any natural waterbody.

3. Discharge to Stormwater Conveyance Structure. Discharge to a stormwater conveyance structure, designed to accommodate the projected additional flows from the proposed project, with treatment by a regional or other stormwater treatment facility prior to discharge into any natural waterbody.

B. Minimize Directly-Connected Impervious Areas. The site design shall minimize the extent of directly-connected impervious area by including the following requirements:

1. Drainage Through Vegetated Pervious Buffer Strips. Runoff from developed impervious surfaces (rooftops, parking lots, sidewalks, etc.) shall drain over stable, vegetated pervious areas before reaching stormwater conveyance systems or discharging to waterbodies.

2. Techniques Used in Conjunction with Buffer Strip. The requirement that all impervious areas drain to vegetated pervious buffer strips (paragraph B1, above) may be reduced if the outflow from the vegetated pervious buffer strip is directed to other stormwater treatment methods. Examples of other potential techniques to be used in conjunction with vegetated pervious buffer strips are: infiltration devices, grass depressions, constructed wetlands, sand filters, dry ponds, etc.

3. Grass Buffer Strip Slope Restrictions. When impervious surfaces drain onto grass buffer strips (or the equivalent) the maximum slope of the grass buffer strip shall be ten percent (10%) and the gradient shall be uniform to insure evenly distributed sheet flows. Check dams may be necessary to maintain ten percent (10%) slopes.

C. **Detain and Treat Runoff.** Permanent stormwater detention facilities are required to be multipurpose facilities designed to detain flows to historic peak discharge rates and to provide water quality benefits. Design criteria shall be designed by a qualified professional engineer licensed in the State of Colorado. Such detention facilities may include the following criteria, at the discretion of the Land Use Administrator:

1. Detention facilities shall ensure the post-development peak discharge rate does not exceed the pre-development peak discharge rate for the 2-year and 25-year return frequency, 24-hour duration storm. In determining runoff rates, the entire area contributing runoff shall be considered, including any off-site contribution. Off-site contributions shall be determined using the full development potential of the area draining into the detention facility, based upon the existing zoning district regulations.

2. To minimize the threat of major property damage or loss of life all permanent stormwater detention facilities must demonstrate that there is a safe passage of the 100- year storm event without causing property damage.

3. Channels downstream from the stormwater detention pond discharge shall be protected from increased channel scour, bank instability, and erosion and sedimentation from the 25-year return frequency, 24-hour design storm.

4. Removal of pollutants shall be accomplished by sizing dry detention basins to incorporate a 40-hour emptying time for a design precipitation event of 0.5 inches in twenty-four (24) hours, with no more than fifty percent (50%) of the stored water being released in twelve (12) hours. If retention ponds ("wet ponds") are used, a twenty-four (24) hour emptying time is required. For drainage from parking lots, vehicle maintenance facilities, or other areas with extensive vehicular use, a sand and oil grease trap or similar measures also may be required. To promote pollutant removal, detention basins length-to-width ratio should be not less than 2, with a ratio of 4 recommended where site constraints allow. A sedimentation "forebay" is

recommended to promote long-term functioning of the structure. Access to both the forebay and pond by maintenance equipment is required.

5. The exposed ends of culverts shall be protected by concrete encasement or shall be extended a minimum of three feet beyond the driving surface on each side. Culverts, drainage pipes and bridges shall be designed and constructed in compliance with American Association of State Highway Officials' (AASHO) recommendations for a water live load.

6. A written inspection and maintenance agreement shall be required to ensure regular inspection and maintenance of on-site detention facilities.

Section 7-208 **Air Quality.** The land use change shall not cause air quality to be reduced below acceptable levels established by the Colorado Air Pollution Control Division.

Section 7-209 **Areas with Archeological, Paleontological or Historical Importance.** The proposed land use change shall be designed to avoid or mitigate negative impacts upon archeological, paleontological and historical resources identified or reasonably expected to exist in areas to be affected by the proposed development.

DIVISION 3 SITE PLANNING AND DEVELOPMENT STANDARDS

Unless otherwise specified, these standards may apply (at the discretion of the Land Use Administrator) to land use changes proposing two-unit and multi-unit residential development, commercial and industrial use, and divisions of land not otherwise exempted from the approval standards set forth in these Regulations. These standards shall apply in addition to the basic standards set forth in Divisions 1 and 2 of this Article

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Section 7-301 **Compatible Design.** The design of development associated with the land use change shall be compatible with and enhance the existing character of adjacent uses.

A. Site Organization. The site shall be organized in a way that considers the relationship to streets and lots.

B. Operational Characteristics. The operations of activities

on the site shall be managed to avoid nuisances to adjacent uses relating to hours of operations, parking, service delivery, and location of service areas and docks.

1. Objectionable Emissions. Dust, odors, gas, fumes, and glare shall not be emitted at levels that are objectionable to adjacent property.

2. Noise. Noise as measured at the property boundary shall not exceed state noise standards and shall be buffered by landscaping or other screening devices.

3. Hours of Operation. Hours of operation shall be established to minimize impacts to adjacent land uses.

4. Roadway System Impacts. Impacts to the County roadway system associated with hauling, truck traffic and equipment use shall be mitigated through roadway improvements or impact fees, or both.

C. Lighting. Exterior lighting shall be designed in compliance with the requirements of Section 7-305 B, *Lighting Standards*.

D. Buffering. Landscape buffering shall be installed to mitigate visual, noise or similar impacts to adjacent property whenever adjacent uses are in a different zoning district.

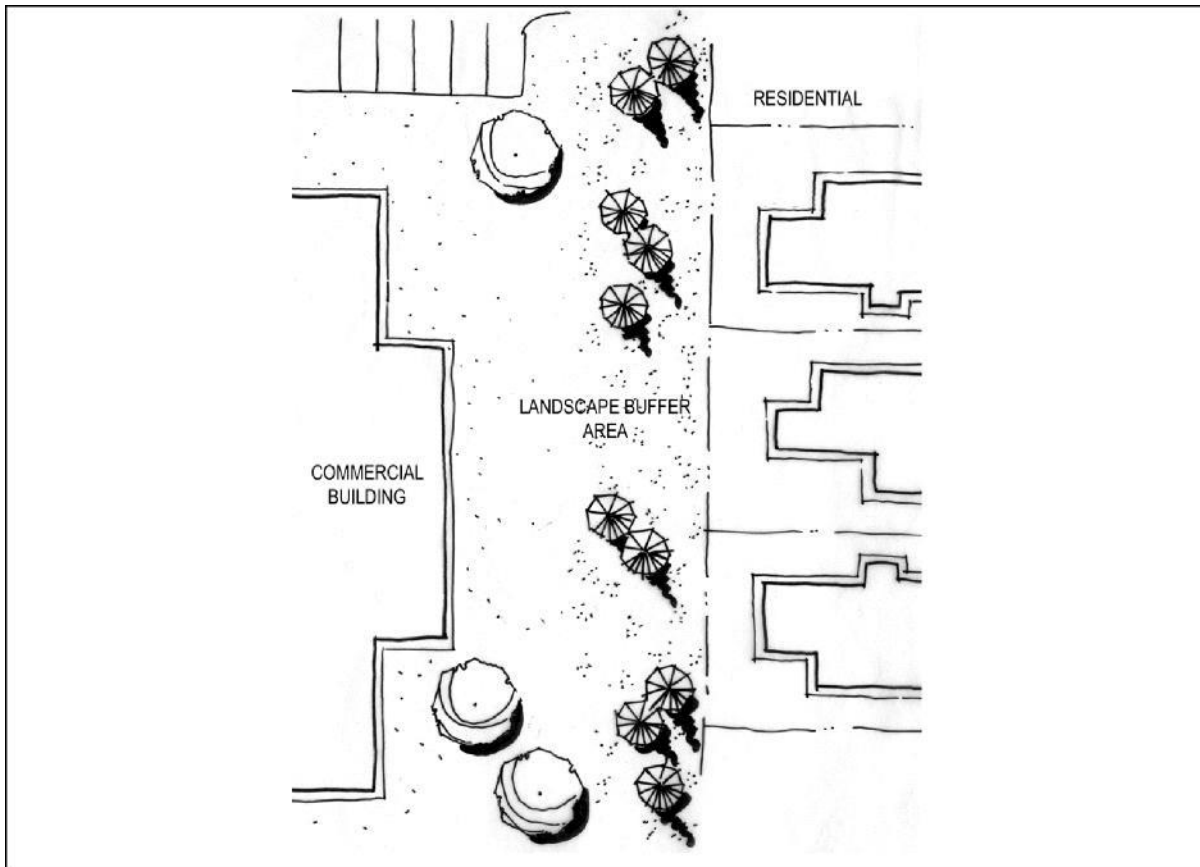


Figure 7-301 D, Landscape Buffer

Section 7-302

Building Design.

A. Entryway.

- 1. Orientation With Street.** At least one main entrance of buildings shall directly face to the street and provide a clear view of the public entry.
- 2. Visibility.** Commercial, industrial and multi-family buildings shall have clearly defined, highly visible entrances.

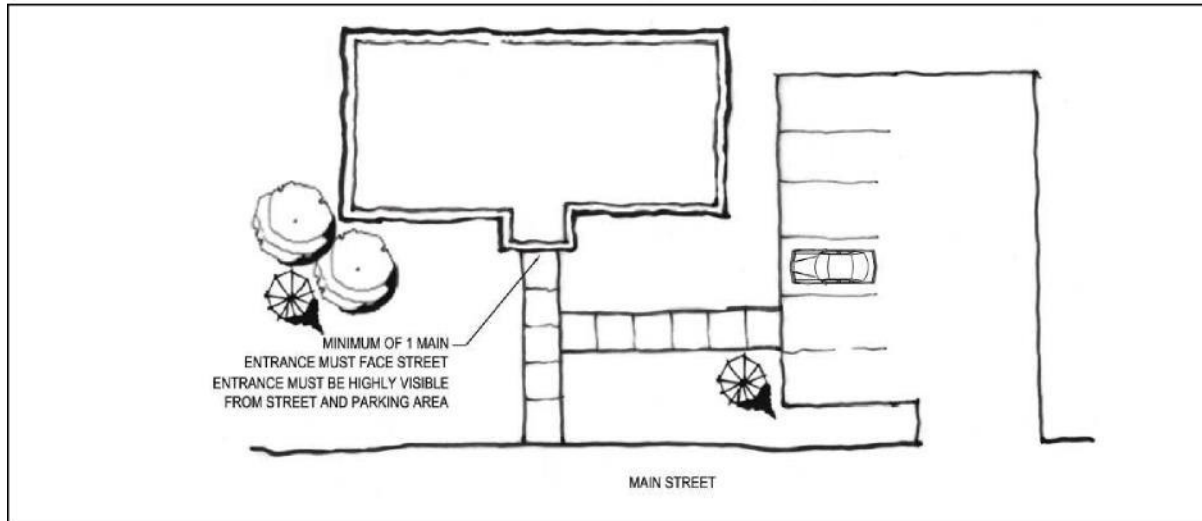


Figure 7-302 A, Entryway Orientation and Visibility

B. Solar Orientation. To the extent possible, buildings shall be oriented to take advantage of solar energy.

C. Materials, Color and Contrast. A variety of materials and colors shall be used on each building to avoid uniform facades. Various depths, overhangs, and a variety of colors, depth and materials and texture shall be incorporated into building design.

Section 7-303

Design and Scale of Development.

A. Minimal Site Disturbance. The design and scale of the development shall not cause unnecessary or excessive site disturbance.

B. Minimize Adverse Influences by Airport Operations. Residential lots should be located to minimize adverse influences due to airports and airport operations.

C. Efficiency in Provision of Services and Access to Facilities. The development shall be designed to facilitate efficiency in the installation of all public and private facilities and services. Residential development should be located nearest to utilities and roads to minimize the amount of construction required for these improvements and the loss of agricultural land.

Section 7-304

Off-Street Parking and Loading Standards.

A. **Off-Street Parking Required.** All uses shall be required to provide the number of off-street parking spaces that comply with the standards set forth in Table 7-304 A, *Minimum Off-Street Parking Standards By Use*.

TABLE 7-304 A MINIMUM OFF-STREET PARKING STANDARDS BY USE	
USE	PARKING STANDARD
Single-Family or Two-Unit Residential Dwelling	2 spaces per dwelling unit ¹
Manufactured Home (Single-Family Dwelling Unit)	2 spaces per manufactured home space ¹
Multi-Unit Residential Dwelling 1 bedroom or studio 2 to 3 bedrooms 4 or more bedrooms	2 spaces per dwelling unit ¹ 2.5 spaces per dwelling unit ¹ 3 spaces per dwelling unit ¹
Bed and Breakfast	1 space per rental unit offered for guest accommodations
Lodging Unit (including hotel, motel, lodge, boarding house, and similar use)	1 space per room
Retail Sales and Service	1 space per 200 sq. ft. gross sales area
Commercial and Office (Professional Services)	1 space per 200 sq. ft. of gross area
Hospital	1 space per 3 beds
Extended Care Facility	1 space per 2 beds
Restaurant and Tavern	1 space per every 4 seats
Church	1 space per every 4 seats
Auditorium/public assembly facilities	1 space per 4 seats or arena 1 space per 150 sq. ft.
Mortuaries	1 space per 4 seats
Manufacturing Establishment	1 space per employee plus 1 space per 400 sq. ft. of floor area
Wholesale Establishment, Warehouse, Rail, or Truck Freight Terminals	1 space per employee plus 1 space per 700 sq. ft. service area
NOTES:	
1. The parking requirement for a studio or one-bedroom dwelling unit shall be two (2) spaces per unit.	
2. Educational facilities are exempt from the parking standards.	

1. **Multiple Uses.** If two (2) or more principal uses occupy a single parcel or structure, the number of required off-street parking spaces for the parcel or structure shall be

the cumulative total for each principal use of the parcel or structure.

2. **Shared Parking or Loading Areas.** A parking or loading space that is required by these Regulations shall not be a required parking or loading space for another use, unless it can be shown that the shared use will not result in a shortage of parking at any time. Use of approved shared parking or loading spaces, based upon the following conditions, may reduce the number of off-street parking spaces by up to twenty percent (20%) of the total required for all uses:

a. The peak use periods for the required parking or loading space will not overlap with one another.

b. The shared use arrangement for parking or loading spaces shall be for two or more uses located on the same site or adjoining sites.

3. **Required Fractional Spaces.** When any calculation of the number of required off-street parking spaces results in a fractional space being required, such fraction shall be rounded up to the next higher number of spaces.

4. **Uses Not Listed.** The number of required off-street parking and loading spaces for any use not specifically listed in Table 7-304 A, *Minimum Off-Street Parking Standards By Use*, shall be determined by the Board of County Commissioners, considering a report and recommendation by the Land Use Administrator.

B. **Off-Street Loading Required.** Buildings or structures that are designed to receive and distribute materials and merchandise by truck, or that are substantially altered so as to receive and distribute materials and merchandise by truck, shall provide and maintain off-street loading berths or loading spaces in sufficient number to meet their own needs. Where the property or use is served or designed to be served by tractor-trailer delivery vehicles, the standards in Table 7-304 B, *Minimum Off Street Loading Requirements* shall be used in establishing the minimum number of off-street loading berths required:

TABLE 7-304 B	
MINIMUM OFF-STREET LOADING REQUIREMENTS	
GROSS FLOOR AREA OF THE BUILDING	NUMBER OF REQUIRED BERTHS OR SPACES
Up to 10,000 Sq. Ft.	1
Greater than 10,000 Sq. Ft.	2

C. Provision and Maintenance of Off-Street Parking is a Continuing Obligation. The provision and maintenance of off-street parking and loading spaces that comply with these Regulations shall be a continuing obligation of the property owner.

D. Prohibited Uses of Required Spaces. Required parking spaces shall be available only for the parking of operable passenger automobiles of residents, guests, customers, patrons, and employees of the use for which they are required. Prohibited uses of required parking spaces shall be as follows:

- 1. Inoperable Vehicles or Materials.** Materials or inoperable vehicles shall not be stored in required parking spaces.
- 2. Delivery Vehicles.** Delivery vehicles or trucks used in conducting the business or use shall not be parked in required parking spaces during business hours.
- 3. Vehicles for Sale.** Vehicles shall not be displayed for sale in any parking area required for a non-residential use, except for the casual display of a vehicle by its owner, when the owner is an employee or customer using the premises.
- 4. Repair Work.** Repair work shall not be conducted in any parking area required for a non-residential use if the repairs render a vehicle inoperable for more than twenty-four (24) hours.
- 5. Commercial Vehicles on Residential Property.**

Commercial vehicles or heavy equipment used in a business operation shall not be parked in required parking spaces for a residential use, unless the commercial vehicle is used for an allowed home occupation or is a company vehicle used for commuting that is parked overnight.

E. **Location of Required Parking Spaces.** Unless otherwise allowed by these Regulations, required off-street parking spaces shall be located as follows:

1. **On the Same Lot.** On the same lot as the use the spaces are intended to serve.

2. **Within a Common Assigned Parking Area.** Within a common assigned parking area under the ownership of the individual owners of, and within the same development as, the use the spaces are intended to serve.

F. **Loading and Unloading.** Loading and unloading of vehicles serving commercial and industrial uses shall be conducted on private property and not on any street or alley.

G. **Parking and Loading Area Surface.**

1. **Surface Materials.** Off-street parking and loading areas shall have a durable, all weather surface made of materials that are suitable for the uses to which the area will be put, and are compatible with the character of the proposed development and the surrounding land use. Appropriate parking and loading surface materials may include asphalt, concrete, paving blocks, and gravel surface.

2. **Grading.** Off-street parking and loading area surfaces shall be compacted and graded, with a minimum grade of two percent (2%) for asphalt, one percent (1%) for concrete, and two percent (2%) for paving blocks or gravel surfaces, to permit drainage of surface water without damage to public or private land or improvements.

3. **Striping.** Paved surfaces shall be striped to demarcate the parking spaces for all commercial lots and for residential lots containing over four (4) contiguous spaces.

H. **Minimum Dimensions of Parking Areas.**

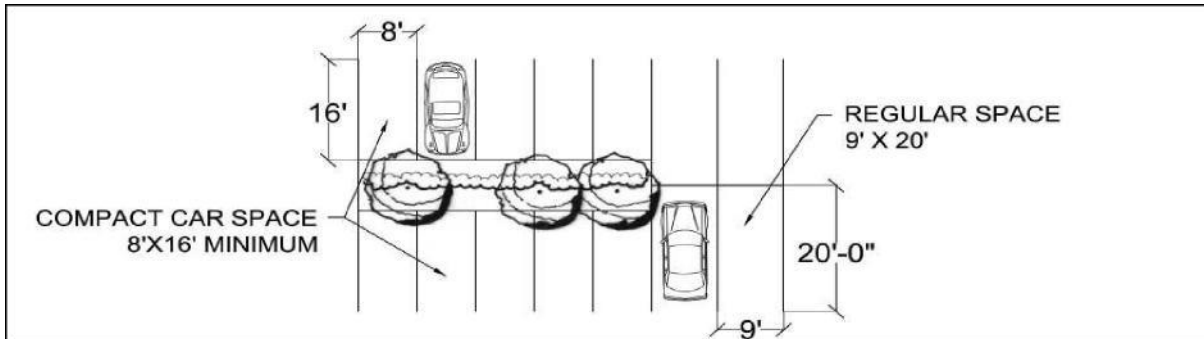


Figure 7-304 H, Parking Space Dimensions

1. The minimum dimension of a regular parking space shall be 9' x 20'.

2. The length of a parking space may be reduced to eighteen (18) feet, including wheel stop, if an additional area of two (2) feet in length is provided for the front overhang of the car, provided that the overhang shall not reduce the width of an adjacent walkway to less than four (4) feet.

I. **Compact Car Spaces.** In parking areas containing more than (10) spaces, up to twenty percent (20%) of the number of spaces over the first ten (10) spaces may be designed for compact cars.

1. **Minimum Dimensions.** A compact car space shall have minimum dimensions of eight (8) feet in width by sixteen (16) feet in length.

2. **Signage.** Compact car spaces shall be designated for exclusive use by compact cars and identified by stencil signage or a raised identification sign.

J. **Handicapped or Accessible Parking.**

1. **Minimum Number of Spaces.** Table 7-304 J1, *Minimum Number of Accessible Parking Spaces* identifies the required minimum number of handicapped or accessible parking spaces.

TABLE 7-304 J1	
MINIMUM NUMBER OF ACCESSIBLE PARKING SPACES	
TOTAL SPACES IN LOT OR GARAGE	MINIMUM REQUIRED NUMBER OF ACCESSIBLE SPACES
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	10
OVER 1,000	20 spaces plus one (1) space for every 100 spaces, or fraction thereof, over 1000.

2. Location. Unless otherwise provided by the Uniform Building Code or applicable State and Federal regulatory provisions, handicapped or accessible parking spaces shall be located on the shortest possible accessible route from adjacent parking to an accessible building entrance. In facilities with multiple accessible building entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

3. Design and Construction. Design and construction of handicapped or accessible parking shall be in accordance with Council of American Building Officials/American National Standards Institute (CABO/ANSI) A117.1 (Standard on Accessible and Usable Buildings).

4. Minimum Width, Stall and Access Aisle. Handicapped or accessible parking spaces shall have a minimum stall width of eight and one-half (8.5) feet with an adjacent access aisle five (5) feet wide. Parking access

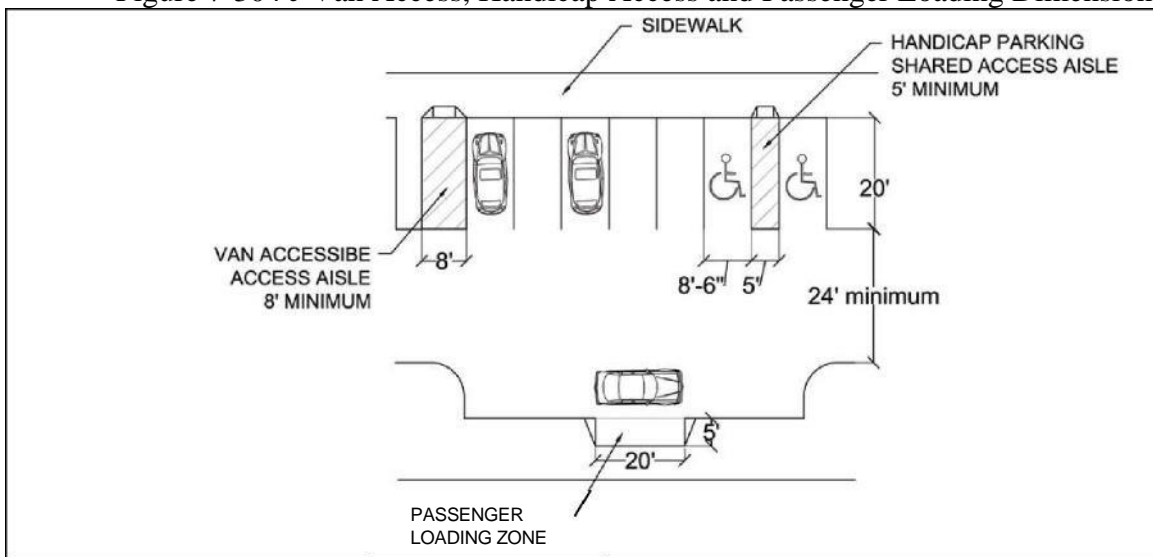
aisles shall be part of the accessible route to the building or facility entrance in compliance with the Uniform Building Code or Council of American Building Officials/American National Standards Institute (CABO/ANSI) A117.1 (Standard on Accessible and Usable Buildings). Two handicapped or accessible parking spaces shall be allowed to share a common access aisle.

a. Van Accessible Parking Adjacent Access Aisle. Van accessible parking shall have a minimum adjacent access aisle width of eight (8) feet.

b. Passenger Loading Zones. Passenger loading zones shall provide an access aisle five (5) feet in width and a minimum of twenty (20) feet long, adjacent and parallel to the vehicle pull-up space and at the same level as the roadway. Passenger loading zone access aisles may be part of the accessible route of travel to the building or facility entrance.

5. Van Accessible Parking. One van accessible parking space shall be provided for every five (5) handicapped or accessible parking spaces, or fraction thereof.

Figure 7-304 J Van Access, Handicap Access and Passenger Loading Dimensions



6. **Signage.** Handicapped or accessible parking spaces shall be identified by a sign showing the international symbol of accessibility, in compliance with CABO/ANSI A117.1, Section 4.28.8. Signs shall not be obscured by a vehicle parked in the space.



K. **Tandem Parking.**

1. **Conditions for Tandem Parking to Meet Off-Street Parking Standards.** Tandem parking (a vehicle parking directly behind another) that meets the following conditions may be applied to meet the off-street parking standards of these Regulations:

- a. Use of the space does not impede the movement of other vehicles on the site.
- b. Tandem spaces serving multi-family dwelling units are assigned to the same dwelling unit.

2. **Credit Limited to One (1) Space.** A tandem parking space may be used to obtain credit for one (1) required parking space.

3. **Tandem Parking Prohibited in Parking Structure.** Tandem parking shall not be allowed when required parking is located within a parking structure or within a garage that serves multiple dwelling units.

L. **Minimum Dimensions of Loading Berths.** The minimum

dimension of any loading berth shall be ten (10) feet wide by thirty-five (35) feet long, with a vertical clearance of fourteen (14) feet. If the typical size of vehicles used in connection with the proposed use exceeds these standards, the dimensions of these berths shall be increased accordingly.

M. Backing Onto Public Streets Prohibited. All parking areas shall be located and designed in conjunction with a driveway, so that vehicles exiting from a parking space shall not be required to back onto the right-of-way of a public street. Vehicles exiting from a parking space for a single-family or two-unit residential dwelling may back onto a residential street. Vehicles exiting from a parking space for any use may back onto the right-of-way of an alley adjacent to the property.

N. Unobstructed Access. Each required parking space shall have unobstructed access from a road or alley, or from an aisle or drive connecting with a road or alley, except for approved residential tandem parking.

O. Access Driveways. Access driveways for required off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrian and vehicular traffic on the site.

1. **Minimum Width of Access Driveways.**

a. The minimum width of the access driveway for a commercial or industrial use shall be twelve (12) feet for a one-way drive and twenty-four (24) feet for a two-way drive.

b. The minimum width of the access driveway for a residential use shall be ten (10) feet for a one-way drive and twenty (20) feet for a two-way drive.

2. **Clear Vision Area Requirements for Access Driveways.** Access driveways shall have a minimum clear vision area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection. Landscaping restrictions for a clear vision area are set forth in Section 7-305 A9.

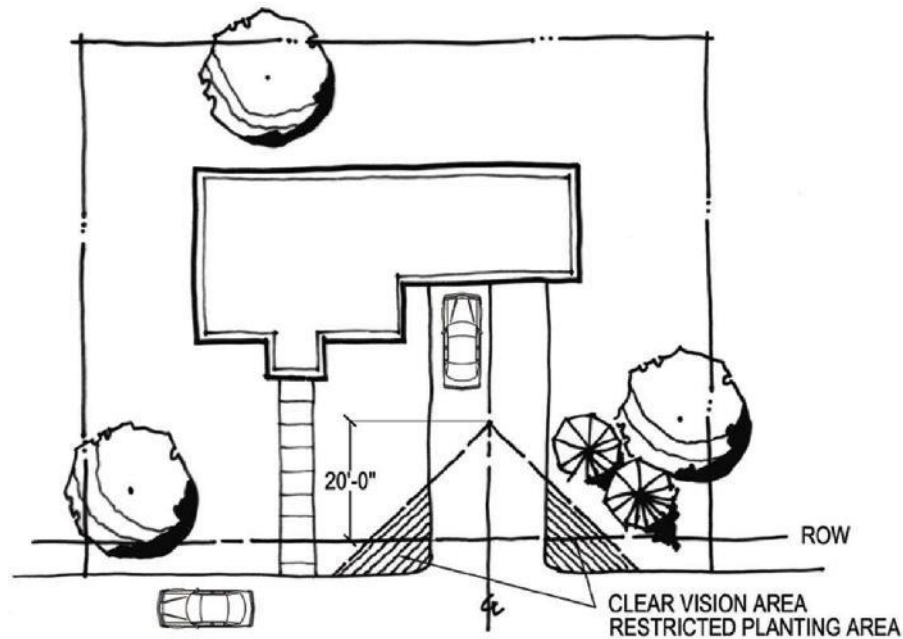


Figure 7-304 O2, Clear Vision Areas

P. Parking and Loading Area Landscaping and Illumination.

Off-street parking and loading areas for nonresidential uses located adjacent to residential uses or residential zoning districts shall be landscaped to minimize disturbance to residents, including installation of perimeter landscaping, proper screening of loading areas with opaque materials and control of illumination. The landscaping and screening shall comply with the standards of Section 7-305 A10, *Landscaping Within Off-Street Parking Areas*. Lighting shall comply with the standards of Section 7-305 B, *Lighting Standards*.

Section 7-305

Landscaping and Lighting Standards.

A. Landscaping.

1. Basic Standards.

a. **Maintenance.** All plant materials must be kept in a healthy condition. Dead plants must be removed and replaced as necessary.

(1) Newly installed landscaping must include a properly functioning automated

sprinkler and/or drip irrigation system, with individual zones for nonturf areas.

b. Restoration and Revegetation of Disturbed Areas. All portions of the site where existing vegetative cover is damaged or removed, that are not otherwise covered with new improvements, shall be successfully revegetated with a mix of native, adaptive and drought tolerant grasses and ground covers. The density of the reestablished vegetation must be adequate to prevent soil erosion and invasion of weeds after one growing season.

c. Installation. All plant materials shall be installed in the best possible manner to ensure their continued viability. Shrub and flower beds must be lined with a weed barrier mesh (or similar material designed for weed control) to prevent the introduction of noxious weeds.

d. Protection of Existing Trees and Shrubs. All landscaping plans shall include provisions to protect existing trees and shrubs that are to be preserved and integrated within the planting areas.

e. Location of Plantings With Regard to Rights-of-Way. All required landscaping must be located outside of any adjacent right-of-way unless a written waiver is received from the Land Use Administrator.

2. Multi-Unit Residential Development and Commercial and Industrial Development.

a. Lots in a residential zoning district which contain multi-unit residential development and lots in the commercial and industrial zoning districts shall be landscaped in the areas not covered by impervious materials.

b. Landscaping shall be installed to effectively buffer proposed commercial or industrial uses from surrounding residential uses and to provide a

landscaped buffer along collector and arterial streets.

c. Landscaping in multi-unit residential, commercial and industrial development areas shall be used to screen from view uses such as trash enclosures, storage areas, mechanical equipment, loading docks, and similar items where such areas are visible from public roads, sidewalks or open space.

3. **Residential Subdivision and Planned Unit Development (PUD).**

a. Landscaping in a residential subdivision or planned unit development shall be consistent with the character of the development, the unique ecosystem and specific environment in which the development is located.

b. Landscaping in a residential subdivision or planned unit development shall be used to screen from view uses such as trash enclosures, storage areas, mechanical equipment and similar items where such areas are visible from public roads, sidewalks or open space.

4. **Cover.** Non-living ground cover may include decorative gravel, bark mulch, river rock or similar materials. Decorative elements, such as walks, decks, terraces, water features and similar features may be included.

5. **Plants Compatible with Local Conditions.** All plants used for landscaping shall be compatible with the local climate and the soils, drainage and water conditions of the site. When planting occurs on hillsides, slopes, drainage ways or similar natural areas, plant material should duplicate adjacent plant communities both in species composition and special distribution patterns. Whenever possible, drought-resistant varieties of plant materials shall be utilized. Xeriscape design principles and the use of native plant species shall be used when appropriate.

6. Existing Vegetation. The landscape plan shall be designed so that healthy trees, native vegetation and natural or significant rock outcroppings and other valuable features are preserved and integrated within planting areas. Existing healthy trees and shrubs that are preserved shall count towards the landscaping standards of this Section.

7. Minimum Size. To ensure healthy plant materials are installed in new development, trees and shrubs shall comply with the quality standards of the Colorado Nursery Act (1973) Title 35, Article 26, C.R.S., as amended.

8. Parking and Storage Prohibited. Areas required as landscaping shall not be used for parking, outdoor storage and similar uses, but may be used for snow storage if designed in compliance with Section 7-306, *Snow Storage Standards*.

9. Obstruction Prohibited.

a. **Clear Vision Area.** Clear vision areas shall be designated in compliance with Section 7-304 O2, applicable requirements of the Colorado Department of Transportation, and as otherwise deemed necessary for public health and safety. Plant materials shall be limited to thirty (30) inches in height within the clear vision area to avoid visibility obstructions or blind corners at intersections.

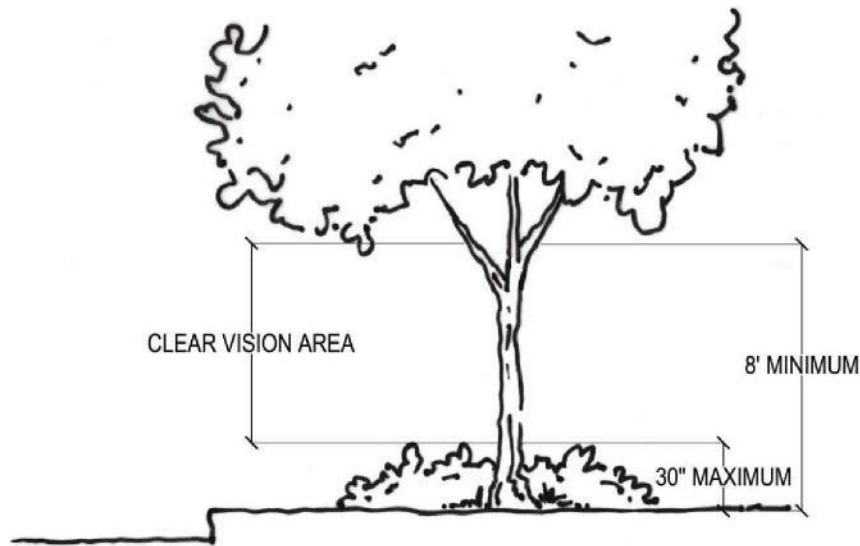


Figure 7-305 A9, Clear Vision Areas

- b. **Fire Hydrants and Utilities.** Landscaping shall not obstruct fire hydrants or utility boxes and shall be installed so it will not grow into any overhead utility lines. Trees and shrubs shall not be planted within four (4) feet of existing overhead or underground lines.

10. **Landscaping Within Off-Street Parking Areas.**

All off-street parking areas containing fifteen (15) or more spaces shall provide landscape buffers when adjacent to street rights-of-way. Landscape buffers may be achieved through the use of earthen berms, shrubs, trees or other appropriate materials to effectively screen the parking area from the rights-of-way.

- a. **Interior Parking Areas.** Planting shall be established to break up the interior of all parking areas. Landscape planting islands shall be a minimum of eight feet (8') in width to ensure adequate room for planting.

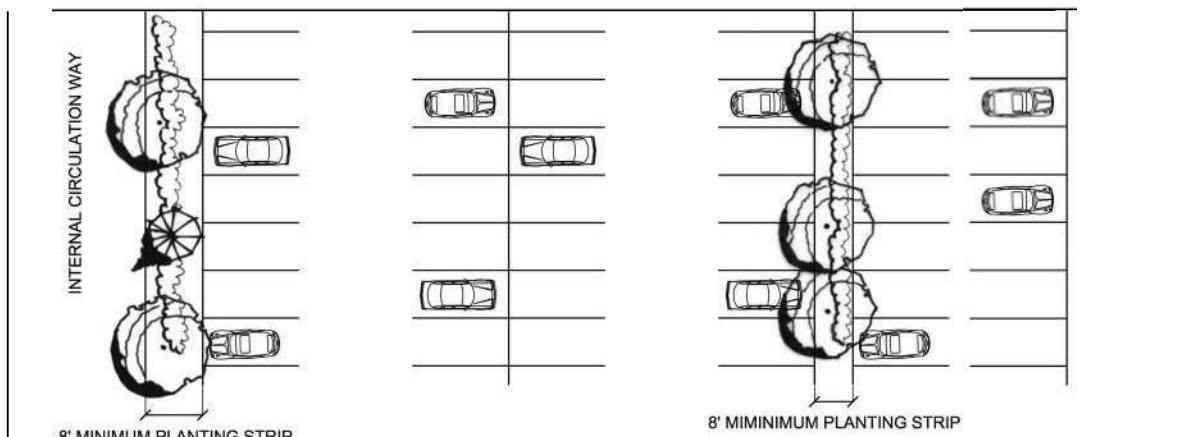


Figure 7-305 A11: Center Planting Strip

B. **Lighting Standards.** Any outdoor light used for the illumination of parking areas, loading areas and recreation areas, or for any other private or public purpose, shall meet the following conditions:

1. **Downcast lighting.** Exterior lighting shall be designed so that light is directed inward towards the interior of the subdivision or site.
2. **Shielded Lighting.** Exterior lighting shall be fully shielded or arranged in a manner so that concentrated rays of light will not shine directly onto other properties.
3. **Hazardous Lighting.** The direct or reflected light from any light source shall not create a traffic hazard. Colored lights shall not be used in such a way as to be confused or construed as traffic control devices.
4. **Flashing Lights.** Blinking, flashing or fluttering lights, or other illuminated device which has a changing light intensity, brightness, or color shall be prohibited in all zoning districts, unless otherwise provided in Article 11, *Signs*.
5. **Height Limitations.** Light sources which exceed twenty-five (25) feet in height shall not be allowed, except for temporary holiday displays or as required by local, state or federal regulations.

Section 7-306

Snow Storage Standards. The following standards shall apply on any property that contains two-unit or multi-unit residential development, commercial or industrial uses, or a common outdoor parking area established pursuant to Section 7-304, *Off-Street Parking and Loading Standards*.

A. Designated Snow Storage Area Required. A designated area, sufficient to store snow from the entire parking area, shall be provided. As a general guideline, and considering the varying elevations and snowfall amounts throughout the County, it is anticipated that a minimum area equivalent to two and one-half percent (2.5%) of the total area of the required off-street parking and loading area, including access drives, shall be designated to serve as a snow storage area.

B. Storage in Yards and Open Space Allowed. Snow stored in a required yard or open space shall not be located in a manner that restricts access or circulation or obstructs the view of motorists.

C. Storage on Public Roadways Prohibited. The traveled area of public roadways shall not be used for snow storage.

D. Adequate Drainage Required. Adequate drainage shall be provided for the snow storage area to accommodate snowmelt and to ensure it does not drain onto adjacent property.

Section 7-307

Roadway and Access Standards. All roadways and access shall comply with the following basic standards for design and arrangement:

A. Basic Roadway and Access Design and Arrangement.

1. Subdivision Access. Access to all subdivisions shall be from a public street system.

2. Requirement for Roadway Infrastructure. Roadways, curbs and gutters, and sidewalks shall be provided as directed by the Land Use Administrator.

3. Circulation and Alignment. The road system shall provide adequate and efficient internal circulation within the development and provide reasonable access to public highways serving the development. Roads shall be

designed so that alignments will join in a logical manner and combine with adjacent road systems to form a continuous route from one area to another.

4. Intersections. No more than two streets shall intersect at one point, with a minimum of two hundred (200) feet between off-set intersections, unless otherwise approved by the Land Use Administrator.

5. Street Names. Street names shall be consistent with the names of existing streets in the same alignment; otherwise there shall be no duplication of street names in the County.

6. Congestion and Safety. The road system shall be designed to minimize road congestion and unsafe conditions.

7. Continuation of Roads and Dead-End Roads. Roads shall be arranged to provide for the continuation of major roads between adjacent properties when appropriate and necessary for traffic movement, effective fire protection, or efficient provision of utilities.

a. If the adjacent property is undeveloped and the road must be temporarily dead-ended, right-of-way shall be extended to the property line and the Board may require construction and maintenance of a turnaround for temporary use. The final plan shall include a plat notation that land outside the normal road right-of-way shall revert to abutting property owners when the road is continued.

8. Master Plan (if any) and Intergovernmental Agreements. The road system shall be in conformance with applicable provisions of the Master Plan, if any, and intergovernmental agreements with adjoining municipalities. The proposed development shall not have an adverse impact on the County's roadways.

a. The applicant may be required to make necessary improvements to the impacted roads as a condition of plat approval.

9. Relationship to Topography. Streets shall be designed to bear a logical relationship to the topography, creeks, wooded areas, and other natural features. The road grade shall conform to the original topography. Combinations of steep grades and curves should be avoided.

10. Erosion and Drainage. The road system shall minimize erosion and provide for efficient and maintainable drainage and utility systems.

11. Commercial and Industrial. The roads and access in commercial and industrial developments shall be designed to minimize conflict between vehicular and pedestrian traffic.

12. Emergency Access and Egress. Roads shall be designed so as to provide emergency access and egress for residents, occupants and emergency equipment. Emergency access shall comply with the requirements of applicable emergency services such as fire protection, ambulance and law enforcement.

13. Road Surface. The road surface shall comply with requirements as directed by the Land Use Administrator.

14. Traffic Control and Street Lighting. Traffic control devices, street signs, street lighting, striping and pedestrian crosswalks are to be provided in conformance with these Regulations.

15. Drainage Structures. Roadway drainage structures such as bridges, culverts, cross pans, inlets, curbs and gutters shall be provided as determined by design and at the direction of the Land Use Administrator.

- a. **Culverts.** Culverts are required where driveways connect to roadways unless specifically exempted by the Land Use Administrator. It is the responsibility of the property owners to maintain their culverts free and clear of mud, silt, debris and ice. Water which flows out of driveways shall be diverted to ditches. Damage to a road caused by a blocked culvert, lack of culvert, or driveway runoff

is the responsibility of the property owner and costs of repairs by the County may be billed to the property owner as authorized by the Colorado Revised Statutes (Title 43, Article 5, C.R.S.).

b. **Roadside Ditches.** Water flowing in roadside ditches shall be diverted away from the road as quickly as possible.

Section 7-308

Trail and Walkway Standards

A. Recreational and Community Facility Access.

1. Public Access to Waterbodies and Fishing Easements. Public access and fishing easements to lakes, rivers and streams shall be provided if it is determined to be appropriate and feasible by the Board of County Commissioners.

2. Link to Public Facilities and Recreation Areas. A trail system shall be provided in developments where a link to schools, shopping areas, parks, trails, greenbelts and other public facilities is determined to be appropriate and feasible by the Board of County Commissioners.

3. Trail Right-of-Way Standards. Trail rights-of-way for dedicated park lands and open space shall conform to the following criteria:

a. The land required for trail rights-of-way shall be set aside as an easement.

b. The width for trail easement shall be adequate to handle the proposed use based on the particular reasonable needs of the trail, its location, the surrounding terrain, and the anticipated usage. The minimum width for trail easement shall be twelve (12) feet.

c. Public access to the trail easement shall be provided within the subject property.

d. The trail easement may overlap and include property previously included in other easements

such as ditch, canal, utility and conservation easements and public or private open space. However, the trail easement shall not compromise the functional use of any other easement.

B. Trail or Walkway Service Comparable to Sidewalks. A system of trails and walkways may be used as an alternative to required sidewalks provided that the level of service provided by the proposed trail or walkway system shall be comparable to that of applicable sidewalk requirements.

C. Platting Required. All easements, trails and walkways shall be platted.

D. Compatible Construction. The type of construction of trails and walkways shall be compatible with the anticipated use.

E. Safety. Unsafe road crossing locations shall be avoided. Special structures and/or traffic control devices may be required at road crossings for safety.

F. Maintenance. Suitable provisions for maintenance of trail and walkway systems shall be established through a perpetual association, corporation or other means acceptable to the County.

Section 7-309

Utility Standards. Adequate gas and electric power shall be available to serve the land use.

A. Approval of Utility Easement by Utility Company. Utility easements shall be subject to approval by the applicable utility companies and, where required, additional easements shall be provided for main switching stations and substations. The applicant shall work with the utility companies to provide reasonable sized easements in appropriate locations.

B. Utility Location. Unless otherwise provided in these Regulations, the following conditions shall apply to the location of utility services:

- 1. Underground Location.** All utilities except major power transmission lines, transformers, switching and terminal boxes, meter cabinets and other appurtenant facilities shall be located underground throughout the development, unless it is demonstrated to the satisfaction of

the Land Use Administrator that compliance is impractical or not feasible and will result in undue hardship.

2. Easement Location. All utility lines, including appurtenances, shall be placed either within public road rights-of-way or within the subdivision easements or rights-of-way provided for the particular facilities.

3. Dimensional Requirements.

a. Easements centered on common rear lot lines shall be at least sixteen (16) feet wide.

b. 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 development, the easement width shall be ten (10) feet or more.

c. Where easements are combined with a water course, drainage way, channel, or stream and the use would be in conflict with drainage requirements or wetlands, an additional utility easement of at least ten (10) feet in width shall be provided.

d. Multiple use of an easement is encouraged to minimize easements.

e. Where inclusion of utilities within the rear lot lines is impractical due to topographical or other conditions, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines.

C. Final Plat Requirements. The final plat shall note all easements, shall include notation regarding the purpose and ownership of the easement, and the use or uses for each easement shall be designated on the final plat to avoid use conflicts.

D. Dedication of Easements for Benefit of the Public. Unless otherwise required by the Board of County Commissioners, easements that are for the benefit of the public, including public utility easements and drainage easements, shall be dedicated to Otero County.

1. These easements are the property of Otero County.
2. The County shall act as custodian of the easements and may limit the use of such easements to the purposes indicated on the final plat.

E. Permit Requirements. Permits for construction within the easements may be required by the Board of County Commissioners. The construction, installation and repair of right-of-way openings for subsurface utilities shall require approval from the County.

F. Construction and Installation of Utilities. Applicants shall make the necessary arrangements with each service utility for the construction and installation of required utilities.

1. Utilities shall be installed in a manner that avoids unnecessary removal of trees or excessive excavations, and shall be reasonably free from physical obstructions.

G. Conflicting Encumbrances. Easements shall be free from conflicting legal encumbrances.

Section 7-310

Impact Fees (RESERVED) [Placeholder for County to incorporate regulatory provisions for impactfees.]

DIVISION 4

SUBDIVISION STANDARDS AND DESIGN SPECIFICATIONS

Section 7-401

Basic Subdivision Standards.

A. Extensions for Future Development. Extensions required to provide infrastructure for future development or comply with intergovernmental agreements shall be provided.

B. Maintenance of Common Facilities. Maintenance of common facilities shall be accomplished either through covenants and a homeowners association, a separate maintenance agreement, or some other perpetual agreement.

Section 7-402

Subdivision Lots. All lots in the subdivision shall conform to the following specifications:

A. **Developable Lots.** The division of land shall result in the creation of lots which can be developed for use in conformance with the land use regulations of this Code.

1. The division of land does not create lots which are illegal or nonconforming lots under these Regulations. Any existing lot that is nonconforming shall not increase its degree of nonconformancy.

2. The proposed building lots shall contain safe, adequate building sites capable of complying with applicable use restrictions and standards set forth in these Regulations.

a. **Appropriate for Location.** Lot characteristics shall be appropriate for the location of the development.

(1) The minimum lot size allowed by the applicable zone district requirements may be increased for lots developed in areas posing a potential hazard to health or safety due to soil conditions or geology.

b. **Appropriate for Use.** Lot characteristics shall be appropriate for the type of use allowed.

(1) Depth and width of lots shall be adequate to provide for the required off-street parking and loading facilities required by the type of use and development contemplated.

(2) The width of residential corner lots shall be sufficient to accommodate the required building setback from both roads.

B. **Maximum Number of Lots.** The number of lots in any plat filing for a subdivision shall be approved by the Board of County Commissioners.

C. **Lots Have Access to Public Roadways.** All lots shall front on and have access to a public right-of-way or

approved private access easement.

D. Side Lot Line Alignment. Side lot lines shall be substantially at right angles to street right-of-way lines.

E. Lot Configuration - Cul-de-Sacs. Wedge shaped lots or lots fronting on cul-de-sacs shall be a minimum of thirty (30) feet in width at the front property line.

F. Lot Division by Boundaries, Roads or Easements Prohibited. No lots shall be divided by County or municipal boundaries or roads. Utility, access or drainage easements shall not divide a lot.

Section 7-403

Subdivision Blocks. Subdivision block lengths and widths shall be appropriate to the types of land use anticipated in the subdivision, consistent with the applicable zoning district provisions and compatible with the terrain.

A. Block Size Adequate for Proposed Use. The size of blocks shall be adequate to accommodate the proposed use.

B. Block Size Adequate for Access and Safety. The size of blocks shall be designed for convenient access, vehicular and pedestrian circulation, and control and safety of street traffic.

C. Block Size Adequate to Accommodate Proposed Individual Septic Systems. The size of blocks shall be adequate to accommodate leaching fields where individual septic disposal systems are proposed.

D. Block Size Adequate to Accommodate Both Proposed Wells and Individual Septic Systems. The size of blocks shall be adequate for the location of domestic wells where individual septic disposal systems are used.

E. Accommodation for Future Subdivision. When a tract is to be subdivided into larger parcels than ordinary building lots, such parcels shall be so arranged to allow the opening of future rights-of-way and logical further subdivision of the tract and adjoining lands.

Section 7-404

Fire Protection. The subdivision shall be subject to the provisions of the most current edition of the Uniform Fire Code and all

subsequent editions thereto, together with all amendments thereto, as well as the following:

A. **Adequate Access Points.** Subdivision fire protection plans shall be reviewed by the appropriate fire protection district to ensure that all lots have adequate primary and secondary access points to escape fire entrapment.

B. **Fire Lanes.** Subdivisions may be required to include fire lanes, adequate to allow passage of heavy firefighting equipment, where the forested portion of a proposed subdivision joins or parallels national forest boundaries.

1. The width and other characteristics of required fire lanes shall be established for the individual subdivision by the Board of County Commissioners in consultation with the appropriate fire suppression agencies.

2. Fire lanes to be cleared shall be indicated on the Preliminary Plat and on the Final Plat or Exemption Plat, and provisions for required fire lanes shall be included in the Subdivision Improvements Agreement.

C. **Water Sources for Fire Protection.** Water used for fire protection purposes may be non-potable water and may be from a source separate from the domestic supply.

1. Fire fighting water sources for the proposed subdivision shall meet the requirements of the appropriate fire protection district.

2. Where there is no central water system available, a centrally located fire protection storage tank shall be required. The storage tank shall be designed to meet the fire protection needs of the subdivision and approved by the appropriate fire district.

D. **Fire Hydrants.** Fire hydrants shall be required in all subdivisions serviced by a central distribution system.

1. Hydrants shall be spaced not more than one thousand (1000) feet apart and provided with adequate pressure, flow and duration, as determined by prevailing underwriter standards for fire fighting purposes.

2. All fire hydrants shall meet the specifications for the appropriate fire protection agency, particularly with regard to thread size on the fire hydrants.

E. Installation by Applicant. If fire protection facilities are to be installed by the applicant, these facilities, including all surface access roads, shall be installed and made serviceable prior to and during the time of construction.

F. Maintenance. Provisions for continued maintenance of fire protection systems and means of enforcement by the County shall be included in the Subdivision Improvements Agreement.

Section 7-405

Survey Monuments. Permanent survey monuments shall be set within all subdivisions pursuant to Sections 38-51-104 and 38-51-105, C.R.S. Prior to selling or advertising the sale of lots, No. 5 steel rebar, twenty-four (24) inches or longer in length, shall be set at all lot corners. The registration number of the responsible land surveyor shall be fixed securely to the top of all monuments, markers and benchmarks. Benchmarks shall be stamped with the letters "BM" and the elevation of the benchmark.

A. Monuments Located Within Streets. Monuments located within streets shall be No. 5 rebar steel, thirty-six (36) inches or longer in length, placed so that their tops are six (6) inches below the final street surface. When a street is paved or otherwise surfaced, all such monuments within the paved or surfaced area shall be fitted with monument boxes of sturdy construction and monuments set after paving or surfacing shall also be provided with sturdy monument boxes.

B. Setting by Standard Construction Techniques. All monuments, markers and benchmarks shall be set or witnessed according to standard construction techniques and in a fashion that is satisfactory to the Board of County Commissioners.

Section 7-406

Standards for Public Sites and Open Space.

A. Dedication of Public Land. The Board of County Commissioners shall require reservation or dedication of public sites and open space for schools and parks that are reasonably necessary to serve the residents of the proposed subdivision and future residents. In lieu of a dedication of sites and land areas, the

Board may require payment of a sum of money not exceeding the full market value of such sites and land areas, or a combination of land dedication and payment in lieu of dedication.

B. Final Plat Requirements.

1. All dedicated lands shall be designated on the final plat and deeded to Otero County or the appropriate agency at the time of recordation of the final plat.
2. Title insurance, provided by a title insurance company authorized to do business in the State of Colorado and acceptable to the Board of County Commissioners, shall be required at the time of recordation of the final plat.
3. A certificate of representations and warranties concerning title and usability of the property, in a form acceptable to the Board of County Commissioners, shall be required at the time of recordation of the final plat.

C. Amount of Public Land Dedicated. The proportion of land to be reserved or dedicated for public sites and open space shall be based upon the size, location and characteristics of the proposed subdivision, the current and likely future uses of the surrounding area, and the impact of the subdivision on public services and facilities. The amount of land dedicated for public purposes shall be roughly proportionate to the impacts of the subdivision.

1. **Road Dedications.** The following road dedications shall be required for development:

a. Unless specifically approved as private rights-of-way and so designated on the final plat, all roads, streets, alleys or other public traffic ways located within the subdivision and benefiting current or future residents of the subdivision shall be dedicated as public rights-of-way.

b. When, due to topography, hazards or other design constraints, additional road width is necessary to provide for the public safety by cut and/or fill area, drainage area, or other road appurtenances along roadways, then dedication or

right-of way in excess of the minimum standards set forth in these Regulations shall be required.

2. **Park Dedication.** The following considerations shall be applied in determining which land areas are appropriate for dedication as parks:

a. **Continuity.** The continuity of open space links, trails, and other major components of the recreation system.

b. **Compliance with Master Plan, if any, and Intergovernmental Agreements.** Compliance with applicable provisions of the Master Plan, if any, and intergovernmental agreements with adjoining municipalities.

c. **Suitability.** The suitability of proposed land dedications for park, recreation and open space needs. Considerations shall include site conditions such as size, shape, topography, geology, presence and condition of ground cover and timber, condition of soil, drainage, location, access, and the availability of water to lands proposed for park and recreation uses.

d. **Protection of Unique Site Features and Natural Resources.** Protection of natural and historical features, scenic vistas, watersheds, air quality, timber and wildlife.

e. **Trail ROW Conforms With Standards.** Park lands intended to be used for trail rights-of way shall conform to the standards in Section 7- 308, *Trail and Walkway Standards*.

f. **Land Set Asides Pursuant to Requirements for PUD and Rural Land Use Process.** Unless otherwise provided by these Regulations, park land shall not be considered as part of the land set aside for open space or agricultural preservation required for PUD's and rural land use cluster development.

3. **School Dedications.** For property located in a school district, the subdivision of land for residential use shall include reservation and dedication of sites and land areas for schools determined to be reasonably necessary to serve the proposed subdivision and future residents.

Example: Formula for Land Dedication Standard.

a. **Formula for Land Dedication Standard.**

*Land Area Provided Per Student x
Students Generated Per Dwelling Unit =
Land Dedication Standard.*

(1) **Land Area Provided Per Student.**

The District has determined that 1,776 square feet of land per student shall be provided for future school sites, based on the following considerations.

	Reasonable Capacity	Recommended Acreage
<i>Elementary School</i>	<i>550 students</i>	<i>15.5 acres</i>
<i>Middle School</i>	<i>600 students</i>	<i>26.0 acres</i>
<i>High School</i>	<i>800 students</i>	<i>38.0 acres</i>
Total	<i>1950 students</i>	<i>79.5 acres</i>
Total Acres Per Student		<i>0.04077 acres</i>
Total Square Feet Per Student		<i>1,776 square feet</i>

NOTES:

1. *“Recommended Acreage” for school sites is based on the recommendations contained in the Guide for Planning Educational Facilities, published in 1991 by the Council of Education Facility Planners International.*

(2) **Students Generated Per Dwelling Unit.**

The number of students generated per type of dwelling unit shall be based on the following:

Single Family 0.49

<i>Multi-Family</i>	0.38
<i>Mobile Home</i>	0.71

(3) **Land Dedication Standard.** Application of the Formula for Land Dedication Standard results in the following Land Dedication Standards:

<i>Single Family</i>	870 sq. ft. per unit, or .020 acres
<i>Multi-Family</i>	675 sq. ft. per unit, or .015 acres
<i>Mobile Home</i>	1,261 sq. ft. per unit, or .029 acres

b. **Alternatives to Land Dedication for Schools.** If dedication of all or portions of the required school lands is not deemed feasible or in the public interest, the school district may recommend to the Board of County Commissioners one of the following options:

(1) **Guarantee of Future Land Dedication.** The applicant shall submit a letter guaranteeing future dedication of land for school sites and proposing a method of guarantee acceptable to the Board of County Commissioners or the receiving agency.

(2) **Cash-In-Lieu Payment.** Payment of cash in lieu of dedication of land, in accordance with the provisions of Section 7-406 D, *Payment In Lieu of Dedication of Public Sites.*

D. **Payment In Lieu of Dedication of Public Sites.** The Board of County Commissioners, based upon recommendation from the potential receiving body, may accept a cash payment from the applicant in lieu of dedicated land, in whole or part.

1. **Based Upon Market Value.** Payment shall be based on the market value of the land, determined after completion of the platting process, OR unimproved market value of land as determined by the Board of County Commissioners.

2. **Not to Exceed Market Value.** Payment of cash in

lieu of dedicated land shall not exceed the current market value of the land that would have been dedicated to the County or other public entity.

a. If a combination of land dedication and cash-in-lieu of dedication is applied, the combination of both land dedication and cash in lieu of land shall not exceed the full market value of the total required dedication of sites and land areas.

3. Minimum Cash-In-Lieu. Minimum payment of cash-in-lieu shall be \$500.00 for any required dedication.

4. Cash-In-Lieu Payment for Schools. Based upon the School District's recommendation, the Board can require a cash payment in lieu of dedicating land, or a cash payment in combination with a land dedication, to comply with the requirements for public sites and open space set forth in these Regulations.

Example: formula for Cash-In-Lieu Payment.

a. **Formula for Cash-In-Lieu Payment.**
*Unimproved Per Acre Market Value of Land x
Land Dedication Standard x
Number of Units =
Cash-In-Lieu Payment*

(1) Unimproved Market Value of Land.
Unimproved market value of the land shall be determined by an appraisal performed within the last 24 months for the applicant, by an individual qualified in the State of Colorado to establish the unimproved market value of the property just prior to the approval of a Final Plat. Any dispute of the market value would be based upon a separate appraisal by an individual qualified in the State of Colorado to establish the value, paid for by the School District.

(2) Land Dedication Standard. *The Land Dedication Standard set forth in*

Section 7-406 C, above.

(3) Number of Units. The number of dwelling units proposed.

5. Payments Held in Escrow. Cash payments received by the Board in lieu of dedicated land shall be held in an escrow account by the County for the purposes allowed by Section 30-28-133, C.R.S.

6. Release of Land or Cash. After final plat approval and receipt of dedications, the Board of County Commissioners shall give written notification to the appropriate receiving body.

a. Following notice by the Board, the receiving body may request the dedication, and the Board shall transfer the lands to the appropriate receiving body.

b. For a school or park site, if the receiving body determines upon completion of platting that there is no longer a need for the dedicated land, they may request that the land be sold.

c. Funds may be released to the appropriate receiving body if the Board finds that the proposed use of funds is compatible with the intent of the cash-in-lieu payment or sale of the land.

d. The County shall retain a reasonable management fee for the holding and maintenance of escrow accounts for cash-in-lieu payments, provided that the management fee does not exceed the amount of interest generated by the account.

DIVISION 5 EXEMPTION SUBDIVISION

Section 7-501

Basic Subdivision Exemption Criteria. The following basic subdivision exemption criteria shall apply to all proposed subdivision exemptions, at the discretion of the Land Use Administrator:

A. **Not Within the Purposes of Subdivision Statutes or This**

Land Use Code. The division of land created by the exempt subdivision process is not within the purposes of the state subdivision statutes or the subdivision regulations of this Land Use Code.

B. Compliance With Land Use Regulations. The development and use of parcels created through the exempt subdivision process complies with the land use regulations and applicable standards of this Code.

C. Adequate Water Supply. The lots created by the land division have a legal, adequate and dependable potable water supply, in compliance with the requirements of this Land Use Code set forth in Section 7-104, *Adequate, Reliable Safe Water Supply*.

D. Adequate Water Distribution and Wastewater Disposal System. The lots created by the land division have an adequate water distribution system and wastewater disposal system in compliance with the requirements of this Land Use Code set forth in Section 7-105, *Adequate Water Distribution and Wastewater Systems*.

E. Adequate Access. The lots created by the land division have legal and adequate access in compliance with the requirements of this Land Use Code set forth in Section 7-107, *Access and Roadways*.

F. Hazards. The land division does not create hazards or exacerbate existing hazards.

G. No Significant Impact on Environmental Features. The proposed use and development of the building lots shall minimize adverse impacts on streams, areas subject to flooding, drainage, geologic hazards, lakes, high ground water areas, topography, scenic views, vegetative cover, climatology and other identified environmental features.

1. The proposed use will not have a significant adverse impact on plant or wildlife habitat, migration corridors, or sensitive and unique plant or wildlife ecosystems as identified in the Master Plan, if any, or identifiable on or near the site.

2. The proposed use will not have a significant adverse

impact on wetland areas identified in the Master Plan, if any, or identifiable on or near the site, or alter drainage patterns from historic levels. Runoff and erosion from the development will not have a significant adverse impact on the character of the wetland.

H. Suitability to Land and Character of Neighborhood. Proposed parcel boundaries and development shall be suitably located and sized with respect to the physical characteristics of the land, the character of the neighborhood, and the County's goals of preserving agricultural and forestry lands.

I. Compliance with Master Plan and Intergovernmental Agreements. The proposed subdivision exemption is consistent with applicable provisions of the Master Plan, if any, and any intergovernmental agreements between the County and a municipality that apply to the area where the division of land will occur.

Section 7-502

Additional Criteria for Boundary and Lot Line Revision or Correction.

A. Division Does Not Increase Number of Parcels. The division of land creates no more than the previously recorded number of parcels.

B. Criteria for Approval If a Municipal Boundary is Affected. If the request affects a municipal boundary and the municipality's comprehensive or master plan lacks specific guidance to approve a request for boundary line revision, the Board of County Commissioners must find the following exist:

1. Need for Boundary/Lot Line Revision. There has been substantial change in the vicinity of the property in question, or time and experience have shown that the existing boundary or lot line is unwise or in need of change.

2. Adequate Public Facilities and Utilities Exist to Accommodate the Land Use. There are adequate transportation, recreation, education, utility, and other facilities to accommodate the potential uses allowed in the requested boundary or lot line amendment area. If not, there are adopted plans to extend necessary services and facilities in the requested boundary amendment area.

3. **No Negative Impact from Boundary/Lot Line Revision.** The impact of the boundary or lot line revision request on the immediate neighborhood, vicinity and community as a whole will be positive.

Section 7-503

Additional Criteria for Correction Plats.

- A. **Correct Technical Errors.** The correction is necessary to correct technical errors in the approved and recorded final plat.
- B. **Plat Complies with Code.** The correction results in a plat which complies with all applicable requirements of the Land Use Code.
- C. **Consistent with Approved Site Plan or Final Plat.** The proposed plat is consistent with the approved site plan or subdivision final plat.

DIVISION 6

CLUSTER SUBDIVISION EXEMPTION STANDARDS

Section 7-601

Basic Standards for Cluster Subdivision Exemption. Land use change proposing cluster development pursuant to the Rural Land Use process shall comply with the following standards:

- A. **Preservation of Rural Character and Agricultural Land.** Proposed division and development of the land minimizes the impacts of residential development on agricultural lands and agricultural operations and maintains the rural character of the area.
 1. Ten (10) or fewer lots per cluster shall be considered rural in character. If more than ten (10) lots are proposed, applicant shall demonstrate that the rural character of the area can be maintained, including the cumulative impact of development on adjacent properties and visibility from public rights-of-way can be mitigated.
 2. Proposed division and development of the land maintains the opportunity for agricultural production on the most productive and viable parcels of land.
 3. Proposed division and development of the land reserves commercially viable enclaves of large scale

agricultural operations.

4. Proposed division and development of the land protects areas of irrigated hay meadow, especially those that connect with and/or are adjacent to other irrigated meadows.

a. Adequate water supply shall be reserved to ensure continued irrigation. Such decreed water rights shall not be severed from the land.

b. Adequate water supply shall be reserved to continue the historic application of water to the Remainder Parcel.

5. Proposed division and development of the land protects upland grazing areas needed for agricultural uses.

6. To the extent practicable, proposed division and development of the land avoids crossing and dividing irrigated lands with roads, fences, development and utilities.

7. Adequately sized and appropriately placed culverts are provided when crossing agricultural ditches.

B. Site Design.

1. Building lots and building envelopes shall be sited and sized to minimize impact on agricultural land use.

2. Building lots and building envelopes shall be sited and sized to minimize the impact on any environmental or open space resource areas on the property.

3. Building lots and building envelopes shall be sited and sized to minimize visual impacts.

a. Topographic breaks are used to shield building envelopes and roads from view and minimize negative visual impact from public rights-of-way. To the extent practicable, landscape or landscaping treatments shall be used to minimize visual impacts.

b. Building lots and building envelopes are sited in a manner that avoids long, uninterrupted rows of houses lining major roadways.

c. Building lots and building envelopes are sited in a manner that keeps structures off of highly visible places. Height of structures shall be limited so the structures will not project into the skyline when viewed from public roads.

4. Sites selected for development are appropriately scaled for the type of proposed development without major alterations to the natural landscape.

5. Sites shall be developed so that healthy trees, native vegetation and natural or significant rock outcroppings and other valuable features are reserved and integrated within the overall plan.

6. Building lots shall be located nearest to utilities and roads to minimize the amount of construction unless this directly conflicts with other preservation goals.

C. **Conservation Area / Remainder Parcel Standards.** The Remainder Parcel comprises the conservation areas, and shall include natural areas, flood plains, and all or part of the following: aquifer recharge areas; significant wildlife habitat and migration corridors; unique vegetation and critical plant communities; prime farm and ranch land; historic archaeological or cultural features; and ridgelines and scenic view corridors. The conservation area shall also include buffers around natural areas to the extent necessary to protect the relevant resource as determined by staff.

1. The Remainder Parcel shall be located on the property to maximize the preservation of open space, including but not limited to, agricultural areas, existing trees and vegetation, wildlife habitat and sensitive environmental areas such as riparian corridors, hazard areas, wetlands and flood plains;

2. To the extent feasible given the topography and features of the property, the property to be reserved as

conservation area is contained in contiguous parcels and is not bisected by the proposed development.

3. To the extent possible, Remainder Parcels shall be located so that they are nearby or are adjacent to other agricultural lands, other Remainder Parcels, conservation easements, public open lands, and natural resource areas.

4. To the extent practicable, roadways and utilities shall be positioned in a manner to avoid traversing or significantly damaging the qualities of the Remainder Parcel.

5. The Remainder Parcel(s) shall have physically feasible, legal access to public roads that is appropriate to the likely uses of the parcel.

6. Density Bonus.

a. Minimum 100 acres, contiguous, is required for a Remainder Parcel which may be used to support the Density Bonus.

(1) If contiguity of Remainder Parcel is broken by a significant natural feature, topographic break, river, lake or other physical boundary such as roads or railroads, smaller Remainder Parcels totaling 100 acres or more collectively may be considered in calculating the Density Bonus.

b. One (1) building envelope per single Remainder Parcel shall be allowed.

(1) Dwelling units shall be located within residential building envelopes. The acreage contained in the residential building envelope shall not be counted towards the Density Bonus.

c. All Remainder Parcels qualifying for the Density Bonus shall be held under a single owner.

d. Areas set aside for trail easements and

peripheral roads may be considered part of the Remainder Parcel.

e. The following areas shall not be counted towards the Density Bonus:

(1) Areas shown as road easements or rights-of-way shall not be counted towards the Density Bonus.

(2) Land subject to a pre-existing agreement prohibiting development shall not be counted towards the Density Bonus.

(3) Land used for paid commercial recreational activities shall not be counted towards the Density Bonus.

(4) Any residential building envelopes within Remainder Parcels shall not be counted towards the Density Bonus.

D. Roads, Water and Wastewater Services. Roads, water and wastewater services shall be adequate to serve the proposed subdivision and shall conform with State and local regulations.

1. The transportation design is appropriate, given existing and planned capacities of the system.

2. Minimum lot size of three acres shall be required for lots supporting both wells and septic system. Lots shall be sized according to state and local standards and meet all location standards.

3. All sanitation systems and domestic water wells shall be placed within the designated lot or within the building envelope on the Remainder Parcel.

4. Water and sewer facilities shall be located so that they do not traverse or significantly damage the qualities of the Remainder Parcel.

5. If a central sewer system is proposed, the system shall be designed and constructed to ensure that it is

adequately sized to accommodate the development at build-out.

6. If a public water system is proposed, the quality, quantity and dependability of the available water supply is adequate to serve the development.

E. Eligible Parcels. The Rural Land Use process may be used to create a cluster subdivision development on a parcel of land 70 acres or more in any unincorporated area of the County.

F. Clustered Development. Buildable lots and building envelopes shall be clustered to the extent practicable, and so as not to detract from development on surrounding properties and the natural characteristics of the parcel. The lots shall be clustered to make efficient use of land resources and infrastructure.

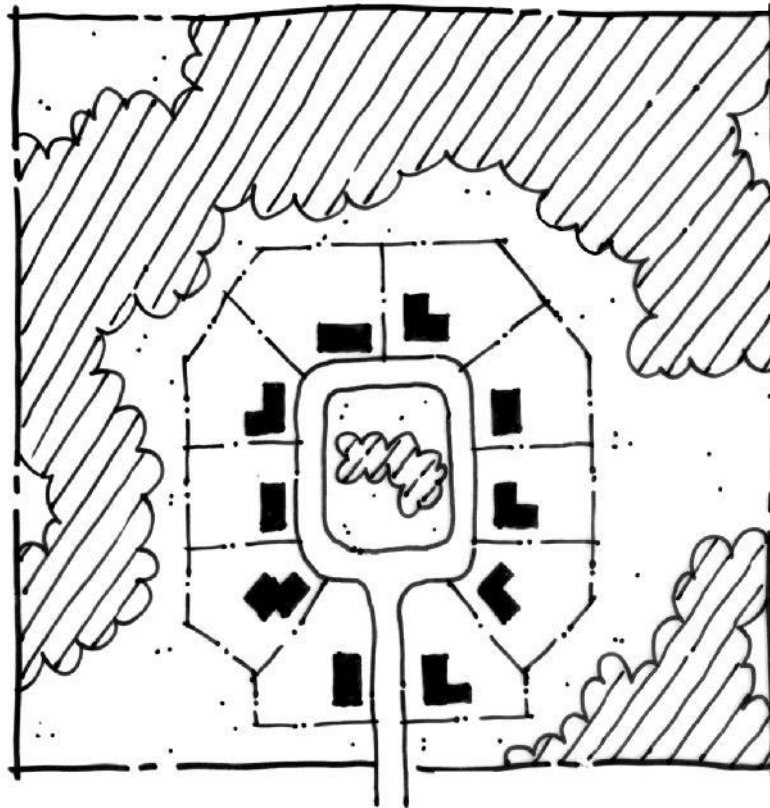


Figure 7-501 F, Cluster Development

G. Residential Land Use. The proposed division of land shall be for single-family dwelling use only.

H. Conservation Area. Two-thirds (2/3) of the total area of the tract or tracts shall be preserved as contiguous open space to be used as wildlife habitat, grazing land, critical natural areas or similar uses, for at least forty (40) years from the date the plan is approved.

I. Density. The residential density shall not exceed two (2) residential units for every thirty-five (35) acres or one residential unit for each seventeen and one half (17 1/2) acre increment.

J. Ratio of Wells to Lots. Where well water is used, the annual withdrawal rate shall not exceed the rate of one acre-foot for each thirty-five (35) acres within the cluster development unless a water augmentation plan is approved. One well shall be allowed per residential lot in accordance with Section 30-28-404, C.R.S.

DIVISION 7

STANDARDS FOR FLOOD PLAIN DISTRICT

Section 7-701

Additional Standards Within Flood Plain District. The following basic approval standards and relevant factors shall apply to land use change within the Flood Plain District, including division of land:

A. Basic Approval Standards.

1. Compliance With Regulations. The proposed land use complies with the Flood Plain District regulations and does not otherwise violate the purposes and intent of these Flood Plain District regulations.

2. Compliance with Other Permit and Approval Requirements. All necessary permits and approvals shall be obtained from local, state and federal agencies, including Section 404 permit requirements of the Federal Water Pollution Control Act.

3. Suitability of Land Use. The proposed land use is suitable for the site, with consideration to the specific existing flood hazard.

4. Cumulative Effect Does Not Increase Water Surface Elevation. For waterways with Base Flood Elevation where a regulatory floodway has not been designated, the cumulative effect of the proposed land use, when combined with all other existing and anticipated land use, shall not increase the water surface elevation of the base flood more than one-half foot at any point.

5. No Danger to Public. The proposed land use shall not cause danger to persons upstream, downstream and in the immediate vicinity.

6. No Change in Flood-Carrying Capacity. Within the regulatory floodway, the proposed land use would not result in any increase in flood levels during the occurrence of the base flood discharge.

a. The proposal shall include maintenance within the altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished.

B. Relevant Factors. The Land Use Administrator shall also consider the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets

and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location, where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

10. The relationship of the proposed use to the master plan for that area, if any;

C. Basic Design and Construction Standards.

1. New Construction Anchored. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads.

2. Service Facilities. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Materials and Methods of Construction. All new construction or substantial improvements shall be constructed with materials resistant to flood damage and utilizing construction methods and practices that minimize flood damage.

4. Water Supply Systems. New and replacement water supply systems within flood plain areas shall be designed to minimize or eliminate infiltration of flood waters into the systems.

5. Sanitary Sewage Systems. New and replacement sanitary sewage systems within flood plain areas shall be designed to minimize or eliminate infiltration of flood waters into the systems

and discharges from the systems into flood waters. On-site sanitary waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Flood Fringe Use Standards.

1. Residential.

a. Any residential structure or use, whether fixed or mobile, designed for human occupancy shall be constructed, located or improved so that any external wall shall not be less than fifteen (15) feet from the stream side of the Flood Fringe (as described in Article 16, Definitions. of this Land Use Code).

b. New construction and substantial improvement (as described in Article 16 of the Land Use Code) of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

c. The lowest interior grade, including crawl spaces, shall not be lower than the lowest adjacent grade.

2. Nonresidential.

a. Any nonresidential structure or use, and accessory structures not intended for human occupancy, shall be constructed, located or improved so that any external wall shall not be less than fifteen (15) feet from the stream side of the Flood Fringe (as described in Article 16, Definitions of this Land Use Code).

b. With the exception of Critical Facilities, as

described in Article 16, Definitions, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator.

c. Where a non-residential structure is intended to be made water tight below the base flood elevation:

(1) A qualified professional, pursuant to Article 4, Section 4-602 A, shall develop and/or review structural design, specifications and plans for construction and shall certify that the design and methods of construction are in accordance with current technical criteria; and

(2) A record of such certificate which includes the specific elevation (in relation to the appropriate datum) that the structures are flood proofed. All flood proofing shall meet the current technical criteria set by the Colorado Water Conservation Board and the Federal Emergency Management Agency. Such certifications shall be provided to the Land Use Administrator.

d. In the event that floodwaters in the Flood Fringe can be expected to attain a velocity greater than three (3) feet per second (at any point where the proposed land use is to occur), additional flood proofing shall be required sufficient to withstand such greater water velocity.

e. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(1) Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect, or meet or exceed the following minimum standards:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

E. **Shallow Flooding Standards.** Located within the Special Flood Hazard Area, as defined in Article 16 of this Land Use Code, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. **Residential Construction.** All new construction and

Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. **Nonresidential Construction.** With the exception of Critical Facilities, as identified in Article 16 of this Land Use Code, all new construction and Substantial Improvements of nonresidential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

F. Manufactured Home Standards.

1. All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial

damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. Anchoring. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

G. Recreational Vehicle Standards. All recreational vehicles placed on sites located in the Flood Plain District shall either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use; or
3. Meet the permit requirements and the elevation and anchoring

requirements for "manufactured homes" as set forth in paragraph (F) of this section;

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions.

H. Alteration of a Watercourse Standards. For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Otero County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more

than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section 3-208, L. (7) b. of this Article.

7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

I. Variance Standards.

1. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Article 7, Section 7-701 (B) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. The Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of the flood plain development regulations found as stated in Article 3, Section 3-101 (H.).

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

5. Variances shall only be issued upon:

a. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Showing a good and sufficient cause;

c. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

d. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. A determination that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

7. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

a. The criteria outlined in Article 3, Section 3-208 (L) (14) (a) – (e) are met, and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

DIVISION 8

ADDITIONAL USE STANDARDS

Section 7-801

Additional Standards Applicable to Batch Plant. The use must comply with all applicable local, state and federal laws and permits.

Section 7-802

Additional Standards Applicable to Accessory Dwelling Unit.

A. Use Subordinate to Primary Dwelling Unit. An Accessory Dwelling Unit shall be secondary and subordinate to the primary dwelling unit, and accessory to the principal use of the property.

B. Adequate Utilities Required. The Accessory Dwelling Unit shall be served by adequate facilities for potable water supply, sewage disposal,

solid waste disposal, electrical supply, fire protection and roads.

C. **Compliance with Land Use Code and Building Code Requirements.** Construction shall comply with the standards set forth in this Code and with Building Code requirements.

D. **Location with Respect to Principal Structure.**

1. An Accessory Dwelling Unit may be detached from the structure housing the principal use provided it is closely clustered with the principal structure.

2. In the Agriculture (A-1) Zone District, an Accessory Dwelling Unit may be located where appropriate for the agricultural operation with which it is associated.

E. **Entrance to Accessory Dwelling Unit.** A separate entrance to the Accessory Dwelling Unit is allowed, but only one entrance shall be visible from the front property line.

Section 7-803

Additional Standards Applicable to Campground / Recreational Vehicle (RV) Park. The following standards shall apply to applications for both a new campground/RV park and additions to an existing campground/RV park:

A. **Site Improvements.**

1. **Access.** The campground / RV park shall have access to a public road.

2. **Drainage.** The campground / RV park shall be located on a well-drained site that is free from stagnant pools of water.

3. **Landscaping.** Landscaping shall be provided in compliance with the requirements of Section 7-305 A1.

a. The campground / RV park shall be adequately landscaped to provide a buffer from adjacent uses and roadways, and to prevent erosion.

b. A minimum 10-foot landscaped buffer is required

for park areas adjacent to private lands.

B. Obstruction of Roadways or Walkways Prohibited. Camping units and recreational vehicles shall not be installed or parked in any manner that any part of the RV or unit would obstruct or block any portion of a roadway or walkway.

C. Minimum Facilities for Campsites and Recreational Vehicle Spaces. The area devoted to each campsite and recreational vehicle space shall be adequate to accommodate the following facilities:

1. **Parking Space.** Each space shall be provided with one graveled parking space.

2. **Vehicle Barriers.** Adequate barriers shall be provided to confine vehicles to driveways and parking spaces.

D. Easements, Rights-of-Way, Public Open Space and Common Areas.

1. **Open Space and Common Areas.** Campgrounds/RV parks shall provide public open space or common areas in an amount of at least ten percent (10%) of the total area of the campground or park.

2. **Dedication of Easements, Rights-of-Way and Public Lands.** Applicants shall submit a warranty deed or file a plat of the site to assure the dedication of all easements and public lands prior to the approval of the Land Use Change Permit application. All lands, including easements and rights-of-way to be dedicated shall be accompanied by full legal descriptions prepared by a Colorado licensed or registered professional land surveyor. The legal descriptions shall be submitted in digitized form compatible with the County Land Use software.

3. **Restrictions.** Land to be provided for public and/or private recreational use and/or open space shall not include any area dedicated as a roadway, campsite or RV space, storage area or any area required for setbacks.

E. Driveways. All recreational vehicle spaces shall abut upon a driveway, graded for drainage and maintained in a rut free and dust free condition, which provides unobstructed access to a public street or highway. The minimum unobstructed width of such driveways shall be fifteen (15) feet for one-way traffic or twenty (20) feet for two-way traffic. No parking shall be allowed on the driveways.

F. Walkways. All campground and park walkways and bicycle paths shall be gravel or hard surfaced. Walkway widths shall not be less than five (5) feet wide.

G. Maintenance. All campsites, RV spaces, open space and common areas shall be maintained in a clean and sanitary condition, free from hazardous and noxious materials, weeds and refuse. The campground/park owner shall be responsible for ensuring compliance.

H. Water Supply and Distribution.

1. **Comply with Standards.** A domestic water supply that is in compliance with the drinking water standards set forth in Section 7-104, *Adequate Reliable Water Supply*, and Section 7- 105, *Adequate Water Distribution and Wastewater Systems* of these Regulations shall be provided in each campground/RV park.

I. Fire Protection. Adequate fire protection shall be provided and shall be in compliance with most current edition of the Uniform Fire Code and all subsequent editions thereto, together with all amendments thereto. All campgrounds shall be equipped at all times with fire extinguishing equipment in good working order and of such type, size and number and so located as prescribed by the authorizing local fire suppression organization.

J. Service Buildings. The following standards shall apply to service buildings, recreation buildings and other community service facilities such as management offices, repair shops and storage areas, sanitary facilities, laundry facilities, indoor recreation areas, and commercial uses supplying essential goods or services for the exclusive use of park occupants:

1. **Structural Requirements for Buildings.**

a. Protection. All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

b. Sanitary or Laundry Facilities. All rooms containing sanitary or laundry facilities shall have sound-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, non-absorbent waterproof material or be covered with moisture resistant material.

K. Refuse Handling. The storage, collection and disposal of refuse in a recreational vehicle park shall be so arranged as to not create health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse shall be disposed of at either a municipal or County designated landfill site, at a minimum of once per week.

L. Pest Control. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with County regulations and requirements of CDPHE.

M. Pet Control. The owners or managers of a recreational vehicle park, or all owners or persons in charge of any dog, cat or other pest animal shall have such animal on a leash, not exceeding ten feet or shall confine such animals within the space or designated areas within the park and shall not permit such animal to commit any nuisance. Animals are restricted to household pets only.

N. Supervision.

1. Attendant. The attendant or caretaker shall be in charge at all times to keep the park, its facilities and equipment in a clean, orderly and sanitary condition.

2. Owner Answerable. The owner shall be answerable for the violation of any provision of these Regulations.

Section 7-804

Additional Standards Applicable to Concentrated Animal Feeding Operations and Confined Animal Feeding Operations.

A. **Best Management Practices/Performance Standards.** Anyone feeding, stabling or raising of animals shall be responsible to use the following best management practices and performance standards:

1. The property owner shall remove, handle and stockpile all manure in a manner that will prevent nuisance conditions. The manure piles shall not be allowed to exist or deteriorate to a condition that facilitates excessive odors, flies, insect pests or pollutant runoff.
2. Suitable natural, sanitary, chemical and scientific controls shall be provided for rodent and insect control.
3. Areas on the property such as feed bunks, feed bunk aprons, water tanks, feeding devices, manure piles, trash dumpsters, animal pens, feed mixing area, structures and other similar areas shall be constructed and maintained in a sanitary manner to prevent nuisance conditions.
4. Adequate means for scraping, grading and cleaning of the property shall be provided at all times.
5. Drainage facilities or improvements shall be constructed to protect any river, streams or other bodies of water from pollution.
6. Reasonable efforts shall be made to control fugitive dust.

B. **Violation.** Any person or entity found to be in violation of the aforementioned best management practices or performance standards shall be subject to the provisions of Article 12, *Enforcement, Violation and Penalties*.

Section 7-805

Additional Standards Applicable to Day Care Center. Applicable local, State, and Federal permits shall be obtained and maintained.

Section 7-806

Additional Standards Applicable to Equestrian Arena.

- A. **Activity On-Site.** All riding activity shall be on-site.
- B. **Indoor Arenas.** Indoor arenas shall comply with requirements of this Code and the International Building Code.

Section 7-807

Additional Standards Applicable to Group Home Facilities.

A. **Location Restrictions.**

1. **Location Shall Not Create a Concentration of Group Homes in Neighborhood.** A group home facility shall not be located within three hundred (300) feet of another group home facility, except that the County may permit two such facilities to be located closer than three hundred (300) feet apart if they are separated by a physical barrier such as an arterial collector, a commercial district, or a topographic feature.

2. **Health, Safety and Welfare of the Community.** The location and operation of the group home facility does not constitute a direct threat to the health, safety or welfare of the community.

B. **Overnight Shelter.**

1. **Parking Requirements.**

a. One space for each employee or volunteer that may be on the site at any given time computed on the basis of the estimated maximum number of employees and volunteers on the site at any given time; and

b. One parking space based on the maximum occupancy of sleeping rooms and the dormitory type sleeping areas.

2. **On-site Staffing.** No facility shall be open for use by clients unless there is staff on-site to supervise and oversee the clients.

3. **Waiting Areas.** No person shall allow or permit clients of a facility to queue or otherwise wait for the facility to open or to

otherwise be admitted into the facility in the public right-of-way. The facility shall provide an indoor or outdoor waiting area in a size adequate to prevent the anticipated number of clients from queuing into or otherwise waiting in the public right-of-way.

C. Emergency Shelter.

1. Parking Requirements.

a. Parking for Employees and Volunteers. One space for each employee or volunteer that may be on the site at any given time computed on the basis of the estimated maximum number of employees and volunteers on the site at any given time; and

b. Parking for Residents. One parking space based on the maximum occupancy of sleeping rooms and the dormitory type sleeping areas; and

c. Parking for Attached Units. One parking space for each attached dwelling unit.

2. Maximum Occupancy. For emergency shelter facilities that operate with sleeping rooms or with open-air dormitory type sleeping areas, the following occupancy standards shall apply:

a. Residential Districts. For a Residential zoning district, the maximum number of residents of the facility shall not exceed six persons for each dwelling unit.

b. Business Districts. For a Commercial zoning district, the maximum number of residents of the facility shall not exceed six persons for each dwelling unit. Up to two additional persons per dwelling unit equivalents may be allowed if the property is not adjacent to a Residential zoning district.

c. Industrial Districts. For an Industrial zoning district, the maximum number of residents of the facility shall not exceed six persons for each 1,600 square feet of lot area on the site. Up to two additional persons for each

1,600 square feet of lot area on the site may be allowed if the property is not adjacent to a Residential zoning district.

3. Calculating Occupancy. The maximum occupancy for a facility shall include the occupants of the facility in addition to the occupants of overnight shelter uses and transitional housing uses that are also located on the property.

D. Transitional Housing.

1. Parking Requirements. The facility shall provide one off-street parking space for each dwelling unit on the site.

2. Density. The maximum number of dwelling units shall be the same as is allowed within the underlying zoning district. For an Industrial zoning district, the number of dwelling units allowed shall not exceed one dwelling unit for each 1,600 square feet of lot area on the site.

E. Group Home for the Elderly.

1. Required Federal, State and Local Permits. Applicable Federal, State, and local permits shall be obtained and maintained.

Section 7-808

Additional Standards Applicable to Home Occupation.

A. Home Occupation is Incidental to Residential Use. The primary residence of the person(s) conducting the home occupation activity is located on the property, and all home occupation activities shall remain incidental and secondary to the use of the property for residential purposes.

1. Maximum 25% of Total Building Square Footage Used for Home Occupation Activity. The amount of space used for the home occupation activity, including any storage, shall not exceed 25% of the total amount of building square footage contained on the property.

2. Maximum 50% of an Individual Structure Used for Home Occupation Activity. The space used for the home occupation activity shall not exceed 50% of any individual structure. This provision does not apply to home day care.

B. Activity Confined to Same Lot as Primary Residence. At all times the home occupation activity shall be located on the same lot as the primary residence of the person conducting the home occupation.

C. Activity Contained Within Closed Building. The home occupation activity shall be contained within a closed building, except for home day care.

D. Activity Does Not Interfere with Provision of Required Parking for Primary Use. The location of the home occupation shall not interfere with the provision of mandatory parking spaces for that property.

E. Activities Conducted by Persons Residing at Location. All home occupation activities must be conducted by the person(s) who reside at the location. The activity may be supported by no more than one person living off-site, such as an employee, independent contractor, officer, agent, partner, volunteer, or any person serving in any other capacity for the benefit of the home occupation.

F. Activity Does Not Create Nuisance. The home occupation activity shall not result in any objectionable noise, fumes, dust or electrical disturbance.

G. Activity Does Not Increase Traffic Volumes. The home occupation activity shall not result in any increase in traffic volumes in the immediate neighborhood.

H. Storage Meets Code Standards. All storage shall meet the requirements for storage, set forth in 7-813, *Additional Standards Applicable to Personal Property Placement, Retention or Storage*.

I. Pick-Up and Delivery Outside of Dwelling Unit. Any customer pick-up or delivery associated with a home occupation activity must be at a designated point outside of the dwelling unit.

J. Window or Outdoor Display of Goods Prohibited; Retail Sales Prohibited. No home occupation activity may include any window or outdoor display of goods, any stock in trade or any other commodities. No home occupation activity may conduct retail sales on the premises.

K. Signage Must Comply with Sign Regulations of this Code. Any signs advertising a home occupation activity must comply with the regulations for signs set forth in Section 11-107 of Article 11, *Signs*.

L. Additional Conditions of Approval. The Land Use Administrator may impose any additional conditions of approval to ensure that the home occupation complies with these standards for Home Occupation and the purpose and intent of these Regulations.

Section 7-809

Additional Standards Applicable to Kennel.

A. Basic Requirements.

1. **Maximum Occupancy.** Kennel operations shall be in accordance with paragraphs 1.1 and 1.2 of the “Otero County Dog Control Resolution”:

(a) 1.1 of the “Otero County Dog Control Resolution” provides:

“Kennel” shall be defined as any place or premises upon which any person, firm, or corporation owns, keeps, or harbors more than four (4) dogs over six (6) months old within the unincorporated limits of the County of Otero, State of Colorado.

(b) 1.2 of the “Otero County Dog Control Resolution” provides:

It is unlawful for any person, firm, or corporation to own, keep, or harbor more than four (4) dogs over six (6) months old within the unincorporated limits of the County of Otero, State of Colorado, without having first obtained a kennel license as provided for hereinafter. The keeping of more than four (4) dogs on the premises of the owner over the age of six (6) months old shall be *prima facie* evidence of violation of this section and the burden of proof shall be upon the owner to show the ages of such dogs. This limitation shall not apply to the proprietors of dog hospitals and veterinarians when dogs are kept upon the premises used by such dog hospitals and veterinarians as their

normal place of business.

2. Noise. Any and all sounds shall not exceed the maximum permissible noise levels for residential zone districts set forth in Section 25-12-103, C.R.S.

3. Waste Disposal.

a. Adequate Disposal System. Individual sewage disposal system shall be capable of handling all feces and urine waste from the kennel, or the feces and urine waste shall be stored in a sealed container capable of being pumped for disposal by a commercial hauler.

b. Prevention of Surface and Groundwater Contamination. All liquid and solid wastes shall be stored and removed for final disposal in a manner that protects against surface and groundwater contamination.

c. On-Site Disposal Prohibited. No permanent disposal of any waste shall be allowed on-site.

d. Measures to Protect Health and Safety. Animal and food wastes, bedding, debris and other organic wastes shall be disposed of so that vermin infestation, odors, disease hazards and nuisances are minimized. Such wastes shall be removed at least weekly, or more frequently, from the facility and hauled by a commercial hauler to an approved solid waste disposal site.

Section 7-810

Additional Standards Applicable to Manufactured Home.

A. Certification. All manufactured homes placed in or relocated to a manufactured home park after adoption of this Code shall meet the following certification requirements:

1. The manufactured home shall have certification pursuant to the “National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, *et seq.*, as amended)”.

2. Manufactured homes occupied in Otero County after the

date of the adoption of this Land Use Code shall have affixed a data plate and heating certificate stating compliance with the following standards:

- a. The home is designed to comply with federal mobile or manufactured home construction and safety standards in force at the time of manufacture.
- b. The home is designed for Colorado structural and wind zone requirements.
- c. The home is designed for Colorado outdoor winter design temperature zones.

B. Design.

1. The exterior shall be of brick, wood, or cosmetically equivalent siding, and roof shall be pitched.
2. Prior to delivery to site, manufactured home shall meet, on an equivalent performance engineering basis, unique public safety requirements of the Building Code such as snow load, wind shear and energy conservation factors.

C. Foundation Required. The manufactured home shall be installed on a foundation meeting the following requirements:

- 1. Adequate Foundation for Placement and Anchoring.** The manufactured home shall be installed on a permanent, engineered foundation adequate for placement and anchoring of a manufactured home.
- 2. Ground Anchors.** Ground anchors and tie downs shall be placed in accordance with the Uniform Building Code now in force in Otero County.
- 3. Foundation Approval Prior to Delivery of Manufactured Home.** The foundation shall be constructed and approved by the Building Official prior to delivery of the manufactured home to the site.

D. Storage Areas and Buildings.

1. Area Below Manufactured Home. The space below each manufactured home shall be kept clean and free from refuse. Such space may be used for storage provided the ground is covered with an impervious material and the area is maintained to prevent harboring of rodents. No flammable materials shall be stored beneath a manufactured home.

2. Storage Buildings. Storage buildings shall be designed in a manner which enhances the appearance of the manufactured home and shall be constructed in a professional manner from durable materials. The area occupied by storage buildings shall be included in the calculations that determine if the proposed development complies with limits on impervious surface coverage.

3. Liquid Propane Tanks. Liquid propane tanks shall be stored in accordance with the requirements of the applicable Fire District.

E. Manufactured Home Complete with Utility Hook-Ups. The manufactured home shall be complete with sanitary, heating and electrical systems and be ready for occupancy when delivered to the site except for minor assembly.

F. Installation Complete Within Six Months. Installation shall be complete, including any minor assembly, and manufactured home ready for occupancy within six months of delivery.

G. Skirting. Skirting shall be installed, and shall be provided with doors to permit convenient access to sewer, water and gas connections. Skirting material shall be weatherproof, fire-resistant and durable. The inspection panels shall be not less than four square feet in area, and having no less than 18 inches in the least dimension.

H. Floodplain District. If the manufactured home is being placed in a Floodplain District, the standards of Section 7-701 (F) also apply.

A. **Site Selection Criteria.**

1. **Avoidance of Hazards and Chronic Nuisances.** The manufactured home park shall not be sited in areas subject to fire or other natural hazards nor shall it be located in proximity to chronic nuisances such as noise, smoke fumes or odors.

B. **Park Layout.** The layout of manufactured home spaces shall follow variations in natural terrain and preserve unique natural features of the site such as tree stands, water courses, and rock outcrops, to the extent practicable and feasible.

1. **Flat Sites.** Where sites are flat and with few distinguishing features, curvilinear or clustered patterns of manufactured home spaces is encouraged.

2. **Open Spaces.** Interspersing open spaces is encouraged.

C. **Utilities.**

1. **Utility Hookups.** Each manufactured home space shall be provided with adequate hookups to water, sewage disposal, electric power, telephone, and fuel supplies.

2. **Utility Lines Underground.** All utility lines, including service lines, shall be underground.

D. **Water Supply and Distribution.**

1. **Comply with Standards.** The park shall be served by a domestic water supply and distribution system that is in compliance with the requirements of Sections 7-104 and 7-105 of this Article.

E. **Wastewater System.**

1. **Comply with Standards.** The manufactured home park shall be served by an adequate wastewater treatment system that is in compliance with the requirements of Section 7-105 of this Article.

F. Electrical Distribution and Communication Wiring.

1. Distribution System. The manufactured home park shall contain an electrical distribution system to each lot or site, consisting of wiring, fixtures, equipment and appurtenances thereto, which shall be installed and maintained in accordance with state and County regulations. Telephone and cable TV systems may be installed and maintained.

2. Approval by Utility. All plans for the above services shall have the approval of the responsible utility prior to County approval of mobile home park plans.

G. Foundation and Anchors.

1. Adequate Foundation for Placement and Anchoring. Each manufactured home space shall be improved to include a permanent, engineered foundation adequate for the placement and anchoring of a manufactured home.

a. **Ground Anchors.** Each space shall be provided with ground anchors and tie downs in accordance with the Uniform Building Code now in force in Otero County.

2. Foundation Approval Prior to Delivery of Manufactured Home. The foundation shall be constructed and approved by the Building Official prior to delivery of the manufactured home to the site.

H. Landscaping.

1. Maintenance.

a. In manufactured home parks where lots are offered for sale, the applicant shall be responsible for landscaping of the front yard after roads, parking areas and pads for manufactured homes have been constructed, and for maintenance of landscaping for one year or until a manufactured home is purchased or installed by an individual owner, whichever is longer.

b. In manufactured home parks where title to the land is retained by the applicant or operator of the manufactured home park, the applicant or operator shall be responsible for installation and maintenance of landscaping in the park in accordance with the County approved landscaping plan.

2. **Landscaping for Screening.** Additional landscaping may be required to provide screening or buffering and to soften the visual appearance of a manufactured home park.

I. Outdoor Storage. Outdoor storage in manufactured home parks shall comply with the requirements set forth in 7-814, *Additional Standards Applicable to Personal Property Placement, Retention or Storage* of these Regulations.

J. Certification of Manufactured Homes. All manufactured homes placed in or relocated to a manufactured home park after adoption of this Code shall meet the certification requirements set forth in Section 7-810 A of these Regulations.

K. Fire Protection. Fire protection requirements shall be in accordance with the most current Edition of the Uniform Fire Code and all subsequent editions thereto, together with all amendments thereto.

L. Maintenance of Individual Spaces. Manufactured Home Park residents shall be responsible for keeping their individual spaces free from debris and refuse, and shall keep landscaping trimmed, mowed and in thriving condition.

M. Pet Control. Pet animals shall be confined within the unit space of the animal's owner or within designated areas of the Manufactured Home Park. Animals shall be restricted to household pets only.

N. Refuse Handling. The storage, collection and disposal of refuse in a Manufactured Home Park shall be so arranged as not to create health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse shall be disposed of at either a municipal or County designated landfill site, at a minimum of once per week.

O. Pest Control. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation.

Extermination methods and other measures to control insects and rodents shall conform with the requirements of the County and CDPHE.

P. Supervision. The duly authorized attendant or caretaker shall be in charge at all times to keep the park, its facilities and equipment in a clean, orderly and sanitary condition.

Q. Floodproofing. If the property is located in a Floodplain District:

1. All subdivision proposals including the placement of manufactured home parks shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks shall meet the requirements of Article 3, Article 4 and Article 7 of this Land Use Code.
3. Base Flood Elevation data shall be generated for subdivision proposals including the placement of manufactured home parks which is greater than 50 lots or 5 acres, whichever is lesser.
4. All subdivision proposals including the placement of manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section 7-812

Additional Standards Applicable to Mining and Extraction Uses.

A. Roads.

1. **Impact Mitigation.** The mining operator or owner shall bear the proportionate cost of all road and bridge improvements,

repairs, and maintenance necessitated by the proposed mining operation. Prior to the issuance of a Permit, an agreement shall be entered into between the proposed mining operator or owner and Otero County concerning the road and bridge improvements, repairs, and maintenance necessitated by the proposed mining operation and payment therefor.

2. Vehicle Weight. The weight of trucks shall not exceed federal, state or local government imposed road or bridge weight capacity on approved haulage routes.

3. Seasonal Traffic Limitation. As a condition of approval, the County may impose limits on the number of trucks that may access the mine to avoid damage to roads caused by heavy vehicle use, weather conditions or water saturation.

B. Routing. Designation of construction and haul routes for a specific mining operation application shall comply with the following standards:

1. Avoidance of Developed Areas. Truck haulage and traffic routes shall be designed to the maximum extent feasible to avoid residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings, municipalities and already congested locations. Alternative routes shall be identified.

2. Timing of Hauling. Timing of truck traffic may be controlled to prevent congestion or adverse noise impacts or safety risks.

3. Load Control. Applicant shall prevent loss of loads and fugitive dust emissions during transit, and shall be responsible to ensure that haul routes are maintained in accordance with dust-suppressant methods required by applicable state or federal agencies.

C. Wildlife. Mining operations shall not be located in significant wildlife habitat areas as identified by the Colorado Division of Wildlife.

D. **Fees.** The Otero County Commissioners may assess such fees as they deem appropriate.

Section 7-813

Additional Standards Applicable to Park, Open Space or Greenbelt.

A. **Basic Requirements.** Unless otherwise provided in these Regulations, open space and greenbelt areas shall not be considered synonymous with required yard areas or lands that are unusable or undevelopable.

1. Open Space **may** include:

- a. Areas within the community designated for the common use of the residents of an individual development and/or the community at large;
- b. Areas designated for preservation and protection of environmental resources including flood plains, natural drainage ways, and wetland areas;
- c. Areas impacted by subsidence;
- d. Areas designated for agricultural preservation;
- e. Areas of archeologic and historic significance;

2. Open Space shall **not** include:

- a. Required setback areas around oil and gas production facilities;
- b. Private yards;
- c. Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial/industrial projects.

B. **Designation.** Land dedicated or reserved as a park, open space or greenbelt shall be designated as such on the plat or other document recorded to formalize the project approval.

C. **Ownership.** Documentation of ownership and responsibility for maintenance shall be recorded with the plat or other document recorded to formalize the project approval.

Section 7-814

Additional Standards Applicable to Personal Property Placement, Retention or Storage.

Any person who places, retains or stores any type of personal property on real property (including, but not limited to, motor vehicles, lumber or materials of any kind) is required to comply with the following performance standards:

A. All personal property must be placed, retained or stored in an orderly fashion.

B. The real property where the personal property is placed, retained or stored must be kept clean of trash, weeds and rodents.

C. Any personal property which requires special handling, including but not limited to, oil, gasoline and antifreeze, must be properly placed, retained or stored in accordance with all local, state and federal laws as well as in accordance with the reasonable requirements of the Land Use Administrator.

D. Personal property placed, retained or stored must not contaminate the soil, surface or ground water, or create a danger or nuisance to the general public or to adjoining landowners.

Section 7-815

Additional Standards Applicable to Plowing and Cultivation of Native Rangelands. The following standards shall apply to the plowing and cultivation of native rangelands:

A. The requested application for plowing and cultivation has a soil and water conservation plan from the Natural Resources Conservation Service.

B. The requested application for plowing and cultivation has made adequate provisions for the required irrigation water.

C. The requested application for plowing and cultivation has made

adequate provisions for the control of topsoil erosion caused from wind and water.

D. The requested application for plowing and cultivation has obtained the necessary information as to type of vegetation which will be re-seeded in the area if at such time revegetation of the property in question is required.

E. The requested application for plowing and cultivation will not adversely affect the public health, safety and welfare.

F. The applicant has allowed the Otero County Planning Commission or Land Use Administrator to enter upon the premises made the subject matter of the application to investigate matters relevant to the application.

Section 7-816

Additional Standards Applicable to Public Utilities. The following standards shall apply to public utilities:

A. Underground Location. Where utilities are installed underground, they shall be located in the right-of-way at a depth of at least twenty-four (24) inches.

B. Restoration. Any disturbed portion of the right-of-way shall be restored as nearly as possible to the condition as existing immediately prior to the company's installation. Backfilling shall be made in six-inch lifts, mechanically tamped and packed, and the last twelve (12) inches shall be Class 6 or 7 road base.

C. Safety. Safety measures shall be implemented in accordance with state and federal requirements to protect the public from harm during utility construction, improvements, location or relocation.

D. Roadway Crossing. When the installation crosses a roadway, it shall be located as perpendicular to the roadway as physically possible and installed by boring or jacking beneath the road surface, if feasible.

E. Cuts. Open cuts across a roadway will be allowed, subject to conditions imposed by the County, only if in the opinion of the County, boring is not feasible. Where a cut is allowed, it shall be filled with road base compacted in 6-inch lifts to a density of ninety-five (95) percent of surrounding soils. Any compaction tests shall be conducted by the County

at the expense of the applicant.

Section 7-817

Additional Standards Applicable to Shooting Range.

A. Design by NRA Standards. The shooting range shall be designed by a NRA Range Technical Team, in accordance with standards established in the NRA document entitled “The Range Manual.”

1. The Board may require modifications to address public safety concerns and to ensure adequate safety measures, based upon public input received during the application review and approval process.

B. On-Site Sanitary Facilities Required. The shooting range shall have on-site sanitary facilities that are acceptable to the Otero County Health Department.

C. Alcoholic Beverages Prohibited. Alcoholic beverages shall be prohibited on-site.

Section 7-818

Additional Standards Applicable to Telecommunications Facilities.

A. Shared Facilities. Shared use/co-location of wireless communication facilities on existing structures, towers or buildings in a manner that precludes the need for the construction of a freestanding structure of its own shall be utilized unless it can be demonstrated to the satisfaction of the Board of County Commissioners that shared use/co-location is not feasible or practical.

B. New Towers and Facilities. No new transmission tower or facility shall be allowed unless the applicant demonstrates to the satisfaction of the County that no existing tower, structure or utility facility can be used by the applicant.

C. Structural and Engineering Standards. The applicant shall submit evidence concerning structural and engineering standards prepared by a qualified professional engineer licensed by the State of Colorado. The safety of the property and the neighborhood shall be protected, including, but not limited to, a sufficient fall zone.

D. Interference. Every transmission tower and telecommunication

facility shall meet the regulations of the Federal Communications Commission (FCC) regarding physical and electromagnetic interference.

E. Health Standards. Transmission towers and telecommunication facilities shall meet applicable health and safety standards for electromagnetic field (EMF) emissions as established by the FCC and/or any other federal or state agency having jurisdiction.

F. Public Utility Structures. Transmission towers or telecommunication facilities mounted on existing structures of public utilities that have a franchise or other written permission from the County and use concealed transmission towers and telecommunication facilities are allowed in all non-residential zoning districts, unless otherwise specified by this Code.

G. Design, Materials and Color. Transmission towers and telecommunication facilities shall be designed and maintained to carry gravity and wind loads required by law. Transmission towers and telecommunication facilities may be designed and maintained to minimize visual impact.

H. Lighting and Signage. Only lighting required by a federal agency is allowed. Signage that is required by state or federal law is allowed. All advertising shall be subject to the provisions of Article 11, *Signs*.

I. Modification or Demolition. Any transmission tower or telecommunications facility being modified, demolished or rebuilt shall be in compliance with the standards adopted in this Code.

J. Maintenance. Every owner of a transmission tower or telecommunications facility shall take special care to operate, repair and maintain all such facilities so as to prevent failures and accidents which cause damage, injuries or nuisances to the neighborhood and public. All wires, cables, fixtures and other equipment shall be installed in compliance with the requirements of the National Electric Safety Code and all FCC, FAA, state and local regulations, and in such a manner that will not interfere with radio communications, electronic transmissions or all other electromagnetic communications or otherwise cause a safety hazard.

K. Abandonment. The wireless telecommunication facility owner shall remove all wireless telecommunications facilities which are not in

use for any twenty-four (24)-month period, within three (3) months of the end of such twenty-four (24)-month abandonment. As a part of such removal, the owner shall revegetate the site so that it is compatible with the neighborhood. The Board of County Commissioners shall only determine abandonment after the owner has had notice and an opportunity to be heard.

L. Federal Aviation Agency (“FAA”) Form. The applicant shall submit FAA Form 7460-1, Notice of Proposed Construction or Alteration, except that such form shall not be required for the following:

1. An amateur radio antennae if owned and operated by a federally licensed amateur radio operator or used exclusively for a receive-only antennae.
2. Any existing tower and antennae provided a building permit was issued for a tower or antennae prior to the adoption of this Code.
3. Any emergency telecommunications facilities used exclusively for emergency services including, but not limited to, police, fire and operation of governmental entities.
4. Any antennae used for Federal Communications Commission (FCC) licensees engaged in AM, FM or television broadcasting.

M. Telecommunications Act. All telecommunications facilities shall comply with the standards of this Code, all applicable standards of the Federal Telecommunications Act of 1996, and all subsequent editions thereto, and any amendments thereto, and all applicable requirements of the Federal Aviation Administration (FAA).

DIVISION 9

REVIEW CRITERIA FOR REZONING, REQUEST FOR VARIANCE, REQUEST TO ADD USES TO ZONE DISTRICT REGULATIONS, FINAL PLAT APPROVAL AND EXEMPTION PLAT APPROVAL

Section 7-901

Review Criteria for Rezoning Request. Unless otherwise provided in these Regulations, the following criteria shall apply to rezoning requests:

A. No Spot Zoning. The proposed rezoning would result in a logical and orderly development pattern and would not constitute spot zoning.

B. Change in Area. The area to which the proposed rezoning would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area.

C. Demonstrated Community Need. The proposed rezoning addresses a demonstrated community need with respect to facilities, services or housing.

D. Original Zone Designation Incorrect. The proposed rezoning addresses errors in the original zone district map.

E. Compliance with Master Plan, if any, and Intergovernmental Agreements. The proposed rezoning is in compliance with the Master Plan, if any, and any applicable intergovernmental agreement affecting land use or development.

Section 7-902

Review Criteria for Request for Variance. The following standards shall be satisfied for approval of a request for variance from specific regulatory provisions of this Code:

A. Special Circumstances or Conditions Exist. One or more of the following circumstances or conditions exists with respect to the specific property:

1. Exceptional narrowness, shallowness or shape of the property at the time of the enactment of the regulation in question.
2. Exceptional topographic conditions of the property.
3. Other extraordinary and exceptional situation or condition of the property.

B. Not a Result of the Actions of Applicant. The special circumstances and conditions have not resulted from any act of the applicant.

C. Strict Application Results in Hardship to Owner. Because of the special circumstances and conditions determined pursuant to Section

7-902 A, strict application of the regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on, the owner of the property.

D. Variance is Necessary for Relief. The granting of the variance from the strict application of the provisions set forth in this Code is necessary to relieve the owner of the peculiar and exceptional practical difficulties or exceptional and undue hardship.

E. Variance Not Detrimental to the Public Good. Granting the variance will not cause substantial detriment to the public good.

F. Variance Will Not Impair the County's Zoning Plans. Granting the variance will not substantially impair the intent and purpose of this Land Use Code.

Section 7-903

Review Criteria for Request to Add Use(s) to Zone District Regulations. The Board may add to the uses listed for a zoning district established by this Code, based upon the following findings:

A. Use Does Not Increase Hazards. The proposed use does not result in hazards or alter the natural environment to an extent greater than the other uses allowed in the zone district to which it would be added.

B. Use Does Not Increase Nuisance. The proposed use does not create more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or more traffic hazards than that normally resulting from the other uses allowed the zone district to which it would be added.

C. Use is Compatible. The proposed use is compatible with the uses allowed in the zone district to which it would be added.

Section 7-904

Review Criteria for Minor Subdivision. The following standards shall be satisfied for approval of a request for a minor subdivision, unless waived by the Land Use Administrator:

A. Land Survey Plat. The land survey plat is drawn in accordance with the requirements of these Regulations.

B. Compliance With Land Use Regulations. The development and

use of parcels created through the minor subdivision process comply with the land use regulations and applicable standards of this Code.

C. **Adequate Water Supply.** The lots created by the land division have a legal, adequate and dependable potable water supply, in compliance with the requirements of this Land Use Code set forth in Section 7-104, *Adequate, Reliable Safe Water Supply*.

D. **Adequate Water Distribution and Wastewater Disposal System.** The lots created by the land division have an adequate water distribution system and wastewater disposal system in compliance with the requirements of this Land Use Code set forth in Section 7-105, *Adequate Water Distribution and Wastewater Systems*.

E. **Adequate Access.** The lots created by the land division have legal and adequate access in compliance with the requirements of this Land Use Code set forth in Section 7-107, *Access and Roadways*.

F. **Hazards.** The land division does not create hazards or exacerbate existing hazards.

G. **No Significant Impact on Environmental Features.** The proposed use and development of the building lots shall minimize adverse impacts on streams, areas subject to flooding, drainage, geologic hazards, lakes, high ground water areas, topography, scenic views, vegetative cover, climatology and other identified environmental features.

1. The proposed use will not have a significant adverse impact on plant or wildlife habitat, migration corridors, or sensitive and unique plant or wildlife ecosystems as identified in the Master Plan, if any, or identifiable on or near the site.

2. The proposed use will not have a significant adverse impact on wetland areas identified in the Master Plan, if any, or identifiable on or near the site, or alter drainage patterns from historic levels. Runoff and erosion from the development will not have a significant adverse impact on the character of the wetland.

H. **Suitability to Land and Character of Neighborhood.** Proposed parcel boundaries and development shall be suitably located and sized with respect to the physical characteristics of the land, the character of the

neighborhood, and the County's goals of preserving agricultural lands.

Section 7-905

Review Criteria for Final Plat Approval (Major Subdivisions, PUDs and Cluster Developments).

A. Compliance with Preliminary Plan Approval. The final plat complies with all conditions of preliminary plan approval.

B. Adequacy of Final Plat and Supporting Materials. The final plat meets all planning, engineering, and surveying requirements of these Regulations for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.

C. Taxes. All taxes applicable to the land have been paid, as certified by the County Treasurer's Office.

Section 7-906

Review Criteria for Vacation Plat Approval.

A. Suitability of Plat for Recordation. The vacation plat is drawn in accordance with the requirements of these Regulations and is suitable for recordation.

B. Adequacy of Supporting Materials. The vacation plat meets all planning, engineering, and surveying requirements of these Regulations together with all supporting documents.

C. Taxes. All taxes applicable to the land have been paid.

Section 7-907

Review Criteria for Exemption Plat Approval.

A. Suitability of Plat for Recordation. The exemption plat is drawn in accordance with the requirements of these Regulations and is suitable for recordation.

B. Adequacy of Supporting Materials. The exemption plat meets all planning, engineering, and surveying requirements of these Regulations for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.

C. Taxes. All taxes applicable to the land have been paid.

Section 7-908

Review Criteria for Vacation of Streets and/or Alleys. The following standards shall be satisfied for approval of a request for a vacation of a street and/or alley:

- A. The applicant must meet all the requirements set forth in Sections 43-2-301, 43-2-302, 43-2-303 and 43-2-304 of the Colorado Revised Statutes, together with all amendments thereto.

ARTICLE 8
AFFORDABLE HOUSING

(RESERVED) *[Placeholder for County to incorporate regulatory provisions for Affordable Housing if deemed necessary in the future.]*

ARTICLE 9
OIL AND GAS OPERATIONS

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ARTICLE 9 OIL AND GAS OPERATIONS

DIVISION 1 GENERAL PROVISIONS

Section 9-101 **Purpose.** The purpose of this Article is to provide a framework for responsible exploration and production of oil and gas resources in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects the public health, safety, welfare and the environment of the County.

A. Intent to Not Duplicate Other Permit Processes or Requirements. The County intends to avoid duplicative permit processes or requirements. The County will review permit applications concurrently with other required State or Federal agency permitting processes whenever possible and practicable.

Section 9-102 **Authority.** These Oil and Gas Regulations are authorized by, *inter alia*, Section 30-28-101, et seq.; Section 30-28-201, et seq.; and Section 29-20-101, et seq., C.R.S.

Section 9-103 **Applicability.** These Regulations shall apply to all Oil and Gas Operations on public or private land in the unincorporated areas of Otero County.

Section 9-104 **Oil and Gas Permit Required.** No person shall engage in, cause, allow or conduct any oil and gas operations prior to obtaining an Oil and Gas Permit unless the Operations fall within the exemptions in Section 9-105.

Section 9-105 **Oil and Gas Operations Exempted From Permit Requirements.** The following Oil and Gas Operations are exempt from the Oil and Gas Permit requirements of these Regulations:

A. Mapping Activities. Mapping activities that do not result in any surface disturbance.

B. Operation and Maintenance of Legally Existing Nonconforming Oil and Gas Operations. Operation and maintenance of well sites, wells and pipelines that are legal nonconforming Oil and Gas Operations pursuant to Section 9-106,

Nonconforming Oil and Gas Operations. Any alteration, extension or expansion of a nonconforming Oil and Gas Operation shall comply with Section 9-106 A.

C. Coal Mine Methane Venting Integral and Essential to Existing Coal Mining Operation. Coal mine methane venting from a permitted coal mine that does not produce or distribute methane off-site, and that is an integral and essential component of the existing coal mine.

Section 9-106

Nonconforming Oil and Gas Operations. Oil and gas operations that were legally established before the effective date of these Regulations that do not conform to the regulatory provisions of this Article, and ordinary repairs and maintenance relative to the operations, shall be allowed to continue, so long as the operations otherwise remain legal and comply with applicable permit requirements.

A. Extension, Expansion and Alteration of Nonconforming Oil and Gas Operations. A legal nonconforming oil or gas operation shall only be extended or altered in a manner that decreases or does not expand the nonconforming use.

1. Extension or Expansion Onto Land Outside the Permitted Area. Any extension or expansion of a legal nonconforming oil or gas operation onto land outside the originally established area of operations shall comply with the requirements of this Article.

B. Relocation of Nonconforming Oil and Gas Operations. A legal nonconforming Oil or Gas Operation shall not be moved, in whole or in part, unless the relocation brings the oil or gas operation into compliance with the requirements of these Regulations.

C. Abandonment of Nonconforming Oil or Gas Operation. If any legal nonconforming oil or gas operation is abandoned for a period of one year or more, operations shall not be renewed until the Land Use Administrator has determined that the renewed use will not pose a threat to public health, safety, welfare or the environment.

D. Damage or Destruction. A legal nonconforming oil or gas operation that is damaged or destroyed by an “act of God” or through any manner not willfully accomplished by or for the owner may be restored, regardless of the extent of damage or destruction. Restoration of the operation shall be contingent upon the following:

1. The owner has acquired the permits required for construction and operation of the restored operation.
2. The operation shall not be restored in a manner that expands the nonconforming use.
3. The operation shall be restored within one year of the date of damage or destruction. A one time extension of up to one year may be granted by the Land Use Administrator upon findings that:
 - a. There would be a substantial hardship to the owner without the extension; and
 - b. Within the first eight months after the destruction, the owner has substantially cleaned up and removed, if unusable, the damaged operation.

Section 9-107

Impact Review for Oil and Gas Permit. Unless the operation falls within the exemptions in Section 9-105, oil and gas operations shall be reviewed subject to the review process set forth in Section 9-203. The application requires a public hearing by both the Planning Commission and the Board of County Commissioners with a recommendation from the Planning Commission to the Board and decision by the Board.

Section 9-108

Oil and Gas Operation Permit Duration.

A. Commencement of Operation. The operation shall be commenced within one (1) year of the date of Permit approval under these Regulations or the Permit shall terminate and be of no force and effect.

B. Completion of Operation. The operation shall be completed within one (1) year of commencing operations permitted under these Regulations. At the end of the term of the

Permit, the Permit shall terminate and be of no force and effect, and any land disturbance shall be reclaimed immediately.

1. The term of the Oil and Gas Permit may be extended if a greater period of time is agreed to by the County in writing prior to the expiration of one year.

Section 9-109

Transfer of Permit. An Oil and Gas Permit may be transferred only with the written consent of the County. The County shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Oil and Gas Permit and these Regulations and with appropriate State and Federal regulations and conditions; that such requirements, terms, and conditions remain sufficient to protect the health, welfare and safety of the public and the environment; and that a guaranty of financial security can be made to the satisfaction of the Board.

DIVISION 2

APPLICATION AND REVIEW PROCEDURES FOR OIL AND GAS PERMITS

Section 9-201

Application Submittal Requirements for Oil and Gas Permits.

A. **Application to Land Use Administrator.** An applicant seeking an Oil and Gas Permit to conduct an oil and gas operation shall submit an application to the Land Use Administrator containing the following information. The Land Use Administrator may waive or alter any of these requirements if they are determined to be inappropriate or unnecessary.

1. **Applicant Information.** The name, address, telephone and fax numbers, and e-mail address for the applicant. If the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant, and the name, address, telephone and fax numbers, and e-mail address for the agent.

2. **Surface Ownership.** Documentation of surface ownership, evidence of surface owner notification, and copies of any surface ownership agreements and leases affecting the site on which the operation is proposed to

occur. Name, address, telephone and fax numbers, and email address of the owner of the property.

3. Mineral Owner. Documentation of mineral ownership, and name, address, telephone and fax numbers, and e-mail address of the owner of the mineral rights.

4. Location of Operation. The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the site on which the operation is proposed to occur. A copy of the recorded deed or lease to the site shall be included. The legal descriptions shall be submitted in digitized form compatible with the County Land Use software.

5. Identification of Previously Approved Uses. List all permits which have been previously approved for the site on which the operation is proposed to occur.

6. Characteristics and Current Condition of the Site. Identification of physical characteristics and current conditions of the site where the operation is proposed to occur including streams, irrigation ditches, ponds, soils, roads, vegetation, geologic hazards, identification of trees or other vegetation that have been removed and changes caused either by weather-related or human activity within the past five years, and any other characteristics requested by the Land Use Administrator to determine potential impacts.

7. List of Adjacent Landowners and Land Use. A list of all landowners and land uses that are adjacent to the boundaries of the site on which the operation is proposed to occur, including all properties that are separated from the site by a roadway or would be adjacent to the site except for the existence of the roadway.

8. Vicinity Map. A vicinity map that includes the following information:

- a. **Operation Location.** Location of the operation on a United States Geological Survey

(USGS) quadrangle map, or on a recorded plat if the proposed operation is within an approved subdivision. The boundaries of the site on which the operation is proposed to occur shall be clearly identified.

b. Topographic Features In the Area of Operation. Streams, lakes, ponds, wetlands, contour lines, elevations, slopes and flood plains within one (1) mile of the site.

c. Easements. Easements recorded or historically used that provide access to or across, or other use of, the site.

d. Boundaries of Districts, Municipalities or Subdivisions. Location of boundaries of special districts, municipalities or subdivisions within one (1) mile of the site.

e. Proximity of Other Wells and Other Oil and Gas Operations. Location of other wells and other oil and gas operations within one (1) mile of the site.

9. **Site Plan Map.** The Land Use Administrator may require, or the applicant may choose to submit, a more detailed version of all or part of the site plan. The site plan shall include the following elements:

a. Easements and Rights-of-Way.

(1) Utility easements and rights-of-way located on the site.

(2) Easements recorded or historically used that provide access to or across, or other use of, the site.

b. Roads. All public and private roads and rights-of-way that traverse and/or provide access to the site, and the public or private entity having jurisdiction over each road and right-of-way.

c. Improvements. All existing improvements on the site, and copies of the relevant permits.

d. Proposed Facilities. Proposed facilities such as structures, pipelines, tanks, wells, pits, flow lines, impoundment facilities, staging and storage areas and equipment.

e. Site Features. Site features such as flood plains, waterbodies, drainage patterns, aquatic habitat, vegetative cover, wildlife migration routes and significant wildlife habitat.

f. Topography. Existing and proposed topography at five-foot intervals or some other interval established by the Land Use Administrator as necessary to portray the direction and slope of the area affected by the operation.

g. Lease Boundary. All boundaries of the lease(s) upon which the operation will take place.

10. Local, State and Federal Applications and Permits. Copies of all local, State and Federal applications authorizing or required for the oil and gas operation and copies of the permits, when issued.

11. Operation Plan. A plan including the method and schedule for drilling, completion, transporting, production and post-operation including reclamation and clean-up.

12. Weed Management Plan. A plan for management and prevention of noxious weeds on the site.

13. Access and Transportation Routes. A map that identifies the access route to and within the parcel, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route.

14. Identification of Water Structures. Identification of irrigation ditches and other water structures, ownership

of water rights appurtenant thereto, and evaluation of any impacts of the oil and gas operation to the structures, water rights or water quality.

15. Roadway Impact Analysis. An analysis of the impacts of the operation to the roadway system within the County.

16. Wildlife and Wildlife Habitat Analysis. After consultation with the Colorado Division of Wildlife and/or the U.S. Fish and Wildlife Service (at the discretion of the Land Use Administrator), the applicant shall provide an analysis of existing wildlife and sensitive wildlife habitat, an evaluation of the impacts of the operation on wildlife and sensitive wildlife habitat, and proposed mitigation.

17. Vegetation. A written description of the type, character, and density of existing and proposed vegetation on the parcel, a summary of the impacts of the operation on vegetation, and proposed mitigation.

18. Emergency Response Plan. An emergency response plan that addresses fire protection and hazardous spills, including the name and contact information for the applicant's incident commander, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan shall include a provision for the Oil and Gas Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.

19. Water Quality Non-Point Source Impacts.

a. Identification of All Waterbodies. An inventory and location of all waterbodies within one (1) mile of the site.

b. Description of Existing Water Quality. A description of existing water quality of all waterbodies within one (1) mile of the site, based upon a current baseline water quality analysis.

c. Non-Point Source Impacts to Water Quality. A description of potential non-point source pollution associated with the proposed oil and gas operation.

d. Mitigation and Avoidance. Proposed avoidance and mitigation measures to minimize the water quality impacts associated with the operation.

20. Cultural Survey. A cultural, historical, and archeological survey of the site, prepared by a qualified professional.

21. Drainage and Erosion Control. A plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during construction and operation phases of the oil and gas operation.

22. Wildfire Hazards. An assessment of wildfire hazards within one (1) mile of the site, and a plan for mitigating wildfire hazards.

23. Geologic Hazards. An assessment of the geologic hazards within one mile of the site, and a plan for mitigating geologic hazards.

24. Existing and Future Land Uses. A written summary of the existing uses of the site on which the operation is proposed to occur, and the proposed future land uses of the site after completion of the operation.

25. Technical Infeasibility Waiver. Documentation of the basis for any technical infeasibility waiver from the standards for oil and gas operation that the applicant may request pursuant to Section 9-205 of these Regulations.

B. Coordination with State or Federal Actions and County Permit Process.

1. A copy of the Application for Permit to Drill or other application submitted to the Colorado Oil and Gas Conservation Commission (COGCC) and/or a federal Environmental Assessment (EA) or Environmental Impact

Statement (EIS) may be submitted to satisfy one or more of the submittal requirements if it contains information sufficient to demonstrate compliance with these Regulations.

2. Final action by the County on an Oil and Gas Permit application may be delayed until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or required permit by a State or Federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.

Section 9-202

General Permit Review Procedures for Oil and Gas Operations.

A. **Pre-Application Conference.** Unless otherwise provided by these Regulations, all Oil and Gas Permit applications begin with a pre-application conference between the applicant and the Land Use Administrator or staff.

1. **Purpose.** The pre-application conference is intended to provide information pertinent to the site and the proposal, to provide an understanding of the applicable review procedures and the standards to be met for approval of the application, and to explain the application materials required for submittal.

2. **Procedure.** An applicant shall make a request for a pre-application conference through the Land Use Administrator or staff.

a. **Participants.** In addition to the Planning Department staff, if the Land Use Administrator feels that the proposal raises potential issues for roads, access, parking, traffic, water supply, sanitation and/or natural resource protection, the appropriate staff shall be included in the pre-application conference.

b. **Staff Comments are Preliminary.** Any comments made by County staff during the pre-application conference are preliminary in nature and

staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to comment.

B. Determination of Completeness. Within ten (10) calendar days of receipt of the application materials, the Land Use Administrator shall determine whether the application for Oil and Gas Permit is complete based on compliance with the submittal requirements.

1. Application Is Not Complete. If the application is not complete, the Land Use Administrator shall inform the applicant of the deficiencies in writing, and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the application shall be considered withdrawn and returned to the applicant.

2. Application Is Complete. If the application is complete, the Land Use Administrator shall certify it as complete and stamp it with the date of determination of completeness.

3. Completeness Is Not A Determination of Compliance. A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these Oil and Gas Regulations.

C. Public Notice Requirements.

1. Notice by Publication. Public notices of application for Oil and Gas Permit or public hearing shall be published in a newspaper of general circulation in the area that the oil and gas operation is proposed to occur.

2. Written Notice to Affected Parties. Written notices of application for Oil and Gas Permit or public hearing shall be provided to affected parties as follows:

a. Adjacent Property Owners. The Land Use Department shall provide written notice to owners

of real property within 1500 feet of the site on which the oil and gas operation is proposed to occur.

b. Owners of Water Rights. The Land Use Department shall make reasonable efforts to provide written notice to any owners of water rights in any ditches or other water structures that may be impacted by the proposed oil and gas operation.

(1) The list of owners of water rights who may reasonably be affected by the oil and gas operation shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses for property owners to whom notice shall be given and shall provide the same to the Land Use Department.

c. Owners of Non-Adjacent Property Within an Existing Subdivision or 35-Acre Tract Development.

If any part of an existing subdivision or 35-acre tract development is within 1500 feet of the site on which the oil and gas operation is proposed to occur, the Land Use Department shall notify all of the surface landowners within the existing subdivision or 35-acre tract development.

d. Owner/Applicant/Agent. The Land Use Department shall send a written notice of the public hearing to the owner and applicant (if not the owner) and the applicant's agent (if any).

3. Regular Mailing. The Land Use Department shall mail public notices by regular mail to the affected parties, except the owner/applicant/agent.

4. Certified/Regular Mailing. The Land Use Department shall mail by certified mail, return receipt requested, and by regular mail, a written notice of the public hearing to the owner and applicant (if not the owner) and the applicant's agent (if any).

5. Validity of Notice. If the Land Use Department makes reasonable good faith efforts to accomplish the notice responsibilities set forth in these Regulations, then the failure of an affected party to receive notice shall not affect the validity of hearing or other conduct of the reviewing or decision-making body.

6. Applicant Responsible for Cost. The applicant shall be responsible for all costs of public notice.

D. Review by Referral Agencies. Upon determination that the application for Oil and Gas Permit is complete, the Land Use Administrator may require the application materials, or any portion thereof, be submitted for professional analysis and recommendations by any other agency, organization, or technical consultant deemed appropriate and necessary to complete the review, including: other County offices and departments; municipal, State, or Federal agencies having an interest in or authority over all or part of the proposal; and legal consultants.

1. Comment Period. Unless otherwise provided by these Regulations, the comment period for referral agency review of an application for Oil and Gas Permit shall be within twenty-one (21) calendar days from the date that the application is deemed complete. Responses not received in a timely manner may not be included in the processing of the application. A lack of timely response shall be interpreted as no comment.

2. Applicant Responsible for Cost. All costs associated with consultant and referral agency review shall be the applicant's responsibility.

a. The County may require a deposit for payment of consultant and referral agency review costs, based upon estimated costs, at the time of application.

b. The County may suspend the application review process pending payment of consultant and referral agency review costs.

E. Evaluation by Land Use Administrator/Staff Review.

The Land Use Administrator shall review the application to determine if the Oil and Gas Operation satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements and recommended conditions for approval to ensure that standards are satisfied, and additional information pertinent to review of the application.

Section 9-203

Oil and Gas Operation Permit Review. Applications for an Oil and Gas Permit shall be reviewed as follows:

A. Outline of Process. The review process for an Oil and Gas Operation Permit shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Land Use Administrator
5. Public Hearing and Recommendation by the Planning Commission
6. Public Hearing and Decision by the Board of County Commissioners

B. Review Process.

1. **Pre-Application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 9-202 A, *Pre-Application Conference*.
2. **Application.** The application materials required for an Oil and Gas Permit are set forth in Section 9-201.
3. **Determination of Completeness.** The Land Use Administrator shall review the application for determination of completeness in accordance with the provisions of Section 9-202 B, *Determination of Completeness*.
4. **Review by Referral Agencies.** Upon determination that the application is complete, the Land Use Administrator may require the application materials or

any portion thereof to be submitted to a referral entity for review and comment pursuant to the provisions of Section 9-202 D.

5. **Schedule Public Hearing.** Upon a determination of completeness, the Land Use Administrator shall schedule the application for consideration by the Planning Commission.

a. Public hearing by the Planning Commission shall be held within forty-five (45) calendar days of the date of determination of completeness.

6. **Public Notice.** Notice of public hearing by the Planning Commission shall be completed in accordance with Section 9-202 C.

a. **Contents of Notice.** The notice of public hearing shall identify the site on which the operation is proposed to occur and include a narrative description of the proposed operation; the date, time and location of the scheduled hearing; and contact information.

b. **Publication of Notice.** The Land Use Department shall publish a notice of public hearing at least thirty (30) calendar days prior to the date of the public hearing.

c. **Mailing of Notice.** The Land Use Department shall mail a written notice of public hearing to affected parties at least thirty (30) calendar days prior to the date of public hearing.

7. **Evaluation by Land Use Administrator/Staff Review.** Upon determination of completeness, the Land Use Administrator shall review the application for compliance with the approval standards set forth in Section 9-204. A staff report shall be prepared in accordance with Section 9-202 E.

8. Review by Planning Commission. The application shall be considered by the Planning Commission at a properly noticed public hearing.

a. Recommendation by Planning Commission. The Planning Commission shall recommend that the application for Oil and Gas Operation Permit be approved, approved with conditions or denied, based upon the proposed operation's compliance with the approval standards in Section 9-204.

9. Schedule Public Hearing. The Land Use Administrator shall schedule the application for consideration by the Board of County Commissioners.

a. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.

b. Public notice of the hearing before the Board of County Commissioners shall be made pursuant to Section 9-202C and may be given at the same time the notice of publication is published and written notice to affected parties is mailed with regard to the hearing before the Planning Commission.

10. Decision by Board of County Commissioners. Following the public hearing and after considering the recommendation of the Planning Commission, the Board shall approve, approve with conditions or deny the application for Oil and Gas Operation Permit based upon compliance of the proposed Oil and Gas Operation with the approval standards in Section 9-204.

a. Approval of Application. If the application satisfies all of the applicable standards, the application shall be approved.

b. Denial of Application. If the application fails to satisfy all of the applicable standards, the

application shall be denied; or

c. **Conditional Approval of Application.**

The application may be approved with conditions determined necessary for compliance with applicable standards.

C. **Legal Remedies.** The decision of the Board of County Commissioners shall be final. If the application fails to satisfy the applicable standards and is denied, an appeal may be taken to the Otero County District Court within thirty (30) days from the date of the written decision by said Board.

Section 9-204

Oil and Gas Operation Standards. An oil and gas operation shall comply with the following standards unless a Technical Infeasibility Waiver is granted under Section 9-205:

A. **Drainage and Erosion Control.** The oil and gas operation shall not cause significant erosion or sedimentation and shall be conducted in accordance with the drainage and erosion control plan.

B. **Access Roads.** All public access roads under the jurisdiction of Otero County shall be constructed and maintained in compliance with road and bridge standards as necessary to accommodate the traffic and equipment related to the oil and gas operation and emergency vehicles.

C. **Public Roadway and Traffic Impacts.**

1. **Ingress and Egress to Public Roads.** Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

2. **Maintenance Agreement or Financial Assurance.** If the anticipated use of public roads by the oil and gas operation will result in the need for increased roadway maintenance or snow removal, the County may require the following:

a. The Operator shall enter into an agreement with the County whereby the operator provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or

b. The Operator shall provide a bond or other financial assurance in an amount acceptable to the County to cover the costs of impact to the roads.

D. Wildlife and Wildlife Habitat. The oil and gas operation shall not cause significant degradation of wildlife or sensitive wildlife habitat.

E. Livestock and Livestock Grazing. The oil and gas operation shall not cause significant impact to livestock, grazing permits, or grazing permittees. Fencing or other agreements between private grazing operations and the Oil and Gas Operator may be used to satisfy this requirement.

F. Recreation Impacts. The oil and gas operation shall not cause significant degradation in the quality or quantity of recreational activities in the County such as hunting, hiking, or related activities.

G. Water Quality.

1. No Significant Degradation. The oil and gas operation shall not cause significant degradation in the quality or quantity of surface waters from the addition of non-point source pollution.

2. Water Wells. The oil and gas operation shall not cause significant degradation in the water quality or water pressure of any public or private water wells.

H. Waterbody Setbacks. Activities associated with the oil and gas operation shall be located a minimum of 500 feet from any waterbody unless such a setback would interfere with spacing requirements established by the Colorado Oil and Gas Conservation Commission.

I. Cultural and Historic Resources. The oil and gas operation shall not cause significant degradation of cultural or historic resources.

J. Wildfire Hazard. The oil and gas operation shall not cause a significant risk of wildfire hazard.

K. Geologic Hazards. The oil and gas operation shall not cause a significant risk of geologic hazards.

L. Emergency Response. The oil and gas operation shall have a written emergency response plan for potential emergencies that may be associated with the operation of the facilities. This shall include, but not be limited to any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material spills. Operation-specific emergency preparedness plans are required for any oil and gas operation that involves drilling or penetrating through known zones of hydrogen sulfide gas. The plan shall include a provision for the Operator to reimburse the appropriate emergency response service provider for costs incurred in connection with the emergency.

Section 9-205

Technical Infeasibility Waiver. One or more of the standards for an oil and gas operation set forth in Section 9-204 may be waived during the application process if the Operator demonstrates to the satisfaction of the Land Use Administrator that it is technically infeasible to comply with the standard(s). To be granted a waiver from a standard for technical infeasibility, the burden is on the Operator to demonstrate one of the following:

A. Conflict with State or Federal Regulation. Conduct of the oil and gas operation in compliance with the County standard would result in an operational conflict with a mandatory State or Federal oil and gas regulation, condition or other requirement; or

B. No Technology Available. There is no technology commercially available to conduct the oil and gas operation in compliance with the County standard for which the waiver is being sought, and the applicant will implement the best available technology in accordance with the industry standard.

DIVISION 3 DEFINITIONS

Section 9-301

Definitions. The words and terms used in these Oil and Gas Regulations shall have the meanings set forth below. Where there is a conflict between these definitions and the definitions contained in Article 16, *Definitions*, the definitions of this Section shall control for purposes of this Article 9.

A. **Abandonment (of Nonconforming Use).** The intent to not continue the legally established nonconforming oil or gas operation coupled with the discontinuance of the nonconforming oil or gas operation.

B. **Code.** Otero County Land Use Code.

C. **Degradation.** Lowering in grade or desirability; lessening in quality.

D. **Flow Lines.** Also known as or called “gathering lines”. The segments of pipe from the wellhead downstream through the production facilities ending at:

1. In the case of gas lines, the gas metering equipment;
or
2. In the case of oil lines, the oil loading point or LACT unit; or
3. In the case of water lines, the water loading point, the point of discharge to a pit, or the injection wellhead;

E. **Ground Water.** Subsurface waters in a zone of saturation.

F. **Non-Point Source (NPS) Pollution.** Pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition, or percolation.

G. Oil and Gas Operations. Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing or abandonment of an oil and gas well; production facilities and operations including the installation of flow lines and gathering lines; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.

H. Operation. Oil and Gas Operation.

I. Operational Conflict. The application of the County standard would, as a matter of law, materially impede or destroy the State interest in oil and gas or would stand as an obstacle to accomplishment and execution of congressional purposes.

J. Operator. The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the operation.

K. Production Facilities. All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

L. Regulations. The Oil and Gas Regulations set forth in this Article 9.

M. Sensitive Wildlife Habitat. A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leks, migration corridors, calving and fawning grounds for big game; critical winter range for big game and for sage grouse.

N. Significant. Of considerable or substantial consequence.

O. Site. An area one mile in radius around an existing or proposed well pad.

P. Significant Adverse Effect/Impact. An impact of an action, after mitigation, that is considerable or substantial, and

unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impact, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

Q. Waterbody. A perennial or intermittent river, stream, lake, reservoir, pond, spring, or wetland but does not include irrigation ditches or roadway drainage ditches or artificial lakes or ponds or wetlands that are created and used for the primary purpose of agricultural operations.

1. Intermittent River, Stream, Lake, Reservoir, Pond, Spring or Wetland. A waterbody that normally holds water or flows at least 60 days a year as a result of ground water discharge or surface runoff.

2. Natural Water Body. A waterbody not created for the purpose of a land use change.

3. Perennial River, Stream, Lake, Reservoir, Pond, Spring or Wetland. A waterbody that normally holds water or flows continuously during all of the year as a result of ground water discharge or surface runoff.

ARTICLE 10
NONCONFORMING LAND USE

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ARTICLE 10 NONCONFORMING LAND USE

DIVISION 1 GENERAL PROVISIONS

Section 10-101 **Definition of Nonconforming Land Use.** A building, structure, or use of land **legally** existing at the time of enactment of this Land Use Code or lawful amendments to this Code and which does not conform to the regulations of the zoning district in which it is situated or used.

Section 10-102 **Applicability.** The regulatory provisions of this Article shall apply to all permitted land use, including divisions of land and signs, that does not conform to the applicable use regulations of this Code as a result of either the adoption or amendment of this Code, or a final administrative or judicial decision precluding the County from enforcing this Code specific to a use on the basis of estoppel, laches or waiver.

Section 10-103 **Continuation of Nonconforming Land Use.** A nonconforming land use may be continued and normal or routine maintenance shall be permitted in compliance with the regulatory provisions of this Article.

A. Nonconforming Structure. Unless otherwise prohibited by the provisions of this Article, a nonconforming structure may continue to be occupied.

B. Nonconforming Use. Unless otherwise prohibited by provisions of this Article, a nonconforming use may be continued, and normal or routine maintenance of the structure containing a nonconforming use shall be permitted. Normal or routine maintenance shall include any maintenance or repair which does not impermissibly enlarge or alter the structure containing a nonconforming use, pursuant to Section 10-104, *Enlargement or Alteration of a Nonconforming Land Use*.

Section 10-104 **Enlargement or Alteration of a Nonconforming Land Use.**

A. Enlargement or Alteration of Nonconforming Land Use Prohibited. The right to continue a nonconforming land use terminates immediately when the nonconforming land use is

enlarged, expanded, extended, or altered in any of the following ways, and the property owner does not successfully pursue any of the options for response to notice of termination of nonconforming land use pursuant to the provisions of Article 12, *Enforcement, Violations and Penalties*:

- 1. Enlargement or Alteration of Nonconforming Structures.** Unless otherwise allowed by provisions of Section 10-104 B *Permitted Alterations of Nonconforming Land Use*, the alteration, repair or enlargement of a nonconforming structure in any manner which would increase the degree of nonconformity with respect to the floor area, setback or height regulations of this Code.
- 2. Addition of New Structure.** The addition of a new structure containing, or accessory to, the nonconforming land use.
- 3. Enlargement or Alteration of Conforming Structure.** Unless otherwise allowed by provisions of Section 10-104 B, the enlargement or alteration of a conforming structure containing, or accessory to, a nonconforming land use, including an increase in floor area, an increase in height, or any other alteration or improvement in excess of normal or routine maintenance of the structure and which violates the requirements of this Code.
- 4. Enlargement or Alteration of Land Area.** Enlargement or alteration in the land area occupied by the nonconforming land use, unless the basic nature of the use, at the time it became nonconforming, clearly indicated or contemplated such an increase or alteration.
- 5. Enlargement or Alteration Creating a Hazard or Nuisance.** Any enlargement or alteration of the nonconforming land use which has the effect or threatened effect of creating a hazard or nuisance on or off the property, of adversely affecting the character of the neighborhood, or of intensifying the use of the land or its need for services.

B. Permitted Alterations of Nonconforming Land Use. The following shall not be considered prohibited enlargement or alteration of a nonconforming land use:

1. Change in Ownership. A change in ownership of the property upon which the nonconforming land use is located.

2. Alteration Required for Public Health and Safety. An alteration or expansion which the Building Official or Land Use Administrator determines to be necessary to rectify a hazardous health or safety situation, or to comply with the public health or safety requirements of another governmental entity having lawful jurisdiction over the structure.

3. Alteration Required by ADA. An alteration or expansion necessary to comply with the Americans with Disabilities Act (ADA) requirements.

4. Extension of Nonconforming Use Within the Structure. An extension of the nonconforming use within the structure containing the use, provided that such extension is not accompanied by structural alteration identified in Section 10-104 A3, *Enlargement or Alteration of Conforming Structure*.

5. Addition of Solar Energy Device. The addition of a solar energy device to a nonconforming structure or a structure containing a nonconforming use.

6. Routine Maintenance. Any replacement or upgrading of outmoded or worn equipment or supplies provided such activity does not create a hazard or nuisance as identified in Section 10-104 A5, *Enlargement or Alteration Creating a Hazard or Nuisance*.

7. Structures Associated With Nonconforming Agricultural Use. Owners of legal building lots containing agricultural uses which have become nonconforming as a result of adoption or amendment of this Code may restore, modify and maintain existing conforming structures, and may construct new conforming

structures, provided such structures are directly related to the agricultural use, and provided the nonconforming use is not enlarged or altered in any other way which violates the Code.

Section 10-105

Change of Land Use. A nonconforming land use shall only be changed to a land use which is conforming in the zoning district in which the use is located. Any change of a nonconforming land use to another use shall immediately terminate the right to continue the nonconforming land use, and thereafter the property shall only be used in conformity with the use provisions of its zoning district.

Section 10-106

Damage or Destruction of Nonconforming Structure or Structure Containing a Nonconforming Use.

A. Structure Deemed Destroyed. A nonconforming structure or structure containing a nonconforming use shall be deemed destroyed when either greater than fifty (50) percent of its floor area, or greater than fifty (50) percent of its actual value (as determined by the Otero County Assessor) is destroyed.

B. Structure Intentionally Damaged or Destroyed. The right to continue a nonconforming land use terminates immediately when the structure containing that land use is damaged or destroyed by an intentional act of the property owner or structure owner or their agent.

C. Permitted Reconstruction or Restoration of Structure or Use. When a nonconforming structure or structure containing a nonconforming use is damaged or destroyed by causes outside the control of the owners or their agent, the structure may be restored or reconstructed and the nonconforming use may be reestablished.

1. Permit Review Required. Restoration or reconstruction allowed by the provisions of this Article shall be subject to the permit requirements of this Code and the appropriate permit review process.

2. Commencement and Completion of Restoration or Reconstruction. Restoration or reconstruction of the structure must be commenced within six (6) months after the date on which the structure was damaged or destroyed

restoration or reconstruction was commenced.

- a. Upon approval by the Board of County Commissioners at a public hearing, these times may be extended for a reasonable period upon a showing of extraordinary circumstances by the property owner or the owner's agent.

3. Reconstruction Shall Comply with Current Building Code. A nonconforming structure which has been destroyed may be restored to its original location, floor area, and height provided that the reconstruction complies with current Building Code requirements.

4. Restoration or Reconstruction in Flood Plain District. Reconstruction or restoration of a structure located in the Flood Plain District shall comply with applicable design and construction requirements for land use in a Flood Plain District, set forth in Article 3, Section 3-208.

Section 10-107

Abandonment of a Nonconforming Land Use. The right to continue a nonconforming land use shall terminate if the land use is determined to be abandoned.

A. Determination of Abandonment.

1. A nonconforming land use shall be determined abandoned if the use is discontinued for an uninterrupted period of twelve (12) months or more as a result of causes within the control of the property owner or their agent.

2. A nonconforming land use may be determined abandoned if the use is discontinued for an uninterrupted period of less than twelve (12) months and the property owner expressly states an intent to abandon the land use, or engages in action which unambiguously expresses an intent to abandon.

3. A seasonal nonconforming land use shall be determined abandoned if the use is discontinued for an

entire single season based upon the history and nature of the use.

4. A seasonal nonconforming land use may be determined abandoned if that use is discontinued during the season and the property owner expressly states an intent to abandon the land use or engages in action which unambiguously expresses an intent to abandon.

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SIGNS

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ARTICLE 11 SIGNS

DIVISION 1 GENERAL PROVISIONS

Section 11-101

Purpose.

A. Appearance. To protect the natural aesthetic character and scenic beauty of the community.

B. Identification. To enable places of residential development and of commerce to be easily identified and allow the communication of information necessary and appropriate to the conduct of business.

C. Compatibility. To permit signs that are compatible with their surroundings, but preclude placement in a manner that conflicts with the principal uses of the site, adjacent land uses or adjacent signs, or that interferes with or distracts or obstructs the vision of motorists, bicyclists or pedestrians.

D. Prevent Hazards. To prevent hazardous situations, confusion and visual clutter caused by unrestricted proliferation of signs and by improper placement or installation, improper illumination, animation, and excessive height, area and bulk of signs.

E. Safety. To promote public health, safety and general welfare by prohibiting signs that have not been constructed, installed or maintained in a safe manner.

Section 11-102

A. Applicability. The regulatory provisions of this Article shall apply to the display, construction, erection, alteration, use, maintenance and location of all signs within the unincorporated areas of Otero County. In addition, the Board of County Commissioners may enforce, at its discretion, any Colorado statutory provision which may apply (for example, Section 43-2-139, C.R.S., which allows the Commissioners to regulate roadside advertising on County Roads).

B. Exemption/State and Federal Highways. This Code shall not apply to signage along State or Federal Highways.

Section 11-103 **Sign Permit Required.** Unless specifically exempted by provisions of these Regulations, all signs require a Sign Permit issued by the Land Use Administrator prior to installation or placement. Modification or deviation from the terms or conditions of an approved Sign Permit are prohibited without approval of the Land Use Administrator.

Section 11-104 **Temporary Signs.**

A. **Temporary Signs Do Not Require Permit.** The following temporary signs and advertising devices are allowed in all zone districts and do not require a Sign Permit. Temporary signs shall be subject to compliance with the restrictions set forth in Section 11-106, *Prohibited Signs*.

1. **Construction Sign.** Individual signage for the participating building contractors, subcontractors, participating professional firms, participating lending institution and property owners located on the construction site.

2. **Temporary Political Campaign Signs.** Signs announcing candidates seeking public office, with pertinent data, and signs relating to ballot issues, with pertinent data.

3. **Real Estate Signs.** Real estate signs on the lot being offered for sale, rent or lease.

4. **Garage Sale Signs.** Signs announcing a garage sale.

5. **Community Event and Non-Profit Fund Raising Signs.** Signs announcing any public, charitable, educational, or religious event or function.

6. **Temporary Decorations and Displays.** Temporary decoration or displays which are clearly incidental to and are customarily associated with any national, local or religious holiday or celebration.

7. **Farm Market Signs.** Signs advertising a farm market.

8. **Public Utility Warning.** Signs erected by a public utility company or construction company to warn of dangerous or hazardous conditions.

B. No Illumination. Temporary signs shall not be illuminated.

C. Restricted Location. Unless otherwise permitted by these Regulations, temporary signs must be placed only on private property, located outside any right-of-way or easement, and placed to avoid any sight obstruction for motorists, cyclists and pedestrians.

Section 11-105

Permanent Signs That Do Not Require a Sign Permit. The following permanent signs and advertising devices do not require a sign permit. Signs and advertising devices that do not require a sign permit shall comply with the restrictions set forth in Section 11-106, *Prohibited Signs*.

A. Government Signs and Notices.

1. Government signs for local, State and Federal agencies, including “Neighborhood Watch” signs.

2. Official government notices posted by government officers in the performance of their duties.

B. Signage for Hazardous or Dangerous Conditions.

1. Signs erected by a public utility company or construction company to warn of dangerous or hazardous conditions.

2. Warning signs such as “No Trespassing,” “Danger,” and “Do Not Enter.”

C. Building Identification and Commemorative Signs. Building name, date of erection, monumental citations and commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent-type construction and located as an integral part of the structure.

D. Residential Signs. Personal identification signs for places

of residence.

E. Vehicle Signs and Advertising Devices. Signs permanently affixed to a vehicle, such as advertisements painted on trucks and cars.

F. Gasoline Pump Signs. Signs over gas pumps which indicate gas prices.

G. Art Displays. Works of fine art which do not serve to identify a product or business and which are not displayed in conjunction with a commercial enterprise that may benefit or realize direct commercial gain from the display.

H. Directional Traffic Signs. Directional traffic signs.

I. Signs Identifying a Place of Religious Assembly. Signs identifying a building as a place of religious assembly or as a religious institution, provided that:

1. The sign is not larger than ninety (90) square feet of total sign area in a residential or agricultural zone district, or one hundred fifty (150) square feet of total sign area in a commercial or industrial zone district.

J. Structural Maintenance and Changes to Advertising Copy. Painting, repairing and cleaning of an advertising structure or changing the advertising copy or message on an advertising structure, unless a structural change is made.

K. Restricted Location. Unless otherwise permitted by these Regulations, permanent signs must be placed only on private property, located outside any right-of-way or easement, and placed to avoid any sight obstruction for motorists, cyclists and pedestrians.

Section 11-106

Prohibited Signs. The following signs and advertising devices are prohibited in all zone districts:

A. Structurally Unsafe Signs. Signs that are structurally unsafe or hazardous.

B. **Signs Blocking Ingress or Egress.** Signs that prevent free ingress or egress from any door, window or fire escape. No sign shall be attached to a standpipe or fire escape, except those signs that may be required by other codes, regulations, or ordinances for public safety.

C. **Signs Obstructing Visibility.** Signs that obstruct or interfere with traffic signs or signals, or that impair visibility in the public right-of-way, or that are located within a clear vision area.

D. **Signs Imitating or That May Be Construed To Be Traffic Signals.**

1. Signs which imitate an official traffic sign or signal or which contain the words “stop,” “slow” or other similar words.

2. Signs which are of a size, location, movement, content, coloring or manner of illumination that may be confused with or construed as a traffic-control device.

E. **Signs of Obscene Character.** Signs or pictures of an obscene, indecent or immoral character that will offend public morals or decency, based upon constitutional standards.

Section 11-107

Signage for Home Occupation.

A. **One Exterior Sign Allowed.** A home occupation conducted in compliance with the regulatory provisions of this Code shall be allowed one exterior advertising sign identifying the home occupation, located on-site, and meeting the following conditions:

1. **No Illumination.** Home occupation signs shall not be illuminated unless specifically allowed by the Board of County Commissioners sitting as the Board of Adjustment.

2. **Compliance.** Unless otherwise provided in these Regulations, the sign shall comply with the conditions and restrictions for signs in the applicable zone district or this Article.

Section 11-108

Development Identification Signs, Industrial and Commercial PUD or Subdivision Signs.

A. **New Development.** A sign proposed to identify a development and signage proposals for industrial and commercial uses located in a commercial and industrial PUD or subdivision are subject to review by the Otero County Planning Commission and review and approval by the Board of County Commissioners as part of the PUD or subdivision review and approval process. An approved plan establishing compliance with the regulatory provisions and restrictions for signage in the commercial or industrial PUD or subdivision shall be required for final plat approval, and recorded with the final plat.

Section 11-109

Nonconforming Signs.

A. **Legally Nonconforming Signs.** Signs legally erected prior to adoption of these Regulations and lawfully maintained in accordance with the provisions of prior regulations, but which do not conform with the provisions of these Regulations, shall be allowed to continue as a legally nonconforming sign under the following conditions:

1. **Sign May Not be Changed.** The nonconforming sign shall not be structurally altered in any manner that increases the nonconformity of such sign.

2. **Sign May Not Be Relocated or Replaced.** The nonconforming sign shall not be relocated or replaced in a manner that continues the nonconformity.

3. **Burden Rests Upon Owner.** The burden of establishing a sign to be a legally nonconforming sign under these Regulations shall rest entirely upon the owner.

4. **Safety Hazard.** The nonconforming sign shall not present a safety hazard.

B. **Termination of Legally Nonconforming Signs.**

1. **Violation of Current or Prior Sign Regulations.** Any violation of these Regulations or the prior regulations under which a nonconforming sign has been legally

permitted shall immediately terminate the right to continue use of the nonconforming sign.

DIVISION 2 SIGN PERMIT APPLICATION, REVIEW, AND APPROVAL

Section 11-201 **Application and Review Process.**

A. **Application Materials.** Any application for a sign permit may include the following materials. The Land Use Administrator may require additional materials or information as deemed necessary to properly evaluate the proposed sign.

1. **Application Form and Fees.** The application for a sign permit shall be made by the owner of the property on which the sign is to be located, or by the owner's authorized agent. The permit fee shall be established by resolution of the Board of County Commissioners and the fee schedule provided to the applicant by the Land Use Administrator. Application shall be made on forms provided by the Land Use Administrator and shall include the following information:

- a. The name, address and phone number of the applicant.
- b. The physical address of the property.
- c. Zoning of the property.
- d. The nature of the principal use to be identified by the proposed sign.

2. **Scale Drawing of the Sign.** A scale drawing of the proposed sign, that includes exact dimensions and area calculations, text, and color and materials proposed for the sign.

3. **Site Plan.** A site plan, drawn to scale, showing the proposed location and orientation of the sign. The site plan shall include all easements and rights-of-way of record that may affect or be affected by the location of the proposed sign.

4. Description of Sign Illumination. A detailed description of the sign illumination. This may be shown on the scale drawing of the proposed sign. Description of illumination shall include target illumination levels, hours of operation, control methods, lamp and luminaire information, and manufacturer description.

5. Electrical and Engineering Data. Electrical and engineering data sufficient to prove the safety and reliability of the proposed sign.

B. Review and Approval.

1. Completeness Determination. Within fourteen (14) days of receiving an application for Sign Permit, the Land Use Administrator shall determine whether the application is complete, based upon the requirements for application materials set forth in Section 11-201A.

a. Application is Not Complete. If the application is not complete, the Land Use Administrator shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.

b. Application is Complete. If the application is complete, the Land Use Administrator shall certify it as complete and stamp it with the date of determination of completeness.

2. Evaluation. Upon determination of completeness, the Land Use Administrator shall review the application for compliance with Section 11-203, *Sign Permit Review Criteria*.

3. Land Use Administrator's Decision. Within thirty (30) calendar days of the date of determination of completeness, the Land Use Administrator may approve, approve with conditions, or deny the application for Sign Permit. The Land Use Administrator's decision shall be

based upon compliance with Section 11-203, *Sign Permit Review Criteria*.

a. Approval of Application. If the application satisfies all of the applicable standards/criteria, the application shall be approved. The application may be approved with conditions determined necessary for compliance with applicable standards/criteria.

b. Denial of Application. If the application fails to satisfy all of the applicable standards/criteria, the application shall be denied.

4. Written Notice of Decision. The Land Use Administrator shall inform the applicant of the approval, conditions of approval, or basis for denial in writing within five (5) working days of the date of decision. Notice of the Land Use Administrator's decision shall also be provided to the Board of County Commissioners.

5. Reconsideration of Land Use Administrator's Decision. An applicant may request reconsideration of the Land Use Administrator's decision by the Board of County Commissioners. The applicant shall file a written request within fourteen (14) calendar days of the date of written notice of the decision by the Land Use Administrator and shall follow the process for application and review of a variance request set forth in Article 4, Section 4-501, except that the review criteria are as set forth in Section 11- 203.

Section 11-202

Variance. The applicant for a sign permit may apply to the Board of County Commissioners sitting as the Board of Adjustment for a variance from provisions of these Regulations. The process for application and review of a variance request is set forth in Article 4, Section 4-501, except that the review criteria are as set forth in Section 11-203.

Section 11-203

Sign Permit Review Criteria.

A. On-Premises Advertising. The sign identifies or advertises the legally established principal use of the lot on which the sign is located.

B. **Off-Premises Advertising.** If the sign is legally off-premises with the permission of the land owner, the sign shall identify or advertise the legally established principal use of the advertiser.

C. **Dimensions.** The size and height of the sign complies with standards set forth in these Regulations or as otherwise determined by the Land Use Administrator.

1. Where a sign has more than one display face, the combined area of each side shall be considered the total area of signage for that sign.

D. **Illumination.**

1. **No Impact to Neighboring Property.** Illuminated signs shall not cause glare or otherwise adversely impact residential areas.

2. **No Impact to Traffic.** Neither the direct or reflected light from any light source illuminating the sign shall create a traffic hazard to operators of motor vehicles on public thoroughfares or approaches to public thoroughfares. Colored lights shall not be used at any location or in a manner so as to be confused with or construed as a traffic control device.

E. **Location.**

1. The sign will be entirely located on private property.

2. The sign will not create an obstruction for traffic or create any hazard for motorists, cyclists or pedestrians.

F. **Safety.** The sign shall be constructed in a manner that does not present a hazard situation.

1. **Wind Load.** Signs over ten (10) feet in height and/or forty (40) square feet in surface area shall be engineered to withstand a wind loading of a minimum of

thirty (30) pounds per square foot of sign area without failure of the face retention system or sign structure.

2. Electrical Wiring. Electrical wiring for the sign shall be underground in the case of freestanding signs, and behind the sign cabinet in the case of wall or projecting signs.

3. Support. Roof signs, signs mounted on marquees, or projecting signs shall be engineered in such a manner that no guy wires are needed for support, other than for the sign structure itself.

4. Protection of Anchors and Supports. Anchors and supports shall be protected when near driveways, parking lots or similar locations where they could be damaged by moving vehicles. Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied. No anchor or support of any sign, except flat wall signs, shall be connected to or supported by a parapet wall that is not braced.

DIVISION 3 MAINTENANCE

Section 11-301 **Maintenance.** Signs and sign structures shall be maintained at all times in a state of good repair, with all braces, bolts, clips, supporting frame and fastenings free from deterioration, insect infestation, rot, rust or loosening. All signs shall be kept neatly finished, including all metal parts and supports that are not galvanized or constructed of rust resistant metals.

DIVISION 4 ENFORCEMENT OF SIGN PERMIT REGULATIONS

Unless otherwise provided by these Regulations, violations of the regulatory provisions in this Article are subject to the applicable provisions for inspection, notice of violation, abatement of violation and penalty set forth in Article 12, *Enforcement, Violation and Penalties*.

Section 11-401 **Complaint and Verification of Violation.**

A. Verify Violation. Upon complaint made or filed by a member of the public or by a County official or employee, the Land Use Administrator shall verify the complaint as a violation.

B. Authority to Enter and Inspect. The Land Use Administrator's authority to enter and inspect property for the purpose of verifying a violation of these Regulations shall be governed by the same procedures set forth in Article 12, Section 12-202, *Authority to Enter and Inspect*.

Section 11-402

Notice of Violation.

A. Notice of Violation. If the Land Use Administrator verifies a complaint as a violation, the Land Use Administrator shall serve written notice of the violation to the property owner of record, pursuant to Article 12, Section 12-203, *Notice of Violation and Response*.

B. Response. The property owner shall have fifteen (15) calendar days from the date of receipt of the notice of violation in which to correct the alleged violation or to file an appeal with the Board of County Commissioners.

Section 11-403

Remedies.

A. Repair or Removal of Hazardous Signs. The Land Use Administrator shall order the repair, alteration, painting or removal, at the owner's expense, of any sign that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence and abandonment.

1. The Land Use Administrator may cause the immediate removal of any sign that endangers the public or is structurally, materially, electrically or otherwise defective, without notice, at the expense of the owner of the sign or premises.

B. Removal of Prohibited Sign. The Land Use Administrator shall order the removal of any prohibited sign(s) by giving the sign owner written notice that such prohibited sign must

be removed no later than fifteen (15) days after receipt of the written notice from the Land Use Administrator.

C. Revocation of Sign Permit. If the Land Use Administrator finds that the sign under any permit issued does not comply with the information supplied in the permit application and/or is in violation of these Regulations, or finds that there has been any misrepresentation in connection with the application for the permit, the Land Use Administrator shall revoke the permit.

1. The permit holder shall have fifteen (15) calendar days in which to reply to the notice of violation.

D. Preservation of Remedies. The remedies as provided in this Article, and as may be available under other applicable regulations of the County or pursuant to state or federal law, are not exclusive in any way, and may be pursued by the County singularly or in combination to achieve the most expeditious abatement of violations.

**ARTICLE 12
ENFORCEMENT, VIOLATIONS
AND PENALTIES**

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ARTICLE 12 ENFORCEMENT, VIOLATION AND
PENALTIES

DIVISION 1 GENERAL PROVISIONS

Section 12-101 **Enforcement Authority.** Provisions of these Regulations shall be enforced by the Board of County Commissioners and the County Attorney as provided by Colorado law.

A. Subdivision. The Subdivision and Subdivision Exemption Regulations of this Code, set forth in Article 5, *Division of Land*, shall be enforced in accordance with remedies specified under Sections 30-28-110 and 30-28-137, C.R.S., or any other applicable provisions of Colorado law, or applicable provisions of this Code.

B. PUD. The Planned Unit Development Regulations of this Code, set forth in Article 6, *Planned Unit Development*, shall be enforced in accordance with Section 24-67-101, *et seq.*, C.R.S., the Planned Unit Development Act, in addition to applicable zoning and subdivision regulation remedies.

C. Rubbish (including Trash, Junk and Garbage) and Unsafe Structures. The provisions regulating rubbish (including trash, junk and garbage) and unsafe structures, set forth in Article 15, *Rubbish and Unsafe Structures* shall be enforced in accordance with the provisions set forth in that Article.

D. Plowing and Cultivation of Native Rangelands. The provisions regulating the plowing and cultivation of native rangelands, set forth in Article 4, Section 4-206, shall be enforced in accordance with the provisions set forth in this Article, Section 12-207 or any other applicable provisions of Colorado law.

E. Other. All other provisions shall be enforced as a violation of zoning regulations or the Building Code in accordance with Sections 30-28-124 and 30-28-124.5, C.R.S.

Section 12-102 **Unlawful to Violate These Land Use Regulations.** It shall be unlawful to develop or use any building, structure, or land in unincorporated Otero County in violation of this Land Use Code.

Section 12-103

Remedies.

A. Withholding Building Permits. The County shall not issue any building permit unless the proposed erection, construction, reconstruction, alteration or use fully conforms to all provisions of this Code and complies with all other State and local regulations.

B. Withholding Land Use Change Permits. The County may withdraw or deny land use change permits, including plat approvals, and any other applicable permits issued under this Code, on any land for which a notice of violation has been issued and the violation has not been corrected in a timely manner. The County may require correction of the violation as a condition of any future approvals.

C. Cease and Desist Orders. After notice of a violation and an opportunity to correct the violation, the County may halt work on any land where there is a violation of a provision of this Code or of a permit issued hereunder, through issuance of a cease and desist order. All work shall immediately halt upon issuance of such order. If work continues, the unlawful erection, construction, reconstruction, alteration, maintenance or use shall be in violation of this Code.

D. Injunction. If any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, maintained or used in violation of the provisions of this Code, the Board or the County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

E. Specific Performance. The County may seek specific performance of the terms or conditions of any agreement or permit issued under this Code.

F. Judicial Action. At the request of the Board of County Commissioners, the County Attorney shall be empowered to bring either a civil or a criminal (or both) action against the owner of any premises or property on which a violation of this Code is alleged

and, following investigation, has been confirmed or is reasonably believed to exist.

1. Civil Remedy. Civil remedies against violations of this code may include injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate, or remove the violation. Fines assessed pursuant to these enforcement provisions may be recovered in that same civil action wherein such injunction, mandamus and/or abatement is sought, or separate and distinct proceedings may be instituted seeking varying forms of relief, as may be allowed by law.

2. Criminal Remedy. Criminal violations of this Code shall be punished by a fine in an amount not to exceed one hundred dollars (\$100.00) for each violation or by imprisonment in the County jail for not more than ten (10) days, or by both a fine and imprisonment, and payment of all costs and expenses involved in prosecuting the offense, or by such other remedy as may be specified by law. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.

G. Cumulative Remedies. All remedies provided for in this section are cumulative, are not exclusive, and shall be in addition to any other remedies provided by law. To the extent that Colorado law may limit the availability of a particular remedy for a particular violation or a part of a violation, such remedy shall remain available for other violations of other parts of the same violation, and all other remedies shall remain available for the same violations or part of a violation.

DIVISION 2

ENFORCEMENT PROCESS

Section 12-201

Complaint and Verification of Violation. Upon complaint made or filed by a member of the public or by a County official or employee, the Land Use Administrator shall verify the complaint as a violation of this Code.

Section 12-202

Authority to Enter and Inspect.

A. **Land Use Administrator Authorized to Inspect.** The Land Use Administrator is empowered to inspect and examine any building, other structure, or parcel or other area of land where there is reasonable cause to believe that a use exists or construction, reconstruction, alteration, or maintenance is being performed or has been performed in violation of this Land Use Code.

B. **Consent to Enter or Administrative Entry and Seizure Warrant Not Required.** Consent to enter or an administrative entry and seizure warrant shall not be required in the following circumstances:

1. To conduct inspections during regular County business hours.
2. To conduct inspections within the scope of another official document.
3. To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy.
4. In emergency situations in which the Land Use Administrator has reason to believe that the public health or safety is in imminent danger and could be jeopardized by delay.

C. **Administrative Entry and Seizure Warrant.**

1. **Requirements to Issue Warrant.** The following documents shall be required for the court to issue an administrative entry and seizure warrant:

- a. The applicable regulatory provisions of this Code.
- b. An affidavit stating the factual basis for the warrant.

- c. Evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time.
- d. A general description of the location of the subject property.
- e. A general description of the violation.
- f. The proposed method and extent of abatement by the County, including proposed disposal or temporary impoundment of property.

Section 12-203

Notice of Violation and Response. If a violation exists, the County shall send written notice of a violation of the Land Use Code to the property owner of record as identified on the County tax records.

A. Notice Requirements.

1. Service by Mail. The notice shall be sent by certified mail, return receipt requested, and by regular mail to both the address in the tax records and the property address, if different.

2. Content of Notice. The notice of violation shall contain the following information:

- a. A list and description of all violations with references to the section or sections of the Code violated.
- b. An order requiring correction of the violation(s).
- c. The date by which compliance shall be attained.
- d. The appeal process, if applicable, for the violation(s).

B. Response. Unless otherwise provided by these Regulations, a period of thirty (30) calendar days after the date of notice shall be allowed for response to a notice of violation:

1. The alleged violator shall respond by providing evidence satisfactory to the Land Use Administrator to show that the determination is in error; or
2. The alleged violator shall restore the site, structure or use of the property to compliance. An inspection by the County shall be required to confirm compliance; or
3. The alleged violator shall obtain approval from the County for an extension of time to attain compliance, showing good cause for extension, with such extension limited to thirty (30) days unless a longer period is approved due to extenuating circumstances ending with an inspection of the property by the County to confirm compliance.

Section 12-204

Abatement by the County.

A. Authorization for Abatement by County. If the alleged violator fails to comply with the County's requirements for abatement of the violation, the Land Use Administrator may request that the Board, at a public meeting, authorize the County to arrange for abatement of the violation.

1. **Notice of Meeting.** At least fourteen (14) calendar days prior to the date of the public meeting mentioned above, the Land Use Administrator shall provide notice of the meeting to the alleged violator by certified mail, return receipt requested, and by regular mail, to both the address in the tax records and the property address, if different.

B. Execution of Warrant and Abatement of Violation. Upon authorization by the Board of County Commissioners for abatement by the County, the Land Use Administrator shall seek an administrative entry and seizure warrant from the County Court or District Court having jurisdiction over the subject property.

1. Within thirty (30) calendar days following the date of issuance of an administrative warrant, the County shall

abate the violation in accordance with the direction of the Court. A copy of the issued warrant shall be provided to the property owner. Proof of the execution of the warrant, including a written inventory and photographs of any property impounded by the County, shall be submitted to the Court.

2. The proposed method of abatement by the County may be accomplished through the use of County staff or by contract with a private party.

C. Cost of Abatement Billed to Property Owner. A bill for the reasonable costs of abatement plus an inspection fee of up to ten (10) percent of that cost shall be mailed to the property owner of record at both the address in the tax records and the property address, if different. Payment of the bill shall be due within sixty (60) days of the date of the bill.

D. Collection of Unpaid Bill for Cost of Abatement by County. If the bill is unpaid after sixty (60) calendar days, the Land Use Administrator through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment together with a ten (10) percent penalty for the cost of collection, in the same manner as other taxes are collected. (See C.R.S. 30- 15-401 (1) (a) (I) (A))

Section 12-205

Enforcement of Subdivision Regulations.

A. Requirement for County Subdivision Approval.

1. Approval in Compliance with Code Required for Recording. No plans, plats, plots and replats of land laid out in subdivision or building lots or of the streets, highways or alleys, or other portions thereof, intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be recorded in any public office unless first approved in compliance with this Code.

2. Criminal Remedy, Transfer or Sale Prior to Final Plat Approval and Recording. Any subdivider or agent of a subdivider who transfers or sells land before the final plat has been approved pursuant to this Code and

recorded or filed in the Office of County Clerk and Recorder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1000.00) nor less than five hundred dollars (\$500.00) for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected shall be credited to the General Fund of the County. (C.R.S. § 30-28-110 (4) (a)).

3. Action to Enjoin. The Board shall have the power to bring an action to enjoin any subdivider from selling proposed subdivided land before the final plat has been approved by the Board and filed for recording in the Office of the County Clerk and Recorder. (C.R.S. § 30-28-110 (4) (b)).

4. Permits Withheld. In addition to any other enforcement action specified in this Code, the Land Use Administrator is authorized to withhold the issuance of any permits under this Code sought or requested for property which is determined to have been divided without the required County approval. (C.R.S. § 30-28-110 (4) (a))

5. Conformance with Code Required. Properties that were divided in violation of the County's land use regulations in effect at the time of such division shall be further subdivided only if the proposal includes provisions which bring the entire original parcel, including the area previously divided in violation of County regulations, into compliance with the provisions of this Code.

B. Enforcement of Subdivision Process and Platting Requirements.

1. Authority to Compel Enforcement. The Board or the purchaser of any lot or other subdivided land subject to a plat restriction which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in the District Court to compel enforcement of the Improvements Agreement on the sale, conveyance, or transfer of any such subdivided land, or enforcement of other applicable provisions for subdivision of land under Colorado law. Such authority shall include

the right to compel rescission of sale, conveyance, or transfer of title of any lot or other subdivided land contrary to the restrictions set forth on the plat or in any separate recorded instrument. Any such action shall be commenced prior to issuance of a building permit by the County or otherwise prior to commencement of construction on any such lot or other subdivided land. (C.R.S. 30-28-137 (3)).

2. **Authority to Bring Action for Injunctive Relief.** In addition to any other remedy provided by Colorado law, the Board or the purchaser of any lot or other subdivided land shall have the authority to bring an action for injunctive relief to enforce any plat restriction (including all obligations contained in documents required to be executed and recorded as part of the Final Plat approval and all commitments of record of the subdivider related to the County's approval of the Final Plat), plat note, plat map, or provision of a Subdivision Improvements Agreement, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, or provision of a Subdivision Improvements Agreement pursuant to C.R.S. 30-28-137.

Section 12-206

Acceleration of Enforcement Process to Protect Public Health, Safety and the Environment. The enforcement process set forth in this Article may be accelerated if the Executive Director/Public Health Administrator for Otero County, the Otero County Building Official, or Land Use Administrator makes a written finding that the public health, safety, welfare, or the environment could be endangered by a continuing violation. After such finding is made, the County Attorney shall take immediate action to end the threat to the public health, safety, welfare, or the environment through, but not limited to, *ex parte* restraining orders as authorized under the Colorado Rules of Civil Procedure and/or action by local law enforcement or public safety agencies as deemed appropriate and necessary.

Section 12-207

Plowing and Cultivation of Native Rangelands. When the Board of County Commissioners is advised that any landowner or operator is cultivating or causing to be cultivated any grasslands in violation of the Regulations set forth in Article 4, Sections 4-206 and/or 4-601, the Land Use Administrator is authorized to issue an order to the owner as listed upon the records of the Otero County

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Assessor specifying that the cultivation shall cease immediately and that the rangelands shall be revegetated back to species of grasses and shrubs approved by the local Natural Resources Conservation Service. Notice of such order shall be sent by certified mail, return receipt requested, and regular mail to the landowner or otherwise served as provided in the Colorado Rules of Civil Procedure.

Within thirty (30) days of the receipt of such order, the landowner shall submit to the Board of County Commissioners a conservation plan to comply with the Regulations set forth in Article 4, Section 4-601.

If the landowner fails to submit a conservation plan, or if the landowner fails to comply with such plan, or if the landowner advises the Board of County Commissioners that he does not intend to or cannot comply with such plan, the Board may take the reasonable action necessary to revegetate the rangelands specified in the order issued pursuant to these Regulations. Notice of such action shall be sent by certified mail, return receipt requested, and regular mail to the owner prior to the performance of such action.

Any order to revegetate or any decision by the Board of County Commissioners to cause land to be revegetated shall be subject to review by the District Court, but such action for review must be brought by the landowner within thirty (30) days from the date of such order or decision. Upon the completion of the revegetation ordered, as provided in these Regulations, by the Board of County Commissioners, the Board may, by resolution, assess against the landowner the cost of such treatment, which shall in no event exceed the actual cost of the revegetation.

Should it be necessary for the Board of County Commissioners to seek an order of the District Court to enforce its Cease and Desist Order and for the County to successfully enforce and uphold its Regulations, the landowner shall be responsible for all charges of litigation which shall include any reasonable attorney fees and the proceeding costs herein. Both fees and costs incurred by the County shall be charged solely at the discretion of the Board of County Commissioners of Otero County.

Any person violating these Regulations shall be punished by a fine of not more than Three Hundred Dollars (\$300) or by ninety (90)

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days imprisonment, or both such fine and imprisonment. Each day during which illegal cultivation or plowing continues shall be deemed a separate offense. This fine and/or days of imprisonment shall apply to Section 12-207 only.

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ARTICLE 13 FINANCIAL GUARANTEE

Section 13-101

Financial Guarantee and Improvements Agreement Required.

Before any Land Use Change Permit is approved for land use subject to PUD, Major Subdivision, or Rural Land Use Cluster Development provisions of this Code, the Board of County Commissioners shall require the applicant to file a guarantee of financial security deemed adequate by the Board and payable to the County, and to execute an Improvements Agreement regarding the conditions and improvements identified as requirements of project approval. The purpose of the financial guarantee and Improvements Agreement is to ensure the following:

A. Completion of Project and Reclamation of the Property.

The Project is completed, including reclamation of property as applicable.

B. Conditions of Permit Fulfilled. The applicant performs all improvements, mitigation requirements and permit conditions in connection with the construction, operation and termination of the Project.

C. Applicant Addresses Responsibility for Impacts to Public Facilities and Services. The applicant addresses responsibility for increased demand on public facilities and services as a result of the construction, operation and termination of the Project.

D. Funds are Available to the County to Complete Project, if Necessary. In the event that the Project is suspended, curtailed or abandoned, the County can complete the Project and necessary improvements, or restore the property to its original condition or an acceptable condition at no additional cost to the County.

Section 13-102

Amount of Financial Guarantee. In determining the amount of the financial guarantee, the Board shall consider the following factors:

A. Completion of Project and Reclamation of Property.

The estimated cost of completing the Project and of returning the property to its original condition or to a condition acceptable to the County, as applicable.

B. Conditions of Permit. The estimated cost of performing all mitigation requirements and permit conditions in connection with the construction, operation, and termination of the project.

C. Estimated Cost. The estimated cost shall be based on the applicant's cost estimate and the following considerations. The Board may require, as a condition of the permit, that the amount of financial security be adjusted based upon bids received for construction of the Project in compliance with permit conditions.

1. The estimated cost for the County to bring in personnel and equipment to complete any unperformed purpose of the financial guarantee;
2. Contingency costs or any other reasonable costs;
3. Consultant fees, including engineering and legal fees;
4. The duration of project construction or activity and a reasonable projection of increased project cost due to inflation, if appropriate;

Section 13-103

Form of Financial Guarantee. The financial guarantee may be in any form acceptable to the Board and shall be set forth in an Improvements Agreement executed by the County and the applicant.

Section 13-104

Release of Guarantee. The financial guarantee may be released under any one of the following conditions:

- A. The permit has been surrendered to the Board before commencement of any physical activity on the Project site; or
- B. The Project has been abandoned and the site has been returned to its original condition or to a condition acceptable to the County; or
- C. The Project has been satisfactorily completed; or
- D. A phase or phases of the Project have been satisfactorily completed allowing for partial release of the financial guarantee

consistent with project phasing and as agreed to in the Improvements Agreement;

Section 13-105

Cancellation of the Financial Guarantee. A financial guarantee may be canceled only upon written consent by the Board. The Board may grant a request to cancel all or a portion of a financial guarantee if canceling the guarantee will not detract from the purposes of the security.

Section 13-106

Forfeiture of Financial Guarantee.

A. **Notice and Response.** If the Board determines that a financial guarantee should be forfeited because of any violation of the permit, the Board shall provide written notice to the surety and to the permit holder.

1. **Notice Requirements.**

a. The County shall send by certified mail, return receipt requested, and regular mail a written notice of forfeiture of financial guarantee to the surety and to the permit holder.

(1) Notices shall be mailed to the last known address of the permit holder and of the surety.

b. The notice shall contain the following information:

(1) The reason for forfeiture of the financial guarantee, specifying each permit violation with references to the section or sections of the Code violated.

(2) The permit holder's right to respond by request for a public hearing before the Board, and notice of automatic forfeiture if the permit holder does not respond.

(3) The deadline for response by the permit holder.

2. **Response.** The permit holder may request a hearing by the Board, by written request to the Land Use Administrator, within thirty (30) calendar days of receipt of the notice of forfeiture of financial guarantee.

a. If the permit holder submits a timely request for hearing by the Board, the Land Use Administrator shall schedule a public hearing within forty-five (45) calendar days of receipt of the permit holder's request for hearing by the Board.

b. If the permit holder does not submit a timely request for hearing by the Board, the Board shall order the financial guarantee forfeited.

B. Public Hearing and Action by the Board.

1. **Notification of Hearing.** At least thirty (30) calendar days prior to the date of the scheduled public hearing before the Board of County Commissioners, the Land Use Department shall have published, at the expense of the permit holder, a notice of public hearing in a newspaper of general circulation in the Project area.

2. **Notice to Adjacent Property Owners.** At least thirty (30) calendar days prior to the date of the scheduled public hearing, the Land Use Department shall send by regular mail a written notice of the public hearing to the owners of record of all adjacent property within a 500' radius. The notice shall include an abbreviated legal description and an announcement of the date, time and location of the scheduled hearing to consider forfeiture of the financial guarantee. The mailing expense shall be paid by the permit holder.

3. **Permit Holder.** The Land Use Department shall send a written notice of the public hearing to the permit holder by certified mail, return receipt requested, and regular mail. The notice shall include an abbreviated legal description and an announcement of the date, time and location of the scheduled hearing to consider forfeiture of the financial guarantee. The mailing expense shall be paid by the permit holder.

4. **Action by Board of County Commissioners.** The Board of County Commissioners shall conduct a public hearing pursuant to Article 4, Section 4-103 G, *Conduct of Public Hearing*. The permit holder may present statements, documents, and other information for consideration by the Board with respect to the alleged violation(s) and forfeiture of financial guarantee.

a. **Decision by Board.** The Board shall either withdraw the notice or enter an order for forfeiture of all or any part of the financial guarantee.

C. **Default and Use of Financial Guarantee.** The financial guarantee may be used by the Board in the event of default or allowed default of the permit holder for the purposes of recovering on the surety or fulfilling the permit obligation of the permit holder. The County may arrange for the lending institution providing money for the permit holder to hold required funds in escrow. Funds shall be disbursed out of escrow by the lending institution to the County upon County's demand for the purposes set forth in this Article.

D. **Inadequate Revenue and Cost Recovery.** If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County's attorney shall take such steps as deemed proper to recover such costs where recovery is deemed possible.

Section 13-107

Substitute of Surety. If the license to do business in Colorado of any surety upon a security filed pursuant to this Regulation is suspended or revoked by any State authority, then the applicant shall within sixty (60) days after receiving notice thereof, substitute a good and sufficient surety licensed to do business in Colorado. Upon failure of the permit holder to make substitution within the time allowed, the Board shall suspend the permit until proper substitution has been made.

ARTICLE 14
AREAS AND ACTIVITIES OF STATE INTEREST

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INTEREST

DIVISION 1 GENERAL

Section 14-101 **Purpose.** The purpose of these Regulations is to identify and designate certain areas and activities of State interest and to enact guidelines for their administration in a manner that is consistent with the statutory requirements and criteria in C.R.S. 24-65.1-101, *et seq.*

Section 14-102 **Authority.** These Regulations are authorized by, *inter alia*, C.R.S. §§ 24-65.1-101, *et seq.*; §§ 30-28-101, *et seq.*; §§ 29-20-101, *et seq.*; and § 24-32-111.

Section 14-103 **Incorporation.** The Guidelines and Regulations for Areas and Activities of State Interest of Otero County were adopted on May 18, 2004, and amended on August 14, 2006. Said Amended Guidelines and Regulations are attached hereto as Exhibit _____ and incorporated by reference herein.

ARTICLE 15
RUBBISH AND UNSAFE STRUCTURES

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ARTICLE 15 RUBBISH AND UNSAFE STRUCTURES

DIVISION 1 GENERAL PROVISIONS

Section 15-101 **Purpose and Authority.**

A. Purpose. The purpose of this Article is to protect the health, safety and welfare of the citizens of Otero County through the removal of rubbish and unsafe structures from land in the unincorporated areas of the County.

B. Authority. Section 30-15-401 C.R.S, as amended, authorizes the Board of County Commissioners to adopt regulations for the control of matters of local concern, including providing for and compelling the removal of rubbish (including trash, junk and garbage) and unsafe structures from land in the unincorporated areas of the County. This includes authority for the County to remove rubbish or unsafe structures upon failure of the property owner to comply with a notice of violation and the provision for criminal penalties in the event of failure to comply.

Section 15-102 **Responsibility for Removal of Rubbish (Including Trash, Junk, Garbage) and Unsafe Structures.** It shall be the duty of any person who is the owner, lessee or occupant of a lot, tract or parcel of land in unincorporated Otero County to remove rubbish and unsafe structures from that land.

A. Removal of Rubbish (Including Trash, Junk and Garbage). Rubbish (including trash, junk and garbage), as defined in Article 16, *Definitions*, shall be removed from:

1. Lots, tracts and parcels of land within the County, and the alleys behind and sidewalk areas in front, except industrial tracts of ten (10) or more acres and agricultural land, as defined in Section 39-1-102 (1.6) (a), C.R.S., currently in agricultural use in compliance with this Land Use Code.

B. Removal of Unsafe Structures. Any unsafe building or structure, as defined in Article 16, *Definitions*, and as further defined in this Code, shall be removed from lots, tracts and parcels

of land within the County pursuant to the process set forth in the current edition of the International Building Code, and all subsequent editions thereto, together with all amendments thereto, with the following exceptions:

1. Any building or structure located on land subject to the Colorado Mined Land Reclamation Act as defined in Section 34-32-103 (1.5), C.R.S, as amended.
2. Any building or structure located on lands subject to the Colorado Surface Coal Mining Reclamation Act pursuant to Article 33 of Title 34, C.R.S, as amended.

DIVISION 2 ENFORCEMENT PROCESS FOR REMOVAL OF RUBBISH OR UNSAFE STRUCTURES.

Unless otherwise specified in these Regulations, the following enforcement process shall apply instead of enforcement provisions set forth in Article 12, *Enforcement, Violations and Penalties* of this Code as to rubbish.

Unless otherwise specified in these Regulations, the terms and provisions of the current edition of the International Building Code, and all subsequent editions thereto, together with all amendments thereto, shall apply instead of enforcement provisions set forth in Article 12, *Enforcement, Violations and Penalties* of this Code as to unsafe structures.

Section 15-201 **Complaint and Verification of Violation.**

A. Verify Violation. Upon complaint made or filed by a member of the public or by a County official or employee, the Land Use Administrator shall verify the complaint as a violation.

B. Authority to Enter and Inspect. The Land Use Administrator's authority to enter and inspect land, a building or structure for the purpose of verifying a violation shall be governed by the same procedures set forth in Article 12, Section 12-202, *Authority to Enter and Inspect*.

Section 15-202

Notice of Violation and Process for Appeal.

A. **Notice of Violation.** If the Land Use Administrator verifies a complaint as a violation, the Land Use Administrator shall provide written notice of the violation and the requirements for abatement to the property owner of record as identified on the Otero County tax records, and to any other responsible party whose identity and whereabouts are known to the Land Use Administrator.

1. **Service by Mail.** The notice of violation shall be served by certified mail, return receipt requested, and regular mail to both the address in the tax records and the property address, if different.

2. **Content of Notice.** The notice of violation shall include a description of the violation, the requirements for abatement including the time period in which abatement must occur, a proposed re-inspection date to verify abatement, and a statement of the right to appeal the determination of violation and the time within which a written appeal must be filed.

a. The Land Use Administrator shall provide thirty (30) calendar days for abatement.

Section 15-203

Administrative Entry and Seizure Warrant. Upon authorization by the Board of County Commissioners for abatement of the violation by the County, the Land Use Administrator shall seek an administrative entry and seizure warrant from the County or District Court having jurisdiction over the property.

A. **Documentation Required for Warrant.** The following documents shall be required for the court to issue an administrative entry and seizure warrant:

1. The applicable regulatory provisions of this Code.
2. An affidavit stating the factual basis for the warrant.
3. Evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time.

4. A general description of the location of the subject property.
5. A general description of the violation, including a general list or description of the rubbish, to be removed.
6. The proposed method and extent of abatement by the County, including proposed disposal or temporary impoundment of property.

DIVISION 3 PENALTIES AND REMEDIES

Section 15-301 **Penalties.**

A. **Criminal Penalty for Violation.**

1. Any person who violates the provisions of this Article commits a Class 2 petty offense. Upon conviction, a Class 2 petty offense may be punished by a fine of not more than \$300 for each separate violation.

a. Each day a violation continues after the time for abatement has run, or after the deadline the Board specifies for abatement at an appeal hearing, shall be considered a separate violation.

b. All fines collected pursuant to this Article shall be paid into the County treasury as soon as they are collected.

2. If the Land Use Administrator determines that the alleged violator has failed to abate the violation as required by the County, the Land Use Administrator, in addition to pursuing any other remedy authorized by law, may request that the County Sheriff arrest the alleged violator pursuant to Section 16-2-201, C.R.S, as amended.

a. Under Section 16-2-201, C.R.S., as amended, upon arrest for a violation of this Article, the arresting officer may either issue a penalty assessment notice and release the person upon its

terms, or take the person before a judge of the
County Court.

Section 15-302

Preservation of Remedies. The remedies as provided in this Article, and as may be available under other applicable regulations of the County or pursuant to state or federal law, are not exclusive in any way, and may be pursued by the County singularly or in combination to achieve the most expeditious abatement of violations involving the presence of rubbish and unsafe structures.

Section 15-303

Abatement by County.

A. Authorization for Abatement by County. If the alleged violator fails to comply with the County's requirements for abatement of the violation, the Land Use Administrator may request that the Board, at a public meeting, authorize the County to arrange for abatement of the violation. *[Public hearing is not required.]*

1. **Notice of Meeting.** At least fourteen (14) calendar days prior to the date of the meeting, the Land Use Administrator shall provide notice of the meeting to the alleged violator by certified mail, return receipt requested, and regular mail, to both the address in the tax records and the property address, if different.

B. Execution of Warrant and Abatement of Violation. Within ten (10) calendar days following the date of issuance of an administrative warrant pursuant to Article 12, Section 12-204, *Abatement by County*, the County shall abate the violation in accordance with the direction of the Court. A copy of the issued warrant shall be provided to the property owner. Proof of the execution of the warrant, including a written inventory and photographs of any property impounded by the County, shall be submitted to the Court.

C. Method of Abatement. The method of abatement by the County may include the use of County staff or contract with a private party, and may include the impoundment of rubbish or other property removed as part of the abatement.

D. Cost of Abatement Billed to Property Owner. A bill for the reasonable costs of abatement plus an inspection fee of five (5)

percent of that cost shall be mailed to the property owner of record, at both the address in the tax records and the property address, if different. Payment of the bill shall be due within sixty (60) days of the date of the bill.

E. **Collection of Unpaid Bill for Cost of Abatement by County.** If the bill is unpaid after sixty (60) calendar days, the Land Use Administrator through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment together with a ten (10) percent penalty for the cost of collection in the same manner as other taxes are collected.

ARTICLE 16 DEFINITIONS

Section 16-101 **Definition of Words and Phrases.** For the purposes of this Land Use Code, the following words and phrases are defined as follows:

Accessory Agricultural Sales. A location for the retail sale or wholesale of agricultural or horticultural products which are entirely grown or matured on site. Products are raw and sold on a seasonal basis.

Accessory Building or Structure. A subordinate building or structure located on the same lot as the principal structure, the use of which is incidental to the principal use.

Accessory Dwelling Unit. A dwelling unit considered secondary to a primary dwelling unit for use as a complete independent living facility on the same parcel as a permitted principal use and which meets dimensional and other requirements applicable to the principal use. (See Article 3, Section 3-302B.)

Accessory Use. A use which is customarily supportive, secondary and subordinate to the principal use on the parcel.

Accessory Outside Storage. The outside placement of items which are customary and incidental to the principal use of the property.

Adjacent. Meeting, abutting or touching at some point, or located across a street, alley or other right-of-way.

Adjacent Property Owner. An owner of record of any estate, right, or interest in real property which is adjacent to the subject land.

Administrative Review. The land use change permit application and review process, described in Article 4, Section 4-201, *Administrative Review Process* of this Code, by which the Land Use Administrator approves applications for land uses.

Administrator. The Land Use Administrator, or authorized representative. **Adverse.** Unfavorable, harmful.

AFFORDABLE HOUSING UNIT - means a dwelling unit which is available for purchase on terms that would be affordable to households earning sixty (60) percent or less of the median income for rentals or earning one hundred (100) percent or less of the area median income (AMI) for ownership of County residents, as adjusted for family size.

Adverse. Unfavorable, harmful.

Agriculture. The use of land for farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for harvesting, packing, treating, or storing the produce, excluding forestry.

Agricultural Land. Land which, regardless of the uses for which such land is zoned, meets the definition of “agricultural land” in Section 39-1-102 (1.6), C.R.S., as amended.

Agricultural Products. Products grown or raised on a property, intended for direct human or animal consumption or use, such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, bedding plants and wool.

Agricultural Products Processing and Storage. The alteration of agricultural products brought to the site in its natural state, including but not limited to cleaning, sorting, grading, packaging, milling, or storing of products which are intended for direct human or animal consumption or use.

Agricultural Products Retail Sales – Off Site. A location for the retail sale of agricultural products, a majority of which are not grown on site, and are intended for direct human or animal consumption or use.

Agricultural Products – Wholesale. A location for the wholesale of agricultural products.

Airport. The land used by aircraft to take off and land, together with all facilities and adjacent land used in connection with the operation of aircraft.

Alley. A public right-of-way providing secondary access to the rear of a property and not intended for general travel.

Alluvial Fan Flooding. A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Alteration (Structural). A change, rearrangement or addition to the structural parts or in the existing facilities of a building or structure, or the moving from one location or position to another.

Animal Unit. An animal unit (AU) is one mature cow of approximately 1000 pounds and a calf that has not been weaned, or their equivalent, as set forth in the following Animal Unit Equivalency Table:

ANIMAL UNIT EQUIVALENCY TABLE

	Animal Unit Equivalents	Number of Animals Equivalent to One Animal Unit	Maximum in Limited CFO	Maximum in Small CFO
Bulls	1	1	100	999
Cow with Calf (as defined above)	1	1	100	999
Stocker Feeder Cattle	0.67	1.33	133	999
Dairy Cow	1	1	100	999
Bison	1	1	100	999
Mule	1	1	100	999
Ostrich	1	1	100	999
Elk	1	1	100	999
Horse	1	1	100	999
Swine	0.2	5	500	4,995
Sheep	0.2	5	500	4,995
Llama	0.2	5	500	4,995
Goat	0.2	5	500	4,995
Alpaca	0.2	5	500	4,995
Rabbit	0.04	25	2,500	24,975
Turkey	0.04	25	2,500	24,975
Ducks	0.04	25	2,500	24,975
Poultry	0.02	50	5,000	49,950
Game Birds	0.02	50	5,000	49,950

Applicant. A person or entity submitting an application for land use subject to these Regulations.

Appurtenances. The visible, functional or ornamental objects accessory to and part of a building.

Archeological Resource, Cultural Resource, or Historical Resource. Resources that have been designated by the County or are recognized or historically known to the

County; that are on the National Register of Historic Places (National Register) and/or that may be considered under the National Historic Preservation Act; or that are included in an established list of places compiled by the state historical society, or any local historic preservation program.

Area of Shallow Flooding. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Automobiles, Trailers and Accessory Sales and Rental Area. An open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done, except minor incidental repair of automobiles or trailers to be displayed, sold, or rented on the premises.

Automobile Service and Body Work. See *Vehicle Repair Service* of these Definitions.

Average Daily Traffic (ADT). The average number of one-way vehicular trips that are generated from a particular land use during a 24-hour period.

Bank. An organization, usually a corporation, chartered by a state or federal government, which does most or all of the following: receives demand deposits and time deposits, honors instruments drawn on them, and pays interest on them; discounts notes, makes loans, and invests in securities; collects checks, drafts, and notes; certifies depositor's checks; and issues drafts and cashier's checks.

Bar. An establishment serving alcoholic beverages as prescribed in the Colorado Revised Statutes.

Barber Shop. The place of business of one whose business it is to cut hair and to shave or trim beards.

Base Flood. A flood having a one percent chance of being equaled or exceeded in any given year. The term is used interchangeably with intermediate regional flood, one hundred year flood, and one percent chance flood.

Base Flood Elevation (BFE). The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement. Any area of a building having its floor sub-grade (below ground level) on all sides.

Batch Plant. A facility for mixing concrete or asphalt.

Beauty Shop. An establishment providing persons with services that include, but is not limited to, hair treatment, manicures, pedicures or facials.

Bed & Breakfast. A small lodging establishment that offers overnight accommodation and breakfast, but *usually* does not offer other meals. Typically, bed and breakfasts are located in private homes for commercial use.

Block. A portion of land enclosed by mapped roads or other bounds and contained within subdivided or mapped land.

Board of Adjustment. The body appointed by the Board of County Commissioners whose authority and procedures are described in Sections 30-28-117 and 30-28-118, C.R.S., and in Section 1-303 of this Code.

Board or Board of County Commissioners. The Board of County Commissioners of Otero County, as described in Section 1-301 of this Code.

Boarding House. A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests. (Also known as “Rooming House”)

Building. Any structure having a roof supported by columns or walls and intended for supporting, enclosing, sheltering or protecting any use or occupancy. The term “building” shall include modular or prefabricated buildings that do not fall within the definition of manufactured housing or mobile homes.

Building Envelope. A designated area on a lot or parcel in which all structures and development shall be constructed or occur, unless specifically excepted or exempted, including but not limited to excavation, landscaping, building, grading, demolition or filling.

Building Height (Structure Height). The distance, measured vertically, from the undisturbed or natural ground surface at the mid-point between the front and rear walls of a building to the top of a flat roof or mansard roof or to the mid-point between the eave line and the peak of a gable, hip, shed or similar pitched roof.

Building Material, Lumber Yard or Garden Store. A facility for the sale of home, lawn and garden supplies; landscaping materials; and brick, lumber, and other similar materials.

Building Permit. A permit which is issued by the County prior to the erection, construction, alteration, moving or relocation of a building or structure.

Business or Professional Office. The office of an architect, attorney, dentist, doctor, engineer, insurance broker or other similar professional person, and any office used primarily for accounting, correspondence, research, editing or administration.

Campground. A parcel of land, in single ownership, that has been developed for occupancy by guest-owned tents and recreational vehicles on a temporary basis for recreational purposes.

Camper Trailer. A wheeled vehicle without motive power which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations.

Car Wash. An area of land and/or a structure with machine- or hand-operated facilities used principally for cleaning, washing, and polishing or waxing motor vehicles.

CDOT. Colorado Department of Transportation.

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

Change in Land Use. Any development, grading, construction, activity or operation that changes the basic character, configuration, use or zoning of land or buildings and structures after the enactment of this Land Use Code constitutes a change in land use.

Channel. With regard to the floodplain regulations, “channel” shall mean the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization. The artificial creation, enlargement or realignment of a stream channel.

Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Cluster, Cluster Development. The concentration of development, including buildings, driveways, and water supply and wastewater treatment facilities on one or more compact

areas of a development parcel, preserving the remainder as productive agricultural land or undeveloped open space, and avoiding impacting areas of identified value for wildlife habitat, scenic features of a rural landscape, historical agricultural uses, and significant environmental features.

Cluster Development Exemption Plat. See Article 5, Section 5-702 C7.

Code of Federal Regulations (CFR). The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

Commercial Mineral Deposits. Oil, gas, gravel and other natural deposits that may be extracted from the land for economic benefit.

Commercial Nursery. A use where trees, shrubs, and flower and vegetable plants are grown and sold, either wholesale or retail.

Commercial Use or Activity. Any use or activity primarily devoted to business such as the purchase, sale, lease or exchange of goods and/or the provision of services.

Communication Facility. A non-inhabitable structure or tower and accessory building, supporting antennas, and microwave dishes that send and/or receive radio frequency signals, including television and data impulses, through space by means of electromagnetic waves. Individual/personal direct-to-home satellite services are not included in the definition of “Communication Facility”.

Community. Any political subdivision in the State of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, and drainage and flood control districts.

Community Meeting Facility, Recreation Hall or Auditorium. A facility for public gatherings and holding events such as weddings, wedding receptions, community meetings and meetings and events sponsored by neighborhood groups, religious groups, philanthropic organizations and so forth.

Composting Facility: A site where composting occurs as part of a private business, non-profit organization, or government service including but not limited to a site where compost materials are received, processed or stored for use in the composting process. A composting facility shall **not** mean farms where composting is an ancillary part of farm operations which conform to generally accepted agricultural and management practices and where no compost is sold or removed for distribution off-site.

Concentrated Animal Feeding Operation. Any animal feeding operation where animals are fed at the place of confinement, and crops, vegetation, forage growth, or postharvest residues cannot sustain the animals, and the number of any type of animals held for that purpose exceeds 999 animal units.

Conditional Letter of Map Revision (CLOMR). FEMA's comment on a proposed project which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Confined Animal Feeding Operation. A lot or facility (other than an aquatic animal production facility) where animals are confined and fed at the place of confinement, and crops, vegetation, forage growth, or post-harvest residues cannot sustain the animals.

1. *Limited:* The number of any type of animals held at the place of confinement does not exceed 100 animal units;
2. *Small:* The number of any type of animals held at the place of confinement shall be more than 100 animal units but less than 1000 animal units;

Congregate Care Facility. A congregate care facility combines private living quarters with centralized dining services, shared living spaces, and access to social and recreational activities. Many congregate care facilities offer transportation services, personal care services, rehabilitative services, spiritual programs, and other support services.

Conservation Easement. An easement for the purpose of preserving the property's value for recreation, education, habitat, open space, agricultural productivity, historical importance and scenic qualities of the subject property.

Contiguous. Sharing an edge or boundary, touching.

Convenience Store. Any retail establishment selling consumer products including primarily prepackaged or prepared food items and household items. A convenience store may also have associated retail sale of gasoline and other petroleum products.

Corrals (Pens). An enclosure for holding horses, cattle or other animals.

Corrections Facility. A use which provides housing, treatment or care for individuals legally confined or placed as a result of criminal charges and designed to incarcerate or rehabilitate individuals in either a secured or non-secured setting.

Correction Plat. Revision of a previously-approved plat, which is intended to correct minor surveying, drafting or wording errors in the plat.

County. The County of Otero, State of Colorado.

Critical Facility. A structure or related infrastructure, but not the land on which it is situated, as specified in Article 3, Section 3-208, L. (13), that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Day Care Center. A facility which provides less than 24-hour care or supervision for nine or more persons under the age of eighteen (18) who are not related by blood, marriage, or adoption to the owner, operator, or manager, whether such facility operates at day or night, with or without compensation for such care, and with or without stated educational purpose.

Decibel. The basic unit for measuring the difference of sound pressure levels from a sound event to a reference pressure. To approximate the range of frequencies of sound most audible to the human ear, an “A-weighting” factor is applied. Sound levels are usually reported in A-weighted decibels, abbreviated dBA.

Deed Restriction: A limitation on the use or sale of the property written in the deed.

Delicatessen. A shop that sells cooked or prepared foods ready for serving.

Density. A unit of measurement, specific to development, to be interpreted as the number of dwelling units per acre of land.

Determination of Completeness. The Land Use Administrator’s determination that the application is complete based on compliance with the submittal requirements for the applicable review process.

Development. Any activity or construction, excluding normal agricultural activities, that changes the existing character or use of the land.

Development Agreement. The agreement between the owner and the County which specifies the terms and conditions of the land use permit approval. This agreement implements the site specific development plan which establishes vested rights under Article 68 of Title 24, C.R.S.

DFIRM. Digital Flood Insurance Rate Map.

Digital Flood Insurance Rate Map. FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

Drive-in Restaurant. An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the consumer in a ready-to-consume state for consumption either inside or outside the restaurant building or for carry-out for the purpose of consumption off the premises.

Drugstore. A store where prescriptions are filled and drugs and other articles are sold; a pharmacy.

Dwelling, Multi-Unit. A building that contains two (2) or more dwelling units. The term “dwelling unit” does not include hotels, motels, fraternity houses and sorority houses and similar group accommodations.

Dwelling Unit. A structure designed, arranged or intended to be occupied by one single family, containing a primary heat source and living facilities for sleeping, cooking, eating and sanitation. A Dwelling Unit may also be referred to as a Single-Family Dwelling Unit or a Single-Family Residence for the purposes of this Land Use Code.

Eating or Drinking Establishment. An establishment for the sale and consumption of food and beverages on the premises, or with drive-thru accommodations.

Educational Facility. Buildings and uses for instruction or research activities associated with an academic institution which has curriculum for technical or vocational training, including but not limited to kindergarten, elementary, secondary, or higher education. Educational facilities may include residential facilities for faculty, staff, and students.

Electric Power Distribution Lines and Facilities. Structures, lines and appurtenant facilities used for the distribution of electric energy.

Elevated Building. A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Emergency Care Facility. A health care facility that provides outpatient emergency diagnosis and treatment.

Emergency Shelter. A facility providing intermediate-term housing to people with limited financial resources, including people who are homeless or are abused mentally, physically, or emotionally and need to escape a threatening situation. Accommodations may also include food, counseling, transportation services, and service to support the

personal care of the residents of the facility including medical care, dental care and hygiene.

Equestrian Arena. A defined, improved area that may be covered or open, within which equestrian activities involving horse riding, training, practice, exhibition or driving occurs.

Equestrian Center. A defined, improved area that may be covered or open, within which equestrian activities involving horse riding, training, practice, exhibition or driving occurs for commercial purposes, and which may include boarding and includes rental or fee arrangements.

Erosion and Sediment Control Plan. See Article 4, Section 4-602 C5.

Exemption Plat. See Article 5, Section 5-702 C6.

Expansive Soil. Rock or soil that shrinks or expands excessively with changes in moisture content.

Excavation. The removal of earth material by artificial means, also referred to as a cut.

Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FAA. The Federal Aviation Administration.

Fabrication. The act or process of constructing or manufacturing a product from diverse and usually standardized parts.

Farm Market. A seasonal retail outlet normally owned or operated by a producer or farm unit, located on-farm or off-farm, selling mainly products produced by the farm directly to the consumer.

Farming. The business of cultivating land and the growing/producing of crops.

FBFM. Flood Boundary and Floodway Map.

Federal Emergency Management Agency (FEMA). The agency responsible for administering the National Flood Insurance Program.

Final Plat. See Article 5, Section 5-701 A and Article 5, Section 5-702 C5.

Fire Station. A facility operated by a municipality, fire district, or department which houses fire equipment. The facility may be used for housing personnel and for associated meetings.

FIRM. Flood Insurance Rate Map.

FIS. Flood Insurance Study.

Fish Farm. A workplace where fish are hatched and raised for the purpose of harvesting and sale, and including, but not limited to, production for consumption and private stock.

100-Year Flood. A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-Year Floodplain. The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-Year Flood. A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-Year Floodplain. The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow

over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood Control Structure. A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Fringe. Areas within the flood plain that constitute the low hazard areas between the outer boundary of the floodway and the outer limit of the floodplain. Within the flood fringe area, the depth and velocity of the flood waters do not present as serious a threat to life and property as that within the floodway.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

Floodplain (sometimes called Flood Plain) or Flood-Prone Area. Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain Administrator. The community official designated by title to administer and enforce the floodplain management regulations. The Floodplain Administrator is sometimes referred to as the Land Use Administrator in this Land Use Code.

Floodplain Development Permit. A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

Flood Plain (sometimes called Floodplain) Encroachment. Any development, stockpile, refuse, or matter in, along, across, or projecting into any flood plain which might impede, retard, or change the direction of a flow of water, either by itself or by catching or collecting debris carried by such water. The term flood plain encroachment shall not include any device or structure reasonably necessary for flood control or prevention.

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. (Regulatory Floodway) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Floor Area. Floor area, also called gross floor area, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement storage areas, and not including one-half (1/2) of all storage and display areas for durable goods.

4-H Project. The keeping or housing of animals by a 4-H member.

Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Game Preserves, Developed. A restricted property on which wild animals are hunted for sport or food, and where the potential for hunting success has been enhanced through significant changes in the land, habitat or game population, in addition to those associated with restricting access to said property. Significant change includes, but is not limited to, any of the following:

- (1) Wetlands development that is extensive enough to require a 404 Permit from the U.S. Army Corps of Engineers;

- (2) Introduction of native or exotic game animals (excluding fish), resulting in expenditures of more than \$1,000 per year to raise and/or purchase said animals; or
- (3) Construction of a lodge or clubhouse for the use of hunters;

Game Preserves, Undeveloped: A restricted property on which wild animals are hunted for sport or food, and the potential for hunting success has not been enhanced through significant changes in the land, habitat, or game population, other than those associated with restricted access to said property. Undeveloped game preserve is an accessory use to ranching and farming.

General Service Establishment.

1. An establishment for services offered by building trade professionals including building contractor, electrical contractor, and plumbing contractor.
2. An establishment for trade services offered by blacksmiths and/or other trades fitting in this group.
3. An establishment for service and repair of small appliances, equipment and machinery.

Geologic Hazard. A geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

1. Avalanches, landslides, rock falls, mudflows, unstable or potentially unstable soils, and unstable or potentially unstable slopes;
2. Seismic effects;
3. Radioactivity; and
4. Ground subsidence;

Geologic Hazard Area. An area that contains or is directly affected by a geologic hazard including avalanche, landslide area, mudflow debris area, radioactive area, and potentially unstable soils.

Grade, Finished. The final elevation of the ground surface after development.

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

Grazing. The feeding of animals on growing grasses, other growing vegetation or post-harvest residues.

Group Home Facilities. A facility operated by a public, nonprofit or private agency, which provides 24-hour care or supervision of persons who are not related by blood, marriage or adoption to the facility's owner, operator or manager.

Hardware Store. A store which sells hardware which includes, but is not limited to fasteners, keys, locks, hinges, wire, chains, plumbing supplies, tools, utensils, cutlery and machine parts.

Hazard. A natural or manmade phenomenon or condition which is a significant source of risk, danger or peril.

Heliport. A structure or area of land or water used or intended to be used by helicopters for takeoff and landing, and the appurtenant buildings and facilities, including: necessary passenger and cargo facilities, fueling and emergency service facilities.

Helistop. A minimally developed heliport for landing and discharging passengers or cargo, and not intended for refueling or maintaining itinerant helicopters.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Site. A structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status and protection.

Home. One's place of residence.

Home Occupation. A business, profession, occupation or trade conducted for gain or support and located entirely within a residential building or a structure accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building or the property in general.

Horticultural. Having to do with the growing of fruits, vegetables, flowers, or ornamental plants.

Hospital. An institution providing health services for inpatient medical or surgical care for the sick or injured, including related facilities such as laboratories, outpatient departments, training and central services facilities and staff offices.

Hotel. An establishment leasing or renting overnight sleeping accommodations to the public generally.

Illumination, Direct. Lighting by means of an unshielded light source which is effectively visible when the light travels directly from the source to the viewer's eye.

Illumination, Indirect. Lighting by means of a light source directed at a reflecting surface in a way that illuminates the sign from the front or a light source that is primarily designed to illuminate without direct travel from the source to the viewer's eye.

Impact. The direct or indirect effect or consequence resulting from a development upon land, the environment, the community or any part or segment thereof. The term shall include, but not be limited to, physical, environmental, economic, visual, auditory or social consequences or effects.

Impact Analysis. See Article 4, Section 4-602 E.

Impervious Materials. Materials that do not readily allow water to infiltrate into the ground. The term "Impervious Materials" shall include building roof surfaces and overhangs, concrete or asphalt pavement surfaces and compacted gravel.

Individual Sewage Disposal System (ISDS). An absorption 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 sewage treatment works as that term is defined in Section 25-10-103 (20), C.R.S., as amended.

Industrial Use or Activity. Uses engaged in processing or manufacturing of materials from either extracted or raw materials or from previously prepared materials resulting in a new product designed for wholesale or retail sale.

1. *Extraction.* Extraction operations include, but are not limited to: petroleum and natural gas wells; shale and coal mines; gravel pits; timber cutting.
2. *Processing.* Processing operations include, but are not limited to: petroleum refining; oil shale crushing, retorting and refining; ore smelting; coal crushing and cleaning; saw mills; alfalfa pellet mills; food canning or packing; creation of glass, ceramic or plastic materials; gravel crushing; cement manufacture; and concrete batch plants.
3. *Fabrication.* Fabrication operations include, but are not limited to: manufacture of equipment, vehicles and consumer goods from processed materials; wood and metal working operations; and batch plants.
4. *Repair.* Industrial repair operations include, but are not limited to: automobile and heavy equipment repair; and appliance repair.

5. *Material Handling.* Material handling operations include, but are not limited to: a transfer station for construction waste such as wood, drywall, metals, paper, plastic and other types of construction materials.

Junk. See *Rubbish* of these Definitions.

Junk Yard. See *Salvage Yard* of these Definitions.

Kennel. Any place or premises upon which any person, firm or corporation owns, keeps, or harbors more than four (4) dogs over six (6) months old within the unincorporated limits of the County of Otero, State of Colorado.

Land Suitability Analysis. See Article 4, Section 4-602 D.

Land Survey Plat. A scale drawing of the boundaries of a parcel of land, which is compiled by a series of exact and precise linear and angular measurements taken from a known point of origin developed by mathematical principals of surveying. (Used in association with a Minor Subdivision.)

Landing Strip. A minimally developed airport for landing and discharging passengers or cargo, and not intended for refueling or maintaining itinerant aircraft.

Land Use Change. Any land use or development activity that changes the basic character, configuration, use or zoning of land or buildings and structures after the enactment of this Land Use Code.

Land Use Change Permit. Approval by the County for any land use change subject to County review by this Land Use Code.

Land Use Code. The Otero County Land Use Code. The terms “Code” and “Regulations” also refer to the Otero County Land Use Code.

Landscape Plan. See Article 4, Section 4-602 C4.

Laundromat, Laundry or Dry-Cleaning Facility. A retail business that provides laundry and/or dry-cleaning services to individual customers.

Ldn. Day Night Level (DNL/LDN). A 24-hour average noise level with a 10-decibel (dB) penalty for nighttime.

Letter of Map Revision (LOMR). FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

Letter of Map Revision Based on Fill (LOMR-F). FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Limited Impact Review. A shortened land use change permit application and review process, described in Article 4, Section 4-202, *Limited Impact Review Process* of this Land Use Code, by which the Otero County Planning Commission approves permits for uses being allowed on the basis of their limited impact with regard to compatibility with the site and surrounding land and uses, and the adequacy of required services.

Livestock. Domestic animals that are used for food for human or animal consumption, breeding, draft or profit.

Lot. Any portion, piece or parcel of land.

Lot Coverage. The portion of a lot which is covered or occupied by buildings, structures, parking and drives or any other impervious surface.

Lot Double Frontage. Lots which front on one public street with a side or a back lot line fronting another public street.

Lot Line. The external boundary of a lot.

Lot Line, Front. The boundary of a lot dividing it from the adjacent street or access road.

Lot Line, Rear. The boundary of a lot opposite the front lot line.

Lot Line, Side. Any boundary of a lot other than the front or rear lot line.

Lot Size or Area. The total horizontal area within the lot lines.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program Regulations.

Machine Shop. A facility where material is processed or treated by machining, cutting, grinding, welding, or similar processes.

Major Electrical or Natural Gas Facilities. Major electrical or natural gas facilities include one or more of the following:

1. Electric power generation;
2. Substations used for switching, regulating, transforming or otherwise modifying the characteristics of electricity;
3. Transmission lines;
4. Structures and equipment associated with such electrical generating facilities, substations, or transmission lines;
5. Structures and equipment utilized for the local distribution of natural gas service including, but not limited to, compressors, gas mains and gas laterals;

Major Impact Review. A land use change permit application and review process, described in Article 4, Section 4-203, *Major Impact Review Process* of this Land Use Code, by which the Otero County Planning Commission recommends to the Board of County Commissioners approval, denial or approval with conditions of an application for a permit for uses being allowed on the basis of their major impact with regard to compatibility with the site and surrounding land and uses, the adequacy of required services and other factors as set forth in Article 7, *Standards*.

Manufactured Home.

1. A preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, which includes electrical, mechanical or plumbing services, and which unit or units are not licensed as a vehicle. Further, such building unit(s) shall be certified by HUD pursuant to the federal Manufactured Home Construction and Safety Standards Act, 41 U.S.C. 778 5401, *et seq.*, as amended, **or** shall comply with the NFPA (National Fire Protection Act) 501b/ANSI (American National Standards Institute) a119.1 (most current edition and all subsequent editions thereto, together with all amendments thereto) **or** meet the requirements of the International Building Code.
2. The term manufactured home shall **not** include travel trailers, camper trailers, campers or self-contained motor homes or camper buses.

Manufactured Home Park. A parcel upon which two or more manufactured homes, occupied or intended to be occupied for dwelling purposes, are located.

Manufactured Home Space. A portion of ground within a manufactured home park designated for the permanent location of one manufactured home.

Mass Transit Facility. A station or terminal constructed to provide and facilitate passenger access and egress to: a rapid or mass transit system; fixed guideways; dedicated highway lanes restricted to use by only mass transit vehicles; restricted dedicated flyovers and restricted dedicated access to terminals or stations; or highway access and egress facilities restricted to use only by mass transit vehicles.

Mean Sea Level. For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Medical Clinic (Office). A clinic or office connected with the practice of medicine.

Mineral Estate. A mineral interest in real property that may be severed from the surface estate of the subject real property, which if severed, is shown in the real estate records of the county in which the real property is situated; and which is not owned as part of the full fee title to the real property. [Section 24-65.5-102, C.R.S.]

Mining, Mine. Any area of land from which minerals are extracted in nonliquid form or are extracted in a liquid form while workers are underground, and including any accessory support facilities; ways and roads appurtenant to such area; and lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailing ponds, on the surface or underground, used in, or to be used in, or resulting from the work of extracting such minerals from their natural deposits in nonliquid form or, if in liquid form, used by workers underground or used or to be used in the milling of such minerals or the work of preparing coal or other minerals.

Mitigation. An action which will have one or more of the following effects:

1. Avoiding an impact by not taking a certain action or parts of an action;
2. Minimizing an impact by limiting the degree or magnitude of the action or its implementation;
3. Rectifying an impact by repairing, rehabilitating, or restoring the impact area, facility or service;
4. Reducing or eliminating an impact over time by preservation and maintenance operations; and

5. Compensating for an impact by replacing or providing suitable biological and physical conditions; and by replacing or providing suitable services and facilities;

Mobile Home. See *Manufactured Home* of these Definitions.

Motel. A building or group of buildings containing guest rooms, usually with access directly from a parking lot, intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

Municipality. An incorporated city or town.

National Flood Insurance Program (NFIP). FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

Natural Hazards. Mudslides, subsidence areas, flood plains, seismic faults, rockslides, erosion and other naturally occurring phenomena that can pose hazards to life or property.

New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NFIP. National Flood Insurance Program.

No-Rise Certification. A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Nonconforming Use. A building, structure or use of land legally existing at the time of enactment of this Land Use Code or lawful amendments to this Code and which does not conform to the regulations of the zoning district in which it is situated or used.

Nursing Facility. A facility or a distinct part of a facility certified under state and federal regulations to provide care and treatment for inpatients. “Nursing facility” includes private, nonprofit or proprietary intermediate nursing facilities for the mentally retarded or developmentally disabled.

Oil and Gas Drilling and Production. Any operation utilizing equipment which advances a borehole into substrata for the purpose of discovery, development and/or production of oil or gas.

Open Space. Any land or water area which serves the specific use of: providing park and recreation opportunities, conserving natural areas and environmental resources, or protecting areas of agricultural, archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land or yards as part of a platted lot.

Open Space Management Plan. See Article 5, Section 5-702 C9.

Open Space Plan Map. See Article 5, Section 5-702 C8.

Outdoor Recreation. An area or facility which offers entertainment, recreation or games of skill where any portion of the activity takes place outside and may include lighted areas for use after dusk. This includes, but is not limited to, a golf driving range, boating facility, tennis facility or a miniature golf course.

Overnight Shelter. A facility providing short-term overnight accommodations, on a day-to-day basis, without charge or at a nominal charge to people with limited financial resources, including people who are homeless. Accommodations may also include food, counseling, transportation services and service to support the personal care of the residents of the facility including medical care, dental care and hygiene.

Parking, Commercial. Parking lots or structures open to the public and operated for a profit.

Parking, Community. Parking lots or structures not open to the public, but shared by several persons not residents on the premises.

Parks, Public. Land retained for public recreational use, that may be improved with playground apparatus, public tennis courts, public golf courses (with or without a clubhouse), picnic areas, shelters, riding, biking or hiking trails, skateboard areas, other game courts or pits, art, memorials and historic structures. Public Parks may include greenways and natural areas and features that are subject to minimal maintenance, generally open to the public.

Parks, Private. Land retained for recreational use, designed and maintained to meet the needs of the residents of a defined area and/or membership, where general public access

is denied or only offered on a limited basis. Ownership and maintenance is assumed by a property owner's and/or membership association.

Peak Hour. A term used in traffic engineering and analysis that identifies the 60-minute period where a segment of road or intersection experiences, or is projected to experience, the greatest number of through and turning vehicles in an average 24-hour period.

Person. Any individual, corporation, governmental entity, estate, trust, partnership, association or other legal entity.

Personal Property. Any moveable property which is not real property or permanently affixed to real property.

Personal Service Facility. See *Retail or Personal Service Facility* of these Definitions.

Pipeline. Any conduit and appurtenant facilities designed for, or capable of, transporting natural gas, other petroleum derivatives or other liquid.

Planned Unit Development. An area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for 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.

Plat. A map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder. [Section 30-28-101 (5)]

Preliminary Plan Map. See Article 5, Section 5-702 C4.

Principal Use. The primary purpose or function for which the land, building or structure is used.

Professional Office. Examples of a professional office use include physicians and medical clinics, dentists, lawyers, realtors, architects, engineers, musicians, designers and accountants. A professional office use does not include storage or sale of merchandise.

Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums and similar facilities and places, but do not include parks, golf courses or similar facilities unless Otero County Land Use Code

used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

Public Hearing. A meeting called by a public body, for which public notice has been given in compliance with the provisions of this Code and which is held in a place where the general public may attend, with the principal purpose of receiving testimony, evidence or public comment on a specific application or issue.

Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.

Public Utilities. Electricity, natural gas, water and wastewater service, wire telephone service, and similar public services. The term “public utilities” does not include wireless telecommunication facilities.

Ranching. The business of keeping livestock, fowl and other non-domestic animals. This definition does not include concentrated animal feeding operations or confined animal feeding operations or dog kennels.

Recreational Vehicle (RV). A vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Examples of recreational vehicles include, but are not limited to: camping trailer or tent trailer, motorized camper, motor home, recreational conversion van or bus, pickup camper, tent, or travel trailer.

Recyclable Materials. Reusable materials including, but not limited to, metals, glass, plastic, wood, and paper which are intended for remanufacturing or reconstitution. Recyclable materials do not include junk, rubbish, refuse or hazardous waste.

Recycling Collection Center. A center for the acceptance and temporary storage of either recyclable or organic materials to be transferred to a processing or composting facility.

Recycling Processing Facility. A facility where recyclable and organic materials are collected and processed. Processing includes but is not limited to baling, briquetting, compacting, flattening, crushing, mechanical sorting, shredding, and cleaning.

Residence, Single Family. A structure designed, arranged or intended to be occupied by one single family, containing a primary heat source and living facilities for sleeping, cooking, eating and sanitation. A single-family residence may also be referred to as a “single-family dwelling unit” for the purposes of this Land Use Code.

Residential. Characterized by or suitable for residences or homes.

Residential Lot. A distinct part or parcel of land on which a building planned and designed to be used as a residence shall be built.

Resort, Lodge, Conference Center or Guest Ranch. Dude ranch, boating base camp, hunting or fishing camp, or other similar facility for the purpose of recreation which provides lodging, recreational activities, dining facilities, parking, storage facilities and restrooms or other needs operated on the site for guests or members.

Restaurant. A commercial establishment designed primarily to serve prepared food to customers.

Retail or Personal Service Facility. An establishment for the retail sale of merchandise to the general public or the provision of personal services to the public.

Riparian/Riparian Areas. Related to, living or located on the bank of a natural watercourse or lake. Riparian areas include groups of plants, animals and aquatic communities whose presence is either directly or indirectly attributed to water-influenced or water-related factors. Areas exempt from this definition are manmade agricultural structures and devices including irrigation ditches, sprinklers and artificial ponds.

Roads:

1. **Arterial:** A major or main route usually designed with long-distance travel in mind.
2. **Collector:** A road used as a connection between local roads and arterial roads.
3. **Local:** A road designed specifically to have high accessibility and to connect to collector and arterial roads and is typically not used for through traffic.

Rooming House. See *Boarding House* of these definitions.

Rubbish. Trash, junk and garbage including, but not limited to: unwanted or discarded household items; waste from building construction, remodeling and repair including used lumber and building materials; tree branches, grass and shrub clippings, leaves or other general yard and garden waste; newspapers, magazines, packaging materials, waste paper or cardboard, boxes and crates, rags; dead animal carcasses; and any other unsightly or discarded material including scrap metal, scrap material, bottles and tin cans, which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Salvage Yard. A building, structure or parcel of land used for the collecting, storage, dismantling, salvage, recycling, demolition or sale of material that is unfit for its original intended use, discarded, worn out, dismantled, or deteriorated in such condition that it is not useable or not safe or fit for human use or habitation.

Saw Mill. A facility for the storage, sales, cutting and milling of forest products.

Setback. The required minimum distance between the point that the facing wall intersects with the finished grade of the building and the related front, side or rear lot line.

Sketch Plan Map. See Article 5, Section 5-702 C3.

Sign Area. The sum area of the surface of each plane of the sign within the outermost edge or border of the plane. The sign area of freestanding letters not attached to a surface or plane shall be the area enclosed within the smallest geometric figure needed to completely encompass all of the letters, words, insignias or symbols.

Sign Face. The surface of a sign upon, against, or through which the message is displayed or illustrated.

Sign – Identification Sign. Identification signs include name plates, signs or symbols establishing the identity of a building; combination of name and street addresses; landmark or natural features; plaques that are an integral part of the structure.

Sign – Ideological Sign. A sign expressing philosophical concepts, including religious and political signs.

Sign – Joint Identification Sign. A sign that provides common or collective identification for two or more businesses or industrial uses.

Sign – Real Estate Sign. A sign indicating the availability for sale, rent or lease of a specific lot or building.

Sign, Freestanding. A sign that is supported by one or more columns, uprights or poles extended from the ground or from an object on the ground, or a sign that is erected on the ground.

Sign, Ground. A type of freestanding sign which is erected on the ground and which contains no unrestricted space or open space between the ground and the top of the sign.

Sign, Off-Premises. Any sign which contains a message unrelated to the business conducted or to a commodity, service or entertainment sold or offered on the premises upon which the sign is located.

Sign, On-Premises. Any sign which contains a message directly pertaining to the business conducted or to a commodity, service or entertainment sold or offered on the premises upon which the sign is located.

Sign, Portable. Any sign not permanently attached to the ground or to any structure.

Sign, Projecting. A sign attached to a building and extending beyond the surface of the building to which the sign is attached.

Sign, Suspended. A sign suspended from the ceiling of an arcade, marquee or canopy.

Sign, Temporary. Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a limited period of time only.

Significant. Deserving to be considered; important; notable and not trifling.

Single-Family Dwelling Unit. See *Residence, Single Family* of these definitions.

Site Plan. See Article 4, Section 4-602 C3 and Article 4, Section 4-604 A.

Site Specific Development Plan. The approved plan which has been submitted to the County to establish a vested right pursuant to Title 24, Article 68, C.R.S., as amended, and set forth in Section 1-202B of this Code.

Slope. Change in vertical elevation of a property over a specified horizontal distance, measured between contour intervals.

Solar Access. The ability to receive sunlight across real property.

Solar Energy Device. A device which converts the sun's radiant energy into thermal, chemical, mechanical or electric energy.

Solar Energy System. A system composed of a solar energy collector, an energy storage facility and components for the distribution of transformed energy, which may be attached to a residence or other structures.

Solar Panels, Solar Arrays (Solar Energy). A device consisting of solar cells that convert light into electricity (panel), or an electrical device consisting of a large array of connected solar cells (arrays).

Solid Waste. The term “solid waste” includes: garbage or refuse; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; solid, liquid, semisolid, or contained gaseous material discarded from industrial operations, commercial operations or 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, Title 25, Article 8, C.R.S.; materials handled at facilities licensed pursuant to the regulatory provisions under the Radiation Control Act, Title 25, Article 11, C.R.S.; and scrap metal that is being recycled or shredded circuit boards that are being recycled.

Solid Waste Disposal. The storage, treatment, utilization, processing or final disposal of solid wastes.

Solid Waste Disposal Site or Facility. The location and/or facility at which the deposit and final treatment of solid wastes occur.

Special Flood Hazard Area. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Stable. A building in which horses or cattle are sheltered and fed.

Standpipe. A high vertical pipe or cylindrical tank for storing water and keeping it at a desired pressure, particularly to provide fire protection to upper floors of tall buildings or a large tank used in a water supply system for a town.

Start of Construction. The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. The term “structure” includes, but is not limited to: buildings, decks, fences, retaining walls, signs, towers, antennas, smokestacks and overhead transmission lines.

1. *Permanent structure.* A permanent structure is constructed in a manner which would be expected to have a lengthy useful life, for a purpose expected to be long-term in duration.
2. *Temporary structure.* A temporary structure is constructed in a manner which would be expected to have a relatively short useful life, for a purpose expected to be short-term in duration.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders; any substantial change in the roof or in the exterior walls. For purposes of these Regulations, “structural alterations” do not include alterations required for public safety.

Subdivision or Subdivided Land. The division of land into two (2) or more lots, tracts, sites, parcels, separate interests or interests in common, unless exempted from the term subdivision by Section 30-28-110, C.R.S., or by regulatory provisions of this Code.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Telecommunication Facility. All devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation and operating as a discrete unit to produce a signal or message. Facilities may be self supporting, guyed or mounted on poles, other structures or buildings. Telecommunication facilities may include, but not be limited to radio, television, telephone, cell phones and microwave towers or antennas for commercial transmission to consumers.

Telecommunication Facility, Public Safety. A facility owned and/or operated by a governmental agency and utilized for the transmission and reception of electromagnetic or electro-optic information for public safety communication uses.

Telecommunication Facility, Noncommercial. A facility or facilities utilized for the transmission or reception of electromagnetic or electro-optic information, which is accessory to a residential use and not commercial in nature.

Trailhead. An area set aside with parking, staging areas and appropriate structures including, but not limited to: parking areas; corrals for horses and stock; parking for trailered vehicles such as snowmobiles and ATV's; restroom facilities, or space for portable toilets; interpretive and informational signage; and trash collection bins.

Transfer Station. A facility at which refuse, awaiting transport to a disposal site, is transferred from one type of containerized collection receptacle into another or is processed for compaction.

Transitional Housing. A facility providing long-term housing in multi-family dwelling units in conjunction with programs that assist tenants in working towards independence from financial, emotional or medical conditions that limit their ability to obtain independent housing for themselves. Participation in a program of supportive services is required as a condition of residency.

Trash: See *Rubbish* of these Definitions.

Unsafe Structure. A structure or building which is determined to present a substantial danger or hazard to the general public health and safety.

Use by Review: Any use or activity that is not considered to be a “use by right” and is therefore subject to the review process set forth in Article 4 of this Land Use Code.

Use by Right: A use or activity that is permitted in a zoned district without obtaining a Land Use Change Permit if the proposed use or activity complies with the applicable zone district regulations and use restrictions set forth in Article 3, *Zoning*, but is not exempt from other Federal, State or local permit requirements or standards and other applicable provisions of this Land Use Code.

Utility Substation. Any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity.

Utility Storage Area. Any surface facility designed to store natural gas or petroleum derivatives.

Variance. A grant of relief to a person from the requirement of this Land Use Code when specific enforcement would result in unnecessary hardship. A variance, therefore, Otero County Land Use Code

permits construction or development in a manner otherwise prohibited by this Land Use Code.

With regard to a variance request in a Flood Plain District, variance shall also include the regulations found at Section 60.6 of the National Flood Insurance Program Regulations.

Vehicle Repair Service. A shop or place of business for repair and maintenance of automobiles, trucks and other automotive and farm equipment, and/or the making or repairing of a vehicle body and shows a work order.

Vehicle Service Center. A facility for the retail sale of gasoline and other petroleum products and/or where light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted.

Vehicles, Rental. The use of any building, land area, or other premises for the rental of cars, light trucks, and/or light equipment.

Vested Property Right. The right to undertake and complete the development and use of property under the terms and conditions of a County-approved Site Specific Development Plan, as defined in Section 24-68-102 (5), C.R.S.

Vicinity Map. See Article 4, Section 4-602 C2.

Violation. The failure of a structure or other development to be fully compliant with the Land Use Code regulations.

Violation (in a Floodplain District). The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program Regulations or this Land Use Code is presumed to be in violation until such time as that documentation is provided.

Visual Analysis. See Article 5, Section 5-702 F.

Warehouse and Distribution Center. A building used primarily for the inside storage and distribution of goods and materials. This term 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/or other trailer units.

Wastewater Plan. See Article 5, Section 5-702 C14.

Water and Sewer Projects. The Site Selection and Construction of Major New Domestic Water and Wastewater Treatment Systems, Major Extensions of Existing Domestic Water and Wastewater Treatment Systems, and Efficient Utilization of Otero County Land Use Code

Municipal and Industrial Water Projects, including any proposed land development directly related to such Project if such development is to be located wholly or partially within this County and if such development specifically generates the need for the Project.

Water Impoundment. Detention or retention of water in wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds or other similar water features.

Water Storage Facility. Any enclosed structure that is used to store water either above or below ground for public consumption or fire protection.

Water Supply Plan. See Article 5, Section 5-702 C13.

Water Treatment Facility. A facility or facilities within the water distribution system that can alter the physical, chemical or bacteriological quality of the water.

Waterbody. A “waterbody” shall include rivers, lakes, creeks, arroyos, drybed streams, and irrigation canals, but shall specifically not include irrigation ditches and laterals. (Except in Article 9, *Oil and Gas Operations*, which definition is found at Division 3, Section 9-301, *Definitions* of Article 9.)

Watercourse. A natural or artificial channel, depression, slough, dry wash, gulch, arroyo, stream, creek, drainage way, pond, reservoir, or lake in which water flows either continuously, intermittently or periodically.

Weeds and Brush. Any underbrush, brush, shrub or plant material greater than twelve (12) inches in height which:

1. Ordinarily grows without cultivation; not in planting beds or otherwise in a controlled manner; or not for the purpose of food production; and
2. Is allowed to grow in such a manner or extent that it causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics; and
3. Is not an undesirable plant designated under the County’s Noxious Weed Management Plan, pursuant to the “Colorado Noxious Weed Act”, the removal of which shall be governed by that Plan;

Wildlife Habitat. That natural or man-made environment which contains the elements of food, shelter, water and land area in a combination and quantity necessary for the survival of one or more wildlife species.

**OTERO COUNTY LAND USE DEPARTMENT
FEE SCHEDULE**

PROCESS	NON-REFUNDABLE DEPOSIT AND/OR FEE
Administrative Review (Use by Review)	\$75.00
Cluster Development	Actual Costs*
Correction Plat	\$75.00
Exemption Plat/Legal Description Approval	\$75.00
Limited Impact Review (Use by Review)	\$75.00
Major Impact Review (Use by Review)	\$75.00
Minor Subdivision	\$75.00
Major Subdivision*	Actual Costs*
Oil and Gas Operation	Actual Costs*
Planned Unit Development	Actual Costs*
Plowing/Cultivation of Native Rangelands	\$75.00
Rezoning	\$75.00
Signs	\$40.00
Site Plan Amendment	\$75.00
1041 Regulations	Actual Costs*
Vacation Plat	\$75.00
Variance	\$75.00

*Actual costs as determined by Board of County Commissioners