

# INTRODUCTION TO THE 2020 LA PLATA COUNTY

## LAND USE CODE

### Background

Chapters 62 through 81 and chapter 90 of the La Plata County Code are referred to as the La Plata County Land Use Code (LUC). These chapters contain the county's land use, zoning, floodplain, and subdivision regulations as well as road and bridge design standards. The LUC is the primary tool used to implement the La Plata County Comprehensive Plan and its associated district plans.

In 1990, the La Plata County Board of Commissioners adopted the La Plata County Land Use Plan which, as amended, formed the basis of the La Plata County Land Use Code (LPLUC) which was used until this code was enacted. This code repeals and rewrites significant portions of LPLUC but maintains a performance-based zoning system as described below.

Whenever new land use regulations are adopted, questions arise as to their applicability and how properties or uses transition from the old to the new system or new regulations. All uses or structures that were legally established prior to the effective date of this code but perhaps no longer comply with these updated provisions are considered pre-existing nonconforming uses because they no longer conform to the county's current regulations. Such nonconformity is expected, common and acceptable. These uses are "grandfathered in". In general, there is no need for the owners of these properties to obtain a new land use permit unless the owner wishes to change or extend the nature of the use or start a new use. Similarly, this new code and its provisions do not generally apply to projects that are "in process" if the application is deemed complete as of the adoption date of this code. For projects that were approved under the old code but are not yet complete, those projects typically have a three (3) year period to complete the project under the prior code and the terms and conditions of the issued permit.

### Private Property Rights

The need to appropriately balance individual property rights with the larger public purposes to be served is inherent in all land use regulations. This code recognizes that Section 3, Article II of the Colorado Bill of Rights, provides that all persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness. One of the essential elements of property is the right to its unrestricted use and enjoyment and that use cannot be interfered with beyond what is necessary to provide for the welfare and general security of the public morals, health, safety or welfare.<sup>1</sup> Within this context, Colorado counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety and welfare issues as prescribed by law,<sup>2</sup> including, but not limited to, the ability<sup>3</sup> to regulate uses of land for trade, industry, recreation<sup>4</sup> and the authority to plan for and regulate the use of land resulting in changes in population density based on the impact of development on surrounding areas and the

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<sup>1</sup> City & County of Denver v. Denver Buick, Inc., 141 Colo. 121, 347 P.2d 919 (1959)

<sup>2</sup> C.R.S. § 30-11-101(2)

<sup>3</sup> C.R.S. §§ 29-20-101 et seq. and 30-28-101 et seq.

<sup>4</sup> Bd of Cty Comm'rs v. Thompson, 177 Colo. 277, 284, 493 P.2d 1358 (1972).

community.<sup>5</sup> Such regulations are valid unless it is clear there is no foundation in reason and there is no substantial relation to the public health, the public morals, the public safety or the public welfare.<sup>6</sup>

#### Summary of this Code:

The LUC is organized to facilitate the user's understanding of the process and requirements for land use and other types of permit applications. The following overview highlights certain aspects of each chapter: The user should refer to the chapter and relevant sections for a more complete explanation and additional requirements.

Chapter 62: Chapter 62 establishes the effective date of this code as XX, 2020 and, among other things, contains useful definitions and acronyms. However, some chapters such as chapter 69 relating to areas and activities of state interest, chapter 78 relating to floodplains, and chapter 90 oil and gas have their own unique set of definitions to which the user of those chapters should refer. This code defines many terms and phrases not previously defined and places all defined terms in a single chapter/location rather than scattered throughout standards and regulations. Obsolete terms and definitions have also been updated or deleted.

Chapter 63: Chapter 63 describes the roles and duties of the La Plata County Board of Commissioners, Board of Adjustment, the La Plata County Planning Commission, the Joint Planning Commission and county staff in the administration of the code. It also creates registered district advisory committees that afford organized citizens group the opportunity to participate in the district plan amendment process and to comment on various types of land use permit applications.

Chapter 64: Chapter 64 explains the long-range planning tools utilized by La Plata County and required by Colorado law. The La Plata County Comprehensive Plan is the primary instrument that informs these regulations. This chapter discusses the manner in which the comprehensive plan is updated, its use and the role of the district plans as appendices to the comprehensive plan. Finally, chapter 64 acknowledges the importance and need for intergovernmental cooperation with municipalities within the county as required by law.

Chapter 65: Chapter 65 provides a framework for application of traditional or Euclidean zoning. Section 65-3 and 65-4 contains development standards specific to development within the Animas Valley Land Use Plan District and its component parts. All new development, including subdivisions, within the mapped district must comply with the district-specific standards in this chapter, in addition to other applicable standards in the remainder of the code.

Chapter 66: Land use permits are used to determine compliance with development standards prior to the start of any development, land use activity or land disturbing activity on a site. Land use permits are required for most new land development and new uses in the county except for those activities described in section 66-3.

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<sup>5</sup> Wilkinson v. Bd County Comm'rs, 872 P.2d 1269 (Colo. App. 1993)

<sup>6</sup> Nectow v. City of Cambridge, 277 U.S. 183, 48 S. Ct. 447 (1928)

Section 66-5 through section 66-7 establish the various types of land use and development permits, which vary depending on the type or intensity of land use proposed for development. The three (3) primary types of land use permits are (1) administrative (applications delegated to staff for final approval); (2) minor (applications reviewed by staff with final review and action by the planning commission) ; and (3) major (applications reviewed by staff and the planning commission with final review and action by the board of county commissioners). Section 66-1 gives the community development director the authority, subject to guiding criteria, to determine what type of permit and level of review applies to a use not listed or where classification may be unclear.

One category of uses not requiring a land use permit or requiring only an administrative land use permit are referred to as “AgPlus”. Subsection 66-3.II. and subsection 66-5.II. address a unique set of uses by right and types of administrative land use permits that are a companion to agriculture. Historically, agriculture has been the predominant land use in the unincorporated areas of La Plata County. Agriculture has defined the area’s character and agricultural enterprises and activities are an important sector of the county’s economy. While rural living is a life-style choice for many residents, some generate a considerable portion, if not all their livelihood from agriculture. An important component of agriculture is the production of commodities produced and sold on the farm or sold from the farm to be processed elsewhere. Key policy goals of the comprehensive plan, several district plans and this code are to encourage, promote and foster agricultural enterprises and activities in the county. It is for these reasons and others that uses referred to as AgPlus are addressed in chapter 66. In this context “plus” is a qualitative rather than a quantitative measure, the objective being the preservation of agricultural lands by focusing on the use to which a parcel may be put plus any “value added” activities that support the agricultural use or the ability of the property owner to sustain the land for agricultural purposes.

Common procedures for submission and handling of land use applications are set forth in section 66-9. The common review procedures provide a road map to the application process by outlining how to process most land use applications in the county. The procedures of general applicability are:

- Step 1: Pre-application process
- Step 2: Submission and review of the application by the community development department
- Step 3: Referral to other agencies for review and comment
- Step 4: Neighborhood meetings, if required
- Step 5: Meetings and final decision on the application
- Step 6: Actions following the decision made by the decision-making body

Section 66-16 states the general criteria a project must satisfy for approval.

Section 66-19 related to sketch plans provides an opportunity for the county, the applicant and the public to evaluate and discuss the basic design, concept and suitability of a project before the applicant expends resources on the application process. The sketch plan process is optional for a minor land use application and mandatory for major land use applications. The sketch plan is reviewed for general consistency with the approval criteria set forth in section 66-16 but not for detailed compliance with other development standards.

Chapter 66 also contains a process for designation of an economic development area. This section establishes a process by which the county or any person or collection of persons may designate an area as being subject

to specialized land use regulations to promote commercial, industrial, or mixed residential/commercial development.

Chapter 67: This chapter on subdivisions addresses major and minor subdivisions and condominiums and townhome developments. Most development standards applicable to subdivisions are set forth in chapters 70, 72 and 74 but section 67-15 contains additional design standards that are exclusively applicable to subdivision layout and design.

Chapter 67 also describes situations involving the division of land that are exempt in La Plata County from the definition of the term “subdivision” found in Colorado statutes. However, while exempt from the requirement of meeting certain standards, these types of projects must still follow specified procedures.

Sections 67-6 and section 67-7 are two (2) examples of exempt subdivisions. Sections 67-6 pertains to agricultural exemption subdivisions and allows agricultural lots meeting the criteria set forth in the section to create two (2) new lots from an original agricultural lot. Section 67-7 on clustered rural development provides landowners the option to consider cluster development when subdividing land into parcels and is an alternative to the traditional thirty-five (35) acre subdivision process. The process provides a means of preserving common open space and reducing the extension of roads and utilities to serve the residential development. La Plata County’s regulations authorize the use of clustering and a density bonuses not to exceed two (2) units for each thirty-five (35) acre increment to fulfill the goals of the community to preserve open space, protect wildlife habitat and critical areas and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.

Chapter 68: Chapter 68 relates to planned unit developments (PUD) as a mechanism to address development comprised of a mix of uses that may be phased over a period of time. This chapter establishes the criteria whereby one or more property owners may request use of the PUD process for a project and the county may make a case-by-case determination of the project’s eligibility to apply for a PUD. A PUD may be established to provide greater flexibility in land development and use by allowing the development to be based upon a comprehensive, integrated, detailed plan rather than specific constraints applicable to lot-by-lot development. Flexibility as to standards is typically afforded in exchange for community benefits or amenities. The PUD also involves a more detailed site plan review than would a standard subdivision. The outcome is a detailed master plan for development of the property that can be built in phases, in response to market demands.

Chapter 69: C.R.S. § 24-65.1-101 *et seq.*, commonly referred to 1041 regulations (named for House Bill 1041 that created them), establish a regulatory system that allows local governments to retain and increase control over certain types of development projects, even when the project is one that might typically be under the jurisdiction of the State of Colorado. These land powers are in addition to the broad planning and development review powers granted to counties under other Colorado statutes. Under HB1041, counties may adopt guidelines and regulations to govern (1) development activity in specified “areas of state interest”, such as geologic hazards or wildfire hazards; and (2) “activities of state interest” such as the siting and construction of major public utility facilities and highways. These areas and activities tend to be those where the potential impacts may be widespread and may cross jurisdictional lines. On October 1, 2019, the La Plata County Board of Commissioners designated seven (7) activities of state interest and chapter 69 sets forth the guidelines and standards consistent with the minimum guidelines stated in Colorado statutes. Any party engaging in the designated activities must first apply for and receive a 1041 permit from the county. Applications that do not demonstrate compliance with all the adopted standards must be denied by the county, according to state statute.

Chapters 70, 72 and 73: To approve a land use permit, the decision-making body must make findings that the project meets certain approval criteria. To ensure these criteria are met, chapters 70 and chapters 72-73 establish standards which describe the level of quality or quantity that must be complied with or satisfied. Chapter 70 consolidates the standards that are generally applicable to all land use permits, unless otherwise excepted. Chapter 70 is then supplemented by standards in chapter 72 (supplemental overlay standards) and chapter 73 (standards for specific uses) that may also be applicable depending upon the location or nature of the development.

Because La Plata County has performance-based zoning in areas other than the Animas Valley, unlike most land use codes this code does not prescribe zoning districts and does not contain a list of uses that are deemed appropriate for a particular zone district. Instead, this code establishes approval criteria and standards for determining appropriate uses and site design requirements. These standards and criteria ensure each land use is compatible with neighboring land uses and the environment. If a proposed land use will create adverse impacts on neighboring lands or the environment, the project may still be approved if the applicant can appropriately mitigate the project's adverse impacts. Section 70-5 describes how staff and decision-making bodies will assess a project's compatibility and Table 70-5 describes approaches frequently required for mitigation of adverse impacts. In some instances, applicants may also propose acceptable, equivalent alternatives to mitigate a project's impacts.

Chapter 74: The requirements contained in chapter 74 relating to streets, roadways and right-of-way requirements ensure uniform, safe and adequate access to public roads and that development and use of real property does not create a demand for public improvements and services that cannot be met with existing public resources. Except in those instances enumerated in section 74-1, these standards apply to transportation facilities planned, designed and constructed by private parties that provide access from public rights-of-way to property proposed for private development, whether through the subdivision process or otherwise and new transportation facilities planned, designed and constructed by the county.

Chapter 78: Chapter 78 contains the county's floodplain management regulations, including procedures, definitions and substantive standards for flood control and management. Because these types of regulations are based on a national model and need to be submitted to state and other entities for compliance, these chapter remains unchanged from the floodplain regulations adopted in 2014.

Chapter 79: As described above, within the county there are existing uses of real property, structures and lots that were legally established under prior versions of La Plata County's land use code. Chapter 79 allows for the continuation of these nonconformities when no changes occur or are proposed but establishes rules for certain types of changes that may require a new permit. Changes of ownership, tenancy or management of an existing nonconformity generally do not affect the ability for the land use to continue and section 79-3 describes additional exemptions from the requirement of a land use permit. This chapter covers "grandfathered" uses.

La Plata County has been significantly impacted by wildfire and has learned first-hand that the imposition of current regulations on victims of wildfires and other disasters can create additional distress and hardship for impacted residents and businesses. Section 79-6 establishes a disaster re-build program that applies to both conforming and nonconforming uses and structures damaged by the disaster and provides the impacted owner relief from a variety of otherwise applicable requirements.

Chapter 80: Chapter 80 provides a basic set of enforcement and penalty provisions for violation of the code. Section 80-3 specifies exactly what constitutes a code violation and this section is supplemented by explicit reference and descriptions of administrative, civil and criminal enforcement mechanisms available for enforcement.

Chapter 81: Among other things, chapter 81 references enabling legislation that authorized the county to enact these regulations and addresses the effects of the new regulations on existing approvals and projects currently in the review process. The chapter also makes clear that the burden of proving satisfaction of approval criteria and standards is on the applicant. Finally, chapter 81 incorporates other maps and documents relied upon in the review process and the rules for interpreting this code.

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## Chapter 62: Title, Effective Date, Purposes and Definitions

### **Sec. 62-1 Official Title and Short Title**

This resolution shall be officially known and cited as the "La Plata County Land Use Code," although it may be referred to hereafter as "code," "the code" or "this code."

### **Sec. 62-2 Effective Date**

The effective date of this code is \_\_\_\_\_, 2020.

### **Sec. 62-3 Purposes**

- I. General purposes.** This section identifies the purposes La Plata County intends to achieve by adopting this code. These purposes serve as basic goals for this code and the review of applications for land use and development. When there is a conflict between a statement of purpose and an adopted standard in this code, or when an adopted standard is more specific, the standard shall supersede these purposes. This code shall be liberally construed to further its stated purposes.
- II.** This land use code is adopted for the purpose of preserving and improving the public health, safety, and general welfare of the citizens and businesses of the county. More specifically, it is the purpose of this code to:
  - A. Implement the purposes, goals, and policies of the comprehensive plan, including but not limited to the land use goals, strategies, and preferences expressed in the district plans;
  - B. Plan for and regulate the use of land and to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights, and without unnecessary time and expense by applicants or the public;
  - C. Preserve the character of established residential areas and residential neighborhoods;
  - D. Encourage a variety of housing types and an adequate housing stock sufficient to meet community needs;
  - E. Eliminate, minimize, or mitigate conflicts among different land uses and adverse impacts the use of land may have on surrounding areas and the community;
  - F. Manage and guide land development in order to:
    1. Promote compact development patterns;-
    2. Encourage development patterns that will tend to minimize the cost of providing governmental and other services and will preserve open space;-
    3. Ensure adequate facilities;-
    - 4.—Ensure that development provides or is served by adequate transportation, water supply, wastewater treatment, other utilities and public services, schools, open space, parks, trails, and similar facilities;-
    - 5.4. ~~Regulate public facilities;~~Enhance the economic wellbeing of the community and its residents through innovative land use areas as well as an efficient, timely, and cost-effective process for development when that use is deemed appropriate for the proposed location;-
    - 6.—Regulate the general location, character and extent of public facilities, ways, grounds, and places, including public utilities;-
    - 7.5. ~~Promote the viability of agricultural operations;-~~
    - 8.6. ~~Promote innovation in land development patterns that contribute to continuing viable agricultural operations of all sizes and recognize the public benefit of protecting the open space that agricultural operations provide, and to discourage land development patterns that jeopardize those activities. To encourage land development that will retain the~~

agricultural productivity of the land and discourage land use change that will adversely affect agricultural operations on other lands. However, it is not the policy of the land use code to prevent land use development on land because such land was at one time used for agricultural purposes, nor to require continued agricultural use of land that is otherwise suitable for non-agricultural use and that can otherwise be developed in compliance with the terms of this code;

~~9. Protect scenic and historic resources;~~

~~10. Preserve and maintain the county's rich and vast scenic and historical resources that are important to both its character and economy;~~

~~11.7. Protect environmental resources;~~

~~12.8. Recognize the irreplaceable character of the environment and its importance to the quality of life in the county, to ensure that land use development does not degrade or threaten the existing high quality of the environment in the county. To preserve and protect the quality and quantity of water; to protect and preserve lands from land use activities and patterns of development that would cause significant adverse impacts to wildlife habitat and to discourage land uses that will impair or destroy such habitats, or their utilization by wildlife species, or that would endanger a wildlife species. To regulate land use and activities in natural hazard areas by avoidance, and if avoidance is not possible, to reduce or minimize hazards to public health, safety, and property in those areas with minimum expenditure of public funds. To prevent activities and land use in natural hazard areas that would increase the scope or impact of such natural hazards.~~

#### **Sec. 62-4 Jurisdiction and applicability**

Unless otherwise expressly exempt, waived, or otherwise adjusted by specific provisions of this code, this land use code shall apply to all new development of buildings, structures, and uses of land throughout the unincorporated county, as "development" is defined in chapter 62, including development on parcels of land greater than thirty-five (35) acres in size. The applicability of these regulations is described more specifically in chapter 81. To the extent allowed by law, this code is applicable regardless whether such development is done by a public, quasi-public, or private entity. This code shall not apply to land within the territorial limits of any incorporated municipality or on tribal land. Subdivision regulations in chapter 67 do not apply to the act of subdividing land when all resulting parcels are at least thirty-five (35) acres and no single parcel is intended for use by multiple owners.

#### **Sec. 62-5 Definitions**

The following words, terms, and phrases shall have the following meanings when used in this code or that are otherwise used by the county in its review and disposition of land use issues.

**Abandoned.** A state of a lot, parcel, or structure, in which active and legal use or occupancy has ceased and is not reasonably anticipated to resume.

**Abandonment.** The permanent abandonment of a well based on the operator's filing of abandonment with the COGCC. Presumption of permanent abandonment of a major facility shall be based upon nonuse or nonoperation for one (1) year without notification to the CDD of the intent to resume operations under specified conditions.

**Access.** The legal and physical ability to enter or exit a lot or parcel, or a public right-of-way.

**Accessory.** A use, activity, structure, or part of a structure which: is incidental, subordinate or secondary to, and devoted primarily to, the principal use or structure and which does not change the character of the site; and is located on the same lot or site as the principal use or structure served. In no event shall an accessory use be construed to authorize a use not otherwise permitted on the site on which the principal use is located.



~~**Additional dwelling unit.** A dwelling unit that is either attached to the principal single-family dwelling unit or is contained in an accessory structure on the same parcel as the principal structure (e.g., in a garage or barn).~~

**Accessory rural occupation.** An occupation not otherwise listed within a use by right or accessory use for AgPlus that is conducted by the owner or lessee of the AgPlus property and such occupation is customary, incidental and accessory to either a single-family dwelling unit or agricultural use. Uses specifically not included within this definition include, but are not necessarily limited to, sexually oriented businesses, autobody or paint shops, community halls, flea markets, industrial uses, general retail, hazardous material storage or processing, junkyards, pet animal facilities with outdoor use, shooting ranges, solid waste disposal or transfer stations, uses classified as hazardous waste generators under state or federal law, commercial outdoor storage of recreational vehicles, boats and other large items. The occupation must support agricultural and rural enterprises with reasonable operational characteristics, scale and intensity so they function as an incidental use to the principal use of agriculture on the property without having an adverse impact on the enjoyment of life, investment and rural living expectations on neighboring properties.

**Acre.** A gross measure of land area equivalent to forty-three thousand five hundred sixty (43,560) square feet.

**Acre feet (af).** A volumetric measurement of water used for quantifying water usage and equaling three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons of water or approximately the amount of water that will cover an acre of land at a depth of one (1) foot.

~~**Additional dwelling unit.** A dwelling unit that is either attached to the principal single-family dwelling unit or is contained in an accessory structure on the same parcel as the principal structure (e.g., in a garage or barn).~~

**Adjacent.** Having a common border or being located on a lot or parcel that has a common border, including lots or parcels separated from such common border only by one (1) or more of the following: an alley, easement, right-of-way or street.

~~**Administrative processing fee.** When used in the context of the 06CW99 court decree, an amount set forth in the county's fee schedule that must be paid in two (2) parts.~~

**Administrative land use permit.** A land use permit approved by the director.

**Adverse impact; adverse effect.**

- (a) A condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.
- (b) A condition that creates, imposes, or leads to a nuisance on a site proposed for development or on off-site property or facilities.
- (c) A condition that creates, imposes, aggravates, or leads to a negative aesthetic condition on a site proposed for development or on off-site property or facilities. For example, a proposed commercial building whose height and mass is out of scale and proportion with adjacent residential buildings.

**Affordable housing.** Housing for which households with an area median income of eighty (80) percent or lower, as determined by the Department of Housing and Urban Development, pay thirty-three (33) percent or less of their household gross monthly income on monthly housing costs.

**Agent.** A person authorized to make binding representations on behalf of another person.

**AgPlus.** Development or uses identified as AgPlus uses not requiring a land use permit in paragraph 66-3.I.C and those uses identified as AgPlus uses only requiring an administrative land use permit in paragraph 66-5.I.A.

**Agricultural irrigation increment.** An amount of water sized to provide enough water to irrigate one (1) acre of pasture grasses.

**Agricultural research facility.** A facility for the investigation, testing, and demonstration of agricultural products and processes including biotechnical agriculture, soil, plant and animal sciences.

**Agricultural vehicle.** A vehicle specifically designed or modified for use exclusively in agricultural operations, and not licensed for use on public roads under Colorado laws. Included in this definition is farm or ranch field equipment such as tractors, trailers, harvesters, planters, or any combination thereof, and other machines and tools used in the production, harvesting, and care of agricultural products. Included in this definition is also farm or ranch field equipment such as unlicensed trucks and wagons or trailers such as feeder trucks or wagons and specialized crop handling vehicles; and mobile elevating and rotating work platforms such as orchard aerial lift devices.

**Agriculture; agricultural.** The science and art of production of plants and animals useful to man, including, to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise, and includes horticulture (fruits, vegetables, ornamental plants), floriculture (flowers), viticulture (grapevines), silviculture (forestry), dairy (lactating hooved animals), livestock (horses, mules, burros, cattle, sheep, goats, llama and swine), poultry (domesticated bird, including chickens, turkeys, ducks, geese, guineas or squab), apiary (hive or hives of bees), and any and all forms of farm products and farm production. C.R.S. § 35-1-102(1). Agriculture does not include development or use that is included within the following: AgPlus; marijuana facility or personal marijuana cultivation; a licensed slaughterhouse, butcher or packing establishment carrying on the trade or business of slaughtering domesticated animals such as, but not limited to cattle, horses, mules, burros, sheep, goats or fowl for compensation or profit, under a license issued by the State of Colorado; a parcel of land used for the breeding, hatching, raising, producing, feeding or keeping of exotic animals or alternative livestock as defined in C.R.S. § 35-41.5-102; a feedlot that is, or is required to be, certified under the Feedlot Certification Act, C.R.S. § 35-53.5-101 *et seq.*; a pet animal facility that is subject to licensure by the Colorado Department of Agriculture pursuant to C.R.S. § 35-80-101 *et seq.*; solid waste disposal, including composting; processing of products, byproducts or wastes of agriculture; or any other development specifically regulated by this code as a use requiring a land use permit.

**Agriculture-related operations.** As applied in the AVLUP only, the keeping and raising of domestic livestock for personal use, and the raising of crops and produce for personal use or for profit.

**Agronomic rate.** The rate at which biosolids are applied to land such that the amount of nitrogen required by the food crop, feed crop, fiber crop, cover crop or vegetation grown on the land is supplied over a defined growth period, and such that the amount of nitrogen in the biosolids which passes below the root zone of the crop or vegetation grown to groundwater is minimized.

**Agritourism enterprises.** Activity related to the normal course of agriculture which activity is engaged in by participants for entertainment, pleasure or other recreational purpose or for educational purposes, regardless of whether a fee is charged to participants. C.R.S. § 13-21-121. Agritourism enterprise may include heritage activities, corn mazes, pumpkin patches, hayrides, sleigh rides, birding, fishing, community or school gardens, farm/ranch vacations, dude ranches, bed and breakfast inns, agricultural festivals, or Christmas tree farms but does not include any activity related to or association with medical or retail marijuana.

**Airport.** Any municipal or county airport, or any airport under the jurisdiction of an airport authority. C.R.S. § 24-65.1-104(1).

**Airstrip.** An area for the landing and takeoff of aircraft without airport services or facilities.

**All-weather material.** A hard surface, dust-free material capable, during ordinary use, of withstanding normal weather conditions without substantial deterioration.

**Alter; alteration.** Any material change, addition, or modification in construction or occupancy.

~~**Ambient noise level.** The normal or existing level of environmental noise at a given location, being a composite of sounds from all sources excluding any alleged offensive noise.~~

**Animal, domestic.** When used in the context of chapter 94, small animals of the type generally accepted as pets, including but not limited to dogs, cats, and fish, but not including livestock or roosters, ducks, geese, pea fowl, goats, sheep, hogs, or similar animals as expressly allowed by this code.

**Animal, non-domestic.** Any species listed by CPW as a non-domestic animal, or specifically prohibited as a non-domestic animal by the express terms of this code.

**Antenna.** Any structure designed for transmitting or receiving television, radio, data, communication, or other signals from other antennas, satellites, or other services. When used in the context of telecommunications facilities, an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location, for the provision of personal wireless service and any commingled information services. Antenna does not include an unintentional radiator, mobile station, or device regulated in Title 47, Chapter I, Subchapter A, Part 15 of the Code of Federal Regulations. 47 C.F.R §§ 1.320(d), 1.6002(b).

**Antenna equipment.** When used in the context of telecommunications facilities, equipment, switches, wiring cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna and, when collocated on a structure, is mounted or installed at the same time as such antenna. 47 C.F.R. § 1.6002(c).

**Antenna facility.** When used in the context of telecommunications facilities, an antenna and all associated antenna equipment. 47 C.F.R. § 1.6002(d).

**Appeal.** A request for review by a higher authority of the final decision made by the decision-making body on an application for development or land use.

**Applicant.** That person or other legal entity possessing the legal right to develop the site or to establish any other use proposed in connection with the site in question; generally, the applicant will be the owner or lessee of the property, or the owner's agent. When used in the context of chapter 90, that person or other legal entity possessing the legal right to develop the mineral resource, or any other use proposed in connection thereof for the site in question in accordance with chapter 90.

**Aquifer.** An underground deposit of sand, gravel, rock or other geologic materials that is filled with groundwater and connected to transmit groundwater toward a well at a useful rate. The two (2) major types of aquifers are confined and unconfined.

**Aquifer constant-rate test.** An aquifer test that maintains pumping at the pumping well at a constant rate.

**Aquifer step test.** An aquifer test that proceeds through a sequence of constant-rate steps at the control well to determine well performance characteristics.

**Aquifer test.** A field experiment in which a well is pumped at a controlled rate and water-level response (drawdown) is measured in one (1) or more surrounding observation wells and the pumped well (control well); response data from pumping tests are used to estimate the hydraulic properties of aquifers, evaluate well performance and identify aquifer boundaries.

**Aspect.** For purposes of chapter 74, a position facing a particular direction.

**Assisted living residence.** An additional dwelling unit on the ~~agricultural farm or ranch~~ parcel used as a residence to no more than three (3) adults not related to the owner of the parcel, either directly or indirectly through an agreement with the owner, for room and board and at least the following services: personal services; protective oversight, social care due to impaired capacity to live independently; and regular supervision available on a twenty four (24) hour basis but not to the extent that regular twenty four (24) hour medical or nursing care is required. The term "assisted living residence" does not include any facility licensed by the state as a residential care facility for individuals with developmental disabilities, or any individual residential support services that are excluded from licensure requirements pursuant to rules adopted by the Colorado Department of Public Health and Environment.

**Attainable housing.** Housing for which households with an area median income between eighty (80) percent to one hundred twenty-five (125) percent, as determined by the Department of Housing and Urban

Development, pay thirty-three (33) percent or less of their household gross monthly income on monthly housing costs.

**Augmentation plan.** A court-approved plan that allows diversion of water from a convenient location in exchange for providing an equivalent amount of water to a river or stream at another point without causing injury to other senior downstream water users.

**Augmentation water.** Water that is added, left or replaced in a stream system to offset out-of-priority diversions.

**Average daily trips (ADT).** The average daily traffic that represents the total number of trips, both in - bound and out - bound, within a twenty-four (24) hour period, generated by a particular use or development during peak use.

**Bank, river or stream.** The natural or man-made slope immediately bordering the channel of a river, stream, or creek containing or confining the normal water flow. The elevation of the bank shall be determined by the observed high-water mark.

**Borrow ditch.** A roadside channel dug for drainage or fill purposes.

**Batch plant.** Permanent or temporary facilities for the manufacture or mixing of asphalt, concrete, cement; or asphalt, concrete, or cement products; and may include facilities for the batch plant's administration and management, the storage and maintenance of required equipment, and the stockpiling of materials used in the manufacturing process, or of finished products manufactured on the premises.

**Bed and breakfast.** An overnight lodging establishment that is a dwelling unit, additional dwelling unit or an accessory structure thereto, in which an innkeeper resides on the site, or that is a building designed but not necessarily occupied as a single-family residence and next to the innkeeper's residence; provides at least one (1) meal per day at no charge; and there are at least two (2) bedrooms, but not more than thirteen (13) bedrooms, available for transient guests. C.R.S. §§ 39-1-102 and 44-3-103.

**Bedroom.** A room, including a den or unfinished room, in a dwelling unit, additional dwelling unit, an accessory structure or bed and breakfast that is marketed and designed for sleeping, or otherwise has potential to function primarily for sleeping.

**Benefitted property.** Any property identified in a cost recovery statement approved by the board as being benefitted by improvements installed or constructed by an original developer pursuant to the land use permit approval process.

**Berm.** A man-made landform, typically built as an earth mound, located to screen a structure or setback from view or to provide sound relief from a nearby street.

**Best management practices (BMP).** When used in the context of chapter 90, proven techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health and the environment, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. Best management practices are dynamic and intended to promote excellence in the conduct of operations.

**Board.** The governing body of La Plata County, officially known as the La Plata County Board of Commissioners (also referred to as BOCC).

**Boundary adjustment.** The ~~division adjustment~~ of ~~one (1) or more lots, tracts, or parcels of land for the purpose of adjusting~~ property lines between ~~such~~ lots, tracts, or parcels of land and adjacent lots, tracts or parcels of land, which adjustments do not create additional lots or parcels for any purposes.

**Bridge.** A three-sided structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having passageway for carrying vehicles.

**Buffer.** Open spaces, landscaping areas, fences, walls, berms, or any combination thereof, used to physically separate or screen a use or property from another to visually shield or block noise, glare, dust, odor or other potential nuisances and adverse effects.

**Buildable area.** A contiguous area within the boundaries of a lot or parcel which contains a 3:1 depth to width ratio on which a dwelling unit or other principal structure can be placed, and which is free of geologic hazards, avalanche hazard, mine subsidence hazard, slope movement, severe soil limitations, steep slopes, protected stream or river channels, floodplain, and public rights-of-way (including easements).

**Building.** Any structure having a roof supported by columns or walls and intended for the housing, shelter or enclosure of any person, animal, process, equipment, goods or materials of any kind.

**Building code.** The volumes, parts, chapters and listed appendices of the edition of the building code, residential code, plumbing code, mechanical code, fuel gas code, energy and conservation code as published by the International Code Council, identified in chapter 18 of the La Plata County Code, together with those amendments, additions, and deletions set forth in the La Plata County Code, as adopted by the county.

**Building envelope.** That area on a lot that encompasses all development including, but not limited to excavation, fill, grading, storage, structures, buildings, decks, roof overhangs, porches, patios and terraces, any areas of disturbance and parking areas. Approved landscaping materials may occur outside of a building envelope.

**Building official.** The county staff member, and the staff member's designees, appointed and authorized to administer and enforce the building code as described in chapter 18 of the La Plata County Code.

**Building permit.** A permit issued by the county building department pursuant to the building code.

**Bulk water.** A source of water hauled or transported from one (1) area to another for the purpose of human consumption.

**Business days.** Days when county offices are open to the public for business.

**By right.** Any use or development which is or may be lawfully established provided it conforms with all the requirements applicable under this code. As applied to the AVLUP only, a development that is not a special use requiring a minor land use permit.

**CBR.** A value determined from a penetration resistance of a compacted specimen of the soil in question which is compared to a standard resistance of crushed stone. The determined resistance divided by the standard for the stone multiplied by one hundred (100) is called the California Bearing Ratio (CBR).

**Caliper.** The diameter of a tree trunk measured six (6) inches from the ground for trees up to four (4) inches in diameter and twelve (12) inches from the ground for trees four (4) inches or larger in diameter.

**Campground.** Organized campgrounds, including all federal, state, municipal, and county owned and designated roadside parks and campgrounds; and privately-owned campgrounds which are made available, either with or without a fee to the public. Campgrounds shall include the following categories: primitive, semi-primitive, semi-developed, developed and modern. 6 CCR 1010-9:2.0.

**Campsite.** Any specific area within an organized campground which is used for overnight stays by an individual, a single camping family, a group, or any other similar entity. C.R.S. § 25-13-103.

**Central sewer system.** A system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than two thousand (2,000) gallons of domestic wastewater per day, but not including an OWTS. The term "central sewer system" includes appurtenances such as interceptors, collection lines, outfall and the outlet sewers, pumping stations, and related equipment. The term does not include industrial wastewater treatment plants or complexes whose primary function is the treatment of industrial waste, notwithstanding the fact that human wastes generated incidentally to the industrial processes are treated therein. C.R.S. § 25-8-103.

**Central sewer provider.** A public or quasi-public entity, governmental agency or person that owns or operates a central sewer system.

**Central water provider.** A public or private utility, entity, person or other organization that owns or operates a central water system. For purposes of section 70-4, central water providers may be categorized as either a: (1) designated regional public water provider; or (2) public water provider.



**Central water system.** A system for supplying water for human consumption (i.e. potable water) from a common source or sources to all dwelling units and other structures within a development or extended service area which system is regulated by CDPHE. The water supply source may be located on-site or off-site.

**Centralized facility.** When used in the context of chapter 90, a facility serving multiple well pads consisting of one (1) or more compressors, generators or water, gas or oil treatment equipment.

**Change of use.** Any use that substantially differs from the previous use of a structure or land in terms of, for example, required parking, landscaping, or drainage, and particularly in terms of the new use's overall effect on the surrounding neighborhood.

**Character.** Those environmental, physical, use, scale, design, and architectural attributes, qualities, and features that make up and distinguish an area, such as a neighborhood, and give such area a sense of purpose, function, definition, and uniqueness.

**Chemical.** Any element, chemical compound or mixture of elements and/or compounds.

~~**Chemical.**~~ When used in the context of marijuana or cannabis processing, chemical compounds or substances (including “organic” chemicals and substances) including, but not limited to, nutrients, fertilizers, pesticides, insecticides, herbicides or similar chemical products, ethanol (including “food grade” ethanol), CO<sub>2</sub>, butane, propane, or any other chemical used in cultivation and processing of marijuana or cannabis.

**Chemical inventory.** A list of the chemical products (including material safety data sheets) brought to a wellsite for use downhole during drilling, completion and workover operations including fracture stimulations and the maximum capacity of fuel stored on the oil and gas location during those operations. The chemical inventory shall state the amount of the chemical product used, the way it was used or applied and the dates on which it was used.

**Chemical product.** Any product consisting of one (1) or more constituent chemicals that is marketed or sold as a commodity. Chemical products shall not include substances that are known to be entirely benign, innocuous or otherwise harmless, such as sand, walnut shells and similar natural substances.

**Childcare center.** A facility, by whatever name known, that is maintained for the whole or part of a day for the care of five (5) or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities that give twenty-four (24) hour care for children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six (6) grades or operated as a component of a school district's preschool program operated pursuant to article 28 of title 22, C.R.S. The term shall not include any facility licensed as a family child care home, a foster care home, or a specialized group facility that is licensed to provide care for three (3) or more children pursuant to C.R.S. § 26-6-101 *et seq.* but that is providing care for three (3) or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance. The term shall also exclude group care facilities for juveniles who have been placed on probation or parole under title 19, C.R.S.

**Childcare facility.** When used in the context of proximity to marijuana facilities, any facility (except a foster care home or cradle care home, as those terms are defined at C.R.S. § 26-6-102), licensed by the Colorado Department of Human Services, pursuant to the Child Care Licensing Act, C.R.S. § 26-6-101 *et seq.*, for the care of children eighteen (18) years of age or younger, including but not limited to: day care centers, family child care homes, school-age child care centers, before and after school programs, nursery schools, ~~kindergartens, preschools~~, day camps, guest child care facilities, homeless youth shelters, neighborhood youth organizations, summer camps, day treatment centers, centers for developmentally disabled children, and

facilities providing twenty-four (24) hour care for children, as each term is defined in the Child Care Licensing Act.

**Clustered rural development (CRD).** A clustering and division option pursuant to C.R.S. § 30-28-401 *et seq.* that concentrates single-family residential and related accessory uses in specific areas on a site to allow the remaining land to be used for wildlife habitat, agricultural land, critical natural areas or similar uses.

**Code.** Shall mean the La Plata County Land Use Code, and specifically chapters 62 through 90 of the La Plata County Code.

**Code enforcement officer.** A member of La Plata County staff authorized to investigate and pursue enforcement actions under this code.

**Collocation.** When used in the context of telecommunications facilities, (a) mounting or installing an antenna facility on a pre-existing structure, whether there is an existing antenna on the structure; and (b) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. 47 C.F.R. §§ 1.1320(d); 1.6100(b)(2); 1.6002(g).

**Commercial livestock operation.** A business or private operation in which the primary purpose is to raise and sell livestock for profit. As applied to the AVLUP only, this use shall not include cattle or swine feedlots, dairy farms or poultry houses.

**Commercial mineral deposit.** A natural mineral deposit of limestone used for construction purposes, coal, sand, gravel, and quarry aggregate, for which extraction by an extractor is or will be commercially feasible and regarding which it can be demonstrated by geologic, mineralogic, or other scientific data that such deposit has significant economic or strategic value to the area, state, or nation. C.R.S. § 34-1-302(1).

**Commercial storage.** The storage of any products, materials, vehicles, equipment, junk, or scrap outside the confines of an enclosed building for a fee or profit, and more specifically defined as:

- (a) Merchandise display: display of products and materials, and operable vehicles and equipment for the principal purpose of offering for sale at retail, and incidental to the business existing on the premises.
- (b) Equipment and material storage: storage of any equipment or materials in usable condition which are not being specifically displayed as merchandise or offered for sale at retail.
- (c) Junk and scrap storage: storage of used products or scrap materials such as wood, cloth, paper, glass, metal, plastic, or rock material which could be refurbished, recycled, or converted into usable stock or material.

**Commercial; commercial use; commercial development.** Activity involving the sale of goods or services carried out for profit, or development of a structure in which such activity is intended to occur.

**Common sewage disposal system.** A wastewater treatment system which provides a collection network to carry human waste into a unified disposal point.

**Community development department (CDD).** The Community Development Department of the county, sometimes referred to as the Planning Department.

**Community facility.** Locations where members of the community gather for group activities, social support, public information, and other purposes. They may be open for the whole community or for a specialized group within the community. Such as grange halls, community centers, and offices and meeting places of clubs and organizations.

**Compatible; compatibility.** The characteristics of different development, uses, activities or design which allow them to be located near each other in harmony. Some elements affecting compatibility include, but are not limited to, height, scale, mass, bulk and architectural features of structures; pedestrian or vehicular traffic, circulation, access and parking impacts; landscaping and lighting; and noise, odor and other potential nuisances. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

**Competent evidence.** Such relevant evidence as a reasonable mind might accept as adequate to support a conclusion and may include evidence not typically admissible in a court of law so long as such evidence possesses probative value commonly accepted by reasonable and prudent person in the conduct of his or her affairs. Competent evidence does not include evidence that is unduly repetitive, irrelevant or without credibility.

**Complete application.** An application for development approval or a permit required by this code that has been submitted in the required format, includes all mandatory information, and is accompanied by the established fee.

**Comprehensive plan.** The La Plata County Comprehensive Plan, adopted May 2017, as amended from time to time, or any superseding document adopted by the county.

**Conditional water right.** A water right obtained through the water court where the water has not been placed to a beneficial use.

**Condominium; condominium project.** A building, or group of buildings, in which dwelling units, offices, or floor area are designated for separate ownership, and the remainder of the structure, land area, and facilities is commonly owned by all the unit owners on a proportional, undivided basis.

**Condominium unit.** An individual air space unit in a condominium, together with the proportional, undivided interest in the common elements appurtenant to such unit.

**Confined aquifer.** Groundwater is isolated from the atmosphere by geologic materials of low permeability (aquitard), and the confined aquifer generally is subject to pressures that are higher than atmospheric pressure.

**Conforming use/lot/sign.** In compliance with the regulations of this code.

**Conservation area.** The land set-aside in a cluster development and preserved, through a conservation easement or other county-approved mechanism, for conservation. The conservation area is typically contained in delineated tracts, as shown on the approved cluster subdivision plat.

**Construction.** Any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling. This shall also include any and all activity incidental to the initial drilling and completion (as defined by COGCC regulations) of an oil or gas well or major oil and gas facility.

**Contiguous.** Sharing a common border at more than a single point of intersection and in such a manner that the shared boundaries are touching. Lands that are separated by a right-of-way that is dedicated in fee simple shall not be considered to be contiguous.

**Costs.** When used in the context of a fair share agreement, any county approved monetary expenses actually incurred and paid by an original developer for the installation or construction of an improvement required through the land use permit review process on property adjacent to or outside of the development that is directly related to and necessary for such installation or construction, including design and planning. Costs may include, but are not limited to, land acquisition, materials, labor, engineering, survey, title, management, supervision, consulting, legal, and other professional matters, including any pro rata portion of any expenses incurred in the installation of multiple improvements or facilities. However, under no circumstances may costs include the expenses incurred in preparing and processing a cost recovery statement, including the administrative processing fee, or any impact fee assessed on such original developer as a part of the land use permit review process.

**County.** La Plata County, Colorado.

**County road system.** Those road rights-of-way, including the roadways that have been accepted by the board for county administration and maintenance.

**County surveyor.** The person elected to serve as the county's surveyor pursuant to C.R.S. § 30-10-901 or such other person selected by the county pursuant to C.R.S. § 30-10-903(3) to perform surveyor duties.



**Critical lands.** Lands containing unstable or potentially unstable slopes; floodplain/flash flood areas; expansive or evaporative soil areas and risk of subsidence or upheaval; steep slope areas; avalanche; landslides, rock falls, mudflows, ground subsidence; seismic effects; liquefaction areas; identified wildlife migration corridors and wildlife habitats; historical/archaeological lands; wildfire hazard areas; and wetlands.

**Critical use hours.** That time of day when disturbance is most likely to increase stress to and negatively impact wildlife.

**Critical use period.** That portion of the year (weeks or months) when disturbance is most likely to increase stress to, and negatively affect wildlife.

**Critical 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 (1) or more wildlife or plant species at stable population levels in historically used habitats. Critical wildlife habitat areas include, but are not limited to, nesting, brood rearing areas; rookeries; migration corridors and calving and fawning grounds for big game; and critical winter ranges for big game. This term also encompasses habitat areas for species listed by the U.S. Fish and Wildlife Service or the CPW as threatened or endangered, or are candidates for those listings, which are considered “high” value critical wildlife habitat.

**Cubic feet per second (cfs).** A flow-rate measurement of water taken as a direct diversion from the stream. Water flowing at one (1) cfs will deliver approximately four hundred forty-nine (449) gallons per minute or 1.9835 af per day.

**Cul-de-sac.** A dead-end street that widens sufficiently at the end to permit a vehicle to make a U-turn. The circular form must have a minimum radius of forty (40) feet in residential areas and fifty (50) feet in commercial and industrial areas.

**Cumulative impacts; cumulative effects.** The combined impacts of two (2) or more uses or activities. The impacts may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative impacts/effects can result from individually minor but collectively significant actions taking place over a period.

**Curb.** A stone, concrete, or other improved boundary usually demarcating the edge of a roadway, parking area, or other paved area.

**Curb cut.** The opening along the curb line at which point vehicles may enter or leave the roadway.

**Cut.** The excavating of earth from the ground surface during the process of land development.

**Day care facility.** A facility subject to licensure by the State of Colorado that is not a private residence and that is operated for the whole or part of the day for the care of five (5) or more individuals not related to the owner, operator, or manager thereof. Such facility may be operated with or without compensation for such care, and with or without stated educational purposes. Patrons of such centers may be children eighteen (18) years of age or younger, persons with a developmental disability, persons with behavioral or mental health disorders, physically disabled persons, or for the aged pursuant to C.R.S. § 30-28-115(2)(b)(II). The term “day care facility” does not include the term “day care home” as defined below. “Person with a developmental disability” and “person with a behavioral or mental health disorder” shall have the same meaning as that set forth in C.R.S. § 30-28-115, as amended.

**Day care home.** A facility subject to licensure by the State of Colorado that is operated in the permanent residence of the provider, for the whole or part of the day, for the care of children (at least two (2) unrelated children and not more than eight (8) children including the children of the provider eighteen years of age or younger; or up to eight (8) persons with a developmental disability, physically disabled persons, persons with a behavioral or mental health disorder, or for the aged pursuant to C.R.S. § 30-28-115(2)(b)(II). “Person with a developmental disability” and “person with a behavioral or mental health disorder” shall be defined as stated in C.R.S. § 30-28-115, as amended. As applied to the AVLUP only, a childcare facility for no more than six (6) children that is usually run out of the childcare provider’s home.

**Decibels (A-weighted scale).** The sound pressure level as measured with a sound level meter using the A-weighted network. The standard notation is dB(A).

**Deciduous.** Trees and shrubs that lose their leaves at the end of each growing season and develop new ones the following season.

**Decision-making body.** The entity (typically the board, PC, BOA, director or staff) that is authorized to finally approve or deny an application or permit required under this code. “Decision-making body” also includes the entity authorized under this code to hear appeals from the final actions of a different decision-making body.

**Declaration.** An instrument recorded pursuant to section C.R.S § 38-33-101 *et seq.*, and which defines the character, duration, rights, obligations, and limitations of condominium ownership.

**Decree.** An official document issued by the water court including, but not limited to, the priority date, amount, use, timing, and location of the water right.

**Dedication.** The grant of an interest in property to the public for public use and benefit.

**Density.** The relative level of impact of development, as expressed in number of dwelling units per acre for residential development (or residential portion of a mixed use development), lot size or lots per acre for residential subdivisions, or floor area ratio for commercial use, industrial use, or institutional development (or such portion of a mixed use development).

**Density, gross.** The number of dwelling units authorized under this code per gross acre of a residential development or subdivision.

**Density, net.** The number of dwelling units on site divided by the total gross area (in acres) of the site on which the units are located, exclusive of all lands within private streets or dedicated public rights-of-way.

**Depletion.** The withdrawal of water from a surface or ground water stream or basin at a rate greater than the rate of replenishment. Depletion is determined for a system by subtracting system outflows from system inflows.

**Depletion point.** Generally, the lowest point within the Animas River, Junction Creek, or Lightner Creek Watersheds where return flows shall return to the applicable stream systems and upstream of which diversions shall occur. For the Animas River Watershed, the depletion point is specifically located as follows: two thousand five hundred forty (2,540) feet east of the West line and fifty (50) feet south of the North line of Section 16, Township 35 North, Range 9 West of the NMPM, in La Plata County. For the Junction Creek Watershed, the depletion point is specifically located as follows: two thousand five hundred fifteen (2,515) feet east of the West line and one thousand three hundred sixty (1,360) feet south of the North line of Section 20, Township 35 North, Range 9 West of the NMPM, in La Plata County. For the Lightner Creek Watershed, the depletion point is specifically located as follows: one thousand fifty (1,050) feet east of the West line and two hundred (200) feet south of the North line of Section 25, Township 35 North, Range 10 West of the NMPM, in La Plata County.

**Deployment.** When used in the context of telecommunications facilities, means placement, construction, or modification of a facility. 47 C.F.R. § 1.6002(h).

**Designated regional public water provider.** The City of Durango, Town of Bayfield, Town of Ignacio, Lake Durango Water Authority, Animas Water Company, La Plata Archuleta Water District, or La Plata West Water Authority, or such other organization designated by CDPHE.

**Designated regional public water system.** A central water system operated by a designated regional public water provider.

**Developable.** Land considered to be developable for residential purposes if it does not have steep slopes, and is not located within a geologic hazard area, federally defined floodway, drainage channel, or wetland area greater than one (1) acre.

**Developed campground.** A campground of two (2) or more campsites accessible by any type of vehicular traffic where sites are substantially developed. Tables, refuse containers, flush toilets, bathing facilities, and water are provided. If available, campsites for independent recreational vehicles shall have individual water, sewer and electrical connections. If available, campsites accommodating dependent recreational vehicles are served by individual or centralized water points, by sanitary disposal stations and by service buildings with toilets, lavatories, showers, and laundry facilities.

**Developer.** The same as the term “Applicant”. When used in the context of a fair share reimbursement agreement, any person, firm, partnership, joint venture, association, corporation or public or governmental entity participating as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of the property subject to land use permit, provided that a public or governmental entity may only be deemed to be "developer" for the purposes of this regulation if it otherwise meets the requirements of this section, and, if, in the discretion of the board designation of the entity as a "developer" is in the overall best interest of the county.

**Development.**

- (a) The division of land into two (2) or more lots of which at least one (1) lot is less than thirty-five (35) acres in size.
- (b) The construction, reconstruction, renovation, conversion, structural alteration, relocation, or enlargement of any structure or use.
- (c) Any mining, extraction, excavation, drilling activity or operation, deposit of refuse, debris or fill materials or land disturbance.
- (d) Any new use, change in use or the extension or alteration of the scope of an existing use.

**Development agreement.** A ~~bilateral~~ contract between an applicant or developer and the county in connection with any district plan amendment, conceptual development plan, major subdivision, planned unit development, or major land use permit approval. Development Agreements may include provisions clarifying the phasing of construction, the provision of infrastructure, reimbursement for oversized infrastructure, vesting of property rights for periods beyond the three (3) year statutory term, assurances that adequate public facilities (including streets, water, sewer, fire protection and emergency medical services) will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public.

**Development improvements agreement (DIA).** A legal agreement entered between the county and an applicant for land development providing the applicant’s financial and other guarantees to construct the approved improvements.

**Development plan; site plan.** The proposed layout of a lot or site showing all elements of the proposed site development as well as existing conditions, including but not limited to topography, vegetation, drainage, floodplains, wetlands and waterways, landscaping and open areas, walkways, circulation, utility services, surrounding development, existing buildings, structures, trees, and vegetation to remain, and other information as may be reasonably required by the decision-making body to make an informed decision.

**Dimensional standards.** The lot size, lot width, impervious lot coverage, buildable area, setback, and height standards stated in this code.

**Direct market business.** A commercial enterprise in which agricultural products produced on site are marketed and sold directly to consumers without an intermediate wholesaler or distributor, other than a farm co-op organization. Direct market business may include, without limitation, an enterprise such as a PYO (pick-your-own) operations (an operation where the retail customer harvests the crop) an operation in which delivery of products is made directly to consumers (such as “farm share” arrangements under which periodic delivery of farm products is made for a subscription fee) and operation of a farm stand.

**Directional sign.** A sign panel, which a business plaque attaches to and is erected in advance of or at an intersection on the county road system.

**Director.** The La Plata County Community Development Director, or any member of the director's staff authorized to represent the director.

**Director determination.** A formal procedural step taken by the community development director as described in sections 66-4 and 66-17 and subject to appeal pursuant to section 66-28.

**District plan.** The land use plan and policy document, including but not limited to the future land use map, applicable to an established planning district in the county.

**Disaster.** When used in the context of a disaster re-build program, the occurrence of widespread or severe damage, injury, or loss of property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, debris flow, earthquake, wind, storm, hazardous substance incident, oil spill or other water contamination resulting in damage to or destruction of structures or uses.

**Ditch company.** A mutual ditch company, a carrier ditch company, and the like, whether incorporated and whether a for-profit enterprise, in the business of transporting water to individual water users.

**Diversions.** With respect to water, to divert and control water from its natural course by means of a structure.

**Domestic animal increment.** An amount of water sized to provide a large domestic animal fifteen (15) gallons per day.

**Drainage.** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage, sometimes referred to in terms of storm water management, also includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

**Drainage plan.** When used in the context of chapter 90, a written description and depiction on a site plan for the collection, transport, treatment and discharge of stormwater runoff.

**Drilling operation.** Any work or actual operation undertaken for the purposes of carrying out any of the rights, privileges or duties of a lessee for drilling of an oil well, gas well, or cathodic protection well, and by the actual operation of drilling in the ground.

**Driveway.** A roadway, from the intersection with the adjacent public or private road, measured from the shoulder or surface edge to the furthest dwelling unit or accessory structure that provides access to a maximum of two (2) lots or three (3) dwelling units ~~with twenty-four (24) or less ADT.~~ For Non-residential uses, a road that carries twenty-four (24) or less ADT.

**Dust.** Fine, dry, pulverized particles of any material or a fine powder of any kind.

**Dwelling.** See definition of "Dwelling Unit" below. As applied to the AVLUP only, any building or portion thereof which is used as the private residence or sleeping place of not more than five (5) unrelated human beings.

**Dwelling unit.** A separate living or dwelling area intended for occupancy by an individual, family or a group of tenants in common sharing living, eating, cooking, sleeping and/or sanitation facilities. ~~"Dwelling unit" does not include recreational vehicles, travel trailers or tiny homes on wheels.~~

**Dwelling, attached.** A dwelling unit structurally attached to one (1) or more other dwelling units by common walls.

**Dwelling, detached.** A dwelling unit having no roof, wall or floor in common with another dwelling unit.

**Dwelling, duplex.** A detached dwelling containing two (2) dwelling units, all located on a single lot, and designed to be occupied by two (2) households living independently of each other.

**Dwelling, multi-family.** A building containing three (3) or more dwelling units and designed for occupancy by three (3) or more households living independently of each other. All the dwelling units in a multi-family dwelling are located on the same one (1) lot. Commonly referred to as apartments or condominiums.

~~**Dwelling, single family.** As applied to the AVLUP only, a detached building designed exclusively for and occupied by one (1) family, excluding manufactured housing as defined in C.R.S. § 30-28-115.~~

**Dwelling, single-family ~~detached.~~** ~~A dwelling unit designed for and occupied by not more than one (1) family having no roof, wall, or floor in common with any other dwelling unit or commercial building. As applied to the AVLUP only, a detached building designed exclusively for and occupied by one (1) family.~~ A dwelling unit designed for and occupied by not more than one (1) family having no roof, wall, or floor in common with any other dwelling unit or commercial building.

**Dwelling, townhome.** A dwelling unit located on a separate lot but attached to one (1) or more other dwelling units by common vertical walls. A townhome dwelling is in a row of at least three (3) such units, in which each unit has its own front and rear access to the outside and each unit is separated from any other unit by one (1) or more common fire-resistant walls.

**Economic development area (EDA).** A district established by board resolution pursuant to section 66-38.

**Easement.** Authorization by a property owner for the use of a designated portion of such owner's property by another person or entity, for a specified purpose.

**Effective date.** The effective date of this land use code, which for purposes of chapters 62-68, chapter 70, chapters 72-74 and chapters 79-81 is \_\_\_\_\_, 2020. ~~The effective date of chapters 69, 78, 90, 98 and 100 shall be the date set forth in the resolution adopting such provisions.~~ Or, contextually, the effective date of other documents.

**Electric transmission systems.** Includes the construction, expansion and alteration of electric transmission lines larger than forty-six (46) kilovolt constructed on private lands and to construction of switchyards and substations.

**Emergency repairs.** Necessary repairs to protect the health, safety and comfort/welfare of the general public.

**Equine or llama activities.** A facility or place used for boarding equines or llamas, equine or llama training or teaching facilities, or riding, except rodeos where an admission or participation fee is charged.

**Equivalent single axle load; (ESAL).** The equivalent of one (1) pass of a single eighteen thousand (18,000) pound, dual-tire axle vehicle with all four tires inflated to one hundred ten (110) pounds per square inch.

**Event venue.** An establishment or property which is rented by persons or groups including, but not limited to fairs, festivals, concerts, car/motorcycle rallies, and permanent wedding venues which reasonably may be expected to attract more than one hundred (100) people.

**Excavation.** Any act by which earth, sand, gravel, rock or other earthen material is cut into, dug, uncovered, displaced or relocated.

**Exempt well.** A well that is exempt from administration under the priority system as determined by the Colorado Division of Water Resources pursuant to Colorado law.

~~**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, either final site grading or pouring of concrete pads).~~

**Extraction.** To draw out or forth, to derive as if by drawing out; removal of physical matter in a solid or liquid state from its naturally occurring location; the initial step in utilization of a natural resource. Extraction includes exploration activities that take place prior to extraction.

**Façade.** All wall planes of a structure which are visible from one (1) side or perspective.

**Facility.** A site and any associated structure, fixture, improvement, materials, vehicles, equipment, or machinery located on the site used for the proposed initial development or ongoing operation of such development.

**Fair share reimbursement.** A reimbursement of the costs of installing an improvement, paid by a secondary developer to the original developer for that share of the costs related to the capacity of the improvement that is projected to be used by the benefitted property pursuant to that property's development.



**Family.** An indeterminate number of persons related by blood, marriage, adoption, or guardianship, or no more than five (5) unrelated persons, living and cooking together on the premises as a single housekeeping unit.

~~**Farm and garden buildings; farm and garden uses.** Those structures used to shelter or enclose livestock, poultry, feed, flowers, field equipment or similar uses; with the structure not exceeding eight hundred (800) square feet. Those uses of land devoted to raising of crops, poultry or livestock for private purposes or consumption.~~

**Farm machinery repair.** A commercial enterprise for the repair of implements of husbandry that are designed, adapted, or used for agricultural purposes such as hay balers, hay stacking equipment, combines, tillage and harvesting equipment, agricultural commodity handling equipment, and other heavy movable farm equipment primarily used on farms or in a livestock production facility and not on the highways, and personal property valued by the county assessor as silvicultural. C.R.S. §§ 42-1-102(44)(a) and (b).

~~**Farm machinery sales and rentals.** An establishment for the sale or rental of equipment and implements of husbandry that are designed, adapted or used for agricultural purposes such as hay balers, hay stacking equipment, combines, tillage and harvesting equipment, agricultural commodity handling equipment and other heavy movable farm equipment primarily used on farms or in a livestock production facility and not on the highways and personal property valued by the county assessor as silvicultural. C.R.S. § 42-1-102(44)(a) and (b).~~

**Farm stand.** A business enterprise using a temporary or permanent structure for the sale and display of agricultural products resulting from agricultural operations that are conducted on the principal use site on which the farm stand is located, in which case the farm stand is agriculture that does not require a land use permit. Alternatively, a farm stand may also sell and display agricultural products resulting from agricultural operations not conducted on the principal use site pursuant to an administrative land use permit under section 66-5. C.R.S. § 29-31-102(2).

**Fee simple ownership.** The complete ownership interest in real property, free and clear of any condition, limitation, or restriction on its alienation; the ownership of the entire “bundle” of rights attached to real property.

**Fence.** A barrier of posts, wire, rails, boards, metal sheets, or other material which is a barrier and used as a boundary or means of protection or confinement.

**Fill.** Any act by which earth, sand, gravel, rock or other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location, and the resulting conditions.

**Fire response plan.** The plan required for all new development requiring a land use permit as detailed in the La Plata County Fire Code.

**Firm yield analysis.** An analysis of an existing, or proposed, central water system that estimates the maximum yield that is both physically and legally available during a critical dry period.

**Flood; flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of water from channels and reservoir spillways.
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (c) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid 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 fringe.** That area of the floodplain exclusive of the floodway area, plus that portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the base flood more than one (1) foot at any point. Where no floodway has been determined, the flood fringe shall be that portion

of the floodplain in which the waters of a base flood will not attain a maximum depth greater than one and one half (1.5) feet or a velocity of over three (3) feet per second.

**Flood insurance rate map (FIRM).** The official map on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Floodplain 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.

**Floodway.** The channel of a stream 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).

**Flowline.** A pipeline connecting an individual well to production metering equipment.

**Freestanding facility.** A telecommunications facility that consists of a telecommunications tower, attached antennae, and associated support facilities.

**Freestanding sign.** Any non-movable sign not affixed to a building, or to any structure which serves any purpose other than supporting the freestanding sign.

**Front façade.** Those portions of a façade which face, and are most closely parallel to, the front lot line.

~~**Garage, private.** An accessory structure for the private use of the owner or occupant of a principal structure intended for storage of motor vehicles and equipment with no facilities for mechanical service or repair of a commercial or public nature.~~

**Gas well.** A well capable of producing natural gas.

**Gathering line.** A pipeline transporting produced gas, oil, or water from multiple intermediate lines.

**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. Term includes but is not limited to:

- (a) Avalanches, landslides, rock falls, mudflows and unstable or potentially unstable slopes.
- (b) Seismic effects.
- (c) Radioactivity.
- (d) Ground subsidence.

**Glare.** An effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance or visibility.

**Good cause.** A substantial reason, as determined by the applicable decision-making body, that affords an excuse. The reason must be material to (logically connected to) the subject matter of the excuse sought.

**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.

**Grading plan.** A plan view and cross section of existing and proposed contours, cuts and fills, topsoil storage location and stabilization methods, and maximum slopes.

**Grain storage facility.** Structure(s) that hold grain produced off-site without further manufacturing or processing after harvest.

**Granny flat.** An additional dwelling unit of no more than one thousand (1,000) square feet that is attached to the principle dwelling unit. The unit may be detached if located on a permanent foundation and the parcel was assessed as agricultural in the most recent county assessment.

**Gravel.** Unconsolidated materials that are made of rock fragments two (2) mm to seventy-five (75) mm in diameter.

~~**Green book.** A Policy on Geometric Design of Highways and Streets 2011, American Association of State Highway and Transportation Officials.~~

**Greenhouse.** A structure used primarily for the raising of agricultural or horticultural commodities, except marijuana, without retail sales.

**Gross floor area.** The combined sum of the gross building floor area of all principal and accessory buildings on a lot or site, including basement gross floor area except as specifically excluded herein, as measured along the outside enclosing walls, but not including:

- (a) Parking structures accessory to a nonresidential use;
- (b) Any area where the floor-to-ceiling height is less than five (5) feet;
- (c) Any area in a residential building that is more than fifty (50) percent below grade;
- (d) Any area in a nonresidential building that is more than fifty (50) percent below grade and that does not have direct access to the exterior through a door (i.e., the total floor area of a walk-out basement in a commercial building is included in the calculation of gross floor area).

**Groundwater.** Water that exists below the earth's surface.

**Group home.** A use or development of property, subject to licensure by the State of Colorado, wherein multiple persons reside and that is deemed a residential use by Colorado Statute. A group home may include, without limitation a community residential home for the exclusive use of persons with intellectual and developmental disabilities pursuant to C.R.S. §§ 25.5-10-202 and 30-28-115(2)(a); a group home for the aged pursuant to C.R.S. § 30-28-115(2)(b)(II); a group home for persons with behavioral or mental health disorders pursuant to C.R.S. § 30-28-115(2)(b.5); or a group home occupied by handicapped persons as that term is defined by the United States Fair Housing Act, 42 U.S.C. 3601 *et seq.* A group home shall not include a residential use that would otherwise be classified by this code as a childcare center.

**Growth.** The process of increasing in amount, value or importance.

**Growth area; growth hub.** "Growth Area" or "Growth Hub" includes both of the following areas:

- (a) Areas designated as "growth hubs" in the comprehensive plan or district plans, as amended from time to time.
- (b) Other areas classified as growth hubs/areas, resorts, or high-density residential areas (gross densities greater than four (4) units/acre) in an applicable district plan.

**Guarantee.** An irrevocable letter of credit, certified check, or escrow agreement covering the estimated cost of the required public or private improvements to be posted by the developer with the county to guarantee the completion of public or private improvements in a development in accordance with the requirements of the county.

**Guideline.** An indication of policy or preferences; compliance is not mandatory like a standard, but rather compliance is encouraged to further the county's land use goals and policies.

~~**Habitable space.** Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes. Barns, garages, unfinished attic space, and under-floor spaces are not included in habitable space.~~

**Hazard.** A significant source of potential risk, danger, or peril resulting from natural phenomena or conditions, and including those precipitated or caused by human activities.

**Heavy equipment.** Drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding five (5) tons.



**Heliport.** An area, either at ground level or elevated on a structure, for the landing and takeoff of helicopters and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

**Highway.** Any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway in the county dedicated or devoted to public use.

**Historic resource.** Structures, buildings or landscape features over fifty (50) years of age and possess architectural integrity or cultural significance. This includes buildings that were erected to shelter human activity such as houses, barns, schools, churches, and other structures which include bridges, and historic landscape features such as orchards, ditches and roads.

**Home occupation.** A lawful, revenue-generating activity meeting all requirements of this code, carried on within a dwelling unit by a person who occupies the dwelling and where the business is contained within and secondary to the use of the dwelling for living purposes, so that the home occupation occurs in no greater than fifty (50) percent of the dwelling's total area. Home occupation use shall have no external evidence of a business or industrial nature. Home occupation does not include sexually-oriented businesses, hazardous material storage and/or processing, junkyards, solid waste disposal or transfer stations, or uses classified as hazardous waste generators under state or federal law.

**Homeowners' association; property owner's association.** A private, non-profit corporation of property owners for the purpose of owning, operating, and maintaining various common properties and facilities (except that as this definition relates to a condominium project, the homeowners' association does not own the common property/facilities, it operates and maintains them on behalf of the property owners).

**Hydraulic conductivity (K).** The property of a water-bearing geologic material that relates to its ability to transmit water at a standard temperature and density, also known as the coefficient of permeability. Hydraulic conductivity has units with dimensions of length per time (e.g., meters per second, feet per day and gallons per day per square foot).

**Hydrologist, professional.** An individual who meets the qualifications of, and is certified by, the American Institute of Hydrology as a professional hydrologist.

**Illegally established.** A lot, structure, sign, development, facility or use of land that does not enjoy legal conforming or nonconforming status, as defined by this code. Typically, such lot, structure, sign, development or use did not legally exist prior to adoption of this code because the lot, structure, sign, development or use was constructed or commenced without first complying with all regulations in effect at the time of its construction or commencement of use.

~~**Illegal use.** A use which requires a land use permit or other county permit or approval, but which is initiated or perpetuated without obtaining the required permit or approval.~~

**Impervious material or surface.** A material or surface that does not absorb water. Impervious materials or surfaces consist of all structures and roofed areas (excluding eaves that over-hang a pervious surface), retaining walls, stairwells, stairways, walkways, decks and patios at grade level, parking areas, loading areas, driveways, streets, roads, sidewalks, and any areas of concrete or asphalt, or surfaces such as compacted sand, limerock, or clay, or other significantly compacted material that prevents water absorption.

**Improvement.** A valuable addition made to property (usually real estate) or an amelioration in its condition, amounting to more than mere repairs or replacement, costing labor or capital, and intended to enhance its value, beauty, or utility, or to adapt it for new or further purposes. Generally, has reference to buildings, but may also include any permanent structures or other development, such as a street, sidewalks, sewers, utilities, landscaping, fences, etc. When used in the context of chapter 90, any new construction activity or addition of equipment or materials to an oil and gas site. When used in the context of a fair share reimbursement agreement, the term includes, but is not limited to, any type of structure, facility or other improvement for public use that the county requires to be installed by an original developer as a condition or requirement of land use permit approval of such development, which also benefits one (1) or more adjacent or other properties.

**Incidental on-site sales.** Sales which are incidental to the service that is being provided as part of an accessory use permit.

**Increment.** A specific portion of the conditional water rights awarded to the county by the 06CW99 Court Decree and transferred to individual water users.

**Individual groundwater well.** A groundwater well servicing a single commercial or industrial structure, or single residential dwelling unit on an individual lot.

**Industrial; industrial use; industrial development.** An establishment involved in the research, design, manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales (typically ten (10) percent or less of the ~~total~~ gross floor area). Relatively few customers come to the site.

**Infrastructure.** Public or private facilities necessary to serve development, including, but not limited to streets, roads, potable water supply facilities, sewage disposal facilities, drainage facilities, electric facilities, natural gas utility lines, telephone facilities and cable television facilities.

**Interchange.** An interchange is the intersection of two (2) or more highways, roads, or streets, where at least one (1) of the highways is a state arterial highway, and where the interchange will provide direct access to and from the state arterial highway.

**Intermediate line.** A pipeline transporting produced gas, oil, or water from one (1) well pad after it passes through production metering equipment to a gathering line.

**Intersection.** The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two (2) roadways thirty (30) feet or more apart, every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a highway does not constitute an intersection.

**Joint planning area.** The unincorporated area of the county designated by the board in the Joint Planning Area Map for coordination with the City of Durango.

**Junkyard.** Any land or structure used for salvaging operations, including, but not limited to, the storage and sale of wastepaper, rags, scrap metal, and discarded materials and the collection, dismantlement, storage, and salvage of two (2) or more inoperative vehicles. This includes the aggregate storage of manmade equipment, machinery, scrap, or other used parts having a total cubic volume of seven hundred (700) or more cubic feet. This definition is intended for commercial operations only and does not regulate the storage of equipment for personal or farm use.

**Kitchen.** An area used, or designated to be used, for the preparation of food.

**Land application.** When used in the context of land applied septage, the spreading of domestic septage on land at controlled rates to fertilize crops or improve the condition (tilth) of the soil. Domestic septage can be land applied by spraying, spreading on the soil surface, plowing, disking, or injecting into the soil.

**Land disturbing activities.** Manmade changes to the land surface, including clearing, cutting, excavation, filling, or grading of land, or any other activity that alters land topography or vegetative cover. Land disturbing activity shall not include the growing and tending of gardens or agricultural activities.

**Land use permit.** Written governmental permission, issued by or under the authority of the board, empowering the holder thereof to undertake land development activity or to establish a use of land not forbidden by law, but not allowed without such authorization.

**Landscaping.** The preservation of the existing trees, shrubs, grass, and decorative materials such as fences or walls on a lot, tract, or parcel of land, or the rearrangement thereof, or the modification thereof by planting or installing more or different trees, shrubs, grass, or decorative materials.

**Large scale solar.** Solar electrical energy generating facilities which have a generating capacity of greater than one (1) megawatt but not more than two (2) megawatts or utilizes five (5) to ten (10) acres of land or surface area.

**Lattice tower.** A telecommunications tower comprised of interconnected poles, pipes, bars, or wires. A lattice tower includes, but is not limited to, any tower that incorporates guy or supporting wires.

**Level of Service (~~or~~ LOS).** The operating conditions a driver will experience while traveling on a street or roadway, generally described in terms of such factors as speed, freedom to maneuver, traffic interruptions, comfort, convenience, and safety. LOS is usually expressed in terms of six (6) levels, designated A through F, with A (free flow of traffic with minimum intersection delay) being the best, and F (forced flow, jammed intersections, long delays) being the worst. Where roadway conditions (physical characteristics of the highway) are fixed, level of service on any particular highway varies primarily with volume.

**Light fixture.** A complete outdoor lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

**Light spillover.** Light produced by a light fixture where it is not wanted or needed, most typically beyond the boundaries of the property on which it is located.

**Lighting.** Illumination which shall not create light spillover or glare off site.

**Limited access highway.** A highway that provides access connection with selected public street only and that prohibits crossings at grade or with direct driveway connections.

**Limited commercial increment.** An amount of water sized to provide seven hundred (700) gallons per day assuming the use of a septic system that results in fifteen (15) percent depletion to the stream system, although the use of septic system is not required.

**Limited commercial lawn and garden increment.** An amount of water sized to provide enough water to irrigate two thousand (2,000) square feet of lawn.

**Livestock.** Farm animals kept or raised for pleasure or profit, including beef cattle, domestic elk, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals.

**Local road.** A street that primarily serves for access to a farm, residence, business, or other adjacent property.

**Lot.** A designated parcel, tract, or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

**Lot, legal.** A lot created and recorded prior to May 5, 1972, in compliance with county regulations then in effect or as granted legal status under the provisions of this code, and “platted subdivision lots” as defined in this chapter.

**Lot consolidation.** The combining of two (2) or more lots, or portions thereof, into one (1) lot with a recorded plat without the creation of any new building sites.

**Lot coverage; impervious coverage.** The part of a lot or tract of land covered with impervious material. Impervious coverage is expressed as a percentage of the gross area of the subject lot or tract of land and is calculated by dividing the square footage of impervious material or surface cover by the square footage of the lot or tract. For purposes of calculating lot coverage only, “impervious material” shall not include areas covered by swimming pools and hot tubs or open decks less than thirty (30) inches above grade.

**Lot size.** The area contained within the property lines of a lot, excluding easements for publicly dedicated or accepted rights-of-way.

**Low intensity, tourist related recreational uses.** As applied to the AVLUP only, this use classification includes golf courses, driving ranges, RV parks, riding stables, fishing ponds, campgrounds, glider ports of no more than six (6) planes (maximum of two (2) fixed wings, four (4) gliders). This use classification shall not include amusement parks, shooting ranges, miniature golf courses, bowling alleys, video arcade amusements, or drive-in theaters.

**Major oil and gas facilities.**

- (a) Centralized facilities.
- (b) Water injection, centralized water transfer stations, centralized water pump stations and associated facilities serving multiple well pads.
- (c) Storage yards and construction staging yards in place for six (6) months or longer.
- (d) Any permanent equipment, facility or structure related to the production of oil or gas which contains internal combustion engines with a cumulative horsepower, de-rated for elevation, of two hundred (200) BHP or greater.
- (e) Transmission line or any pipeline for which the power of eminent domain is exercised.
- (f) Any oil and gas facility not meeting the definition of minor oil and gas facility.

**Manufactured home.** A structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use as a permanent dwelling unit with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle” unless such recreational vehicle is intended to be used as a permanent dwelling unit and is required to be converted to such use under this code or the building code.

**Manufactured home park.** A parcel of land held in single ownership designed and developed into three (3) or more manufactured home spaces for rent.

**Manufactured home space.** A designated area of land located in an approved manufactured home park, which is owned by the park owner, but rented to the owner of a manufactured home for placing a manufactured home.

**Manufactured home subdivision.** A parcel of land divided into three (3) or more lots configured for development of manufactured homes with private ownership of each lot.

**Marijuana.** "Marijuana" or "marihuana" as those terms are defined in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

**Marijuana code.** The Colorado Marijuana Code, C.R.S. §§ 44-10-101 *et seq.*

**Marijuana facility.** A medical marijuana business or retail marijuana business, as those terms are defined by the marijuana code, or an off-premises storage facility, as defined by the marijuana rules.

**Marijuana rules.** The rules promulgated pursuant to the marijuana code by the Colorado Department of Revenue, Marijuana Enforcement Division.

**Material safety data sheet (MSDS).** A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

**Maximum extent feasible.** No prudent, practical, and feasible alternative exists, and all possible planning to minimize potential harm or adverse impacts has been undertaken. Economic considerations may be considered but shall not be the overriding factor in determining “maximum extent feasible.”

**Maximum extent practicable.** Under the circumstances, reasonable efforts have been undertaken to comply with the regulation or requirement, the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance.

**Membrane structure.** A structure with a thin, flexible surface (membrane) that carries loads primarily through tensile stresses. The two (2) primary types of membrane structures are tents and pneumatic structures.

**Micro solar.** A roof top or ground mounted solar electrical energy generating facility which has a generating capacity of less than one hundred fifty (150) kw or utilizes less than five thousand (5,000) s.f. of land or surface area.

**Micro water provider.** A public or private utility, entity, person or other organization that operates a micro water system to supply water to persons for human consumption.

**Micro water system.** A system for supplying water for human consumption (i.e. potable water) from a common source or sources to all dwelling units and other structures within a development that does not serve enough connections or individuals to be classified as a public water system or designated regional public water system.

**Mine.**

- (a) Any area of land from which minerals are extracted in nonliquid form or are extracted in a liquid form while workers are underground.
- (b) Private ways, streets and roads appurtenant to such area.
- (c) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailing ponds, placed upon, under, or above the surface of such land, 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, such as through a processing activity. “Mine” does not include the facilities defined in C.R.S. § 12-115-103(9), nor does it include earthen dams, sand and gravel pits, clay pits, or rock and stone quarries, including surface limestone and dolomite quarries. C.R.S. § 34-20-102.

The term “Mine” does not include a tourist mine – a nonproducing mine not regulated by the federal government that is open to the general public for tours.

**Mineral.** An inanimate constituent of the earth, in solid, liquid, or gaseous state, which, when extracted from the earth, is usable in its natural form or is capable of conversion into usable form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing, or a construction material. For purposes of this code, the definition of mineral is more inclusive than the scientific definition of mineral, and it includes, without limitation, compounds such as coal and granite that might not otherwise be considered minerals. Mineral does not include surface water or groundwater subject to appropriation for domestic, agricultural, or industrial purposes, nor does it include geothermal resources. C.R.S. § 24-65.1-104(10).

**Mini-storage facility.** As applied to the AVLUP only, a business that provides storage space for household or commercial goods within an enclosed building or group of buildings with controlled access to individual storage spaces.

**Minor oil and gas facilities.**

- (a) An individual well pad built with one (1) or more wells and operated to produce liquid petroleum or natural gas, including associated equipment required for such production.



- (b) Intermediate lines which extend beyond one-quarter mile (1,320 feet) from the wellhead, gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.
- (c) Temporary storage and construction staging yards in place for less than six (6) months.

**Minor oil and gas facilities requiring special mitigation measures.**

- (a) An individual well ~~pad~~ ~~site~~ built and operated to produce liquid petroleum or natural gas ~~and including~~ associated equipment which does not meet the minimum setback and other requirements specified for minor oil and gas facilities.
- (b) Any of the facilities specified under subsection (a) of this definition which do not comply with all applicable standards and requirements and which are not classified as major oil and gas facilities.
- (c) Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six (6) weeks.

~~**Minor utility.** Utilities that are necessary to support development within an immediate vicinity that involve only minor structures. Minor utilities include small facilities and utility support devices such as transformers, booster communication devices, and water and sewer pumps~~

**Mitigation; mitigating; mitigate.** The following actions, prioritized in order of preference:

- (a) Avoiding impacts. Avoiding an impact by not taking a certain action or parts of an action; or
- (b) Minimizing impacts. Limiting the degree or magnitude of the action or its implementation, or by changing its location; or
- (c) Rectifying impacts. Repairing, rehabilitating, or restoring the impact area, facility or service; or
- (d) Reducing or eliminating impacts. Reducing or eliminating the impact over time by preservation and maintenance operations; and
- (e) Compensating for impacts. Compensating for the impact by replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.

**Mixed use development.** The development of a lot or structure with two (2) or more different principal uses including, but not limited to, residential use, office, manufacturing, retail, public, entertainment or other commercial use or industrial use.

**Mobile station.** When used in the context of telecommunications facilities, a radio-communication station capable of being moved and which ordinarily does move. 47 U.S.C. § 153(34).

**Monopole tower.** A telecommunications tower that consists solely of a ground-mounted support pole or pipe, without guy or supporting wires.

**Native species.** Vegetation which is indigenous to and is commonly found in landscapes in the county which have never been disturbed.

**Natural color, form and texture.** The visual quality of an environment in a state that would occur if there were no use of the site by people. Natural color refers to earth tones and tree tones. Form refers to the three-dimensional mass of objects or groups of objects that combine to create a unified scene. Visual texture refers to the variation of observable surface characteristics.

**Natural hazard.** A natural phenomenon that so conflicts with construction or land use as to constitute a significant hazard to public health and safety, or to property, including but not limited to geologic hazards, flood hazards, and wildfire hazards.

**Natural topography transition or break.** Any naturally occurring change in relief on land such as a mound, knoll, hill, bank, ridge, or terrace, or an area sloping away from a flat grade, which creates a recessed area capable of screening development.

**Neighborhood oriented business.** As applied to the AVLUP only, gasoline stations, grocery stores, restaurants serving no alcohol, liquor stores, laundromats, video stores, postal services, hardware stores, and retail sale of goods produced on site and plant nurseries.

**Net leasable floor area.** Floor area that includes only those areas that are designed to be leased to a tenant and occupied for non-residential purposes, exclusive of any area dedicated to foyers, bathrooms, stairways, circulation corridors and mechanical areas and storage areas.

**Noise study.** A study that analyzes the source of noise and its impact on the environment. Typically, a noise study will define areas of potential noise impact, evaluate measures to mitigate those impacts and compare the various alternatives based on potential noise impact and the associated mitigation costs. The study should include a clear and detailed description of all elements of the analysis done for the study. Where appropriate, the study should include consideration of construction noise.

**Nonconforming use; Nonconformity.** An existing lot, structure, building, sign, improvement, facility, development, or use that was lawfully established but which does not conform to one (1) or more laws or regulations currently applicable to the lot, structure, building, sign, development, or use. In the context of chapter 90, a use that was legally established but no longer complies with the regulations of chapter 90; a nonconforming use is legal if it complies with subsection 90-44.V.

**Non-potable water.** Water not safe for human consumption (i.e. drinking, cooking or personal bathing).

**Nonresidential use; nonresidential development.** Any public or private development, including civic, commercial, industrial, institutional, and other projects, that does not primarily and regularly provide housing or dwelling units for permanent occupation rather than on a transient basis (such as hotels).

**Noxious weeds.** Those non-native plant species, other than grasses, that have been introduced into an environment with few, if any, biological controls, thus giving them a distinct competitive advantage in dominating and crowding out native plant species, to the extent that plant diversity and ecosystem integrity can be threatened. The species that the county considers to be noxious weeds can be found on the La Plata County Noxious Weed List, which is available from the CDD.

**Nursing home.** A facility licensed by the State of Colorado pursuant to C.R.S. § 25-1.5-103 which provides bed care and inpatient services for persons requiring regular medical attention but excluding facilities that provide surgical or emergency medical services.

**Observation well.** A well that taps the same aquifer as a production well and from which water level readings are taken during a pumping test. Water level data from observation wells is used in conjunction with data from a production well to develop aquifer parameters such as hydraulic conductivity, transmissivity and storage coefficient or specific yield. Subsequent to the project's approval, the observation well may be plugged and abandoned in accordance with the Colorado State Board of Examiners of Water Well Construction and Pump Installation Contractors, or the well may be converted to a production well in accordance with CDOWR procedures.

**Odor.** A stimulus affecting human olfactory nerves.

**Off-site.** Located neither on the land that is the subject of the application for development permit nor on an adjacent portion of a street or other right-of-way.

**Off-site improvement.** Any utility, paving, grading, drainage, structure, modification of topography or other improvement that is, or will be, located on property that is (a) not within the boundary of the property to be developed, or (b) on or under any perimeter roadway surrounding the property to be developed.

**Oil and gas development.** All facilities related to development which is reasonably necessary to the extraction, exploration or production of oil and gas wells and accessory office, storage buildings, rig camps, gas gathering systems and gas transmission lines located on federal land.

**Oil and gas equipment.** Machinery or structures located on well pads or rights-of-way including, but not limited to, wellheads, separators, dehydration units, heaters, meters, storage tanks, compressors, pumping units, internal combustion engines, and electric motors.

**Oil and gas facility.** Oil and gas equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, gathering, treatment, or processing of oil or natural gas.

**Oil and gas location.** A definable area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

**Oil and gas pit.** Subsurface earthen excavation (lined or unlined) or subsurface open top tank used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

**Oil and gas transmission line.** A pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

**Oil well.** A well capable of producing crude petroleum oil.

**On-site wastewater treatment system (~~or~~ OWTS).** An absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing or dispersing sewage generated in the vicinity, which system is not a part of or connected to a sewage treatment works. C.R.S. § 25-10-103.

**Open space.** Any parcel or area of land or water essentially unimproved with any residential use, commercial use, or industrial uses and set aside, dedicated, or reserved for public or private use and enjoyment including recreational, scenic, or environmental purposes. Open space may include agricultural uses and natural features located on a site, including but not limited to meadows, forested areas, steep slopes, floodplains, hazard areas, unique geologic features, ridgelines, unique vegetation and critical plant communities, stream/river corridors, wetlands and riparian areas, wildlife habitat and migration corridors, areas containing threatened or endangered species and archeological resources, historic resources, and cultural resources. Space devoted to highways, parking areas, or golf courses and areas comprising minimum building separation and setbacks for light and air shall not be considered “open space” under this definition.

**Open space, common.** Land within or related to a development that is designed or intended for the common active or passive use and enjoyment of the residents of the development. Common open space shall include: (a) land that is not individually owned and is not dedicated for public use for streets and other similar common facilities, or (b) land which is individually owned, provided it is located outside of an identified building envelope and has been located adjacent to and made a part of other common open space areas, to the maximum extent possible, to form a continuous area of open space. Common open space may include such complimentary structures and improvements as are necessary and appropriate for its intended use, if fences shall not be installed to divide individual and common open space areas from one another.

**Operating plan.** A general description of a facility identifying purpose, use, typical staffing pattern, equipment description and location, access routes, seasonal or periodic considerations, routine hours of operating, source of services, infrastructure, and any other information related to regular functioning of that facility.

**Operator.** When used in the context of Chapter 90, the same as “owner.”

**Original developer.** A party who installs or constructs one (1) or more improvements that the county requires to be installed or constructed pursuant to the land use permit review process, or, in the event such developer has sold the property subject to the original application giving rise to the fair share agreement, the owner of record of the original developer’s property, as those interests may appear. If such property, or a portion thereof, is under the authority and governed of a homeowners’ association or other similar organization, that homeowner’s association or other similar organization shall be considered an “original developer” representing all constituents within the area governed by the homeowner’s association or similar organization for purposes of notice and payment of fair share reimbursement pursuant to section 66-31.V.



**Outdoor activity.** Any enterprise, operation, or activity that occurs in an unroofed area as part of a permitted use on a lot or site, and any outdoor display of materials, machinery, vehicles, or things that may or may not be for sale or rent.

**Owner.** Any person, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land. Shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such structure or land. In the context of chapter 74, the owner, developer, contractor or any other person or organization who is obligated or responsible for performing work for county acceptance. When used in the context of chapter 90, the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for such owner or operator or others in accordance with chapter 90.

**Parcel.** A contiguous area of land owned by a single owner. The number of deeds held by a single owner under which the contiguous land is held is irrelevant.

**Parking areas.** Any public or private area whether on, under, within or outside a structure, designed and used for parking motor vehicles including parking lots, garages, driveways, and legally designated areas of public streets. As applied to the AVLUP only, those areas designated for required and auxiliary parking for multi-family dwellings and business operations.

**Parking lot.** An off-street, ground level open area for the temporary storage of motor vehicles.

**Parking, shared.** Joint use of a parking area for more than one (1) principal use.

**Parking space.** The space or area in which vehicles park in a private or public parking area.

~~**Party in interest.** The person authorized by this code to bring an appeal of a final land use or development decision to the appropriate county appeal body. This definition is not intended to define or limit the persons who may bring suit or appeal before a Colorado court of competent jurisdiction.~~

**Peak daily demand.** Indoor and outdoor water demand during peak season, averaged over a period of one (1) month. Days without water usage will not be used in this calculation (e.g. weekends, days of no operation).

**Peak hour traffic.** Vehicle trips, both in-bound and out-bound, occurring during a one (1) hour period either during the A.M. peak or the P. M. Peak generated by a particular use or project.

**Performance based zoning; performance zoning.** An approach to land use regulation that focuses on the effects of land uses rather than categories of use. Specifically, performance-based zoning establishes particular standards and other criteria for determining appropriate uses and site design requirements rather than prescribing specific uses and building functions. Performance zoning establishes criteria that ensure each land use is compatible, through mitigation or otherwise, with surrounding land uses, and more specifically that one land use will not adversely affect others.

**Performance bond; performance guarantee.** A financial guarantee to ensure that all improvements, facilities, or work required by this code will be completed in compliance with these regulations, and the approved plans and specifications of a development.

**Permanent equipment.** Equipment located on-site for a duration of time greater than six (6) months effective one (1) year after the drilling and completion of a well.

**Permittee.** The person, or such person's successor, to whom a land use permit is issued.

**Person.** A natural person, partnership, association, trust, company, corporation, limited liability company, or any other type of business organization, as well as an operator, manager, agent, owner, director, officer, or employee thereof, except person does not include any governmental organization or political subdivision of the State of Colorado.

**Personal marijuana cultivation.**

- (a) The growing, processing, or transporting medical marijuana for the grower's own personal use or as a primary caregiver in the manner authorized by Section 14 of Article XVIII of the Colorado Constitution; or
- (b) The growing, processing, or transporting marijuana for the grower's own personal use in the manner authorized by Section 16(3)(b) of Article XVIII of the Colorado Constitution.

**Personal wireless service.** Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. 47 U.S.C. § 332(c)(7)(C)(i). When used in the context of telecommunications facilities, means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. 47 C.F.R. § 1.1307(e)(1).

**Personal wireless service provider or provider.** When used in the context of telecommunications facilities, a person or other entity licensed by the Federal Communications Commission to provide personal wireless service to the general public.

~~**Pipeline corridor.** The tracts of land within which a pipeline right-of-way is located.~~

**Plan.** When used in the context of a PUD preliminary or final plan, the provisions for development of a planned unit development, which may include and need not be limited to, easements, covenants and restrictions relating to use, location, and bulk of structures, intensity of use or density of development, utilities, private and public streets, ways, pedestrian areas, and parking areas, open space, common open space, and other public facilities. C.R.S. § 24-67-103.

**Planned unit development (PUD).** A development of a property as a single entity, when the land use standards and regulations of this code that would normally apply may be superseded by controls specific to the project that allow a more sensitive and more economical arrangement of structures and streets on the site, or that allows a more economical phasing of infrastructure construction and development over a long period of time.

**Planning commission (PC).** The La Plata County Planning Commission.

**Planning districts.** A defined portion of the unincorporated county established through this code to provide a framework for the county's regulation of the location and specific use of structures and land, and for the regulation of the appropriate density and distribution of future populations. The twelve (12) planning districts established by this code are:

- (a) Animas Valley Planning District
- (b) Bayfield Planning District
- (c) Durango Planning District
- (d) Florida Mesa Planning District
- (e) Florida Road Planning District
- (f) Fort Lewis Mesa Planning District
- (g) Junction Creek Planning District
- (h) La Posta Planning District
- (i) North County Planning District
- (j) Southeast La Plata Planning District
- (k) Vallecito Planning District
- (l) West Durango Planning District

**Planning engineer.** A member of the planning staff, or alternate as designated by the director, who is a registered professional civil engineer licensed in the state of Colorado.

**Plat.** A map and supporting materials of certain described land prepared in accordance with the county's subdivision regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

**Platted building envelope.** An area of land within a buildable lot within which all site structures and other hardscape elements shall be contained, except driveways.

**Platted subdivision lot.** Any lot created pursuant to state law, which has received subdivision approval by the board since September 1, 1972.

**Pollution.** The presence in air, ground, or water of any substances, contaminants, noise, or human-made or human-induced alteration of the chemical, physical, biological, or radiological integrity of air, ground, or water, in quantities or at levels which are, or may be, harmful to human health or welfare, animal or plant life, or property, or which may unreasonably interfere with the enjoyment of life or property.

**Potable water.** Water that is considered safe for human consumption (i.e. drinking, cooking and personal bathing), meets the standards for drinking purposes prescribed by CDPHE, is free from impurities present in amounts sufficient to cause disease or harmful physiological effects, and conforms to the bacteriological and chemical quality requirements of the Public Health Service Drinking Water Standards or the regulations of the public health authority having jurisdiction.

**Primitive campground.** A campground accessible only by walk-in, pack-in, or equestrian campers, where no facilities are provided. Improvements, if any, are designed for protection of the site and not for convenience or comfort of the campers.

**Principal building; principal structure.** The building or structure on a lot or tract of land used to accommodate the primary permitted use, such use possibly occurring in more than one (1) building or structure.

**Principal use.** The primary or predominant use of any lot or parcel, such use possibly occurring in more than one (1) building or structure.

**Private road.** A private right in a road created or established by grant or deed (including reservation), prescriptive use, dedication, implication by preexisting use, implication by plat, necessity or private condemnation but without acceptance by the public or the county. For purposes of Chapter 74, the term private road does not include driveways, nor does the term include roads used only to access agricultural developments not requiring a land use permit.

**Processing activity.** A special process or treatment, as in the course of manufacture; a process or treatment that results in a change in the physical state or chemical composition of matter, including without limitation breaking, crushing, sizing, cleaning, washing, drying, mixing, separation of impurities, storing, and loading; a post-extraction step in utilization of a natural resource such as ore smelting, coal or gravel crushing or cement manufacture.

**Production well.** A well that will be outfitted with a pump and water will be withdrawn during a well or aquifer test.

**Professional engineer.** An engineer duly licensed in the State of Colorado pursuant to C.R.S. § 12-120-201 *et seq.* The county make require a professional engineer to demonstrate education, competence and training in a particular field of practice.

**Professional geologist.** A person engaged in the practice of geology who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty (30) semester (45 quarter) hours of undergraduate or graduate work in a field of geology and whose post baccalaureate training has been in the field of geology with a specific record of an additional five (5) years of geological experience to include no more than two (2) years of graduate work. C.R.S. § 23-41-208(b).

**Professional hydrologist.** An individual who meets the qualifications of, and is certified by, the American Institute of Hydrology as a professional hydrologist.

**Professional land surveyor.** An individual who practices professional land surveying and who is currently licensed with the board after demonstrating competency to practice as required by C.R.S. § 12-120-313.

**Project.** See definition of “development” above.

**Projecting sign.** A sign attached to a building or structure and which extends more than eighteen (18) inches from that building or structure.

**Property line.** The legally described boundary line defined by a single method set forth in C.R.S. § 30-28-302(2 or 5) and is recorded in the office of the clerk and recorder that indicates the limits of a parcel, tract, lot, or block, including the vertical extension of such boundary line.

**Public benefit.** Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Public benefit may differ from development to development but may include such things as recreational facilities (e.g. swimming pool or tennis courts), connectivity to trail systems, affordable housing, preserved views, open space, or attractive site design.

**Public facilities.** Public parks/open space, community services, public safety services, basic utility installations, public street construction, transportation facilities, and county, state, or federal uses or facilities.

**Public improvements.** Any facility that is within county right-of-way, on county property, or maintained by the county after final acceptance, including but not limited to streets, alleys, sidewalks, trails, water and sewer lines, electric facilities, storm drainage facilities, right-of-way landscaping, and bikeways.

**Public livestock auction/market; farm implement auction/market.** A facility or place on a farm or ranch property where livestock or farm implement auctions are conducted or operated for compensation or profit, consisting of pens, or other enclosures, and their appurtenances in which live horses, mules, cattle, burros, swine, sheep, goats and poultry are received, held or assembled for either public or private sale.

~~**Public safety facilities.** Facilities for public safety and emergency services, including police, fire protection, and emergency medical and ambulance stations. Such facilities often need to be in or near the area where the service is provided, and employees are regularly present on-site.~~

**Public utility.** Those utilities described in C.R.S. § 40-1-103.

**Public water provider.** A public or private utility, entity, person or other organization that operates a public water system to supply water to persons for human consumption.

**Public water system.** A central water system that has at least fifteen (15) service connections or supplies an average of at least twenty-five (25) persons daily at least sixty (60) days per year, which is subject to regulation by CDPHE.

**Public works director.** The director of the county public works department or any county staff member authorized to represent the public works director.

**Publish.** Except where otherwise provided by law in express terms or by necessary implication, to place a notice or other written matter required to be published by any law of this state or this code in a daily, semi-weekly, tri-weekly or weekly newspaper of general circulation and printed or published in whole or in part in La Plata County.

**Quasi-public facilities.** Churches, schools, cemeteries, grange halls, and similar facilities.

**R value.** A numerical value expressing the measure of a soil or aggregate's ability to resist the transmission of vertical load in a lateral or horizontal direction.

**Real property.** Shall include lands, tenements, and hereditaments.

**Recharge area.** Reservoirs and ditches that are designed to replenish groundwater depletions, due to out-of-priority diversions, by artificially introducing water into the ground water aquifer.

**Reclamation.** The reasonable rehabilitation of affected land to a state resembling that which existed before a use's impacts or to an otherwise specified beneficial state, including protection of the natural resources of

the land and surrounding area by establishing, at a minimum, soil stability, vegetative cover, and appropriate drainage of surface water and stormwater.

**Record drawings.** Construction drawings and related documentation that have been revised to show significant changes made to final construction plans and specifications during the construction process. These drawings are prepared by the applicant's professional engineer.

**Recovery tests.** An aquifer tests that ~~monitors~~ use water-level (residual drawdown) measurements after the termination of pumping.

**Recreational vehicle (RV).** A vehicle designed to be used primarily as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motor power or is mounted on or towed by another vehicle. "Recreational vehicle" includes camping trailers, fifth wheel trailers, motor homes, travel trailers, multipurpose trailers, and truck campers, as those terms are defined in C.R.S. § 24-32-902 and park model homes as defined herein and the Recreational Vehicle Industry Association. "Recreational vehicle" also includes a tiny home on wheels.

**Recreational vehicle campsite.** Any specific area within a semi-developed, developed or modern campground or recreational vehicle park intended for the accommodation of either a recreational vehicle, tent or other individual camping unit on a temporary basis.

**Recreational vehicle park; RV park.** A parcel upon which two (2) or more recreational vehicle campsites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes. A recreational vehicle park is a type of developed campground under state regulations. 6 CCR 1010-9.

~~Recovery test. An aquifer test that monitors water level (residual drawdown) measurements after the termination of pumping.~~

**Recyclable materials.** Any type of discarded or waste material that is not regulated by C.R.S. § 25-8-205(1)(e) and can be reused, remanufactured, reclaimed, or recycled, but not including recycled auto parts or excluded scrap metal that is being recycled, or scrap that is composed of worn out metal or a metal product that has outlived its original use, commonly referred to as obsolete scrap C.R.S. § 30-20-101.

**Recycling processing facility.** A facility where recyclable materials or organic materials are collected or processed. Processing includes but is not limited to baling, briquetting, compacting, flattening, crushing, sorting, shredding and cleaning. Organic materials include but are not limited to tree limbs, food wastes, leaves and grass clippings.

**Referral agency or review agency.** Depending upon the context, one or more of those agencies identified in section 66-11.II.B.

**Reflective material.** Any material that has the effect of intensifying reflected light.

**Registered district advisory committee (RDAC).** A voluntary group of individual residents and owners of real property, including businesses, within one (1) of the twelve (12) planning districts formed for the purpose of collectively addressing issues and interests related to a specific district plan and so registered with the county.

**Religious institution.** A structure, together with its accessory structures and uses, where people regularly assemble for religious purposes and related social events and which is maintained and controlled by a religious body for religious purposes.

**Residential; residential use; residential development.** Primarily and regularly used by its occupants as a permanent place of abode and which has housekeeping and cooking facilities, including real property platted and approved for potential future residential use. When used in the context of chapter 90, a property having an existing residence or platted subdivision lot within one-quarter mile of an oil and gas facility site.

**Residential increment.** An amount of water sized to provide three hundred fifty (350) gallons per day assuming the use of a septic system that results in fifteen (15) percent depletion to the stream system, although the use of septic system is not required.



**Residential lawn and garden increment.** An amount of water sized to provide enough water to irrigate two thousand (2,000) sq. ft. of lawn.

**Resort.** A group or groups of structures that provides visitor-serving accommodations, for compensation, with an average length of stay of less than thirty (30) days and providing outdoor recreational activities that may include golf, skiing, horseback riding and similar activities. Guest rooms may be contained in a main "lodge" building and/or contained in detached, free-standing "cabin" structures (the latter free-standing structures shall not include recreational vehicles or mobile homes). ~~Guest rooms/units shall contain only limited kitchen facilities.~~

**Return flow.** The water that returns to a stream system; the amount water that is not used up by the diversion and use of that water.

**Review body.** The entity (typically staff or the PC) that is authorized to review and recommend approval or denial of an application or permit required under this code.

**Ridgeline.** The horizon line at the crest or shoulder or top of a ridge, hillside, or mesa at which the natural ground and the sky appear to meet when viewed from an identified highway.

**Right-of-way.** Right-of-way means:

- (a) A tract or strip of land acquired for or devoted to public circulation, including utilities, drainage, and irrigation canals and ditch purposes, and which have been dedicated to the county.
- (b) A tract or strip of land, separate and distinct from the adjacent property, owned, occupied or intended to be occupied by an oil, gas or water pipeline.

**Right-to-farm.** A law, C.R.S. § 35-3.5-101 through 35-3.5-103, meant to limit the circumstances under which agricultural operations may be deemed to be a nuisance.

**Riparian area.** The land adjacent to a stream, wetland or other body of water than contains vegetation, habitat, and ecosystems associated with bodies of water or dependent on the flow of the water in the adjacent stream, wetlands, or other water body.

**River.** A natural flowing body of water including its associated floodplain wetlands.

**Roadway; road.** The improved portion of the highway right-of-way or a travel-way including curb, gutter, and sidewalk or shoulders for vehicles, pedestrians, and bicycles.

**Rural arterial.** A roadway that serves through traffic for cross county travel and is not intended to be a residential street. The rural arterial provides connections with major state roadways and has a high potential for the location of quasi-public facilities or significant community facilities.

**Rural lands.** Not urban. Generally characterized by sparsely developed areas where the land is primarily used for agriculture, resource extraction, low-density residential uses or open space uses.

**Sales room.** When used in the context of vinous liquors grown and produced on a farm or ranch property, an area in which a licensed limited winery pursuant to C.R.S. § 44-3-403, sells and serves alcohol beverages for consumption on the licensed premises, sells alcohol beverages in sealed containers for consumption off the licensed premises, or both.

**Salvage yard.** See definition of "Junk Yard".

**Sand.** Unconsolidated material primarily composed of mineral particles 0.074 mm to 4.76 mm in diameter.

**Saturated thickness (b).** The vertical thickness of the geologic material in which the pores are fully saturated.

**Scenic corridor.** The area within view from a defined publicly accessible travel route.

**Screening.** The use of landscaping materials, fences, walls or natural topography to shield an area from view and to mitigate noise, glare, dust, odor, or other potential nuisances and adverse impacts.

**Secondary developer.** A party that owns and is seeking to develop a benefitted property and, pursuant to these regulations, may be required to reimburse an original developer for a fair share of the costs of certain improvements that the original developer was required to install or construct pursuant to the land use permit approval process. For the purposes of this definition, the term "develop" shall mean any development that requires land use permit approval from the county.

**Security fencing.** When used in the context of chapter 90, a six (6) foot chain link fence topped by three (3) strands of barbed wire, or the equivalent, with a gate that can be secured.

**Semi-developed campground.** A campground of two (2) or more campsites accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined, and basic sanitary facilities (privies) are provided.

**Semi-primitive campground.** A campground accessible only by walk-in, equestrian, or motorized trail vehicles. Rudimentary facilities (privies and/or fire pits) may be provided.

**Septage, domestic.** A liquid or semisolid that includes normal household wastes, human excreta, and animal or vegetable matter in suspension or solution generated from a residential septic tank system. Septage may include such materials issued from a commercial establishment if the commercial establishment can demonstrate the materials meets the definition for septage set forth herein. Septage does not include chemical toilet residuals or grease removed from a grease trap at a restaurant. C.R.S. § 25-10-103.

**Septic tank.** A watertight, accessible, covered receptacle designed and constructed to receive sewage from a structure, sewer, settle solids from the liquid, digest organic matter, store digested solids through a period of retention, and allow the clarified liquids to discharge to other treatment units for final disposal. C.R.S. § 25-10-103.

**Service area.** The geographic area which has been established to offer services and from which, or on behalf of which, a utility provider, special district, metropolitan district or other form of district derives income. Service area may also include areas served under contract by the primary provider and for which the provider receives funds to serve.

**Service line.** Generally, the portion of the distribution line which transports water from the meter location to the endpoint device (i.e. the faucet).

**Setback.** A setback is an undeveloped open area of fixed width within a parcel along the front, side or rear property line or along the foundation of a structure and a property line, highway right-of-way or constructed highway, whichever is more stringent. Within the context of chapter 90, the distance between the following, including but not limited to, a wellhead, intermediate line, gathering line or major oil and gas facility structure boundary and the closest projection of a residential, commercial or industrial building, lot or property line, a permitted facility or a platted building envelope in a platted subdivision.

**Sewage.** A combination of liquid wastes that may include chemicals, house wastes, human excreta, animal or vegetable matter in suspension or solution and other solids in suspension or solution, and that is discharged from a dwelling unit, other structure or other establishment. C.R.S. § 25-10-103.

**Sexually oriented business.** An adult arcade, adult bookstore, adult entertainment, adult novelty store, adult video store, adult cabaret, or adult motion picture theater, as those terms are defined below, or any similar commercial enterprise that devotes a significant or substantial portion of its operations to activities characterized by an emphasis on a specified sexual activity or a specified anatomical area. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized diagnosis or treatment, including without limitation sexual therapy.

- (a) Adult arcade. A commercial establishment where, for any form of consideration, one (1) or more still or motion pictures projectors, slide projectors, or similar machines, or other image producing machines including without limitation computers, for viewing by five (5) or fewer persons per machine at any one (1) time, are used to regularly show films, motion pictures,



video cassettes, slides, pictures, digital images or other photographic reproductions characterized by an emphasis on depicting a specified anatomical area or a specified sexual activity.

- (b) Adult bookstore, adult novelty store, or adult video store. A commercial establishment that devotes a significant or substantial portion of its stock-in-trade or interior floor space to, or receives a significant or substantial portion of its revenues from the sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter; or photographs, films, motion pictures, video cassettes, slides, pictures, digital images or other visual representations which are characterized by the depiction or description of a specified sexual activity or a specified anatomical area; or accessories, instruments, devices, paraphernalia or toys intended to be used during a specified sexual activity.
- (c) Adult cabaret. A nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment that regularly features live entertainment that is characterized by the display of a specified anatomical area.
- (d) Adult entertainment. An exhibition, display, or dance that is characterized by the display of a specified anatomical area.
- (e) Adult motion picture theater. A commercial establishment, where for any form of consideration, films, motion pictures, video cassettes, slides, pictures, digital images or similar photographic reproductions characterized by an emphasis on depicting a specified anatomical area or a specified sexual activity are regularly shown. Any establishment meeting the definition of an adult arcade is not an adult motion picture theater.

**Shooting range.** An establishment, whether operating for profit or not for profit, that operates an area for the discharge or other use of firearms or other equipment for silhouette, skeet, trap, black powder, target, self-defense, recreational or competitive shooting, or professional training. C.R.S. § 25-12-109.

**Sight distance; corner sight distance.** A triangular-shaped portion of land established at the intersections of highways or roadways or intersections of highways or roadways with driveways in which nothing is erected, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of persons entering or leaving the intersections.

**Sign.** Any object, device, display, structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or otherwise attract that attention of those located within the public right-of-way to an object, person, institution, organization, business, religious group, product service, event, or location by any means including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include merchandise and pictures, or models of products or services incorporated in a window display; works of art which in no way identify a product; score boards located on athletic fields; flags that do not advertise the business, industry or its services; signs for drive-in/drive-through restaurant menus that are not designed to be read or attract attention from the public right-of-way or other interior signs that are not designed to be read or attract attention from the public right-of-way.

**Single-family residential; single-family residence.** A freestanding dwelling unit intended for occupancy by a family or group of persons sharing living arrangements.

**Site.** Land devoted to or intended for development. When used in the context of chapter 90, any lands, including the surface of a severed mineral estate on which exploration for, or extraction and removal of oil or gas is authorized under a lease.

**Site plan.** A map prepared by a surveyor which includes a north arrow; appropriate scale; title block; location of property lines; easements; other rights-of-way; existing and proposed improvements; proposed drainage; and locations of development, including all subsequent phases, if any.

**Site specific development plan.** Final approval or final conditional approval of a final subdivision plat; minor subdivision plat; site plan for a minor land use permit; or major land use permit, which results in a vested right as provided in C.R.S. § 24-68-101 *et. seq.*

**Silviculture.** The planting, growing, maintenance or harvesting of trees in a raw or unprocessed state.

**-Sketch plan.** A conceptual plan or map of a proposed subdivision, planned unit development or other development, drawn and submitted in accordance with the requirements of adopted regulations, to evaluate feasibility and general design characteristics at an early state in the planning. A “sketch plan” as defined here is distinct from a “conceptual development plan” as required by this code, in that a sketch plan is typically more informal and more general than a conceptual development plan because the sketch plan is intended only to facilitate discussions between a prospective applicant and the county.

**Skirting.** Non-structural material used to enclose a portion of a foundation or crawl space attached to a structure extending to the ground.

**Slope.** The ratio of horizontal distance (run) proportional to vertical distance (rise or drop) of a slope, such as a 4:1 slope having one (1) foot of rise for every four (4) horizontal feet.

**Sludge.** A by-product of treatment of domestic sewage.

**Small-scale processing facilities.** A building, room, or enclosure that does not exceed one thousand five hundred (1,500) square feet used to process the food products or wastes produced on the farm or ranch including synthesizing, preparing, treating, modifying, cutting, peeling, trimming, washing, waxing, eviscerating, cooking, baking, freezing, cooling, pasteurizing, formulating, homogenizing, mixing, bottling, milling, grinding, extracting, distilling, labeling or packaging, and retail sales on the premises, but excluding a licensed slaughterhouse, butcher or packing establishment carrying on the trade or business of slaughtering domestic animals for compensation or profit, under a license issued by the State of Colorado.

**Small scale solar.** Solar electrical energy generating facilities which have a generating capacity of greater than one hundred fifty (150) kw but not more than one (1) megawatt or utilizes five thousand (5,000) s.f. to five (5) acres of land or surface area. generate power used on-site for residential, commercial use, agricultural or industrial uses and consist of between one thousand (1,000) square feet and five (5) acres of land or surface area and have a generating capacity of not more than 120 percent of the power demands of the property on which the systems are located, up to not more than two (2) megawatts.

**Small wireless facilities.** When used in the context of telecommunications facilities, facilities that meet each of the following conditions:

- (a) The facilities:
  1. Are mounted on structures fifty (50) feet or less in height, including their antennas; or
  2. Are mounted on structures no more than ten (10) percent taller than other adjacent structures; or
  3. Do not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater; and
- (b) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three (3) cubic feet in volume; and
- (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume; and
- (d) The facilities do not require antenna structure registration pursuant to Title 47, Chapter I, Subchapter A, Part 17 of the Code of Federal Regulations; and
- (e) The facilities are not located within the exterior boundaries of any Indian reservation; and

- (f) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. §§ 1.1307, 1.1310, and 2.1093.

47 C.F.R. § 1.6002(l).

**Smoke.** Small, gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, ash, and other combustible material, forming a visible plume in the air.

**Sod.** Grasses or other plants acceptable for lawn plantings which, when severed from their growing site, contain enough roots to remain intact. C.R.S. § 35-26-102.

**Solid waste.** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial use or commercial use or from community activities. The term does not include agricultural wastes or solid or dissolved materials in irrigation return flows. C.R.S. § 30-20-101.

**Solid waste disposal.** The storage, treatment, utilization, processing or final disposal of solid wastes.

**Solid waste facility.** The collection, storage, transfer, treatment, utilization, processing, recycling, reuse, recovery, reclamation, or final disposal of solid wastes.

**Special event.** A temporary commercial or festive activity or promotion held on private or public property, at a specific location, which takes place typically no more than once per year, and which is reasonably expected to attract a minimum of fifty (50) vehicles or one hundred (100) persons. "Special event" includes, but is not limited to, motorcycle/car rallies, carnivals, circuses, and festivals.

**Special use permit.** A use permitted in a land use planning area within the AVLUP subject to discretionary review and approval by the county. Special use permit uses are typically uses that may have unique or widely varying operating characteristics, may have potential operational or other impacts on nearby properties, or may have unusual site development demands.

**Specific yield.** A dimensionless aquifer characteristic expressing the ratio of volume of water drainable by gravity from saturated aquifer material to the total volume of that material. Used to describe unconfined aquifers.

**Specified anatomical areas.** Any one (1) or more of (a) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (b) even if completely and opaquely covered, human male genitals in a discernibly turgid state.

**Specified sexual activity.** A sex act, whether actual, simulated or animated, including without limitation, the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

**Speculative tower.** When used in the context of telecommunications facilities, a telecommunications tower for which no antenna facility is immediately proposed.

**Staff.** Personnel working for the La Plata County Community Development Department.

**Standard.** A definite rule, principle, or measure established by authority, and with which compliance is mandatory unless expressly waived or varied according to this code.

**Standard operating practices.** Criteria developed by the county for the protection of wildlife resources in the county during oil and gas development activities.

**State arterial highway.** A limited access highway that is part of the federal-aid interstate system or any limited access highway that is constructed under the supervision of CDOT.

**State collector highway.** A major thoroughfare serving as a corridor or link between municipalities, unincorporated areas, or industrial centers that is constructed under guidelines and standards established by, or under the supervision of, CDOT. A state collector highway does not include a city street or local service road, or a county road designed for local service and constructed under the supervision of the local government.

**Static water level.** The level at which water stands in a well or unconfined aquifer when no water is being removed from the aquifer either by pumping or free flow.

**Stealth tower.** When used in the context of telecommunications facilities, a facility designed to effectively blend in with the existing environment by use of camouflaging techniques.

**Steep slope.** Steep slope means slopes with greater than thirty (30) percent grade.

~~**Step pumping test.** A well and aquifer testing procedure in which a well is pumped at successively greater discharges for relatively short periods. Data from this test can be analyzed to determine important hydraulic characteristics of an aquifer and well.~~

**Stormwater.** The flow of water which results from precipitation and which occurs immediately following a rainfall or a snowmelt.

**Stream.** For the purpose of this code, any perennial stream, river or creek (or portion thereof) that is portrayed as solid or dashed blue lines on the most recent edition of the United States Geological Survey (“USGS”) 7.5-minute quadrangle maps, or the most recent edition, including but not limited to the following waterways:

- (a) Animas River
- (b) La Plata River
- (c) Pine River
- (d) Lightner Creek
- (e) Junction Creek
- (f) Wildcat Creek
- (g) Cherry Creek
- (h) Elbert Creek
- (i) Florida River
- (j) Hermosa Creek
- (k) Vallecito Creek
- (l) Grimes Creek.

**Street.** Shall include streets, avenues, boulevards, roads, alleys, lanes, viaducts, and all other public ways in the county.

**Street façade.** Those portions of a façade which face, and are most closely parallel to, a lot line facing a public or private right-of-way.

**Structural alteration.** Any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

**Structure.** Anything constructed or erected, the use of which requires location on or in the ground, including buildings, mobile homes, billboards, swimming pools, tanks or the like, or part thereof.

**Structure-mounted facility.** Any telecommunications facility, antenna, or support facility mounted upon a structure that is not a telecommunications tower.

**Stub road.** A dead-end street or roadway used for access to a maximum of three (3) dwelling units and not over eight hundred (800) feet in length.

**Subdivision.** Any parcel of land in the county which is to be used for condominiums (including time shares), or which is divided into two (2) or more parcels, separate interests, or interests in common as defined in C.R.S. § 30-28-101, except as specifically exempted according to chapter 67. As used in this definition, the

term "interests" includes any and all interests in the surface of land but excludes any and all subsurface interests. Also includes the act of subdividing.

**Subdivision, agricultural exemption.** A process by which parcels, or lot property lines, are created which meet the definition of exemption from subdivision in accordance with C.R.S. § 30-28-101. This procedure may be used for the creation of a maximum of three (3) lots.

**Substantial change.** When used in the context of telecommunications facilities, a change to a telecommunications facility meeting any one (1) of the following criteria:

- (a) For telecommunications towers out of the public right-of-way:
  1. a change increasing the tower's height by more than ten (10) percent, or by the height of the new antenna facility, with separation from the nearest antenna facility not to exceed twenty (20) feet, whichever is greater. (For example, an increase of fifteen (15) feet or less to an existing, one hundred fifty (150) foot tower, or if there is an existing antenna facility at the top of the tower, an increase of twenty (20) feet or less plus the height of the new antenna facility placed at the top of the tower, would not be a substantial change.); or
  2. a collocation protruding from the edge of the tower more than twenty (20) feet, or more than the width of the tower at the level of the collocation, whichever is greater
- (b) For telecommunications towers in the public right-of-way, and for structure-mounted facilities:
  1. a change increasing the height of the tower or structure by more than ten (10) percent or ten (10) feet, whichever is greater; or
  2. a collocation protruding from the edge of the tower or structure by more than six (6) feet.
- (c) A change requiring the installation of more than the standard number of new equipment cabinets for the telecommunications technology involved, but not to exceed four (4) cabinets.
- (d) A change entailing any excavation or deployment outside the current site of the telecommunications structure or tower.
- (e) A change that would defeat the existing concealment elements of the telecommunications tower or structure.
- (f) A change that does not comply with the conditions of approval for the prior construction or modification of the telecommunications tower or structure-mounted facility, unless the non-compliance derives from any change that does not meet this definition of substantial change.

**Surface owner.** When used in the context of chapter 90, the owner of the surface property on which the facility will be constructed or the owner of property who receives notice pursuant to Section 90-77.

**Surface water.** Water above the surface of the ground whether or not flowing through definite channels, including but not limited to any natural or artificial pond, lake, reservoir, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, or banks; or any wetland.

**Surface water system.** Water supply system that provides surface water to one (1) or more structures or parcels.

**Surrounding landowner.** An owner of property within a specified distance of the property line of the lot or parcel subject to an application for a land use permit.

**Tap.** Authorized legal connection to a water system. Physical tap has been installed on a water main, a transmission line, or distribution line and serves one (1) single dwelling unit or commercial unit.

**Tastings; tasting room.** When used in the context of malt, vinous or spiritous liquors, an area in which samples of such liquors are offered at no charge for consumption by patrons of a liquor licensee pursuant to the provisions of C.R.S. §§ 44-3-301(10) and 44-3-402(2).

**Telecommunications.** The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. 47 U.S.C. § 153(50).

**Telecommunications facility.** When used in the context of telecommunications or personal wireless service, an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services. 47 C.F.R. § 1.6002(i).

~~**Telecommunications provider.** An entity licensed by the Federal Communications Commission to provide telecommunications services to the general public.~~

**Telecommunications tower; Tower.** When used in the context of telecommunications facilities, any structure intended primarily to support one (1) or more antenna facilities in order to provide personal wireless service.

**Temporary use.** A development, use, or activity at a specific location that is limited to one hundred twenty (120) consecutive days or thirty (30) non-consecutive days within a calendar year.

**Temporary use area.** When used in the context of chapter 90, disturbed lands adjacent to the well pad or right-of-way used by an operator during the construction or maintenance of a well, pipeline or other facility that will be reclaimed for permanent operations.

**Tiny home.** A dwelling unit that has less than four hundred (400) square feet of livable space, including lofts. A tiny home is not a vehicle or recreational vehicle and has no wheels.

**Tiny home communities.** A collection of three (3) or more tiny homes or THOWs on one (1) lot.

**Tiny home on wheels (THOW).** A tiny home that is constructed on a chassis where the suspension/axle components remain and the unit is transportable by being towed by a vehicle. A tiny home on wheels does not have its own motor power.

**Topsoil.** The top layer of native soil generally characterized by having a high organic matter content.

**Trade secret.** Any confidential formula, pattern, process, device, information or compilation of information that is used by an owner, operator or vendor, and that gives the owner, operator or vendor an opportunity to obtain an advantage over competitors who do not know or use it.

~~**Traditional zoning; Euclidean zoning.** An approach to land use regulation that focuses on the segregation and regulation of land uses according to prescribed categories or classifications. Traditional zoning places similar uses in the same or neighboring districts, while placing substantially different uses in separated districts. The core principle of traditional zoning is "everything in its place" to avoid the creation of nuisances between competing or incompatible land uses.~~

**Traffic ~~impact~~ analysis.** Depending upon projected traffic volumes, either a traffic evaluation under paragraph 74-3.IV.B or a traffic impact study under paragraph 74-3.IV.C. and may also include a parking study and overall access management plan for the development site.

**Traffic impact area.** ~~The area in which n~~Newly generated site traffic represents five (5) percent or more of the current peak hour traffic or newly generated site traffic represents twenty-five (25) percent of the total ESAL loading.



**Trail.** A pedestrian, bike, equestrian, or other trail, which may be located on private or public lands, parallel to or along a highway, roadway or along other rights-of-way (such as along an old rail bed or an irrigation canal).

**Transfer station.** A facility at which refuse, awaiting transportation to a disposal site, is transferred from one (1) type of containerized collection receptacle and placed into another or is processed for compaction.

**Transmissivity.** The rate at which water passes through a unit width of an aquifer under a unit hydraulic gradient. It is the transmission capability of the entire thickness of an aquifer (hydraulic conductivity times aquifer thickness). Transmissivity has units with dimensions of area per time (e.g. cubic meters per day per meter, square meters per day, cubic feet per day per foot, square feet per day, or gallons per day per foot).

**Transportation facilities.** Physical facilities, and features appurtenant thereto, that move or assist in the movement of people and goods such as highways, roadways, streets, driveways, bridges, sidewalks, borrow ditches, culverts, curbs and gutters.

~~**Tree farm.** Any property used to raise and harvest trees for wood products such as lumber, posts and poles, and fuel wood where forest products are sold on-site or transported to market, and such property is included in a forest management plan approved by the Colorado State Forest Service or other state certified forestry consultant.~~

~~**Tribal lands.** Land that has been set aside for the exclusive use and benefit of the Southern Ute Indian Tribe or the Ute Mountain Ute Tribe but is owned by the United States in trust for such tribes.~~

**Unconfined aquifer.** An aquifer in which groundwater is in direct contact with the atmosphere through the open pore spaces of the overlying geologic material.

**Unincorporated.** Situated outside of cities and towns, so that, when used in connection with "territory", "areas", or the like, it covers, includes, and relates to territory or areas which are not within the boundaries of any city or town. C.R.S. § 30-28-101(12).

**Urban.** Of, relating to, characteristic of a city. Urban areas are generally characterized by moderate and higher density residential development, commercial development and industrial development as well as the availability of public services required for that development.

**Urban growth boundary.** An area surrounding existing municipalities or unincorporated settlements that is delineated and regulated by one (1) or more local governments within which urban development is encouraged and outside of which urban development is discouraged or limited.

**Use.** Any purpose for which a structure or parcel may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a structure or on a parcel of land.

**Utilities.** Includes, but is not limited to, the following: domestic water, sanitary sewer, cable TV, telecommunication lines, electric power, gas, internet and telephone.

**Variance.** A deviation or exception from the specific terms of this code that will not be contrary to public interest, reviewed and approved by the BOA consistent with C.R.S. §§ 30-28-117 and 30-28-118 and such further criteria as set forth in this code.

**Vehicle sales.** The sale or rental of automobiles, light trucks, boats, all-terrain vehicles, motorcycles and related inventory.

**Vested right.** The right to undertake and complete development and use of real property under the terms and conditions of an approved site-specific development plan, as provided in the provisions of Article 68 of Title 24, C.R.S., as amended.

**Veterans assistance programs.** A program operated by a nonprofit organization or governmental agency that offers one or more of the services listed in C.R.S. § 28-5-712, to ensure the health and well-being of veterans of the United States armed forces and related to agricultural activities including educational courses,



dude ranches, birding, fishing, animal training and boarding, bed and breakfast inns and community sponsored events regardless of whether a fee is charged to participants.

**Vibration.** The periodic displacement of earth or other solid or liquid materials caused by an oscillating movement.

~~**Viewshed.** The area within view from a specific publicly accessible observation point.~~

**Visual analysis.** Demonstration, in an accurate perspective format, of the anticipated visual impacts of proposed development, including what portions of the proposed development shall be visible from specified viewpoints, and proposing and depicting specific recommendations for mitigation of those impacts.

**Waiver.** A deviation or exception from the specific terms of this code that will not be contrary to public interest, reviewed and approved by the director, county engineer, board or other decision-making body other than the BOA.

**Wall sign.** A sign mounted flat against and projecting less than eighteen (18) inches from, or painted, on the wall of a structure, with the exposed face of the sign in a plane parallel to the face of the wall.

**Water demand study.** A study estimating the water demand (indoor and outdoor) for a water system serving a proposed development.

**Water distribution system.** The physical works and water utility components and facilities, including but not limited to mains, pipes and other constructed conveyances, that deliver water from the water source to the intended end point or user.

**Water fee.** An amount set forth in the fee schedule of this code that must be paid prior to the director executing a water use agreement.

**Water hauling.** The transport of water by a motor vehicle from the point of diversion to the place of use.

**Water main.** A pipe or conduit for conveying and supplying potable water to an area, which is installed and maintained by a central water provider.

**Water pump station.** A facility that receives produced water via gathering lines for the purpose of lowering gathering line water pressure.

**Water right.** A right to use, in accordance with its priority, a portion of the waters of the State of Colorado by reason of the appropriation of the same.

~~**Water service pipe.** The pipe from the water main or other source of potable water supply to the distribution system/pipes or supply pipes of the structure served. The water service pipe connects the structure to the water main or meter.~~

**Water transfer station.** A facility that receives produced water via surface transportation from one (1) or more well pad locations.

**Water use agreement.** A contractual agreement executed by the county and individual water users outlining the conditions and terms by which water users may use increments.

**Water user.** Depending on the context, a person applying for an increment, a person using an increment, the owner of record according to the county assessor's records for the parcel where an increment is used or to be used, or the heir, personal or legal representative, or successor in interest to any of the above.

**Water well permit.** A permit issued by the Colorado Division of Water Resources to drill water wells, which specifies the rate of withdrawal, intended use and location of the water well.

**Watershed.** A geographical area from which water drains and contributes to a given point in a stream system.

~~**Wedding venue, commercial.** An establishment that primarily provides the facilities and services for weddings on a commercial basis. This definition does not include churches and similar congregations where weddings are an ancillary use.~~

**Well pad.** The area in which permanent operations for the well take place and shall always include, at a minimum, that portion of the pad area occupied within the drilling rig anchors. Well pads may contain one (1) or more wellheads and associated equipment.

**Well yield.** The volume of water per unit of time discharged from a well either by pumping or free flow. Well yield is measured commonly as a pumping rate in gallons per minute or cubic meters per day.

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

**Wetlands.** Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under natural circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. This definition shall include ox bow lakes and ponds and shall apply to all natural and man-made lakes and ponds that are mapped on current USGS maps.

**Wildlife.** Native and introduced animals, including vertebrates and invertebrates, and plants.

**Wildlife analysis.** A site specific analysis that locates and describes areas of the site regularly used by wildlife as habitat or migration routes; describes the techniques used for identifying and mapping the areas and for projecting the impacts; including information on the physical and biological attributes; including but not limited to geology and soils, physiography, surface hydrology, wetlands, human use, vegetative communities, and formal groups that are present; projects the impacts of a proposed development on the wildlife; and proposes specific recommendations for mitigation of those impacts.

**Wildlife habitat.** An area in or through which wildlife forage, nest, spawn, or migrate through or which may sometimes be referred to as ranges, winter ranges, concentration areas, production areas, release areas, nest sites, roost sites and leks (strutting or brooding grounds).

**Wineries, cideries and distilleries.** An establishment where vinous (wine and cider) or spiritous liquors are manufactured using products grown and produced on the farm property.

**Xeriscaping.** Landscaping designed to conserve water by creating a water-efficient environment in a specific area.

## **Sec. 62-6        Abbreviations and acronyms**

### **I.        Abbreviations.**

The following abbreviations are used in this code and by staff and are intended to have the following meanings:

ac	acre	max.	maximum
ft	feet	mcl	maximum contaminant level
gpd	gallons per day	min.	minimum
gpm	gallons per minute	sq. ft.	square feet

### **II.        Acronyms.**

The following acronyms are used in this code and by staff and are intended to have the following meanings:

<b>ADT</b>	Average daily trips
<b>AES</b>	Agricultural Exemption Subdivision
<b>ANSI</b>	<u>      </u> American National Standards Institute
<b>APWA</b>	<u>      </u> American Public Works Association
<b>AVLUP</b>	Animas Valley Land Use Plan
<b>ASTM</b>	<u>      </u> ASTM International

<b>AWWA</b>	American Water Works Association
<b>BLM</b>	Bureau of Land Management
<b>BOA</b>	Board of Adjustment
<b>BOCC</b>	Board of County Commissioners
<b>CAFO</b>	Confined Animal Feeding Operation
<b>CDNR</b>	Colorado Department of Natural Resources
<b>CDOT</b>	Colorado Department of Transportation
<b>CDOWR</b>	Colorado Division of Water Resources
<b>CDPHE</b>	Colorado Department of Public Health and Environment
<b>CDRMS</b>	Colorado Division of Reclamation, Mining, and Safety
<b>CGS</b>	Colorado Geological Survey
<b>C.F.R.</b>	Code of Federal Regulations
<b>CO</b>	Certificate of occupancy
<b>COGCC</b>	Colorado Oil and Gas Commission
<b>C.R.S.</b>	Colorado Revised Statutes, as amended
<b>CPW</b>	Colorado Parks and Wildlife
<b>CDD</b>	Community Development Department
<b>CRD</b>	Clustered Rural Development
<b>dB(A)</b>	Decibels (A-weighted scale); unit of measuring sound levels
<b>DIA</b>	Development improvement agreement
<b>EPA</b>	United States Environmental Protection Agency
<b>ESAL</b>	Equivalent single axle load
<b>FCC</b>	Federal Communication Commission
<b>FEMA</b>	Flood Emergency Management Association. Provides maps of 100-year floodplain and floodway areas. During a flood, Floodplains are typically standing water; Floodways are typically running water.
<b>FIRM</b>	Flood Insurance Rate Maps
<b>FHWA</b>	Federal Highway Administration
<b>GIS</b>	Geographic Information Systems
<b>GPM</b>	Gallons per minute
<b><u>HPRC</u></b>	<u>Historic Preservation Review Commission</u>
<b>IBC</b>	International Building Code
<b>IFC</b>	International Fire Code
<b>ICA</b>	Implied consent agreement. Agreement entered between the City of Durango and a landowner; sets forth conditions of their possible future annexation into the City.
<b>IGA</b>	Intergovernmental agreement
<b>JPC</b>	Joint City of Durango and La Plata County Planning Commission
<b>MED</b>	Colorado Department of Revenue, Marijuana Enforcement Division

<b>MSHA</b>	_____	Mine Safety and Health Administration
<b>MUTCD</b>		Manual on Uniform Traffic Control Devices
<b>NMFS</b>	_____	National Marine Fisheries Services
<b>NRCS</b>	_____	Natural Resource Conservation Service
<b>NSF</b>		NSF International
<b>OSMRE</b>		Office of Surface and Mining Reclamation and Enforcement
<b>OWTS</b>	_____	On-site wastewater treatment system
<b>PC</b>		La Plata County Planning Commission
<b>P.E.</b>		Professional engineer or engineer, professional
<b>P.G.</b>		Professional geologist or geologist, professional
<b>P.H.</b>		Professional hydrologist or hydrologist, professional
<b>PUD</b>		Planned unit development
<b>ROW</b>	_____	Right-of-way
<b>RLUIPA</b>		Religious Land Use and Institutionalized Persons Act of 2000
<b>SCS</b>		Soil Conservation Service
<b>SJBPH</b>	_____	San Juan Basin Public Health
<b>SOPs</b>	_____	Standard operating practices
<b>SUIT</b>	_____	Southern Ute Indian Tribe
<b>UBC</b>		Uniform Building Code
<b>UFC</b>		Uniform Fire Code
<b>USACE</b>		United States Army Corps of Engineers
<b>U.S.C.</b>		United States Code
<b>USDCM</b>		Urban Storm Drainage Criteria Manual
<b>USDOT</b>		United States Department of Transportation
<b>USFS</b>	_____	United States Forest Service
<b>USFWS</b>		United States Fish and Wildlife Services
<b>USGS</b>	_____	United States Geological Survey

## Chapter 63: Administration and Review of Roles

### **Sec. 63-1 Board of county commissioners**

- I. General authority.** The Board of County Commissioners has the authority to regulate the location and use of buildings and structures, and the use or occupancy of lands for residential, recreational, industrial, commercial and other purposes in the unincorporated areas of the county; and the authority to regulate the subdivision, development and use of land. The exercise of the board's legal authority shall be in accordance with the provisions of this code and the Colorado Revised Statutes.
- II. Specific powers and duties.** The board shall have those administrative and review roles as shown in Table 66-15 and as otherwise provided in this code. In addition, the board shall have the following powers and duties in administering this code:
  - A. The board may employ such experts and staff and shall pay such expenses as it may deem necessary for carrying out the powers conferred and the duties prescribed by C.R.S. § 30-28-101 *et seq.* and C.R.S. § 29-20-101 *et seq.*, and all other land use enabling statutes and this code.
  - B. The board may approve a schedule of fees necessary to effectively administer and enforce the provisions of this code. The schedule of fees should be reviewed periodically and adjusted, as necessary.

### **Sec. 63-2 La Plata County planning commission**

- I. Established.** There is hereby established a county planning commission pursuant to C.R.S. § 30-28-103.
- II. Membership, qualifications and terms.** The members of the PC shall be appointed by the board and shall consist of five (5) regular members and up to three (3) alternate members, collectively referred to in this section as "members." Alternate members may only formally participate in PC activities and proceedings and may only exercise the powers delegated to members of the PC set forth herein if the alternate member is filling a vacancy pursuant to the terms of this section.
  - A. To the maximum extent possible, the PC shall represent a broad range of interests in the community and shall be drawn from different geographical locations within the county.
  - B. Qualifications and terms of office.
    1. Each member of the PC shall be a resident of the county.
    2. Each member should have a demonstrated interest and experience in either land use planning, architecture, landscaping, engineering, construction, real estate, law, agriculture or public policy.
    3. Each member shall have knowledge of the community.
    4. Each member shall demonstrate a dedication to public service.
    - 3-5. Each member shall commit to being properly prepared for all meetings, shall attend at least seventy-five (75%) percent of all meetings at which attendance is required, and shall have access to the technology necessary to review materials.
    - 4-6. The term of office of each member shall be three (3) years, except that any member may serve until a successor has been appointed. No member shall serve more than three (3) consecutive terms as a regular or alternate member. A former member may re-apply to serve one (1) year after expiration of the term limit.
  - C. Compensation. Members of the PC shall receive no compensation for their services, except they shall be reimbursed for actual expenses incurred, subject to applicable provisions of the state statutes and procedures for reimbursement of expenses approved by the board.

- D. Records of proceedings. The PC shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times pursuant to the policies and procedures of the county.
- E. Removal and filling of vacancies.
  - 1. Members of the PC may be removed for nonperformance of duty or misconduct, as determined by the board. If a vacancy occurs on the PC, the board shall appoint a member to the PC to fill the unexpired term.
  - 2. Alternate members of the PC are hereby authorized by the board to perform the duties of regular members who are temporarily unable to act due to absence, illness, interest in any matter before the PC, or any other cause. The services of alternate members shall be alternated, where practicable, and, to achieve this goal, the director shall contact alternate members to achieve a five (5) member PC, whenever possible.
- F. Officers and bylaws. The PC shall elect a chair from its members, whose term shall be for one (1) year. The chair must be a regular member. The PC may create and fill such other offices as it may determine necessary. The PC shall be empowered to adopt **and amend** bylaws governing its procedures as it may consider necessary or advisable. Such bylaws shall be consistent with this code and with the provisions of C.R.S. § 30-28-101 *et seq.*
- G. Quorum. Except as may be otherwise provided by statute, three (3) acting members shall constitute a quorum for the transaction of business by the PC. If a quorum is present, the decision of one (1) or more members of the PC to abstain from voting thereon shall not be deemed to constitute less than a quorum for the transaction of business. Action of the PC shall be by majority vote of those voting, except as may be otherwise required by statute. Abstention shall not be counted as votes for the purpose of determining a majority. A tie vote constitutes a denial of **an application**~~the proposed action~~ by the PC.

**III. General authority.** The PC shall make recommendations to the board concerning planning matters and decisions. Conduct of the PC shall be according to their adopted rules of procedure.

**IV. Specific powers and duties.** The PC shall have those administrative and review roles as shown in Table 66-15 and as otherwise provided in this code. In addition, the PC shall have the following powers and duties in administering this code:

- A. Adoption and revision of comprehensive (master) plan. It shall be the duty of the PC to make, adopt, and revise, as may be necessary, an advisory comprehensive plan, including district plans, for the physical development of the unincorporated territory of the county. No such plan or revision thereto shall become effective until adopted by resolution by not less than a majority of the regular membership of the PC. Such plan shall then be certified to the board and to the planning commissions of all municipalities within the county.
- B. Development, proposal, and recommendation of subdivision regulations. It shall be the duty of the PC to develop, propose and recommend subdivision regulations and revisions thereto, as may be necessary, to the board. The board shall consider such recommendations and any revisions thereto for adoption, **modification or rejection** pursuant to C.R.S. § 30-28-133.
- C. Development, proposal, and recommendation of zoning regulations. It shall be the duty of the PC to develop, propose and recommend zoning regulations and revisions thereto, as may be necessary, to the board. The board shall consider such recommendations and any revisions thereto for adoption, **modification or rejection** pursuant to C.R.S. § 30-28-116.
- D. Development, proposal, and recommendation of other land use and environmental regulations. It shall be the duty of the PC to develop, propose and recommend land use and environmental regulations and revisions thereto to the board, other than zoning regulations. The board shall consider such regulations for adoption, modification or rejection.

- E. Cooperative planning activities. It shall be the duty of the PC to consult and cooperate with the planning commissions of incorporated municipalities within the county and with land use authorities in other counties, and to perform such joint planning functions as may, from time to time, be prescribed by directive of the board or by intergovernmental agreement.
- F. Designation of members to perform certain joint planning activities. Notwithstanding the provisions of this section regarding membership, the ~~PC board~~ shall designate from among the PC members a sufficient number to perform the review functions of the joint planning commission pursuant to ~~section 63-3 below~~ intergovernmental agreement, or such other cooperative joint planning commission as may be established ~~pursuant to section 64-5- through~~ intergovernmental agreement.

**Sec. 63-3 Joint planning commission**

- I. **Established.** There is hereby established a county joint planning commission for development projects within the joint planning area, pursuant to C.R.S. § 30-28-105 and the intergovernmental agreement between the county and the City of Durango.
- II. **Membership.** The JPC shall consist of six (6) members, three (3) of whom shall be current members of the City of Durango planning commission and three (3) of whom shall be current members of the PC. The City of Durango shall designate the three (3) members from the City of Durango planning commission and the PC shall designate the three (3) members from the PC. The members may be designated for a term or solely for each JPC meeting.
- III. **Quorum, officers and bylaws.**
  - A. Four (4) members of the JPC shall constitute a quorum for the transaction of business. If a quorum is present, the decision of one (1) or more members to abstain from voting thereon shall not be deemed to constitute less than a quorum for the transaction of business. Action of the JPC shall be by majority vote of those voting at a meeting at which a quorum is present. A tie vote constitutes a denial of ~~an application~~ the proposed action by the JPC.
  - B. The JPC shall elect a chair from its members, whose term shall be for one (1) year. The JPC may create and fill such other offices as it may determine necessary.
  - C. The JPC shall be empowered to adopt such bylaws governing its procedure as it may consider necessary or advisable.
- IV. **Compensation.** Members of the JPC shall receive no compensation for their services, except that they shall be reimbursed for actual expenses incurred, subject to applicable provisions of the state statutes and procedures for reimbursement of expenses as approved by the board.
- V. **Records of proceedings.** The JPC shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times pursuant to the policies and procedures of the county.

**Sec. 63-4 Board of adjustment**

- I. **Established.** There is hereby created a board of adjustment pursuant to C.R.S. §§ 30-28-117 and 30-28-118.
- II. **Membership, qualifications and terms.** The board shall appoint the BOA. The BOA shall consist of five (5) members, two (2) of whom shall be members of the planning commission, or their designated alternates, who should also be members of the PC. The board shall also designate alternates for the non-PC members of the BOA.
  - A. To the maximum extent possible, the BOA shall represent a broad range of interests in the community and shall be drawn from different geographic locations within the county.
  - B. Qualifications and terms of office.



1. Each member of the BOA shall be a resident of the county.
  2. Each member should have demonstrated interest and experience in land use planning, architecture, landscaping, engineering, construction, real estate, law, agriculture or public policy.
  - ~~3.~~ 3. Each member shall have knowledge of the community.
  - ~~3-4.~~ 3-4. Each member shall demonstrate a dedication to public service.
  - ~~4-5.~~ 4-5. Appointment of PC members shall be on an annual basis, and the board may appoint alternate members to serve in the absence of regular members. The term for non-PC members shall be three (3) years and until their respective successors have been appointed. The members' initial terms shall be staggered so that the term of at least one (1) regular member will expire each year.
- C. Compensation. Members of the BOA shall receive no compensation for their services, except that they shall be reimbursed for actual expenses incurred, subject to applicable provisions of the state statutes and procedures for reimbursement of expenses as approved by the board.
- D. Records of proceedings. The BOA shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times pursuant to the policies and procedures of the county.
- E. Removal and filling of vacancies.
1. Members of the BOA may be removed for nonperformance of duty or misconduct, as determined by the board. If a vacancy occurs on the BOA, the board shall appoint a member to fill the unexpired term.
  2. Alternate members of the BOA are hereby authorized by the board to perform the duties of regular members who are temporarily unable to act due to absence, illness, interest in any matter before the commission, or any other cause. The services of alternate members shall be alternated, where practicable, and, to achieve this goal, the director shall contact alternate members to achieve a five (5) member BOA, whenever possible.
- F. Quorum. Four (4) members shall constitute a quorum of the BOA.
- G. Action of the BOA shall be by a majority vote of those voting except as may be otherwise required by statute or below. Four (4) votes shall be required to overturn an administrative decision or to approve ~~an exception or~~ variance.

**III. Specific powers and duties.** The BOA shall have those administrative and review roles as shown in Table 66-15 and as otherwise provided in this code.

**Sec. 63-5 County staff**

- I. Staff powers and duties.** The county departments and staff shall, in addition to any other powers and duties set forth elsewhere in state statute or this code, have the following powers and duties in administering this code:
- A. Community Development Department. The CDD shall have the responsibility to serve the board by accepting complete applications, establishing procedure, serving as public liaison, preparing agendas, reports and recommendations to the planning commission and board, rendering decisions on development proposals as authorized by this code, inspecting development for compliance with the provisions of this code, notifying the county attorney and board of any suspected violations, and maintaining records and maps regarding the performance of these duties.
  - B. Director of the Community Development Department. The director shall have those administrative and review roles as shown in Table 66-15 and as otherwise provided in this code.

**Sec. 63-6 Registered district advisory committees**

- I. Intent and purpose.** Registered district advisory committees afford organized citizen groups the opportunity to participate in the district plan amendment process and to comment on the land use permits which require public notice, including but not limited to administrative, minor, major, as well as zoning, comprehensive, and district plan amendment applications types set forth in Table 66-14 requiring public notice specific types of land use permit applications. Membership in a RDAC is not required for an individual citizen to participate in the district plan amendment process, ~~nor does and~~ membership in a RDAC does not eliminate or impact an individual member's right to comment as an individual citizen. Provided a RDAC meets the requirements of this section, more than one (1) RDAC may exist for a planning district. A RDAC is intended to represent the entire geographical area of its respective planning district and shall not limit its focus or advocacy to any particular area within a planning district to the exclusion of other areas in the planning district.
- II. Eligibility.** To form and maintain a RDAC, a citizen group shall meet the following criteria:
- A. **Membership.** All members of a RDAC shall be residents or owners of real property partially or wholly located within the specified planning district and shall be volunteers. Membership in a RDAC shall be open to any individual or organization who satisfies this criterion. A RDAC shall be comprised of a minimum of seven (7) members.
- B. **Registration.** Citizens wishing to form a RDAC shall apply to the community development department in July or December of each year. The director shall approve a RDAC that meets the criteria in this section. Provided the application is approved, the RDAC shall thereafter maintain the following information on file with the CDD and shall update such information no later than January 31 of each year:
1. Official name of the RDAC and the planning district to which it corresponds.
  2. The names, mailing addresses, emails, and telephone numbers of its officers.
  3. The name, mailing address, email, and telephone number of a member who may be contacted by the county or a member of the public.
  4. Methods used to communicate with members.
  5. A copy of the RDAC's articles of incorporation and bylaws, if any.
  6. Date, time and location of regular meetings.
  7. Schedule for the election of officers.
- C. **Meetings.** A RDAC shall:
1. Not less than once a year, hold meetings at which all members may vote. For any meeting of the RDAC during which a vote of the members occurs, the RDAC shall maintain a list of those members in attendance for a period of one (1) year. The purpose of a minimum once a year meeting is in part to affirm the current membership of the RDAC.
  2. Post notice of the date, time, location and detailed agenda for each meeting of the RDAC no less than twenty-four (24) hours in advance of each meeting or, in the instance of an annual meeting, no less than ten (10) days prior to the date of the meeting. The postings shall occur in at least one (1) public place within the geographical boundaries of the planning district or in a publication available to the general public such as a newspaper. A record of the notices shall be maintained by the RDAC for a period of one (1) year. Meetings of a RDAC shall be open to the general public but not otherwise subject to the Colorado Open Meetings Law.
  3. Maintain minutes of all meetings and make such minutes available to the county or public upon request.

- D. De-listing. Any RDAC that fails or ceases to meet the requirements of this section may be de-listed as a RDAC by the director, upon thirty (30) days prior written notice to the RDAC. The notice shall set forth the basis for de-listing citing existing deficiencies. The RDAC may cure such deficiencies within the same thirty (30) day period and avoid de-listing if it provides the director satisfactory proof the requirements of this section have been met. If there is no current contact information for officers on file and the director is unable to locate such information after making a reasonable effort to locate such officers, the RDAC may be de-listed without prior written notice.

**III. Role of a Registered District Advisory Committee.** In all aspects of its role, a RDAC shall serve primarily as a public liaison. Membership in a RDAC does not eliminate or impact an individual member's right to comment as a citizen, but members should ensure accurate attribution of such comments.

- A. Amendment of district plans. A RDAC shall have an opportunity for and may make recommendations to the planning commission on the content of amendments to the applicable district plan and provide comment on the findings necessary for amendment of the district plan as set forth in chapter 64.
- B. Project review. Like reviewing agencies but without imposition of a fee, a RDAC may review and comment on certain types of land use permit application submittals identified above in 663-36.1 for projects located within the boundaries of its applicable district plan consistent with subsection 66-144.IV.A.H. Such review should primarily focus on whether the development proposal is in general conformance with the advisory goals, policies and actions contained in the comprehensive plan, and the applicable district plan. The review may also comment on other relevant considerations related to the proposal. In rendering its comments on a proposal, a RDAC should reference relevant portions of the comprehensive plan or district plan considered. Such plan provisions should support the basis for the RDAC comments.
- C. The failure of a RDAC for whatever reason to receive a notification of a land use permit application shall not invalidate any action taken by the county or constitute grounds for a delay in any public hearing or public meeting. Comments from the RDAC are not meant to replace or carry any more weight than public comment received regarding a project. They are an opportunity for organized citizen groups to present the positions of their members during the district plan amendment process and specific types of land use permit applications identified above in 663-36.1. These comments will be viewed as public comment in the process and will be presented as such to the PC and the board.

## **Chapter 64: Long Range Planning Tools**

### **Sec. 64-1 Comprehensive plan**

#### **I. Purpose of comprehensive plan.**

- A. The comprehensive plan is intended to provide general policy guidance for decisions related to land use, growth and a number of related issues in the unincorporated area of the county. State law, more specifically C.R.S. § 30-28-106 requires counties to create and adopt a master plan/comprehensive plan. ~~The comprehensive plan is required by state law and is~~ an advisory document adopted by the planning commission ~~pursuant to C.R.S. § 30-28-106.~~ It is a document against which certain development proposals should be evaluated in determining whether such proposals are in general conformance with the county's goals, objectives and policies. The comprehensive plan is not binding unless the board, at its discretion, chooses to codify specific provisions into the land use code. Nevertheless, the goals, objectives and policies contained in the comprehensive plan should be seriously considered when reviewing applicable development proposals, with the appropriate body exercising discretion in the application and balancing of the numerous goals and policies contained therein. The comprehensive plan also provides recommendations for possible future steps that could be taken to more fully implement the community's vision or interests.
- B. The preparation of the comprehensive plan is intended to promote and protect the interest of the general public and present and future populations of the county. Moreover, the comprehensive plan establishes a framework to guide recommendations and decisions regarding future development, appropriate use of the land and its resources, needed facilities and services, protection of the environmental quality of the county, and a realistic strategy for realizing established visions, goals and policies.
- C. It is recognized that over time the comprehensive plan may need to be amended as community goals and factors affecting land use change. To ensure that the comprehensive plan is current with the community's vision and the overall public interest, the comprehensive plan shall be reviewed, modified as appropriate, and adopted or readopted in accordance with the provisions of this chapter.
- D. The comprehensive plan and the associated district plans are all intended to be adopted, interpreted, and applied in a harmonious fashion. No conflicts, direct or indirect, within such plans or between such plans, or the goals, objectives and policies therein, shall be considered to exist if there exists any reasonable interpretation that would allow all the provisions of such plans at issue to remain in effect. If an ambiguity or conflict arises, the provisions of the comprehensive plan should be given more weight in consideration than a conflicting district plan.

#### **II. Adoption and amendment of the comprehensive plan.**

- A. Authority to initiate. A majority of the members of the board or planning commission, or the director may propose an amendment to the comprehensive plan.
- B. Responsibility of CDD. The CDD shall prepare the submittal requirements on the request for an amendment.
- C. Submittal requirements for adoption or amendment.
  1. Written material.
    - a. The CDD shall provide information addressing, where applicable or appropriate in light of the proposal, the matters outlined in C.R.S. § 30-28-106.
    - b. Proposed development policies.

- c. Statement describing the consistency of the proposed amendment with existing comprehensive plans and policies.
  - d. Statement describing how the amendment meets the findings for adoption of the comprehensive plan.
2. Graphic material.
    - a. Vicinity map.
    - b. Map depicting the boundary of the area proposed for comprehensive planning.
    - c. Locations of proposed land uses.
    - d. Traffic and circulation system.
    - e. Environmentally sensitive areas.
    - f. Wildlife habitat.
    - g. Significant natural features and views.
    - h. Topography.
    - i. Other maps and plans necessary to illustrate the proposal.
  3. Information required for a public hearing.
  4. Other information deemed necessary.
- D. Criteria and process.
1. Criteria for adoption of, or amendments to, the comprehensive plan. The following findings shall be made by the PC to approve a comprehensive plan or an amendment thereto:
    - a. The proposal fulfills the general purpose of creating coordinated and harmonious development of the area under study and of the county as a whole.
    - b. The proposal promotes the health, safety, prosperity and general welfare of the county's residents, as well as efficiency and economy in the use of land and its natural resources.
    - c. The proposal encourages a well-balanced, prosperous economy for the county.
    - d. The proposal preserves and enhances the county's unique character and protects its natural environment.
    - e. The proposal bears a substantial relationship to the general welfare of the entire community rather than to relieve a particular property from the restrictions set forth in this code.
    - f. If the proposal concerns a district plan, the amended district plan's provisions are consistent with the comprehensive plan.
    - g. The proposal is consistent with the other provisions of the plan to which it will become a part.
    - h. The approval of a comprehensive plan or amendment thereto in accordance with this section of the code shall serve as presumptive evidence that the considerations presented herein have been determined in the affirmative.
  2. Action on a comprehensive plan. The responsibility for adoption of comprehensive plans, and amendments thereto, is as follows:

- a. The PC shall take action to adopt, adopt with modifications or decline to adopt a proposal.
  - b. The action shall be by resolution carried by the affirmative votes of not less than a majority of the regular membership of the PC (including any ~~alternate-associate~~ member participating in the place of a regular member). The resolution shall refer expressly to the text and maps intended by the PC to form the whole of the plan, and shall include, at a minimum, the required findings.
3. Certification of comprehensive plan or amendment. After adopting a comprehensive plan or amendment, the PC shall certify a copy to the board and to all municipalities within the county. For purposes of this section, certification shall be interpreted as delivering a copy of the comprehensive plan or comprehensive plan amendment along with a letter signed by the chair of the PC indicating the adoption action taken on the comprehensive plan or comprehensive plan amendment.
- E. Publication and filing of comprehensive plan. Upon ~~adoption approval~~ of a comprehensive plan or amendment thereto by the PC, a copy, including all maps referred to in the comprehensive plan, shall be recorded in the Office of the Clerk and Recorder and kept on file in the planning department.
- F. Update of comprehensive plan.
- 1. Review by the PC of the need to update the comprehensive plan shall occur on a periodic basis. The PC shall determine if revisions are needed because of changing conditions or circumstances, or modifications in the county's overall development and land use policies.
  - 2. The PC may initiate amendments to the comprehensive plan as a result of the update process or, as an alternative, may re-adopt the comprehensive plan in its existing form. Such re-adoptions or amendments shall be reviewed, and action taken using the same procedures for adopting and amending comprehensive plans provided in this chapter. The failure to adopt or to re-adopt a comprehensive plan shall not affect the validity of previously adopted plans.

### III. Use of comprehensive plan.

- A. Although the board does not intend to codify the comprehensive plan, or any portion thereof, it is the intent of the board that development proposals consider advisory goals and policies contained in the comprehensive plan, and in any applicable district plans.
- B. A determination of general conformance with the comprehensive plan should be made by the decision-making body for any land use permit application in light of the facts and circumstances, evidence and considerations present in relation to that particular application. In this regard, a finding of general conformance with the comprehensive plan shall be based on a quasi-judicial weighting and balancing of various goals and policies in the comprehensive plan, district plans, and code. The decision-making body shall exercise its discretion based upon the factual considerations pertaining to the particular application.
- C. In reviewing a proposal, a wide array of community issues, goals, objectives and policies, as reflected in the comprehensive plan, may be considered or implicated. Thus, determining the proper balance to various comprehensive plan goals and policies, and the attribution of weight to such goals and policies for any particular proposal, is essential in determining if general conformity is achieved for that proposal. It is within the sound discretion of the decision-making body in this process to consider all such concerns, goals and policies in relation to the application, in its entirety, and to give each the weight it deserves based upon the circumstances presented to the decision-making body. Therefore, the decision-making body may determine the proper balance of impacts, goals and policies in ascertaining if proper conformity with such comprehensive plan, in general, is desirable or has been attained.

- D. In rendering a decision on a proposal, the decision-making body should reference relevant portions of the comprehensive plan considered. Such comprehensive plan provisions should support the basis for the decision-making body's reasoning and decision regarding the proposal, particularly in relation to a determination on general conformity with the comprehensive plan.

**Sec. 64-2      Established planning districts**

- I. Purpose and intent of planning districts.** To further the general purposes and intent of this code, the unincorporated portions of the county have been divided and organized into twelve (12) planning districts. The establishment of planning districts through this code is specifically intended to provide a framework for the county's regulation of the location and specific use of buildings, structures, and land, and for the regulation of the appropriate density and distribution of future populations.
- II. Planning districts.** The twelve (12) established planning districts are:
  - (1) Animas Valley Planning District
  - (2) Bayfield Planning District
  - (3) Durango Planning District
  - (4) Florida Mesa Planning District
  - (5) Florida Road Planning District
  - (6) Fort Lewis Mesa Planning District
  - (7) Junction Creek Planning District
  - (8) La Posta Road Planning District
  - (9) North County Planning District
  - (10) Southeast La Plata Planning District
  - (11) Vallecito Planning District
  - (12) West Durango Planning District

The geographical locations of these districts are shown on the map referenced in section 64-4.

**Sec. 64-3      District plans**

- I. Purpose of district plans.**
  - A. District plans are intended to provide more detailed guidelines and specific direction for individual planning districts than is contained in the comprehensive plan. District plans recognize that each planning district has a distinct character. Such district plans shall apply to the entire area within the planning district and may address those issues as set forth in this section. Like the comprehensive plan, district plans shall be advisory in nature.
  - B. District plans are intended to set more specific development guidelines and direction or otherwise may create a higher degree of specificity on the development of property. District plans shall not be deemed to be in direct or indirect conflict with the comprehensive plan merely because they may recommend more specific conditions or limitations on development, including density.
- II. Contents of district plans.** District plans may include the following issues unique to the area, at the discretion of the planning commission:
  - A. Goals, policies and actions related to area specific issues that are not already addressed in the comprehensive plan.
  - B. District maps or other demonstrative materials.



- C. Implementation strategies to enact the goals, policies and actions set forth in the comprehensive plan.
- D. Unique or specific ~~quasi-public~~community facility, institutional use or infrastructure issues.
- E. Identification of appropriate locations for a diversity of employee or affordable ~~workforce~~ housing and permanent resident housing types.
- F. Identification of needs and appropriate locations for different types of dispersed and developed recreational uses or new recreational facilities.
- G. Infill, redevelopment, rehabilitation or adaptive reuse of properties.
- H. Within the context of the content of the comprehensive plan and C.R.S. § 30-28-106, any other considerations related to issues of development or growth in the relevant planning district.

**III. Contents not to be included in district plans.** District plans typically should not include the following:

- A. Goals, policies and actions that address issues that are countywide (and not planning district specific) in nature and are similar in intent to goals, policies and actions already addressed in the comprehensive plan. This limitation shall be interpreted narrowly to only address policies that are directly redundant with the comprehensive plan.
- B. Goals, objectives or policies that can only be interpreted to unavoidably and directly conflict with the comprehensive plan. ~~A direct conflict shall only exist where a district plan expressly prohibits that which the comprehensive plan expressly permits, or expressly permits that which the comprehensive plan expressly prohibits.~~ If the comprehensive plan and a district plan can reasonably be construed to be consistent, that interpretation is favored. Where there exists a conflict or overlap between provisions, the provisions of the comprehensive plan shall prevail. District plan policies that serve to set more specific development guidelines, which may include a higher degree of specificity on the development of property, including the density related thereto, shall not be considered to directly conflict ~~as contemplated herein.~~

**IV. Adoption and amendment of district plans.** Adoption of, and amendments to, district plans shall be subject to the same procedures and criteria in section 64-1-governing the comprehensive plan; provided, however that prior to the public hearing on consideration of adoption of, or an amendment to, a district plan, a RDAC for the district, if any, shall have the opportunity to make recommendations to the PC on the content of the district plan and provide comment on the findings necessary for amendment of the district plan.

**V. Updates to district plans.** District plans adopted by the PC shall be updated by the PC on a periodic basis. The PC shall determine if revisions are needed because of changing conditions or circumstances, or modifications in the county's overall development policies or the policies within the planning district. Amendments or re-adoption of a district plan as a result of an update shall be processed in the same manner as any adoption of, or amendment to, a district plan according to this chapter. The failure to adopt or to re-adopt a district plan shall not affect the validity of previously adopted plans.

**VI. Use of district plans.**

- A. As with the comprehensive plan, the board does not intend to codify the district plans, or any portions thereof. It is the intent of the board that development proposals consider the advisory goals and policies contained in any applicable district plan.
- B. A determination of general conformance with the applicable district plan should be made by the decision-making body for any land use permit application in light of the facts and circumstances, evidence and considerations present in relation to that particular application. In this regard, a finding of general conformance with an applicable district plan shall be based on a quasi-judicial weighting and balancing of various goals and policies in the district plan and code.

The decision-making body shall exercise its discretion based upon the factual considerations pertaining to the application.

- C. In reviewing a proposal, a wide array of community issues, goals, objectives and policies, as reflected in the applicable district plan, may be considered or implicated. Thus, determining the proper balance to various district plan goals and policies, and the attribution of weight to such goals and policies for any particular proposal, is essential in determining if general conformity is achieved for that proposal. It is within the sound discretion of the decision-making body in this process to consider all such concerns, goals and policies in relation to the application, in its entirety, and to give each the weight it deserves based upon the circumstances presented to the decision-making body. Therefore, the decision-making body may determine the proper balance of impacts, goals and policies in ascertaining if proper conformity with such district plan, in general, is desirable or has been attained.
- D. In rendering a decision on a proposal, the decision-making body should reference relevant portions of the district plan considered. Such district plan provisions should support the basis for the decision-making body's reasoning and decision regarding the proposal, particularly in relation to a determination on general conformity with the applicable district plan.

#### **Sec. 64-4 District maps**

- I. District maps.** The boundaries of the planning districts are shown on the map entitled *Official Development District Map of La Plata County, Colorado*. District maps are intended to be part of the district plans and shall show the boundaries of each planning district. District maps are not intended to reflect zoning of any area of the planning district but may reflect land uses which are consistent with the contents of the district plan. All district plan maps are kept and maintained by the county GIS Department and available as layers in the county's publically accessible internet mapping system.
- II. Adoption, amendments or updates of district maps.** District maps may be adopted, amended or updated in the same manner as a district plan.

#### **Sec. 64-5 Intergovernmental cooperation**

- I. Cooperative planning activities.** The county benefits from having strong and cooperative relationships with municipalities within the county. To that end, when appropriate, the county should consult and cooperate with the planning commissions of incorporated municipalities within the county in order to coordinate mutually beneficial growth and development.
- II. Municipal 3-mile and comprehensive plans.** The planning commission shall review any 3-mile and/or comprehensive plans adopted by an incorporated municipality to ensure compatibility with the county's comprehensive plan and applicable district plan in that area. In addition, the county should make every effort to refer a land use permit application to a municipality when the proposed land use or development is located within that municipality's 3-mile plan.
- III. Intergovernmental agreements.** The county may at any time enter into an intergovernmental agreement with municipalities to address joint planning issues, including but not limited to, joint planning areas, urban growth boundaries, urban renewal areas and annexation procedures. Within the Durango District and La Posta Area District, the applicable land uses and development standards and land use review procedures shall be those standards and procedures enumerated and referenced in the Intergovernmental Agreement Regarding Joint Land Use Planning between the county and the City of Durango, section 72-2 and other applicable provisions of this code.

## **Chapter 65: Animas Valley Zone Districts and Economic Development Areas**

### **Overview**

This code is premised upon performance-based zoning and the type of standards more particularly described in the overview of chapter 70. However, in the Animas Valley, traditional zoning has been adopted. This chapter contains detailed use, density and lot standards for development covered by the Animas Valley Land Use Plan (AVLUP). Applications for development in the Animas Valley should refer to this chapter to determine (1) if the proposed use is allowed and what type of review procedures apply, (2) what minimum lot size, maximum density, minimum open space and maximum impervious coverage standards may apply, and (3) whether any supplemental use, density and development standards are applicable because of the property's location in the Animas Valley River Corridor District or one of several Animas Valley Neighborhood Overlay Zoning Districts.

This chapter is also intended to accommodate future placement of unique standards that may apply to economic development areas, once designated under section 66-38, or future overlay areas that may be adopted relative to requirements for affordable housing or other matters.

### **Sec. 65-1 Applicability**

Unless otherwise excepted, the uses set forth in this chapter shall meet all applicable standards imposed by this section as well as the general and additional standards imposed by chapters 70 and 72-74. If the general and additional standards imposed by this code conflict with the applicable standards imposed by this section and cannot be read harmoniously with such standards, the standards in this chapter 65 shall control.

### **Sec. 65-2 Land use classifications in the Animas Valley**

#### **I. Animas Valley Land Use Plan.**

- A. Use. This section is to be used in conjunction with the Animas Valley Land Use Map.
- B. Basic plan provisions. The basic plan provisions are as follows:
  1. Any preexisting, legal lot of record made nonconforming by this plan shall be entitled to one single-family residence, uses that are customarily secondary to a single-family residence, including accessory uses, and other developments that do not require a land use permit as described in section 66-3 and other applicable provisions of this code.
  2. Any preexisting dwelling unit made nonconforming in terms of density shall enjoy the right of replacement unless the entire site is being redeveloped, at which time the entire site shall be made to conform to the plan.
  3. Uses made nonconforming shall enjoy the right to regular maintenance, repair and to some extent replacement and expansion, as provided in section 79-3.
  4. No new subdivisions shall occur on slopes of thirty (30) percent or greater. One (1) dwelling unit is permitted on any preexisting, legal lot of record lying on steep slopes. This subsection shall in no way supersede the county's geologic hazards map regulations.
  5. Accessory uses shall be allowed in all Animas Valley Land Use Plan Districts so long as meeting the standards established in section 73-2 and/or permitted pursuant to section 73-2.
- C. Use permitted by right. ~~All~~The developments listed as “uses permitted by right” for each of the districts shall not require land use permits.
- D. Special uses. Special uses shall require a minor land use permit meeting the standards identified in this chapter and any other applicable standards, as determined by the director, within this code.
- E. Conformance. Applications for development which are not in conformance with the Animas

Valley Land Use Plan shall not be accepted by the CDD staff. To be submitted, the plan must first be amended to allow for the intended use or density. The process for amending the plan shall require a public hearing before the planning commission or joint planning commission, and a subsequent hearing before the board.

F. Notification. Any development requiring a public hearing shall require a notification of surrounding landowners. For purposes of this provision, surrounding landowners shall include those owners of property within one thousand (1,000) feet of the property line of the lot or parcel subject to the application for a land use permit.

G. Economic Development Areas shall be designated using the process for rezoning set forth in section 66-37 followed by recording a designated EDA as set forth in subsection 66-38.II.

~~F.H.~~ AgPlus uses are not applicable in the AVLUP.

## **II. Public policies for land development in the Animas Valley.**

- A. Open spaces required for clustered housing shall be encouraged to be dedicated as developer conservation easements, in addition to being platted as open space, to further guarantee perpetuity.
- B. Specially designated pedestrian and cycling paths are endorsed along CR 203, Hwy 550, CR 252, and northern CR 250 rights-of-way.
- C. Public access to the river is encouraged as a condition of approval for any commercial projects permitted by special use permit.
- D. There shall be a general maximum building height of thirty (30) feet for all nonagricultural structures, and a maximum of thirty-five (35) feet for agricultural structures. Height measurements shall be taken based on the existing grade and from the lowest point along the foundation wall.
- E. Any property split by a public road may, at the owner's request, be considered as two (2) individual lots with regard to density allowances.
- F. Areas deemed undevelopable due to steep slopes and River Corridor District designation shall be entitled to use fifty (50) percent of those land areas for clustered housing calculations. In such cases, clustered development shall occur on the developable lands only.
- G. All new development or redevelopment shall meet (at a minimum) the water and sewer service requirements as stated in the permit system, regardless of land use designation.
- H. All structures shall maintain a minimum setback of fifty (50) feet from the riverbank, regardless of land use plan designation or location of the floodway.

## **III. Animas Valley land use plan area.**

- A. Development within the Animas Valley Land Use Plan Area, as shown on the official development district map of the county and the Animas Valley Land Use Map, dated 1993, shall conform with the standards and requirements of the Animas Valley Land Use Plan as set forth in this Chapter 65. Notwithstanding any language in this section to the contrary, compliance with the Animas Valley Land Use Plan shall be mandatory and a required standard including, but not limited to, density, lot size, allowable uses and any and all other specific standards contained within the plan. The Animas Valley Land Use Plan must be amended prior to approval of any application for development not in conformity therewith. The Animas Valley Land Use Plan also includes the neighborhood zoning districts as set forth in this chapter.

## **IV. Personal marijuana cultivation; marijuana facilities.**

- A. Personal marijuana cultivation. Personal marijuana cultivation shall only be permitted as either accessory uses if meeting the standards and permitting requirements established in section 73-14

or as a major land use permit subject to all applicable standards in this code including the general standards imposed by section 73-14.

- B. Marijuana facilities. When proposed to be in the Animas Valley Land Use Plan Area, marijuana facilities shall meet all applicable standards imposed by this section as well as the general and additional standards imposed by section 73-14. If the general and additional standards imposed by section 73-14 conflict with the applicable standards imposed by this section and cannot be read harmoniously with such standards, the stricter standard shall control and apply.

**V. Telecommunications facilities.**

- A. In the Animas Valley Land Use Plan Area, telecommunications facilities may only be constructed in the neighborhood commercial, general commercial, and industrial land use plan districts, except for the collocation of antennae on existing telecommunications towers or other types of structures in any district.
- B. The construction of new telecommunication facilities or collocation of antennae as described above shall be subject to the permitting processes in section 73-21.
- C. When proposed to be in the Animas Valley Land Use Plan Area, telecommunication facilities shall meet all applicable standards imposed by this chapter as well as the general standards imposed by section 73-21. If the general standards imposed by section 73-21 conflict with the applicable standards imposed by this chapter and cannot be read harmoniously with such standards, the stricter standard shall control and apply.

**Sec. 65-3 Animas Valley Land Use Plan Districts: use, density and lot standards**

**I. Fifteen-acre minimum single-family residential.**

- A. Purpose of district. The purpose of the fifteen-acre minimum single-family residential district is to provide a reasonable use of land that predominantly has no central water or sewer service, and which lies outside the river corridor district. Preserving the rural character is of prime importance in this area.
- B. Uses permitted by right. Uses permitted by right in the fifteen-acre minimum single-family residential district include: single-family residential, granny flats, commercial livestock and agriculture-related operations and their accessory structures. Clustering is permitted for subdivisions that maintain a minimum five (5) acre lot for each dwelling unit and a minimum of fifty (50) percent of the overall site as landscaped and dedicated open space. The calculated land area remaining between minimum lot sizes and required open space may be used for internal roads, greater lot sizes or more open space. This surplus land area may not be used to justify additional dwelling units.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the fifteen-acre minimum single-family residential district include bed and breakfasts of no more than ten (10) guestrooms, plant nurseries and greenhouses, day care centers, and public and quasi-public facilities. A minimum lot size when subdividing in this district shall be fifteen (15) acres. Highway 550 access points shall be consolidated and improved to the level commensurate with any approved development. Parking shall be as required under section 70-18.

**II. Ten-acre minimum single-family residential.**

- A. Purpose of district. The purpose of the ten-acre minimum single-family residential district is to provide a reasonable use of land that has no central sewer service, and that is located outside of the 100-year floodplain. Preserving the rural character is also of prime importance in this area.
- B. Uses permitted by right. Uses permitted by right in the ten-acre minimum single-family residential district include single-family residential, granny flats, commercial livestock and agriculture-related operations and their accessory structures. Clustering is permitted for

subdivisions that maintain a minimum three (3) acre lot for each dwelling unit and a minimum of fifty (50) percent of the overall site as landscaped and dedicated open space. The calculated land area remaining between minimum lot sizes and required open space may be used for internal roads, greater lot sizes or more open space. This surplus land area may not be used to justify additional dwelling units.

- C. Special uses permitted by a minor land use permit. Special uses permitted by minor land use permit in the ten-acre minimum single-family residential district include bed and breakfasts of no more than ten (10) guestrooms, plant nurseries and greenhouses, day care centers, public and quasi-public facilities, and low-intensity, tourist-oriented recreational uses. A minimum lot size when subdividing in this district shall be ten (10) acres. Intersection improvements along the public right-of-way may be required commensurate with the requested intensity of the use. Parking shall be as required under section 70-18.

### **III. Five-acre minimum single-family residential.**

- A. Purpose of district. The purpose of the five-acre minimum single-family residential district is to provide a reasonable use of land that predominantly has no central water or sewer service. Protecting surface water and near surface groundwater in an area that relies on individual well and septic systems are major considerations. Preserving the rural character is also of prime importance in this area. Impervious coverage of a lot shall not exceed fifty (50) percent.
- B. Uses permitted by right. Uses permitted by right in the five-acre minimum single-family residential district include single-family residential, granny flats, commercial livestock and agriculture-related operations and their accessory structures. Clustering shall be permitted for developments that set aside at least thirty (30) percent open space. In no case shall any individual lot be smaller than three (3) acres. The difference in land area between the lots and the open space may be used for internal roads, larger lot sizes or greater open space, but may not be used to justify additional dwelling units.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the five-acre minimum single-family residential district include bed and breakfasts of no more than six (6) guestrooms, plant nurseries and greenhouses, family day care centers, public and quasi-public facilities, professional offices, research and development facilities, and low-intensity, tourist-oriented recreational uses. A minimum lot size when subdividing in this district shall be five (5) acres. No outdoor storage of materials is permitted. Building and site design shall reflect the rural and scenic quality of the valley. Highway 550 access points shall be consolidated and improved to a level commensurate with any approved development. Developments shall provide for adequate internal circulation between properties in order to facilitate the sharing of highway intersections. Parking shall be as required under section 70-18.

### **IV. Three-acre minimum single-family residential, restricted.**

- A. Purpose of district. The purpose of the three-acre minimum single-family residential, restricted district is to provide for large-lot residential development in an area that has no central sewer service. Preserving the existing rural character is also a goal. Impervious coverage of a lot shall not exceed fifty (50) percent.
- B. Uses permitted by right. Uses permitted by right in the three-acre minimum single-family residential, restricted district include single-family residential, agriculture-related operations and their accessory structures.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the three-acre minimum single-family residential, restricted district include: none.

### **V. Three-acre minimum single-family residential.**

- A. Purpose of district. The purpose of the three-acre minimum single-family residential district is



to provide for large-lot residential development in areas that have direct frontage onto major arterial and collector roads, and which have no central sewer service. Preserving the rural character is also the goal. Impervious coverage of a lot shall not exceed fifty (50) percent.

- B. Uses permitted by right. Uses permitted by right in the three-acre minimum single-family residential district include single-family residential, granny flats and agriculture-related operations and their accessory structures. Where there is central water service, clustering is permitted for subdivisions that maintain a one (1) acre minimum lot size for each dwelling unit and at least forty (40) percent of the entire site as landscaped and dedicated open space. The difference in land area between the lots and the open space may be used for internal roads, larger lots sizes or greater open space, but may not be used to justify additional dwelling units.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the three-acre minimum single-family residential district include bed and breakfasts of no more than three (3) guestrooms, plant nurseries, greenhouses, public and quasi-public facilities, and day care homes. A minimum lot size when subdividing in this district shall be three (3) acres. Intersection improvements along public right-of-way may be required commensurate with the requested intensity of use. Parking shall be as required in section 70-18.

#### **VI. Two-acre minimum single-family residential.**

- A. Purpose of district. The purpose of the two-acre minimum single-family residential district is to provide for a medium-density residential area within a rural environment, and to provide a step-down buffer between three-acre and one-acre districts. Preserving the existing rural character even where central water and sewer service is available is the goal. Impervious coverage of a lot shall not exceed fifty (50) percent.
- B. Uses permitted by right. Uses permitted by right in the two-acre minimum single-family residential district include single-family residential, granny flats and agriculture-related operations and their accessory structures. Clustering is permitted for subdivisions that maintain a one (1) acre minimum lot size for each dwelling unit and at least thirty (30) percent of the entire site as landscaped and dedicated open space. The difference in land area between the lots and the open space may be used for internal roads, larger lots sizes or greater open space, but may not be used to justify additional dwelling units.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the two-acre minimum single-family residential district include bed and breakfasts of no more than three (3) guestrooms, public and quasi-public facilities, and day care homes. A minimum lot size when subdividing in this district shall be two (2) acres. Intersection improvements along the public right-of-way may be required commensurate with the requested intensity of use. Parking shall be as required under section 70-18.

#### **VII. One-acre minimum single-family residential, restricted.**

- A. Purpose of district. The purpose of the one-acre minimum single-family residential, restricted district is to provide for medium-density residential areas that lie outside the 100-year floodplain and that have central water and sewer service. Preserving the rural character while balancing the need for additional housing is the goal. Impervious coverage of a lot shall not exceed fifty (50) percent.
- B. Uses permitted by right. Uses permitted by right in the one-acre single-family residential, restricted district include single-family residential and agriculture operations and their accessory structures. Clustering is not permitted in this one-acre restricted district.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the one-acre single-family residential, restricted district include bed and breakfasts of no more than three (3) guestrooms, public and quasi-public facilities and day care homes. A minimum lot size when subdividing in this district shall be one (1) acre. Intersection



improvements along the public right-of-way may be required commensurate with the requested intensity of use. Parking shall be as required in section 70-18.

#### **VIII. One-acre minimum single-family residential.**

- A. Purpose of district. The purpose of the one-acre minimum single-family residential district is to provide for medium-density residential areas that lie outside the 100-year floodplain and have central water and sewer service. Preserving the rural character while balancing the need for additional housing is the goal. Impervious coverage of a lot shall not exceed fifty (50) percent.
- B. Uses permitted by right. Uses permitted by right in the one-acre minimum single-family residential district include single-family residential, granny flats and agriculture operations and their accessory structures. Clustering is permitted for subdivisions that provide a minimum of thirty (30) percent of the site area as maintained and dedicated open space. The difference in land area between the lots and the open space may be used for internal roads, larger lots sizes or greater open space, but may not be used to justify additional dwelling units. While the individual lot sizes may be as small as ten thousand (10,000) square feet, in no case shall the overall density be greater than one (1) unit per acre.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the one-acre minimum single-family residential district include bed and breakfasts of no more than three (3) guestrooms, public and quasi-public facilities, plant nurseries and day care homes. A minimum lot size when subdividing in this district shall be one (1) acre. Intersection improvements along the public right-of-way may be required commensurate with the requested intensity of use. Parking shall be as required in section 70-18.

#### **IX. High-density, single-family residential/PUD.**

- A. Purpose of district. The purpose of the high-density, single-family residential/PUD district is to make existing high-density, single-family residential areas and PUDs conforming. If such a development is permitted in the future, it shall be held to a higher standard for open space than those now existing. Impervious coverage of a lot shall not exceed sixty (60) percent.
- B. Uses permitted by right. Uses permitted by right in the high-density, single-family residential/PUD district include attached or detached single-family residential with a maximum density of one (1) unit per ten thousand (10,000) square feet, based on net area. Such a development shall dedicate thirty (30) percent of the original site area as perpetual and landscaped open space.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the high-density, single-family residential/PUD district include golf courses and supporting facilities. Intersection improvements along the public right-of-way.

#### **X. Multifamily residential.**

- A. Purpose of district. The purpose of the multifamily residential district is principally to make existing multifamily developments conforming in terms of use if not entirely in terms of density. This multifamily residential district also provides the opportunity for a redevelopment of existing multifamily projects, but with a compromised, downward adjustment in density.
- B. Uses permitted by right. Uses permitted by right in the multifamily residential district include single-family residential on a minimum lot size of one (1) acre.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the multifamily residential district include multifamily developments including apartments, condominiums, town homes and manufactured home parks. Maximum density shall be six (6) units per net acre, based on a twenty (20) percent open space set aside. Existing multifamily developments may redevelop at twelve (12) units per net acre with twenty (20) percent of total site area dedicated as perpetual landscaped open space. Building and site design

shall be compatible with the rural and scenic character of the valley. Intersection improvements along public right-of-way may be required commensurate with the requested intensity of use. Parking shall be as required in section 70-18.

#### **XI. Neighborhood commercial.**

- A. Purpose of district. The purpose of the neighborhood commercial district is to provide specific and limited locations to supply simple day-to-day goods and services to the Animas Valley residents.
- B. Uses permitted by right. There are no uses permitted by right in the neighborhood commercial district.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the neighborhood commercial district include neighborhood-oriented businesses, public and quasi-public facilities, single-family residential, multifamily residential (up to six (6) units per net acre), general and professional offices not to exceed two thousand five hundred (2,500) square feet, mini-storage facilities, bed and breakfasts of no more than six (6) guestrooms, medical marijuana centers as defined in Section 16(2)(m) of Article XVIII of the Colorado Constitution, and retail marijuana stores as defined in Section 16(2)(n) of Article XVIII of the Colorado Constitution. Impervious coverage of a lot shall not exceed fifty (50) percent. All outdoor storage shall be screened from view. New structures shall be designed, built and buffered to blend in with the rural and scenic character of the area. Intersections along public rights-of-way shall be consolidated and improved to a level commensurate with any approved development. Developments shall provide for adequate internal circulation between properties in order to facilitate the sharing of road intersections. Parking shall be as required in section 70-18. It is an objective of this plan to provide for high quality commercial development at locations so designated. Projects proposed within the neighborhood and general commercial districts should be designed in a comprehensive manner regarding access, internal circulation, drainage, parking and landscaping. It is not the purpose of these commercial districts to promote small lot subdivisions that lead to a strip commercial development.

#### **XII. General commercial.**

- A. Purpose of district. The purpose of the general commercial district is principally to make existing businesses conforming and, as well, to give appropriately located properties a reasonable use of the land.
- B. Uses permitted by right. There are no uses permitted by right in the general commercial district.
- C. Special uses permitted by a minor land use permit. Uses permitted by special use permit in the general commercial district include low-intensity, tourist-oriented recreational uses, motels, restaurants, outdoor entertainment, professional office buildings, plant nurseries, sale of goods hand-produced or hand-assembled on site, neighborhood-oriented businesses, public and quasi-public facilities, telecommunication facilities and marijuana facilities as defined in chapter 62. In all cases, outdoor storage shall be screened, and lighting shall be minimal. Noise levels shall be maintained to minimize the nuisance for nearby residents. Intersections along public rights-of-way shall be consolidated where appropriate and improved to a level commensurate with any approved development. Developments shall be encouraged to provide for adequate internal circulation between properties in order to facilitate the sharing of road intersections. Parking shall be as required under section 70-18. It is an objective of this plan to provide for high quality commercial development at locations so designated. Projects proposed within the neighborhood and general commercial districts should be designed in a comprehensive manner with regard to access, internal circulation, drainage, parking and landscaping. It is not the purpose of these commercial districts to promote small lot subdivisions that lead to a strip commercial development.

### **XIII. Industrial.**

- A. Purpose of district. The purpose of the industrial district is to make existing industrial uses conforming while not encouraging new ones, as well as to give appropriately located properties a reasonable use of the land.
- B. Uses permitted by right. There are no uses permitted by right in the industrial district.
- C. Special uses permitted by a minor land use permit. Special uses permitted by a minor land use permit in the industrial district are sand and gravel operations, asphalt plants, public and quasi-public facilities, telecommunication facilities and marijuana facilities as defined in chapter 62. The location of sand and gravel type industrial properties indicated on the Animas Valley Land Use Plan Map are based on the permitted areas map provided by the state division of minerals and geology. If there is any question of land use map accuracy, the records of the state division of minerals and geology shall prevail.

#### **Sec. 65-4 Animas Valley overlay and special zoning districts**

- I. Purpose and applicability.** The Animas Valley has a river corridor district and five (5) neighborhood overlay districts that were established in 1993. Specific standards and regulations were adopted and remain applicable to these districts. The purpose of this section is to address these standards and regulations. All standards set forth in this code, not in conflict with the Animas Valley River Corridor District or the neighborhood zoning district standards, shall apply within these districts, it being the intent of this code that the most restrictive standards shall apply. The standards of the neighborhood zoning districts shall be required standards for development within the respective district. Each neighborhood district is depicted on the county geographic information system mapping.

#### **II. Animas Valley River Corridor District**

- A. Purpose. The Animas Valley River Corridor District was established in 1990 and is defined on the east side of the Animas River by the 100-year floodplain boundary, and on the west side by a five hundred (500) foot width from the river bank or the 100-year floodplain limit, whichever is closest to the river. The purpose of the corridor is, among other things, to:
  - 1. Reduce the private and public cost, property damage and safety threat of flooding by limiting the intensity and proximity of development near the river.
  - 2. Protect the unique riparian areas along the river.
  - 3. Provide a wildlife corridor.
  - 4. Preserve the scenic corridor within the Animas Valley by limiting building height, impervious cover and the type and intensity of land uses allowed for consideration.
- B. Uses permitted by right.
  - 1. Uses permitted by right in the river corridor district include one (1) dwelling unit per existing legal lot of record or per thirty-five (35) acres, whichever is less; granny flats; commercial livestock and agriculture-related operations, and accessory structures. No structure may locate within the floodway or within fifty (50) feet of the riverbank. ▲ detached or attached second dwelling unit, in lieu of a granny flat, is permitted as a use by right if the property and the second dwelling unit meets the following requirements:
    - a. The parcel is at least twelve (12) acres.
    - b. The parcel was assessed as agricultural in the most recent county assessment.
    - c. The second dwelling unit meets water quantity and quality standards of section 70-4.
    - d. The second dwelling unit meets the on-site wastewater treatment system standards of section 70-3.

- e. The second dwelling unit meets the driveway standards of chapter 74.
- f. If a central water or sewer system is proposed, written documentation from the water or sewer provider that the system has capacity to adequately handle the additional dwelling unit's increased usage.

- 4.2. Existing, adjacent legal or nonconforming lots of record may be reconfigured through boundary adjustments with the following specifications:
  - a. The resultant lots allow for no more dwelling units than originally allowed for on the parcels.
  - b. The resulting lots are no smaller than twelve (12) acres.
  - c. All boundary adjustments involving existing nonconforming lots of record must be accomplished by a plat meeting all requirements of section 67-9.IV of this code.
  - d. The plat shall designate minimum building setbacks of fifty (50) feet from all property lines.
  - e. It may be deemed necessary by the board of county commissioners to require specific building envelopes to be designated on the plat. Reasons for the requirement may include, but not be limited to: visual or other adverse impact on the river or road, adverse impact on wetlands, wildlife or agricultural operations
- C. Special uses permitted by a minor land use permit.
  - 1. Special uses permitted by a minor land use permit in the river corridor district include bed and breakfasts of no more than ten (10) guestrooms, plant nurseries, greenhouses, public and quasi-public facilities, professional offices and low-intensity, tourist-oriented recreational uses. Such uses shall be designed to reflect the rural and scenic quality of the Animas Valley.
  - 2. No property subdivision shall create lots smaller than twelve (12) acres. No structures shall locate within the floodway, and in no case shall a structure locate within fifty (50) feet of the Animas riverbank. All outdoor storage shall be screened from view off site. Projects by special use permit that access Highway 550 shall be directed to consolidate and adequately improve selected intersections along the highway commensurate with development intensity. Providing an adequate means of internal circulation between sites shall also be encouraged so as to minimize turn movement conflicts along the highway. Parking shall be as required under section 70-18.

### III. Hermosa Creek Neighborhood Zoning District.

- A. Applicable standards: Pursuant to the authority conferred by C.R.S. § 30-28-119, this division was enacted for the purpose of promoting the health, convenience, order, prosperity and welfare of the present and future inhabitants of the Hermosa Creek Neighborhood Zoning District by avoiding undue congestion by population, by distributing land development and utilization, by preventing the overcrowding of land and buildings, and by maintaining the traditional rural quality of the area. This previously created Hermosa Creek Neighborhood Zoning District is hereby adopted by the board pursuant to C.R.S. § 30-28-102 and incorporated into this code.
- B. Minimum lot area. The minimum lot area per single-family dwelling shall be three (3) acres.
- C. Use regulations. No building or land shall be used and no building shall be hereafter erected, converted or structurally altered unless otherwise provided herein except for one (1) or more of the following uses. Any use not specifically included in this list is excluded from use in the Hermosa Creek Zoning District:

1. Single-Family dwellings:
    - a. All the allowable manufactured housing shall have skirting of the same or similar material as the siding.
    - b. No lot shall provide dwellings for more than two (2) households or families.
  2. Accessory buildings.
  3. Gardening or truck gardens: This includes truck gardening, nursery, a noncommercial conservatory for plants and flowers, farming (but not fur farming and not including stock raising or dairying except as provided in subparagraph (4) of this paragraph).
  4. Livestock:
    - a. The type of animal, by its nature, shall be able to be kept without undue detriment to neighboring uses.
    - b. The animals shall be housed and located on the property in a manner to minimize any obnoxious influence upon other properties. To this end, the following shall be complied with:
      - (i) The animals shall be fenced or otherwise constrained to the property.
      - (ii) Manure shall be managed in a manner so as to minimize the effect of smell and insects to adjacent properties.
      - (iii) Animals shall not be kept in areas that could adversely affect domestic water systems.
    - c. Private poultry houses containing not more than four hundred (400) square feet of ground floor area; private rabbit and chinchilla hutches containing not more than one hundred (100) square feet of ground floor area.
- D. Nonconforming uses. Certain uses for land and buildings may be in existence upon the enactment of the zoning resolution from which this chapter is derived which may not comply with this division. It is the purpose of this division to allow for continuance of such uses and buildings and to provide criteria by which they may be maintained.
1. Continuance of nonconforming uses.
    - a. Facilities and structures shall be kept in good repair.
    - b. The use shall be of a continuous nature. If the use is of a seasonal nature, it shall be operated annually.
  2. Discontinuance of nonconforming uses. Nonconforming uses shall be deemed discontinued pursuant to section 79-3.
  3. Nonconforming lot Size. A structure that is damaged or destroyed on a lot less than three (3) acres may be repaired or replaced when such repair or replacement is commenced within twelve (12) months of the occurrence of the damage.

#### IV. Bruce Lane Neighborhood Zoning District

A. Purpose of district. The Bruce Lane Neighborhood Zoning district was enacted for the purpose of promoting the welfare and independence of the present and future inhabitants of the Bruce Lane Neighborhood Zoning District by preventing high density housing development and maintaining the traditional rural quality of the area as it existed when created. This previously created Bruce Lane Neighborhood Zoning District is incorporated into this code.

A.B. Applicable standards. Minimum lot size.

1. The minimum lot area shall be three (3) acres.
2. Any existing lot smaller than the minimum lot area at the time of formation of the Bruce Lane Zoning District is an existing nonconforming use. It is the purpose of this section to allow continuance of such existing nonconforming lot size, but to prevent further subdivision of such lots and further construction thereon.

**B.C.** Residences per lot.

1. No lot may contain more than two (2) single-family residences; provided, however, that the lot meets the minimum lot size of three (3) acres.
2. For those lots smaller than three (3) acres with an existing residence, no additional residences shall be permitted. However, a structure that is damaged or destroyed on a lot of less than three (3) acres may be repaired or replaced subject to the terms and conditions of chapter 79.

**V. Hermosa/Animas Valley Zoning District**

- A. Purpose of district. Pursuant to the authority conferred by C.R.S. § 30-28-119, this district was enacted for the purpose of promoting the welfare and independence of the present and future inhabitants of the Hermosa/Animas Valley Zoning District by preventing high density housing development and maintaining the traditional rural quality of the area as it existed. This previously created Hermosa/Animas Valley Zoning District is hereby adopted by the board pursuant to C.R.S. § 30-28-102 and incorporated into this code.
- B. Zoning regulations. The Animas Valley Land Use Plan and Map are hereby adopted by this section as the land use regulations for the Hermosa/Animas Valley Zoning District, with the following specific exception: granny flats shall be allowed as special uses requiring a minor land use permit.

**Sec. 65-5 Economic Development Areas**

- I. Purpose.** The purpose of an economic development area is to encourage economic development with an efficient process and predictable land uses. This is accomplished by providing, after approval of designation of the area, an administrative land use permit process for commercial, industrial, and mixed-use projects in appropriate areas of the county that would otherwise require minor or major land use permits.
- II. Creation of district.** The board shall determine, by resolution, specific districts of the county which are appropriate for designation as Economic Development Areas, pursuant to section 66-38.
- III. Process; application requirements; standards.** In economic development areas designated pursuant to section 66-38, an application for a commercial, industrial or mixed used project shall be processed as an administrative land use permit pursuant to section 66-18. The submittal requirements and standards for such development within an economic development area shall be consistent with those requirements and standards that apply to developments requiring a major land use permit, except that the compatibility assessment pursuant to section 70-5 shall not apply. In all other respects, development within an economic development area shall be consistent with the processes and standards of this code.
- IV. Established economic development areas enumerated.** The following economic development areas have been established:
  - A. Gem Village (established pursuant to Resolution No. 1995-35).
    1. Qualifying development. The following development that would otherwise require a minor or major land use permit pursuant to sections 66-6 and 66-7, instead qualify for an administrative land use permit:
      - a. Commercial development or redevelopment;



- b. Industrial development or redevelopment;
- c. Mixed use development;
- d. Commercial storage or parking of equipment, machines, tools, products, raw materials, cars and/or trucks, including salvage/junk yards;
- e. Large childcare centers as defined and regulated by the state department of human services.

B. Reserved

## **Sec. 65-6 Crowbar Creek Planning Area**

**I. Applicability.** The Crowbar Creek Planning area was adopted as a neighborhood overlay in 1994 (Resolution No. 1994-29). Except as otherwise provided in this section, all other provisions of this code shall apply within the Crowbar Creek Planning Area. The Crowbar Creek Planning area is depicted on the Crowbar Creek Area Map.

### **II. Standards.**

- A. Density.** A maximum of two (2) dwelling units per thirty-five (35) acres are allowed.
- B. Minimum lot size.** Minimum lot size shall be thirty-five (35) acres for any newly created lot.
- C. Building setbacks.** The front yard building setback shall be a minimum of twenty (20) feet. Side yard and rear yard building setbacks shall be a minimum of ten (10) feet each.
- D. Permitted uses.** Single-family residential and agricultural uses are allowed, as provided in section 66-3. A second dwelling on a lot may be permitted as provided in section 73-3. Home occupations on a lot may also be permitted as an accessory use pursuant to section 73-2. However, allowable home occupations shall be limited to not more than eight hundred (800) square feet of building area within a single development and thereby shall be limited to accessory uses permitted with administrative land use permits. Development applications for lot sizes or uses not otherwise allowed within the Crowbar Creek Planning Area shall require a major land use permit, with a mandatory compatibility assessment pursuant to section 70-5.
- E. Outdoor lighting.** Outdoor yard lighting, either mounted on poles or on buildings, are permitted. New lighting shall be shielded so that light is directed downward so as not to glare onto a neighboring property or dilute the night sky.
- F. Water Wells.** To ensure adequate water quantity and quality in the Crowbar Creek Planning Area, per section 70-4, any application for any permit shall first require findings of adequate water supply taken from a test well located on the site.
- G. Wildlife Protection Corridor.** To provide a haven for big game and other wildlife, there is established a wildlife corridor as shown on the Crowbar Creek Planning Area Map. In the wildlife protection corridor, no permanent structures are permitted or allowed. Fencing within the wildlife protection corridor is discouraged. Any fence constructed in the corridor shall not exceed a height of forty-two (42) inches and shall conform to division of wildlife standards for materials, spacing, clearance and other design criteria.
- H. Fencing.** So that wildlife movement into and out of the wildlife protection corridor is not impeded, any fencing outside of the wildlife corridor is encouraged to follow the fencing design plans of the Colorado Parks and Wildlife. Fencing materials are not limited within one hundred fifty (150) feet of any dwelling (outside of the wildlife corridor). Opaque fencing is not permitted further than one hundred fifty (150) feet from any dwelling.

**Sec. 65-7 Affordable housing – reserved**

**Sec. 65-8 Interpretation of Land Use Maps and Overlay Maps**

Unless otherwise specified, in the event of uncertainty, boundaries of land use and overlay maps shall be



on section lines; lot lines; the centerlines of highways, streets, alleys, railroad rights-of-way, or such lines extended; municipal corporation lines; natural boundary lines, such as rivers or streams; or other lines to be determined by the use of scales shown on the maps.

## **Chapter 66: Permits and Procedures**

### **Overview**

This chapter describes the common procedures for county review of all land development activity in the unincorporated areas of La Plata County and the specific procedures for the review of land use permits and other types of applications.

The provisions common to all permit and development review covered in this chapter include, among other things, pre-application procedures, submittal requirements, public notice, scope of county review, public meetings and appeals.

This chapter also includes the unique procedural review requirements or steps for most individual types of land use permit applications and the rules that will apply to an application once it is approved, such as the life of the development approval, expiration, and amendments.

The specific procedural steps for divisions of land are in chapter 67 and for planned unit developments in chapter 68.

### **Sec. 66-1      General applicability**

- I. Land use permit required.** Unless otherwise expressly exempt, waived or ~~otherwise~~ adjusted by the provisions of this code, all land development in the unincorporated areas of the county, including but not limited to land subdivision, establishment of new land uses, and changes in land use, shall be subject to a requirement for a land use permit or other land development approval as specified in this code.
- II. Director authority to determine applicable permit procedure.** Where it is unclear what land use permit procedure should apply to a proposed development, or if it is unclear whether a proposed land use or development activity is exempt from the land use permit requirements, the director shall have the authority to determine the applicable county review procedure, if any. The director shall, upon the request of any interested party and under the procedures for a director determination stated in section 66-17, determine which permit procedure, if any, best fits the proposed use or activity. To determine the appropriate permit procedure for a use not clearly or specifically identified in chapter 66, the director shall consider definitions of uses found in chapter 62, chapter 65 for uses located within applicable districts or areas, and the specific use standards stated in chapter 73 and sections 66-3 to 66-8. A proposed use/activity shall be substantially similar to other uses requiring a specific level of permit review (or exempt).
- III. Permit required prior to development activity.** Any applicable land use permits shall be obtained prior to site preparation, excavation, erection, construction, reconstruction, development, redevelopment, occupancy, alteration, relocation, change of use, or intensification of use of any development and/or structure. It shall be unlawful for any person to do or cause any of the above without a required land use permit. The grant of a land use permit for a specific development shall not exempt the development from compliance with any and all applicable state or federal statutory or regulatory requirements, including the issuance of any required state or federal permits.
- IV. Permits denied or withheld.** The decision-making body shall deny and withhold permits or permissions on any new project or application under this code where the applicant or the applicant's agent has failed or refused to comply with this code.
- V. Increase or decrease in the level of land use permit review.** The director, after a use review under section 66-25, shall have the ability to increase the level of required land use permit where, in the discretion of the director, there appears to be outstanding issues pertaining to compliance with this code, or the public health, safety or welfare. At any time prior to final decision on an application, the director may increase the level of required land use permit where, in the discretion of the director, a different level of permit review is required or a proposal is being used to avoid compliance with otherwise applicable standards or procedures. -The director may issue a director

determination letter decreasing the level of required land use permit or granting a waiver to any requirement in this code in the following circumstances:

- A. To eliminate a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000;
- B. To provide reasonable accommodations for protected groups under the federal Fair Housing Act;
- C. To comply with any other state, tribal or federal law.

**VI. Building permits may be required.** The county land use permits identify and allow certain land uses to be undertaken on a property and are separate and distinct from building permits. Issuance of a land use permit does not affect or otherwise supersede the requirement to obtain a building permit for structures pursuant to the county building code, although a building permit may not be required in all cases where a land use permit is issued.

**VII. Representations in applications and hearings.** All representations made in an application for a land use permit, variance, ~~special exception,~~ or waiver that are necessary for compliance with any standard are binding. All oral, written and graphic representations made in the course of hearings before the PC, JPC, BOA, ~~and board~~ or other appropriate body shall be considered a part of the application. Any false or inaccurate information given in a land use permit or development application, or in other representations to the staff or in the course of a hearing may be grounds for the decision-making body to deny, suspend or withdraw any approval of a plan or plat, or to require that certain corrective measures be taken as described in chapter 80. However, minor defects in information that do not substantively affect the accuracy of the representations made in the application shall not invalidate a permit or approval if the director determines the applicant has made a bona fide attempt to provide truthful, accurate information. The applicant, by accepting the benefits of a permit, also certifies, to the best of their knowledge, that the permit application materials are true and correct.

**VIII. Phased or serial development.** Phased or serial development, whether or not initially disclosed by the applicant, shall not be used to circumvent or avoid compliance with this code. For any -phases or potential serial development, the director may recommend to the decision-making body conditions of approval that document baseline conditions and require applicants for subsequent phases or serial development to analyze and comply with code standards based on the projected cumulative impacts of all phases of the development. For subsequent phases or serial developments, including developments in which an initial phase was not analyzed or approved as an initial phase of a multi-phase or serial development, the director may recommend to the decision-making body that the cumulative impacts of the entire phased project or serial development be analyzed to determine the appropriate improvements, mitigation, conditions or other factors affecting all or any portion of the cumulative development's compliance with this code.

**VII.IX. Uses with minimum acreage qualifications.** Except in instances where the reduced acreage is due to condemnation (or sold under circumstances where condemnation is legally permissible), aAny use permitted on a parcel subject to meeting minimum acreage qualifications shall maintain such minimum acreage as a condition of ~~to continue such~~the use under the permit. In the event the area of ~~such~~ parcel is reduced in area below the minimum qualifying acreage, the reduction shall be considered a violation of this code and subject to the provisions of chapter 80 unless ~~permit associated with the use shall be null and void. Alternatively, in order to continue or re-establish such use on a parcel below the minimum qualifying acreage, the applicable~~a new land use permit, if any is available under the code, ~~shall be~~is obtained.

**Sec. 66-2 Relationship with other requirements and procedures**

- I. Compliance with other regulations.** Except as otherwise provided, compliance with this ~~code chapter~~ does not waive the requirement to comply with any other applicable state, local or federal law or regulation.
- II. Coordinated review and permitting.** Any applicant for a permit under this chapter that is also subject to the regulations of other state or federal agencies may request that the county application and review process be coordinated with that of the other agency. To the extent practicable and appropriate, the county will coordinate its approval of the application, including the terms and conditions of such approval, with that of other agencies.

**Sec. 66-3 Land use development not requiring a land use permit (building permits may be required)**

- I. No land use permit required.** No land use permit shall be required for any of the following developments unless specifically required by other sections of this code:
  - A. ~~One s~~Single-family residences on a vacant legal lot of record;
  - B. Placement of a manufactured home on a ~~lot or parcel on a~~ vacant legal lot of record;
  - C. AgPlus uses pursuant to subsection 66-3.II. below;
  - D. Agriculture ~~as defined in Chapter 62a~~ uses not subject to land use permits;
  - E. Barns, garages, and sheds intended solely for noncommercial use;
  - F. ~~Uncovered d~~Decks, fences, retaining walls, sidewalks;
  - G. ~~Parking a recreational vehicle in a recreational vehicle park;~~Reserved
  - H. Seismic, stratigraphic test, core or other exploratory holes drilled for the purpose of obtaining geological information only;
  - I. Change of use to a land use which does not require a permit;
  - J. Second or third dwelling units on a lot pursuant to subsection 73-3.II.;
  - K. Accessory uses pursuant to subsection 73-2.II.;
  - L. ~~Family child~~Day care home, ~~as defined and regulated by the state Department of Human Services, which serve eight (8) or fewer children;~~
  - M. The deposit of clean, natural, fill with minimal organic content, without payment of any compensation or consideration to the owner, lessor, or other lawful occupant of the property receiving the deposit;
  - N. Participating in a disaster re-build program pursuant to section 79-6; ~~and~~
  - O. Installation, operation and maintenance of emergency recovery measures to relieve imminent hazards to life or property created by a natural disaster administered by NRCS or any other federally approved program;
  - Ø.P. Micro solar.
- II. AgPlus uses not requiring a land use permit.**
  - A. Purpose. This subsection 66-3.II. and subsection 66-5.II. below address a unique set of uses by right and types of administrative land use permits specifically related to agriculture. Historically, agriculture has been the predominant land use in the unincorporated areas of La Plata County. Agriculture has defined the area's character and agricultural enterprises and activities are an important sector of the county's economy. While rural living is a life-style choice for many residents, ~~some generate a considerable portion, if not all of their livelihood from agriculture.~~ an important component of agriculture is the production of commodities produced and sold

on the farm or sold from the farm to be processed elsewhere. Key policy goals of several district plans and this code are to encourage, promote and foster agricultural enterprises and activities in the county. It is for these reasons and others that uses referred to as AgPlus are addressed in this chapter. In this context “plus” is a qualitative rather than a quantitative measure, the objective being the preservation of agricultural lands by focusing on the use to which a parcel may be put plus any “value added” activities that support the agricultural use or the ability of the property owner to sustain the land for agricultural purposes.

- B. Applicability. This subsection applies to ~~two (2) types of uses. First are~~ uses by right which the county has determined are customarily incidental or directly related to a pre-existing agricultural activity conducted on a single agricultural parcel. The second type, addressed in subsection 66-5.II, are AgPlus uses that require administrative review because such uses are secondary and clearly subordinate to the pre-existing agricultural activity conducted on the agricultural parcel but support the sustainability of the agricultural use. To qualify for either type of AgPlus use, the proposed use must occur on a single agricultural parcel meeting the following criteria:
1. The parcel was classified by the county assessor as agricultural in the previous two (2) years and is presently used for agricultural purposes;
  2. Except for accessory rural occupations or home occupations, the parcel is a minimum of fifteen (15) acres;
  3. The parcel subject to the application shall not be in violation of this code or the building code.
- C. Uses by right. Uses in this ~~paragraph subsection~~ shall be considered uses by right not requiring a land use permit:
1. Agricultural research facility;
  2. Accessory rural occupation or home occupation;
  3. Equine or llama activities;
  - ~~4. Grain storage facilities;~~
  - ~~5. Small-scale processing facility;~~
  - 6.4. Direct market business/Community Supported Agriculture; and
  - 7.5. Farm machinery repair.

**III. Minimum requirements.** Development not requiring a county land use permit as specified in this code, shall meet all applicable established minimum requirements, including, but not limited to the following:

- A. Building permits required as applicable;
- B. Compliance with all applicable site development standards, such as setbacks, and all use provisions specified in this code;
- C. The director may require compliance with section 81-2 Sections Necessary for Immediate Preservation of Public Health and Safety when circumstances warrant.

~~**IV. Building permit referral.**~~ Building permit applications shall be referred to the CDD for review of compliance with the standards of this code. CDD review shall include but is not limited to compliance with the land use permit and division of land requirements of chapters 66 and 67, development on a legal lot of record, setbacks within section 70-6 and chapter 90, and the height requirements of sections 65-6 and 70-6. Building permit applications shall include a site plan and any other documentation that contains all information needed to demonstrate compliance with applicable standards. Referral to the CDD is not intended to preclude or conflict with the applicability of the building code or other sections of the code. ~~The director may require compliance with section 81-2~~

**Sec. 66-4 Projects classified as director determinations**

- I. Director determination required.** A director determination shall be required for any of the following developments or matters:
- A. Agricultural second or third dwelling unit pursuant to paragraph 73-3.III.A.;
  - B. General second dwelling unit pursuant to paragraph 73-3.III.B.;
  - C. Use reviews pursuant to section 66-25;
  - D. Permit adjustments pursuant to section 66-26;
  - E. Reserved
  - F. Adjustments to an approved, but not recorded plat, pursuant to section 67-11;
  - G. Lot legalizations pursuant to section 67-14;
  - H. Written code interpretations pursuant to section 66-17;
  - I. Lots split by county road pursuant to section 67-13;
  - J. Deployment of a telecommunications facility that does not amount to a substantial change pursuant to section 73-21;
  - K. Applicable level of permit review for areas and activities of state interest pursuant to section 69-8;
  - L. Applicability of the technical revision review process or denial of a technical revision for areas and activities of state interest pursuant to section 69-15;
  - M. Waiver of the width requirement for an emergency access easement pursuant to subsection 74-4.XIII;
  - N. Permissible alterations or expansion of a nonconforming use or structure pursuant to section 79-3;
  - O. Extension of time for abandonment or discontinuance of a nonconforming use pursuant to section 79-3;
  - ~~P.~~ Re-building and re-establishing nonconformities subject to the disaster re-build program pursuant to section 79-6.
- II. Procedures.** Except as otherwise provided, an application for a director determination shall be subject to section 66-17 director determination procedures.

**Sec. 66-5 Projects classified as administrative land use permits**

- I. Administrative land use permit required.** An administrative land use permit shall be required for any of the following developments:
- A. AgPlus uses pursuant to subsection 66-5.II. below;
  - B. Second dwelling unit pursuant to subsection 73-3.IV.;
  - C. Accessory uses pursuant to subsection 73-2.III.;
  - D. Special events pursuant to section 73-20;
  - E. Economic development area uses pursuant to section 65-5;
  - F. Phased elements of major projects pursuant to section 66-21;
  - G. Final plans pursuant to section 66-21.;

- H. Final plats pursuant to section 67-3;
- I. Amendments to recorded plats pursuant to section 67-11;
- J. Vacation of utility easements pursuant to 67-12;
- K. Lot consolidations pursuant to section 67-9;
- L. Boundary adjustments pursuant to section 67-9;
- M. Boundary adjustments – Animas Valley pursuant to sections 65-4- and 67-9;
- N. Deployment of telecommunications facilities using existing structures pursuant to section 73-21;
- ~~N.O. Small scale solar pursuant to section 73-19.~~
- ~~O.P. Agricultural exemption subdivisions pursuant to section 67-6.~~

**II. AgPlus uses by administrative land use permit.** Uses or applications subject to the contents of this subsection shall meet all of the criteria set forth in ~~paragraph~~subsection 66-3.II.B. above and shall be required to obtain an administrative land use permit:

- A. Farm stand that sells agricultural products produced off-site;
- B. Agritourism enterprise;
- C. Bed and breakfast facilities;
- D. Public livestock or farm implement auction;
- E. ~~Family child care home or Day care facility~~state licensed child care center;
- F. Sale rooms of products grown on site;
- G. Assisted living residence;
- H. Veterans assistance programs;
- I. Wineries, cideries and distilleries;
- J. Grain storage facilities;

**III. Small scale processing facility.**

**IV. Procedures.** Except as otherwise provided, an application for an administrative land use permit shall be subject to section 66-18 administrative land use permit procedures.

**Sec. 66-6 Projects classified as minor land use permits**

- I. Minor land use permits required.** A minor land use permit shall be required for any of the following developments:
  - A. Commercial development or industrial development meeting all of the following criteria:
    1. Less than ten thousand (10,000) sq. ft. in gross floor area;
    2. Less than three (3) acres in gross site disturbance;
    3. Less than one thousand fifty (1,050) gallons per day water demand or served by a public water system or designated regional public water system;
    4. Less than five (5) percent increase in background traffic.
  - B. Mixed use development containing commercial or industrial development meeting all of the criteria in paragraph 66-6.I.A. above and containing three (3) or fewer dwelling units.
  - C. Multi-family dwelling development containing three (3) dwelling units;
  - D. Sketch plan pursuant to sections 66-19;
  - E. Conceptual development plan pursuant to section 66-29;



- F. Special uses in the Animas Valley Land Use Plan pursuant to chapter 65;
- G. Accessory uses pursuant to subsection 73-2.IV.;
- H. Temporary uses pursuant to section 73-22;
- I. Second or third ~~single-family~~ dwelling unit pursuant to subsection 73-3.V.;
- J. Minor subdivisions pursuant to section 67-4;
- K. Reserved;
- L. Clustered rural development pursuant to section 67-7;
- M. Cooperative planning area development pursuant to section 66-23;
- N. Duplexes dwellings;
- O. Day care facility centers serving five (5) to fifteen (15) individuals;
- P. Religious institutions;
- Q. Community facilities;
- R. Commercial and industrial operations meeting the criteria in paragraph 66-6.I.A. above for the processing or manufacturing of crops, forage or livestock including, but not limited to, dairies, poultry processing and meat packing plants. agricultural commodities, as that term is defined in C.R.S. § 35-28-104.
- S. Deployment of telecommunications facilities using a new stealth tower as the structure or small wireless facilities that do not qualify for administrative review pursuant to section 73-21;
- T. Large~~Small~~ scale solar pursuant to section 73-19;
- T.U. Agricultural exemption subdivisions pursuant to section 67-6.

**II. Procedures.** Except as otherwise provided, an application for a minor land use permit shall be subject to section 66-20 minor land use permit procedures.

#### **Sec. 66-7 Projects classified as major land use permits**

- I. Major land use permits required.** A major land use permit shall be required for any of the following developments:
  - A. Commercial development or industrial development meeting any one (1) of the following criteria:
    1. Ten thousand (10,000) sq. ft. or larger in gross floor area;
    2. Three (3) acres or larger in gross site disturbance;
    3. One thousand fifty (1,050) gallons or greater per day water demand if not served by a public water system or designated regional public water system; or
    4. Five (5) percent or greater increase in background traffic.
  - B. Mixed use development containing commercial or industrial development meeting any one (1) of the criteria in paragraph 66-7.I.A above or containing four (4) or more dwelling units;
  - C. Multi-family dwelling development containing four (4) or more dwelling units;
  - D. Four~~th~~(4) or subsequent more ~~single-family~~ dwelling units pursuant to subsection 73-3.VI.;
  - E. Major subdivisions pursuant to section 67-3;
  - F. Planned unit developments pursuant to chapter 68;
  - G. Manufactured home parks, tiny home communities or manufactured home subdivisions pursuant to section 73-15;

- H. Commercial outdoor storage and sales pursuant to section 73-7;
- I. Recycling processing facility, salvage yard and junk yard pursuant to section 73-16;
- J. Day care facilities serving sixteen (16) or more individuals;
- K. Gravel, sand, topsoil and mineral extraction pursuant to section 73-10;
- L. Sexually oriented businesses pursuant to section 73-17;
- M. Aggregate processing and asphalt plants, pursuant to section 73-10;
- N. Airstrips and heliports;
- O. Campgrounds and recreational vehicle parks pursuant to section 73-5;
- P. Commercial outdoor shooting range pursuant to section 73-8;
- Q. Land applied septage pursuant to section 73-13;
- R. Commercial and industrial operations meeting the criteria in paragraph 66-7.I.A. above for the processing or manufacturing of crops, forage or livestock including, but not limited to, dairies, poultry processing and meat packing plants.
- S. Marijuana facilities pursuant to section 73-14;
- T. Deployment of telecommunications facilities using new structures other than a stealth tower pursuant to section 73-21;
- ~~U.~~—Event venues pursuant to section 73-9;

**II. Procedures.** Except as otherwise provided, an application for a major land use permit shall be subject to section 66-21 major land use permit procedures.

#### **Sec. 66-8 Other permit and application types**

- I. Other permit and application types.** Depending upon the nature of the proposal ~~or~~ development, ~~or~~ development related activities may be subject to other applicable types of land use permits, applications and reviews including the following:
  - A. 1041 Permit – Areas and activities of state interest pursuant to chapter 69;
  - B. Planned unit developments pursuant to chapter 68;
  - C. Vacation of plats pursuant to section 67-12;
  - D. Variances pursuant to section 66-27;
  - E. Appeals to board of adjustment pursuant to section 66-28;
  - F. Adoption and amendment of comprehensive plan and district plans pursuant to sections ~~66-35~~, 64-1 and 64-3;
  - G. Animas Valley rezoning pursuant to section 66-37;
  - H. Economic development area designation pursuant to section 66-38;
  - I. Development agreements pursuant to section 66-34;
  - J. Development improvements agreements pursuant to section 66-30;
  - K. Fair share reimbursement agreements pursuant to section 66-31;
  - L. Location and extent review pursuant to section 66-24;
  - ~~M. Special districts pursuant to chapter 100;~~
  - ~~N. Sale of public property pursuant to chapter 94;~~
  - ~~O. Water rights transfers 06CW99 pursuant to chapter 94;~~

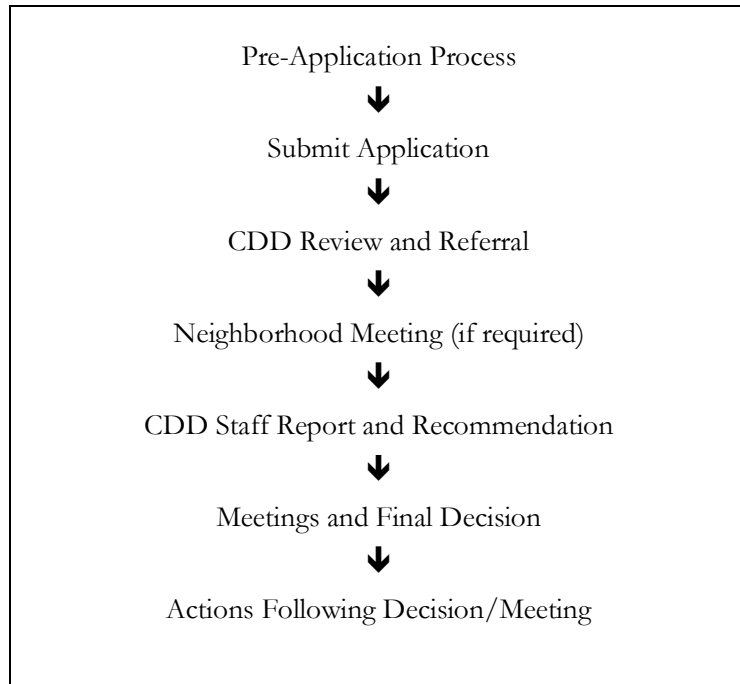
~~P. Water rights transfers 06CW127 pursuant to chapter 94;~~

~~Q.M.~~ Land use permits for oil and gas pursuant to chapter 90.

- II. Procedures.** Except as otherwise provided, applications for other types of land use permits, applications and reviews shall be subject to the procedures corresponding to each type of application as referenced in subsection 66-8.I. above. To prevent duplication where procedures in this chapter may overlap with the county's requirements for other types of land use permits or reviews, the director may waive or modify applicable requirements under this chapter.

**Sec. 66-9 Land use permits – general provisions**

- I. Common review procedures.** Sections 66-10 through 66-14 describe the procedural steps and requirements that are common to most development applications submitted according to this code. All steps may not be applicable to each type of development application. The common procedural steps are as follows:



**Sec. 66-10 Pre-application process**

- I. Purpose.** The purpose of the pre-application process is to provide an opportunity for the applicant and the county to discuss the development proposal in order to:
- A. Determine the required application(s) and the timing of multiple application submittals including whether they may be processed concurrently or must be processed sequentially;
  - B. Provide the applicant with application materials and inform the applicant of submittal requirements and an approximate time frame for the application review process;
  - C. Discuss compliance with the code's land use, density, and development standards, and attempt to identify potentially significant issues regarding compliance early in the process;
  - D. Refer the applicant to other departments or agencies to discuss significant issues prior to the pre-application meeting and application submittal;
  - E. Discuss the extent to which surrounding landowners are to be notified of the proposal and the need for any neighborhood meetings.

## II. Process and requirements.

- A. Request for a pre-application meeting and preliminary project feasibility. To request a pre-application meeting, the applicant shall submit a preliminary site plan, a written description of the proposal, and all completed forms or information as required by the director. Materials submitted for review as part of the pre-application process are not an “application” for development. The director shall review the information provided by the applicant in order to determine the appropriate type of application process and to identify potential development issues. Prior to scheduling a pre-application meeting, the director may refer the applicant to other departments or agencies, surrounding landowners or other parties to explore identified potential issues and to obtain additional information which may assist the applicant in determining the preliminary feasibility of the proposal.
- B. Alternative pre-application process. For director determinations, administrative land use permits and other types of administrative applications, the director may establish alternatives to the procedures outlined in this section for the applicant to obtain a list of application requirements and the appropriate forms in order to expedite the process.
- C. Pre-application meeting. Unless otherwise provided in this code, a pre-application meeting is required for the specific land use permit and development applications shown in Table 66-15. For all application types, a conference through telephone, video, email or other electronic means may serve the function of a meeting at the discretion of the director. The pre-application meeting shall occur prior to the filing of the formal application. The director shall provide the applicant:
  1. A checklist of submittal items that will be necessary for each type of application being sought;
  2. The forms with the specific information that is required to process each type of application being sought;
  3. The county’s applicable application fee(s).
- D. Attendance. At a minimum, the applicant and the director shall participate in the pre-application meeting. The director may invite other county staff or agency representatives to participate in the pre-application meeting.
- E. Effect of the pre-application meeting. The director and other staff opinions presented during the pre-application process are informational only and do not represent a commitment on behalf of the county regarding the acceptability of the development proposal. Comments made by staff should be considered to be preliminary until after the application is submitted and surrounding landowners and referral agencies have had an opportunity to comment.
- F. Timely application submittal required. If a development application is not submitted within six (6) months of a pre-application meeting, the applicant shall schedule and attend another pre-application meeting before submitting an application. The director may waive another pre-application meeting if determined that it is not necessary for adequate project review or if there has been no substantial change in the proposal.

### Sec. 66-11 Submission and review of development application

#### I. Submission of development application.

- A. Authority to file applications.
  1. Applications in general. Applications for development shall be submitted by the owner, any other person having a recognized interest in the real property for which the development is proposed, or their authorized agent. If the applicant is not the owner, or is a contract purchaser of the real property, the applicant shall submit an authorization form signed by the owner consenting to the submission of the application. If the applicant is

not the sole owner of the real property, the applicant shall submit an authorization form signed by the other owners or an association representing the owners consenting to or joining in the application.

2. Applications modifying existing plats. For proposed applications pursuant to chapter 67 that modify existing recorded plats ~~pursuant to chapter 67~~ or otherwise seek to change any aspect of a plat signed by the chair of the board, the applicant shall include all owners of property as shown on the plat and owners of adjacent properties that are impacted or could be impacted by the proposed development, as determined by the director. For example, an application for an administrative land use permit seeking an amended plat to delete a plat notice or change a platted building envelope impacting one (1) or more property owners within the subdivision shall include all owners of property shown on the plat and all others~~such~~ impacted property owners as applicants.
- B. Submit to CDD by appointment. All applications required by this code shall be submitted to the CDD by making an appointment with staff, unless otherwise specified by the director.
  - C. Contact person (agent) designation required. The applicant shall designate one (1) person on the application as the primary contact person who will be responsible on behalf of the applicant for all notifications, including meeting dates, deadlines, and requirements. The county will communicate with the contact person. It is the contact person's responsibility to inform the owners or applicant of all information conveyed by the county or any referral agency. The applicant shall notify the director in writing if there is a change in the contact person.
  - D. Application contents.
    1. Submittal requirements. The director is authorized to establish submittal requirements for all applications required by this code. Applications shall contain all information ~~as~~ needed to determine the development's compliance with the standards and approval criteria adopted in this code. If any part of the submittal requirements is missing, the application will be deemed incomplete and the application will not be accepted. The director shall provide all the required forms necessary to implement such requirements as follows:
      - a. The director shall create and periodically revise, as necessary, forms for each type of application required by this code.
      - b. Application forms shall include the specific information required to process each type of application. The specific information requirements shall be established and periodically revised by the director with the purpose of facilitating the evaluation of applications for compliance with the standards of this code and the efficient administration of this code.
      - c. The director is authorized to establish a standardized format for each type of required submittal, and to allow deviations from the format in instances where the director finds that an alternative format would provide for a review that is more efficient.
    2. Professional certification. The director has discretion to require an engineer's stamp or other professional certification of any documents or materials submitted pursuant to this code.
    - ~~3. False or inaccurate information. Any false or inaccurate information given in a land use permit or development application, or in other representations to the staff or decision-making body may be grounds for the decision-making body to deny, suspend or withdraw any approval of a plan or plat, or to require that certain corrective measures be taken as described in chapter 80. However, minor defects in information that do not substantively affect the accuracy of the representations made in the application shall not invalidate a~~

~~permit or approval if the director determines the applicant has made a bona fide attempt to provide truthful, accurate information.~~

E. Fees.

1. All application submittals shall include the application fee in the amount indicated on the county's fee schedule, as well as any review fees charged by the ~~reviewing~~ county ~~reviewing~~ surveyor, school districts, and other referral agencies for which the county has agreed to collect.
2. County clerk and recorder's office fees shall be paid to the county by the applicant at the time of recording.
3. Referral agency fees. Other outside referral agencies may require review fees and the applicant shall pay those fees directly to the referral agencies in advance of their review and comment.

F. Applicant responsible for reimbursing county for consultant review fees.

1. Consultant review authorized. The director is authorized to retain professional consultants at the applicant's expense to assist in the review of proposed development. The director may make an initial determination as to the use of consultants at the time of the pre-application meeting and may revise the determination if new or changed information in the application materials justifies the revision. The selection of the consultant shall be within the sole discretion of the director.
2. Payment of consultant review fee. If, at any point in the review process, the director determines an application will require review by professional consultants the applicant shall be responsible for all costs associated with the consultants' review or support services. Such consultants or support services may include, but are not limited to, fees or costs for technical consultants, expert witnesses, engineers, attorneys, court reporters, or transcription fees. The director shall provide the applicant with a written preliminary estimate of anticipated services or professional consultant review or service fees, whether fixed or at an hourly rate. Not later than twenty (20) days following receipt of the director's estimate, the applicant shall present to the director certified funds in the amount set, whether as payment in whole or as a deposit. Generally, the amount set shall be one hundred (100) percent of the estimated service or review fees. Regardless of such estimate, the applicant shall be responsible for all service or consultant review fees. As review of the application progresses, if necessary, the applicant shall replenish the fee account to ensure that funds are available to continue to meet the costs of county review or services related to the decision-making process, including costs incurred by the county during any appeal process. Until the fee is paid or replenished as necessary, the application shall not be further processed. Unused funds for professional services or consultant review shall be returned to the applicant no later than sixty (60) days after the decision-making body's final action or, if applicable, the exhaustion of all judicial remedies.
3. Payment to reimburse county for additional costs. The director may require the payment of additional funds to reimburse the county for services related to the application, should they become necessary. If a balance becomes due, the application shall be considered incomplete until such time as the payment is received from the applicant. The review body and decision-making body shall take no formal action on the application until all fees and expenses incurred to date have been paid.
4. Fixed-fee consultant review. The director is authorized to establish:
  - a. A roster of consultants that are pre-qualified to conduct reviews of various types;
  - b. A schedule of fixed fees.

- G. Concurrent review. At the election of the applicant, and with the director's approval, different types of applications may be consolidated or processed concurrently whenever possible to expedite total review and processing time for a project. The time frame and approval process for consolidated or concurrently reviewed applications shall follow the longest time frame and approval process required for the subject application types. In no event shall two (2) mutually exclusive applications be processed concurrently. The submission of multiple applications for the same property is a good faith representation that the applicant intends to pursue both projects, if approved.

## II. Community development department review and referral.

- A. Determination application is complete and sufficient to accept for processing.
1. Complete application sufficient for processing. An application shall be considered complete if it is determined to be sufficient for processing and is accompanied by the applicable processing fee. An application is sufficient for processing if staff determines it is submitted in the required form and includes all submittal information including all items identified by the director on the county's pre-application checklist. Staff shall perform a pre-submittal review of a proposed application submittal to determine its sufficiency to accept for processing. The pre-submittal review shall not exceed five (5) business days without the applicant's consent. Upon a determination that an application is sufficient for processing, the applicant shall pay the applicable processing fee(s) to complete the application and to initiate the review of the submittal.
  2. Incomplete application insufficient for processing. If an application is insufficient for processing the application shall be deemed incomplete and written notice shall be provided to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) days of the notice of deficiencies and has not communicated a reason for just cause for delay to the director, the application shall be considered withdrawn.
- B. Referral to agencies.
1. Referral to appropriate agencies. The county does not provide services such as fire protection, water supply and sanitary sewage treatment, health inspections or schools. Development proposals can impact the agencies providing these services and the county relies on these agencies to identify development requirements and provide comments through the referral process. Upon acceptance of an application, the director shall distribute pertinent materials from the application to the appropriate agencies as dictated by specific provisions in this code or by the director when determined to be necessary to ensure that the proposal complies with all applicable standards and requirements. Referral agencies include the following:
    - a. Other county departments;
    - b. ~~Reviewing c~~County ~~reviewing~~ surveyor;
    - c. County, state, and federal agencies;
    - d. Special districts;
    - e. Fire districts;
    - f. Ditch companies;
    - g. Homeowners' or property owners' associations;
    - h. Water conservancy districts;
    - i. Open space conservancy districts;



- j. Airports;
  - k. Municipalities pursuant to sub-subparagraph 66-11.II.B.2.a. below;
  - l. Tribal governments pursuant to sub-subparagraph 66-11.II.B.2.b. below;
  - m. Providers of utilities;
  - n. Any other agency, organization or person who, in the opinion of the director, may be affected or can expertly contribute to the review of the proposed development.
2. Applications to be sent to governing bodies of municipalities and tribal governments.
    - a. Applicable materials from applications of proposed developments located within two (2) miles of municipal boundaries or within a municipality's designated service area shall be sent to the governing body of the municipality. If the project is located within three (3) miles of a municipality that has a formal annexation plan for that area, the municipality shall be sent applicable materials from the application. Municipalities are encouraged to recommend a course of action to the decision-making body during the review of the application.
    - b. Tribal governments shall be notified of any development proposed within their exterior ~~tribal~~reservation boundary.
  3. At a minimum, preliminary plats and conceptual development plans shall be submitted to those agencies specified in C.R.S. § 30-28-136.
  4. The applicant shall be responsible for submitting any additional information required by the referral agencies, copies of the application to enable agency review, and for covering reasonable costs, such as postage and scheduled review fees, associated with distribution of the application materials to ~~reviewing~~referral agencies.
  5. Time frame for review. ~~Reviewing~~Referral agencies and departments shall submit their comments to the director within twenty-one (21) days of the agency's receipt of the referral packet. If no comments are received, the ~~referral~~agency, organization, or individual shall be deemed to have waived the right to submit comment unless such comments are otherwise needed to demonstrate compliance with a requirement of this code or state statute. Staff may grant a necessary extension of up to thirty (30) additional days for an agency's review and comments, with the applicant's consent. Staff will reasonably attempt to incorporate late comments into the staff report.
  6. Additional review. During the review of an application, the director may require that the applicant solicit additional comments regarding a project from the appropriate agencies if the director determines that the applicant did not adequately address an agency's original comment or if the application is revised.
  7. Alternative agency comment procedures. For director determinations, administrative land use permits and other types of administrative applications, the director may establish alternative procedures for the applicant to obtain agency comments, signatures or certifications in order to expedite the review of the application.
  8. The applicant shall respond to and remedy all concerns, deficiencies and recommendations necessary to comply with the requirements of this code set forth in the referral responses received and shall submit such responses to the CDD. If the applicant fails to submit a thorough response within sixty (60) days and has not communicated just cause for delay to the director, then the application shall be considered withdrawn by the applicant.
- C. Compliance review of application.
1. Staff shall review the application for compliance with all applicable approval criteria and use, density, and development standards contained in this code and other applicable law.

~~Within fifteen (15) business days of the end of the time frame for agency review, staff shall conclude the compliance review of the application and notify the applicant of the results in writing. The time frame for review may be extended by staff pursuant to paragraph 66-12.III.B. An application shall be considered compliant if the information contained in the application demonstrates that the proposed development is ripe for consideration of compliance with this code's requirement. An application shall be considered compliant if the information contained in the application demonstrates that the proposed development complies with this code's requirements.~~ Any and all approvals for variances or waivers ~~exceptions~~ to required standards except those reviewed by the board shall be obtained prior to the processing of any project to the PC or board. If after an application has been submitted, the director determines that a variance or waiver~~exception~~ is necessary, the application shall be held in abeyance until such variance or waiver~~exception~~ is approved. ~~Within fifteen (15) business days of the end of the time frame for agency review, staff shall conclude the compliance review of the application and notify the applicant of the results in writing. The time frame for review may be extended by staff pursuant to paragraph 66-12.III.B. An application shall be considered compliant if the information contained in the application demonstrates that the proposed development complies with this code's substantive requirements.~~

2. If staff's compliance review identifies areas where the application does not demonstrate that the proposed development complies with this code's ~~substantive~~ requirements and is determined to be non-compliant, staff's notification to the applicant shall specifically identify those items and associated code provisions. The applicant shall have an opportunity to revise the application materials. Revisions, additions and corrections to application materials in response to staff's compliance review shall be re-submitted within a time frame specified by staff. The time frame specified by staff shall not be less than thirty (30) days, and the re-submittal shall be subject to the application submission, agency referral and staff review provisions of this code section.

### III. Inactive application.

- A. Inactive applications. An application will be considered inactive if at any point in a development review process any of the following occur:

1. The director or a referral ~~body~~/agency has notified the applicant that additional or corrected materials are required, and the applicant has not submitted such materials within a specified time frame or when no time frame was specified, sixty (60) days after the date of such notification;
2. The applicant fails to attend any scheduled neighborhood meeting, meeting with the director, or meeting before the PC, board, or BOA;
3. The director determines that substantial evidence exists that the application is inactive, including but not limited to other actions or inaction by applicant.

B. No further processing of such inactive application shall occur until the deficiencies are determined by the director to be rectified. If the applicant does not rectify the deficiencies within a sixty (60) day period immediately following the date of the occurrences outlined in subparagraphs 66-11.III.A.1 through 3, the application shall be considered automatically withdrawn. Prior to the date on which the application is deemed withdrawn, the director may extend the specified time frame should the director determine that circumstances beyond the control of the applicant prevent timely completion of the application.

C. Re-submittal of automatically withdrawn application. Any re-submittal of an automatically withdrawn application requires a new application, beginning with the pre-application process.

#### IV. Neighborhood meetings.

- A. Purpose. The county encourages and may require informal neighborhood meetings between applicants and potentially affected landowners and residents ~~by development proposals in order~~ to facilitate public input to land use decisions early in the review process. A neighborhood meeting is not a public hearing.
- B. Applicability. Neighborhood meetings may be required by the director for the types of applications as specified in Table 66-15.
- C. Neighborhood meeting procedures.
  1. During the review of the application, the director may require a neighborhood meeting if it is determined that the application may have adverse impacts on the neighborhood or where neighbors have raised objections based on compliance with this code.
  2. The neighborhood meeting shall be held after staff's receipt of department and agency comments on a land use permit or development application, but prior to the first public meeting for the proposed project.
  3. The director shall mail notice of the neighborhood meeting to surrounding landowners pursuant to section 66-14 prior to the meeting.
  4. The staff shall prepare an agenda and chair the meeting. The applicant shall attend the neighborhood meeting and explain the proposed project. The applicant shall present what methods are planned to make the use compatible with surrounding uses. Following the applicant's presentation, the neighbors may comment on the proposed project or question the applicant on issues presented and the impacts of the use on the neighborhood. Discussion between the applicant and neighbors to resolve questions and concerns is encouraged.
  5. Staff shall prepare a report summarizing the discussion points from the neighborhood meeting which shall be included with the staff report for any subsequent public meetings.
  6. An applicant's failure to attend any required neighborhood meetings may delay review of the application or result in an inactive application under subsection 66-11.III.
  7. If no surrounding landowner attends the neighborhood meeting for which proper notice was given, the applicant shall have satisfied the requirements for that neighborhood meeting.

#### V. Staff report and recommendation.

- A. Preparation of staff report and recommendation. Unless the application is one that is approved by a director determination letter, following the compliance review of the application, including the period for the applicant's response to any non-compliance matters, staff shall prepare a written staff report. The report shall include discussion of the relevant issues pertaining to the compliance of the application with the standards and approval criteria of this code. The staff report shall incorporate public comments, the relevant comments from ~~reviewing~~referral agencies and any other relevant information concerning the application. The staff report shall conclude with a recommendation for application approval, approval with conditions, or denial. Conditions for approval may be recommended to eliminate any areas of noncompliance, ensure compatibility or to mitigate any adverse impacts from the development proposal.
- B. Consent agenda placement. If an application meets or exceeds all required standards and procedures or will meet all requirements with staff recommended conditions, and the director recommends approval or approval with any such conditions, the director may place the application on the PC's or board's consent agenda. At the public meeting, the PC or board may approve such consent agenda with a single motion, or a member may move to place consideration of the project on the decision agenda for project specific review. Any member of

the public, applicant, or staff may also request project specific review and, subject to an affirmative vote of the decision-making body, the project may be moved to the decision agenda for project specific review and consideration. If an application fails to meet or exceed all required standards, requirements, and procedures and the director recommends denial, the director shall place the application on the PC's or board's decision agenda.

- C. Distribution of staff report. Staff shall distribute the staff report to the applicant, review or decision-making body, and county attorney and shall also make the staff report available to any interested parties and members of the public prior to the scheduled meeting date.

**Sec. 66-12 Meetings and final decision on application**

**I. Permitted scope of action by review and decision-making official or body.**

- A. Permitted actions. When considering an application or appeal, a review body or decision-making body shall consider the staff recommendation, referral agency and public comments and the approval criteria and standards for the type of application or appeal before it decides to:
  - 1. Approve the application or appeal;
  - 2. Approve the application or appeal with conditions;
  - 3. Request more or additional information and continue the meeting to a date certain for a decision, subject to any statutory time limits;
  - 4. Take the application under advisement and continue to a date certain for a decision, subject to any statutory time limits;
  - 5. Deny the application or appeal.
  - 6. Site visits by review body or decision-making body. As part of its consideration of the application, the review body or decision-making body members may, individually, as a group or through a committee appointed for that purpose, inspect the site of the proposed land use or development activity. If a quorum of the review body or decision-making body attend the site visit, the site visit shall be considered a meeting subject to the Colorado Open Meetings Law. The site visit may occur at any time prior to the review or decision-making body's final recommendation or action on the application. Upon reasonable request by the director, the applicant shall mark the development site prior to the site visit to generally locate property lines, building envelopes, and other key site planning features.
  - 7. Conditions of approval.
    - a. The review body or decision-making body may recommend or impose such conditions upon the subject development as are necessary to carry out the general purpose and intent of this code. Conditions and/or additional information requirements shall be in written form and attached to the permit.
    - b. Conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development and shall be based upon adopted standards.
    - c. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
    - d. The decision-making body may place specific time limits on the satisfaction of any condition of approval.
  - 8. Written findings required. All decision-making body final decisions on an application or an appeal, except final decisions made by the director through a determination letter, shall be

based on written findings of fact related to the relevant standards or criteria set forth in this code.

9. Final decisions by director in writing. All final decisions on an application made by the director shall be made in writing.

**II. Conduct of public meeting on applications.** A public meeting on an application required by this code shall be conducted according to the following procedures:

- A. Rights of all persons. Any person may appear at the public meeting on the application and submit evidence, either individually or as a representative of an organization. Upon request of the chair, anyone representing an organization shall present written evidence of their authority to speak on behalf of the organization on the matter under consideration. Each person who appears at the public meeting shall be identified and, if appearing on behalf of an organization, state the name and mailing address of the organization. All timely written comments ~~received prior to the public meeting~~ shall be made a part of the record and available for public inspection.
- B. Applicant duty to appear. The applicant or the applicant's representative shall attend all public meetings concerning the application. It shall be the duty of the applicant to become apprised of the dates of the meetings. If the applicant or applicant's representative is not present, the application may be tabled. If the applicant or the applicant's representative is not present at two (2) scheduled meetings on the application, the application shall be deemed withdrawn. After such withdrawal, the county will not take further action on the application. To re-initiate review, the applicant shall resubmit the application, which in all respects, shall be treated as a new application for purposes of review, scheduling, and payment of application fees.
- C. Order of proceedings. The chair conducting the public meeting may exclude testimony or evidence that is found to be irrelevant, immaterial or unduly repetitious. If any testimony or evidence is so excluded, the person offering such testimony or evidence shall have an opportunity to enter it into the record in writing at the public meeting. The order of the public meeting should generally adhere to the following format, allowing for questions by the review and decision-making body throughout:
  1. Community development department presentation. ~~The CDD Staff~~ shall provide a narrative or graphic description of the project.
  2. Staff report. Staff shall present its staff report and any other relevant information concerning the project.
  3. Applicant presentation. The applicant may present any information the applicant deems appropriate.

~~Questions by the review body or decision-making body. The body convening the meeting may ask questions of the director or applicant.~~
  4. Public testimony. Public testimony shall be heard.
  5. Applicant response. The applicant may respond to any comments made by the public.
  6. Staff response. Staff may respond to any statement made by the applicant, public, or the review body or decision-making body.
  7. Concluding comments by the applicant.
  8. Final decision by the decision-making body.
- D. Burden of Proof. The burden of demonstrating an application complies with applicable standards and ~~review and~~ approval criteria is on the applicant. The burden is not on the county or other parties to show that the criteria have or have not been met. The level of burden is by a

preponderance of the evidence meaning the applicant shall demonstrate that it is more likely than not that the requirements of the code, when applied to the project, have been met.

- E. Ex parte communications. Members of review and decision-making bodies shall not engage in ex parte communication with applicants and their agents or the public about applications under review or reasonably anticipated to come under review. If an ex parte communication is attempted by telephone, in person, correspondence, social media or other means outside of a regularly scheduled meeting, the member of the decision-making body involved shall first attempt to stop the party from the prohibited behavior, then document the communication and notify the director or county attorney. The member shall report the communication at the next meeting on the subject application. No ex parte communication shall be considered by a decision-making body or any of its members, in deciding on a land use permit matter. Communications on legislative matters such as amendments to the comprehensive plan or amendments to the land use code are not land use permit matters and are not considered prohibited ex parte communications.
- F. Continuation of public meetings. The review body or decision-making body, on its own motion or at the request of an applicant, may postpone or continue the public meeting. A meeting for which proper notice was given may be continued to a later date without again complying with the notice requirements of this code, provided the continued meeting is set for a certain date, and the date and time of the continued meeting is announced at the time of continuance. No public meeting for purposes of review or action on a PUD plan or any plat or other plan required by C.R.S. §§ 30-28-133 (subdivisions) or 30-28-127 (public utilities) or any public improvements agreement required by C.R.S. § 30-28-137 shall be continued for more than forty (40) days from the date of the meeting's commencement without the applicant's written consent or waiver. An applicant may request no more than two (2) continuances of a public meeting. Granting of all continuances shall be at the discretion of the body conducting the meeting.
- G. Submittal of new additional or revised information. When an application is tabled for the purpose of allowing the applicant an opportunity to respond to concerns delineated by the body conducting the meeting, any new additional and/or revised information shall be submitted no later than five (5) business days in advance of the continued meeting date, unless directed otherwise by the chair.
- H. Withdrawal of an application. An applicant shall have the right to withdraw an application at any time prior to action on the application at a public meeting or meeting. The applicant shall request the withdrawal in writing, and after such withdrawal, the county will not take further action on the application. To re-initiate review, the applicant shall resubmit the application, which in all respects, shall be treated as a new application for purposes of review, scheduling, and payment of application fees.
- I. Record of Public Meeting. The body conducting the public meeting shall record the public meeting by any appropriate means, including audiotape or videotape. The written or taped record of oral proceedings, including all testimony, -the minutes of the body, all applications, exhibits, and papers submitted in any proceeding before the body, the ~~staff~~director's report and project file, and the decision of the body shall constitute the record. Such materials, upon presentation to the county, shall become the public property of the county and shall not be removed without proper authorization. A copy of the public meeting record may be acquired upon reasonable notice by any person upon application to the CDD and payment of a fee to cover the costs of duplication of the record pursuant to the county's fee schedule.

### III. Times for review and extensions.

- A. Times for review. All time frames within which a review or decision-making body is required by this code to do any act shall be advisory only, unless otherwise required by law. Failure to keep



within the stated time for review shall not be deemed an approval or recommendation of approval on behalf of the review, advisory or decision-making body.

- B. Authority to extend times. Any review, advisory or decision-making body shall have the discretion to extend the time frames set forth in this code for review and final action on an application upon a finding that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development support such extension of time, except as otherwise required by this section. Any extension of the time periods for review and action as may be established under state law may be extended only if the applicant agrees in writing to an extension of time. See also ~~paragraph section~~ 66-12.II.F, for authority to continue a noticed public meeting.

## **Sec. 66-13 Actions following decision-making official or body decisions**

### **I. Effect of approval or denial.**

- A. Effect of approval and lapse. All approved plans, plats, and permits have a specified duration during which the applicant must take or complete some specific action. Specific approval periods, including the specific actions that must be taken, are included in this code for each type of application. See also code related provisions for statutory vested rights in subsection 66-13.III. below. If the specified action is not taken within the prescribed period, the permit or approved plat/plan shall automatically lapse and be of no further force or effect. If the permit or plat/plan has expired or lapsed, the applicant must reapply for and be granted a new permit or plat/plan approval to proceed with the project. Any development activity occurring under a lapsed permit, plat, or plan shall be subject to the enforcement and penalty provisions of chapter 80.
- B. Effect of denial limitation on successive applications. If the decision-making body denies an application, an application for that same request or a request that is substantially the same shall not be filed for a period of one (1) year from the date of denial, unless the denial explicitly states that an earlier re-application will be considered. The applicant may submit a revised application that adequately addresses all of the decision-making body's stated reasons for denial, however, at any time. Such revised application shall be treated as a new application.

### **II. Call-up procedures and appeals.**

- A. All actions and decisions final unless appealed. All actions and decisions made by a decision-making body shall become final unless called-up or appealed under the requirements stated in this section ~~or state law~~.
- B. Call up procedures.
  - 1. Joint Planning Commission (~~JPC~~) call up procedure. The county is party to an intergovernmental agreement with the City of Durango which subjects the JPC's decisions to the call-up procedure set forth in this section.
  - 2. The JPC's determination on new development applications in the ~~joint cooperative~~ planning area shall be subject to a call-up meeting before the board. Within eight (8) days following the date of the determination, the applicant, a surrounding landowner, a commenting agency, an individual Durango city councilor, or an individual county commissioner, may request review of the JPC's determination by submitting a written request to the director. Within twenty (20) days following receipt of a request for a call-up meeting of the JPC's determination, the director shall schedule a public meeting for review by the board. Prior to the call-up meeting, staff shall distribute the staff report and recommendation as well as notice the public meeting for the call-up pursuant to subsection 66-14.IV. At the call-up meeting, the board shall conduct a de novo review of the application and may:



- a. Approve the application;
  - b. Approve the application with conditions;
  - c. Request more or additional information and continue the meeting to ~~\_\_\_\_\_~~ a date certain for a decision, subject to any statutory time limits;
  - d. Take the request under advisement and continue to a date certain for a decision, subject to any statutory time limits;
  - e. Deny the application.
3. Final action. A determination by the JPC on a new development application in the ~~cooperative joint~~ planning area, shall be deemed final after either:
    - a. The expiration of the applicable call-up period where there was no request to call-up the application to the board; or
    - b. If a call-up is requested, the board's final decision on the application, unless remanded to ~~the PC or~~ the JPC.
  4. Plat or agreement execution. After final action as defined by subparagraph 66-13.II.B.3. above, an associated plat or agreement shall be signed and dated by the chair of the board and attested by the clerk to the board, regardless of whether the development was called-up to the board.
- C. Appeals.
1. Director determinations. Appeals from the type of director determinations set forth in ~~subsection 66-4.(F)~~ shall follow the appeal procedure set forth in section 66-28 relating to the BOA.
  2. Other land use application appeals. An appeal may be taken to the board by any person aggrieved by the final decision of the director on an administrative land use permit, final decision of the director with respect to water rights 06CW127 pursuant to section 94-54 or of the PC on a sketch plan or minor land use permit as follows:
    - a. Initiation. The appeal shall be filed with the director within ten (10) days of the date of the decision.
    - b. Contents of appeal. The appeal shall include a statement of the error or improper interpretation made by the director or the PC, the date of the decision and the grounds for the appeal, including any materials or evidence to support the appeal.
    - c. Schedule of meeting. The board shall schedule a hearing on the appeal within thirty (30) days of the date the appeal was received.
    - d. Action by the board on appeals of administrative land use permits. At the hearing on the appeal of the director's final determination on an administrative land use permit, the appellant or the appellant's agent shall state the grounds for the appeal and include any materials or evidence from the existing record to support the appeal. The director shall be provided the opportunity to respond, as well as any other persons the board deems necessary. After the conclusion of the meeting, the board shall affirm, affirm with modifications or reverse the decision of the director based on this code.
    - e. Action by the board on appeals of decisions on minor land use permit applications. If a timely appeal of the PC's decision on a minor land use permit application is received, the director shall schedule a public meeting for review by the board. The board's consideration of the application shall be de novo and staff shall distribute

the staff report and recommendations as well as notice the public meeting pursuant to subsection 66-14.IV. At the meeting the board may:

- i. Approve the application;
  - ii. Approve the application with conditions;
  - iii. Request more or additional information and continue the meeting to a date certain for a decision, subject to any statutory time limits;
  - iv. Take the application under advisement and continue to a date certain for a decision, subject to any statutory time limits;
  - v. Deny the application.
3. Stay. An appeal shall stay all proceedings in furtherance of the action appealed unless the county attorney determines that by reason of facts provided to the county attorney, a stay would cause imminent peril to life or property.
  4. Judicial review of final actions by the board or BOA. Appeals of decisions of the board or the BOA shall be made to the courts, as provided by law. If a written transcript of the decision-making body's meeting at which the final decision was made is required, the appellant shall pay the costs of preparation of the record and the transcript.

### III. Vested rights.

- A. Purpose. The purpose of this section is to establish a system of vested property rights for these land use regulations, as authorized by C.R.S. § 24-68-101 *et seq.*
- B. Establishment.
  1. General. A vested property right shall be deemed established for a land use permit with the approval of a site-specific development plan. Such vested property right shall attach to and run with the land for which the land use permit is approved and shall confer upon the real property owner the right to undertake and complete the development and use of the real property under the terms and conditions of the site-specific development plan for a period of three (3) years from the date of its approval.
  2. Site specific development plan. For the purposes of this section, site specific development plan shall only mean:
    - a. Administrative land use permit: all developments except for special events;
    - b. Minor land use permit: all developments except for temporary uses;
    - c. Major land use permit: all developments except for sketch plans and preliminary plans and plats;
    - d. Final approval by a decision-making body of an oil and gas facility.
- C. Duration and termination.
  1. Duration. A vested property right as defined by this section shall be deemed effective as of the date on which the decision-making body approves the site-specific development plan and shall remain effective for a period of three (3) years. If upon expiration of the vesting period, the approved use has not commenced or the approved development has not been constructed, the approval shall be deemed expired. The three (3) year vesting period shall not be extended by amendments to a site-specific development plan, unless expressly authorized by the board. Such approval shall be subject to all rights of judicial review; except the period permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice advising the general public of the approval. Publication shall be done by the CDD once in a newspaper of general circulation not more than fourteen (14) days after the date of final approval.

2. Forfeiture. Failure to abide by any applicable terms and conditions attached to the site-specific development plan shall result in immediate forfeiture of the vested property right.
  3. Extensions. The board may, as a legislative act, enter into a development agreement with a real property owner that provides that property rights shall be vested for a period exceeding three (3) years where it is warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions.
  4. Subsequent review and approval. Following approval or conditional approval of a site-specific development plan, nothing in this section shall exempt the site-specific development plan from subsequent reviews by the county to ensure compliance with the terms and conditions of the original approval, if such reviews and approvals are not inconsistent with the terms and conditions of the original approval.
- D. Exceptions. A vested property right, once established pursuant to this section precludes land use regulations adopted by the county for a three (3) year period of time from the date of approval of the site-specific development plan, that would alter, impair, prevent, diminish or otherwise delay the development or use of the real property subject to the site-specific development plan except:
1. Property owner's consent. With the consent of the affected real property owner.
  2. Hazards. Upon the discovery of natural hazards or human made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered or did not exist 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 and safety pursuant to section 81-2 Sections ~~n~~Necessary for ~~i~~Immediate ~~p~~Preservation of ~~p~~Public ~~h~~Health and ~~s~~Safety.
- E. ~~-~~Effect of expiration or termination on public lands. The expiration or termination of a vested property right shall have no effect upon publicly dedicated lands or rights-of-way dedicated with respect to such property.

**IV. Permit to be available for inspection.** Upon receipt of a land use permit required by this code, the holder of the permit shall keep a copy of the permit available for inspection, upon request, to be located on the subject site.

**Sec. 66-14 Notice requirements**

- I. **Table 66-14 A - Summary of public notice requirements by type of project.** Table 66-14 A summarizes the various types of public notice required for land use permit and development applications ~~submitted according to chapter 66 and 67.~~ The remainder of this section provides more detailed requirements for each category of public notice, including identification of the party responsible for providing the required notice.

**Table 66-14 A -Summary of notice requirements by type of project**

“X” = Notice Requirement Applies

“ - ” = Notice Requirement Does Not Apply

\* Mineral owner notice applies to the initial public meeting for the initial development application of a project.

Type of Land Use Permit or Development Application	Mailed Notice of Intent to Develop	Posted Notice of Intent to Develop	Notice of Public Meeting		
			Mailed	Mineral Owner Notice*	Published
Director determinations	-	-	-	-	-
Administrative land use permits	X	X	If referred to BOCC	-	If referred to BOCC
Sketch plan	X	X	X	X	X
Minor land use permit	X	X	X	X	X
Major land use permit:					
A. Sketch plan	X	X	X	X	X
B. Preliminary plan	X	X	X	-	X
C. Final plan	X	-	-	-	-
Planned Unit Development:					
A. Sketch plan	X	X	X	X	X
B. Preliminary plan	X	X	X	-	X
C. Final plan	X	-	-	-	-
Special uses in AVLUP	X	X	X	X	X
Cooperative planning area development	X	X	X	X	X
Location and extent review	-	X	X	-	X
Use reviews	-	-	-	-	-
Permit adjustments	-	-	-	-	-
Variances	X	X	X	-	X
Appeals <u>to BOA</u>	-	-	-	-	X
Conceptual development plan	X	X	X	X	X
Fair share reimbursement	X	-	X	-	X
Development agreements	-	-	X	X	X
Comprehensive plan/district plan adoption and amendments	-	X	-	-	X
Animas Valley rezoning	X	X	X	-	X

**Table 66-14 A - Summary of notice requirements by type of project**

“X” = Notice Requirement Applies

“ - ” = Notice Requirement Does Not Apply

\* Mineral owner notice applies to the initial public meeting for the initial development application of a project.

Type of Land Use Permit or Development Application	Mailed Notice of Intent to Develop	Posted Notice of Intent to Develop	Notice of Public Meeting		
			Mailed	Mineral Owner Notice*	Published
Economic development area designation	X	-	X	-	X
Land use code amendments	-	-	-	-	X
Major subdivision:					
A. Sketch plan	X	X	X	X	X
B. Preliminary plat	X	X	X	X	X
C. Final plat	X	X	If referred to BOCC	-	If referred to BOCC
Minor subdivisions	X	X	X	X	X
Agricultural exemption subdivision	X	X	X	X	X
Rural cluster development	X	X	X	X	X
Boundary adjustments and lot consolidations	X	X	-	-	-
Corrections <u>to recorded plats</u>	-	-	-	-	-
Plat adjustments	-	-	-	-	-
<u>Amendments to recorded plats</u> <u>Plat modifications</u>	X	X	If referred to BOCC	-	If referred to BOCC
Vacation of utility easements	X	X	If referred to BOCC	-	If referred to BOCC
Vacation of plats	X	X	X		X
Lots split by county road	-	-	-	-	-
Lot legalizations	-	-	-	-	-

**II. Table 66-14 B Summary of notice requirements by type of notice.** Table 66-14 B summarizes the timing and preparation requirements for providing the various types of public notice required by this section.

<b>Table 66-14 B Summary of notice requirements by type of notice</b>		
<b>Type Of Notice</b>	<b>Who Prepares Notice</b>	<b>Minimum Time For Providing Notice</b>
Written (Mail) Notice of Intent to Develop	CDD <del>Community Development Department</del>	Within five (5) business days after acceptance of application
Posted Notice of Intent to Develop	Applicant (CDD provides form)	Within five (5) business days after acceptance of application
Mineral Rights Owner Written (Mail) Notice of Public Meeting	Applicant	Thirty (30) days prior to public meeting for mineral rights owners
Written (Mail) Notice of Public Meeting or Neighborhood Meeting	CDD <del>Community Development Department</del>	Ten (10) days prior to public meeting for surrounding landowners
Publication Notice of Public Meeting	CDD <del>Community Development Department</del>	Ten (10) days prior to public meeting and no more than thirty (30) days prior

### III. General requirements for notice.

- A. Recipients and required notification area for written notice. Surrounding landowners entitled to receive notices pursuant to Table 66-14 A shall include those property owners within five hundred (500) feet of the property line of the parcel subject to an application for a land use permit unless the director determines that an exception applies pursuant to paragraphs B and C below.
- B. Exceptions.
  - 1. For development located in the Animas Valley Land Use Plan Area, surrounding landowners shall include owners of property within one thousand (1,000) feet of the property line of the parcel subject to an application for a land use permit.
  - 2. For a linear or corridor facility including but not limited to a transmission line, pipeline or other linear facility, the notice shall be sent to all owners of record within a minimum of two hundred fifty (250) feet of the property which would be traversed by the route of the facility.
  - 3. For development that the director determines may uniquely impact neighboring properties, surrounding landowners shall also include all owners of property identified by the director that may be uniquely impacted.
- C. Changes to plats. For proposed developments that make modifications or adjustments to existing plats or otherwise seek to change any aspect of a plat signed by the chair of the board, surrounding landowners shall also include all owners of property as shown on the plat.
- D. Source of surrounding landowner information. Landowners shall be determined according to the listed owner(s) of record according to the county assessor's records within five (5) business days of the date an application is submitted. Property within the notification area held in common ownership by a subdivision or subdivision homeowners' association shall not require individual notice to all homeowners, but only notice to the association.
- E. Constructive notice. Minor defects in notice shall not impair the notice or invalidate proceedings under the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a meeting and the location of the subject property shall

be strictly construed. If questions arise at the meeting regarding the adequacy of notice, the review body or decision-making body should make a formal finding regarding whether there was substantial compliance with the notice requirements of this code before proceeding with the meeting.

#### IV. Specific requirements for public noticing.

##### A. Written notice of intent to develop.

1. Preparation responsibilities. The CDD shall ~~be responsible for preparing~~ and mailing the written notice, by first class mail. Such notice may be made by postcard.
2. Required time of notice. Within five (5) business days following the CDD's acceptance of an application determined to be complete for processing, written notice shall be mailed to surrounding landowners and to RDAC's pursuant to section 63-6.
3. Contents of notice. At a minimum, all public notices required by this paragraph ~~subsection~~ shall:
  - a. Include the phrase "public notice";
  - b. Provide the project number and name of the proposal;
  - c. Describe the property involved by assessor parcel number, general location and, if available, street address;
  - d. Provide the type of application and a brief description of the applicant's proposal;
  - e. If the application is for an administrative approval that has a deadline for public comment, the notice shall state the deadline date. The notice shall also provide the administrative decision date and state that the application will be decided by the director on or after the decision date;
  - f. If the application is subject to public meeting, indicate that interested parties may appear at a public meeting and speak on the matter;
  - g. Indicate where additional information can be obtained.

##### B. Posted notice.

1. Preparation responsibilities. When the provisions of this code require that notice be posted on the subject property, the applicant shall use the notice form provided by the CDD and post the same on the subject property so the information is clearly visible to neighboring residents and passer-by. Once the posting has been made, the applicant shall provide the CDD a written and signed statement indicating the date the notice was posted. All signs must be posted until a final decision has been rendered by the decision-making body and removed by the applicant within one (1) week after the final decision.
2. Required time of notice. Within five (5) business days following the CDD's acceptance of an application determined to be complete for processing, the notice shall be posted on the subject property.
3. Contents of notice. At a minimum, all public notices required by this paragraph ~~subsection~~ shall:
  - a. Provide the project number and name of the proposal;
  - b. Indicate the type of application and a brief description of the applicant's proposal;
  - c. Indicate where additional information can be obtained.

##### C. Mineral rights owners and lessees written notice of public meeting.



1. Preparation responsibilities. If required by state statute, the applicant shall prepare and mail written notice of the initial public meeting to owners and lessees of subsurface mineral rights that have been severed from the subject property and registered in accordance with C.R.S. § 24-65.5-103 at the applicant's expense. If notice is required, on or before the date of the noticed public meeting, the applicant shall provide certification to the CDD that the notice required by this subsection has been provided. The applicant's certification shall indicate the names and addresses of all persons sent such notification and the date such notification was mailed.
  2. Required time of notice. Such notification shall be made not less than thirty (30) days before the initial public meeting on the application for development, and shall at a minimum, meet the requirements of C.R.S. § 24-65.5-103.
  3. Contents of notice. At a minimum, all public notices required by this paragraph C shall meet the requirements of C.R.S. § 24-65.5-103.
- D. Written notice of public meeting or neighborhood meeting.
1. Preparation responsibilities. The CDD shall prepare and mail the written notice, by first class mail. Such notice may be made by postcard.
  2. Required time of notice. No less than ten (10) days prior to a scheduled public meeting, written notice shall be mailed to surrounding landowners.
  3. Contents of notice. At a minimum, all public notices required by this paragraph shall:
    - a. Indicate the time and place of the public meeting;
    - b. Describe the property involved by assessor parcel number, general location and, if available, street address;
    - c. Describe the type and purpose of the application;
    - d. Indicate where additional information can be obtained;
    - e. Indicate that interested parties may appear at a public meeting, if applicable, and speak on the matter.
- E. Publication of notice of public meeting.
1. Preparation responsibilities. The ~~director~~CDD shall prepare and publish public notice of a required public meeting in a ~~local~~ newspaper of general circulation in the county.
  2. Required time of notice. Notice shall be published not less than ten (10) days nor more than thirty (30) days before the scheduled meeting.
  3. Contents of notice. At a minimum, all public notices required by this paragraph shall:
    - a. Indicate the time and place of the public meeting;
    - b. Describe the property involved by assessor parcel number, general location and, if available, street address;
    - c. Describe the type and purpose of the application;
    - d. Indicate where additional information can be obtained;
    - e. Indicate that interested parties may appear at a public meeting or meeting, if applicable, and speak on the matter.

**Sec. 66-15**

**Table 66-15 Summary of applicable procedure steps by specific type of application.**

Table 66-15 summarizes which common procedural steps apply to specific types of land use

permits or development applications. Procedures specific to each type of land use permit or development application are found in chapters 66 and 67.

**Table 66-15 Summary of Procedures for Specific Types of Applications**

“n/a” = Not Applicable

“TBD” = To Be Determined by the Director pursuant to subsection 66-11.IV

Type of Land Use Permit or Development Application	Pre-Application Process Required	Neighborhood Meeting	Advisory Review Body	Final Decision-Making Body
Director determination	Required	n/a	n/a	Director or Public Works Director, as applicable
Administrative land use permit	Required	n/a	n/a	Director unless referred to BOCC
Sketch plan	Required	TBD	n/a	PC
Minor land use permit	Required	TBD	n/a	PC
Major land use permit:				
A. Sketch plan	Required	TBD	n/a	PC
B. Preliminary plan	Required	TBD	n/a	BOCC
C. Final plan	Required	n/a	n/a	<u>Director or BOCC</u>
Special uses in AVLUP	Required	TBD	n/a	PC
Cooperative planning area development	Required	n/a	n/a	<u>JPC or other body identified by an IGA</u>
Location and extent review	Required	n/a	n/a	<u>PC, or JPC or other body identified by an IGA</u>
Use review	Required	n/a	n/a	Director
Permit adjustment	Required	n/a	n/a	Director
Variance	Required	TBD	n/a	BOA
<u>Appeals to BOA</u>	Optional	n/a	n/a	BOA
Conceptual development plan	Required	TBD	n/a	<u>PC/BOCC</u>
Development improvements agreement	Optional	n/a	n/a	County Manager
Fair share reimbursement agreement	Required	TBD	n/a	<u>PC, JPC, or BOCC or other body identified by an IGA</u>
Development agreements	Required	<u>TBD</u>	<u>TBD</u>	BOCC

**Table 66-15 Summary of Procedures for Specific Types of Applications**

“n/a” = Not Applicable

“TBD” = To Be Determined by the Director pursuant to subsection 66-11.IV

Type of Land Use Permit or Development Application	Pre-Application Process Required	Neighborhood Meeting	Advisory Review Body	Final Decision-Making Body
Comprehensive plan/district plan adoption and amendments	n/a	n/a	n/a	PC
Animas Valley rezoning	Required	TBD	PC	BOCC
Economic development area designation	Required	TBD	PC	BOCC
<del>Land use code amendment</del>	<del>Optional</del>	<del>n/a</del>	<del>PC</del>	<del>BOCC</del>
Written code interpretation	Optional	n/a	n/a	Director or Public Works Director, as applicable
Major subdivision:				
A. Sketch Plat	Required	TBD	n/a	PC
B. Preliminary plat	Required	TBD	n/a	BOCC
C. Final plat	Required	n/a	n/a	<u>Director or</u> BOCC
Minor subdivisions	Required	TBD	n/a	PC
Agricultural exemption subdivision	Required	<del>n/a</del> TBD	n/a	PC
Clustered rural development	Required	TBD	n/a	PC
<del>Subdivision exemption plat</del>	<del>Required</del>	<del>TBD</del>	<del>n/a</del>	<del>BOCC</del>
Boundary adjustments and lot consolidation	Required	n/a	n/a	Director unless referred to BOCC
Corrections <u>to recorded</u> plat	Required	n/a	n/a	Director
Plat adjustment	Required	n/a	n/a	Director
<del>Plat modifications-Amendments to recorded plat</del>	Required	n/a	n/a	Director unless referred to BOCC
Vacation of utility easement	Required	n/a	n/a	Director unless referred to BOCC
Vacation of plat	Required	n/a	n/a	BOCC
Lots split by county road	Required	n/a	n/a	Director
Lot legalization	Required	n/a	n/a	Director

**Sec. 66-16 General approval criteria for land use permits**

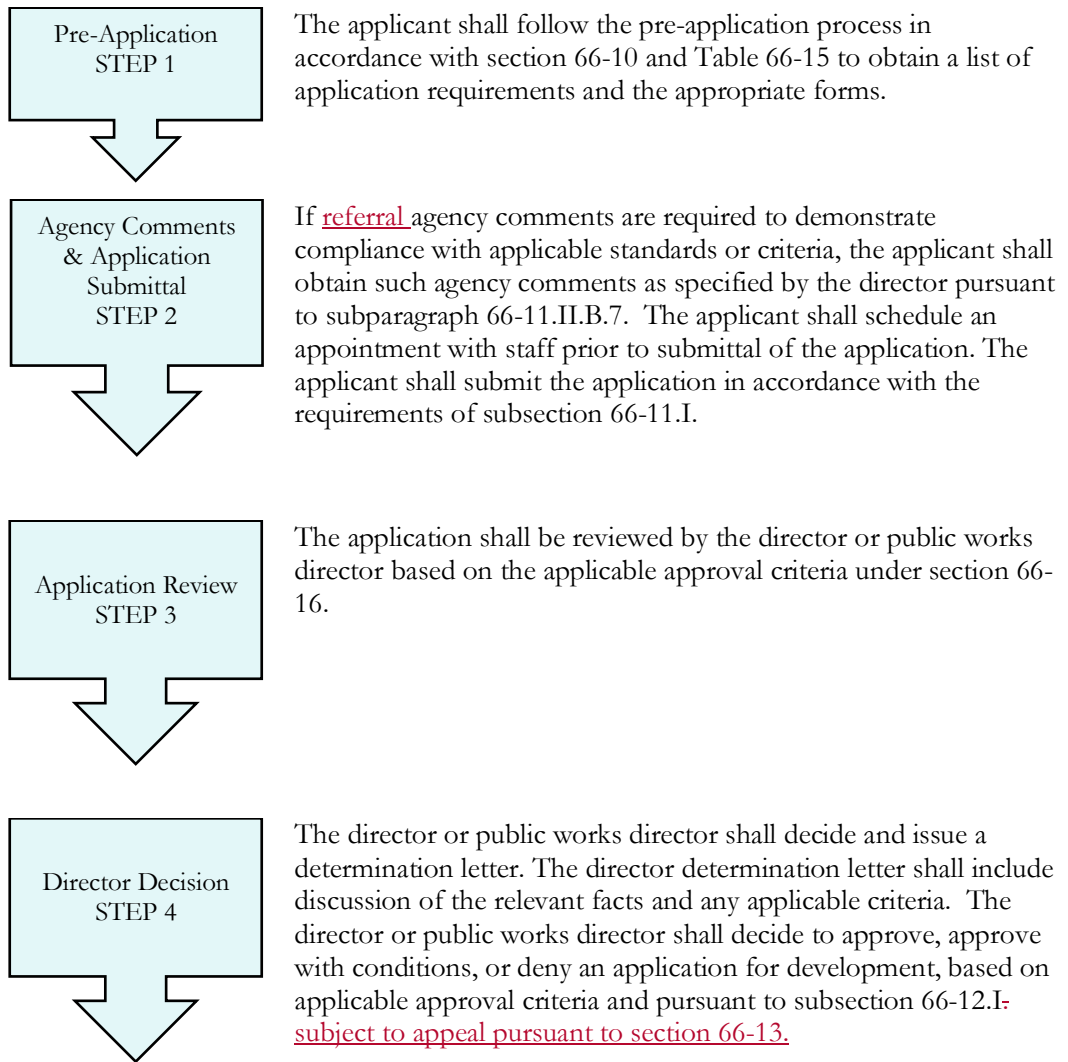
- I. **Applicability.** Unless otherwise specified, county review bodies and decision-making bodies shall review all land use permit and development applications, including without limitation requests for director determinations, submitted pursuant to this code for compliance with the general approval criteria stated in this section. The application may also be subject to additional approval criteria and standards specific to the type of application. In case of conflict between a specific ~~approval review~~ criterion stated and the general ~~approval review~~ criteria stated in this section, the specific ~~approval review~~ criterion shall apply.
- II. **General approval criteria.**
  - A. Compliance with this code's purposes and use and development standards. The proposed development shall comply this code's purposes provision in section 62-3 and with all applicable standards of this code.
  - B. Consistency with review agency comments.
  - C. Consistent with prior approvals. The proposal shall be consistent with the terms and conditions of any precedent plan or plat approval, as applicable, including without limitation an approved phasing plan for development and installation of public improvements and amenities. For major land use permits and subdivisions, if the board finds the preliminary plan or plat is not materially consistent with the sketch plan or additional findings are required, the proposed development application may be remanded by the board to the planning commission for review and a recommendation at a public meeting pursuant to section 66-12. In the event of remand, the proceedings before the board shall be stayed until the planning commission makes a final decision on the matters subject to remand and the director shall determine which procedural steps in section 66-21 shall be reapplied to the application. The board may remand with directions to the planning commission and the planning commission's review shall be consistent with those directions.
  - D. No significant unmitigated adverse impacts on surrounding property or the natural environment. The proposed development does not cause significant unmitigated adverse impacts on surrounding properties or the natural environment. Consideration of adverse impacts shall include, but not be limited to, potential interference with irrigation ditch flows, stock drives and other agricultural operations.
  - E. Conformance with adopted plans. Subject to chapter 64, tThe proposed development shall be in general conformance with the county's adopted plans including, but not limited to the comprehensive plan. The decision-making body shall weigh competing plan goals, objectives, and policies, and may approve an application that provides a public benefit even if the development is contrary to some of the goals, objectives, and policies of the adopted plans.
  - F. Uses and density in general conformance with district plan. Subject to chapter 64, wWhether and to what extent the proposed land use(s) and intensity of development are in general conformance with an adopted district plan and the land use classifications described therein, except as otherwise altered as part of a planned unit development as provided in chapter 68.
  - G. Rational phasing plan. As applicable, the proposed phasing plan for development of the project is rational in terms of available infrastructure capacity. In addition, each phase of the development shall contain all of the required streets, utilities, landscaping, open space, and other improvements that are necessary and desirable for the residents and users of that phase and shall not be dependent upon subsequent phases for those improvements.
  - H. Consistent with intergovernmental agreements. The development is consistent with applicable intergovernmental agreements between the county and other entities.

- I. Compliance with applicable ~~s~~State and federal laws and regulations.

**Sec. 66-17 Director determination procedures**

- I. **Applicability.** Section 66-4 establishes the types of development or matters that are subject to a director determination. The director or public works director shall also utilize director determination letters when required by specific sections of this code, and shall utilize director determination letters to approve all waivers as contemplated by specific sections of this code. The director or public works director may also utilize director determination letters to formalize any decision regarding applicability or compliance of the application or matter with the standards of this code. When clarification is requested, the director or the director of public works, in their discretion, shall be authorized to make written interpretations concerning this code. Legal interpretations made by the county attorney are not director determinations or subject to appeal.
- II. **Common procedures.** Figure 66-17 below identifies the application steps that apply to the review of a director determination application.

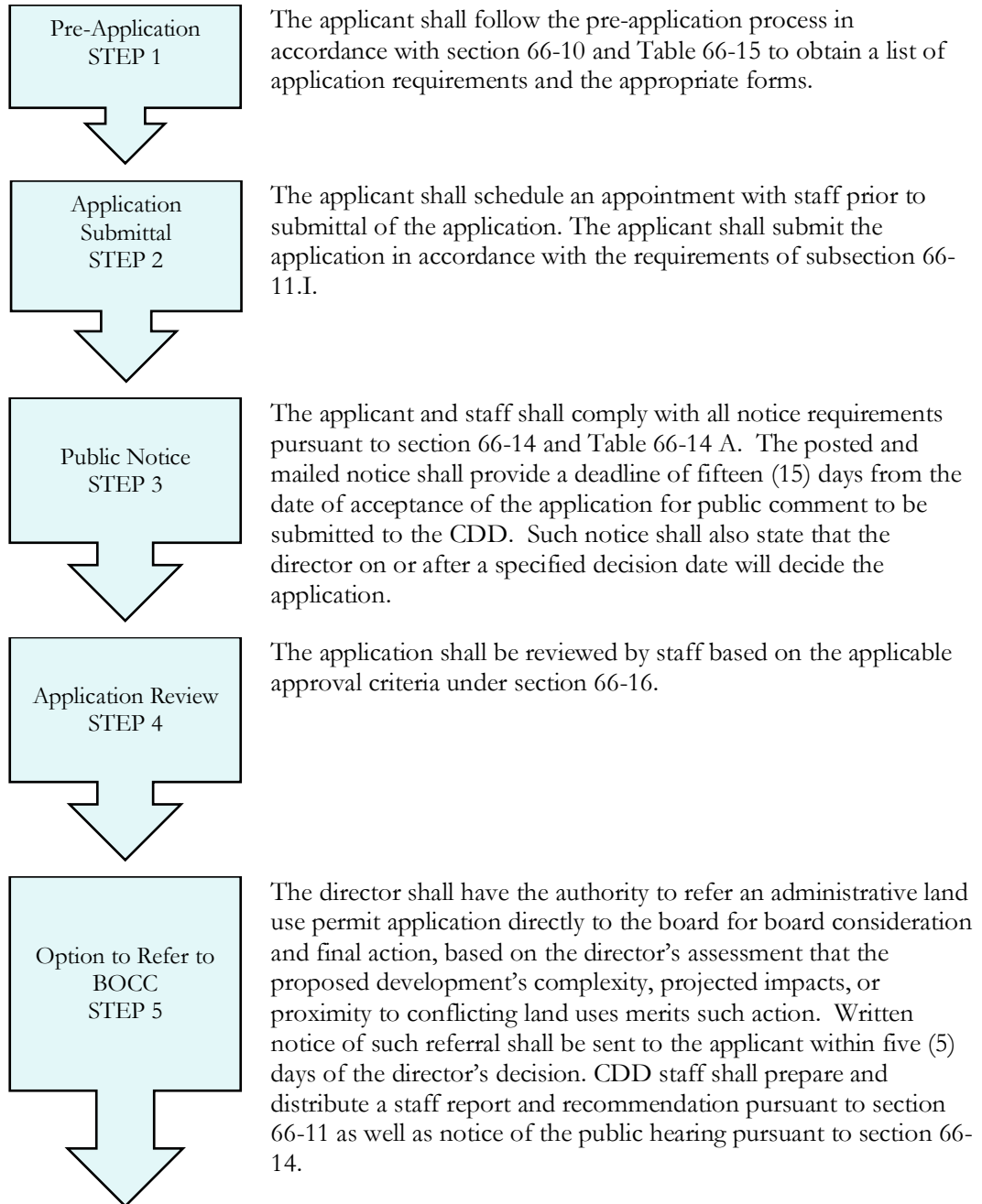
Figure 66-17: Summary of Director Determination Procedures

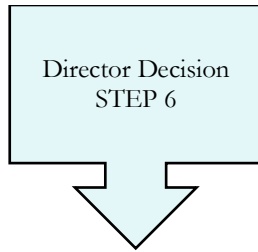


**Sec. 66-18 Administrative land use permit procedures**

- I. Applicability.** Section 66-5 establishes the types of development that are subject to an administrative land use permit.
- II. Common procedures.** Figure 66-18 below identifies the application steps that apply to the review of an administrative land use permit.

**Figure 66-18 Summary of Administrative Land Use Permit Procedures**



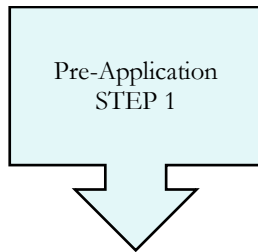


Unless the director refers the application to the board as outlined in Step 5, the director shall make a decision to approve, approve with conditions, or deny the application pursuant to section 66-12: subject to appeal pursuant to section 66-13.

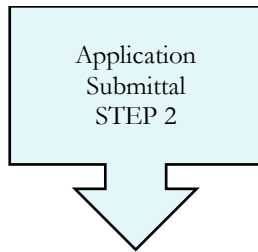
**Sec. 66-19 Sketch plan**

- I. **Purpose.** A sketch plan provides an opportunity for the county, the applicant, and the public to evaluate and discuss the basic design, concept and suitability of the project and to consider if the project is capable of substantially complying with this code and in general conformance with the comprehensive plan. Where appropriate, the sketch plan process may also examine alternative approaches to development of the property. Typically, a proposal will evolve during sketch plan review. To encourage the consideration of alternatives where appropriate and to allow the sketch plan to evolve, detailed engineering plans and other overly detailed information shall not be required nor accepted by the county. A sketch plan may be an optional or required step in some land use permit and development processes.
- II. **Common procedures.** Figure 66-19 below identifies the application steps that apply to the review of a sketch plan.

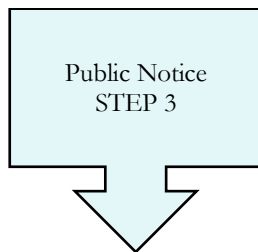
**Figure 66-19: Summary of Sketch Plan Procedures**



The applicant shall follow the pre-application process in accordance with section 66-10 and Table 66-15 to obtain a list of application requirements and the appropriate forms.

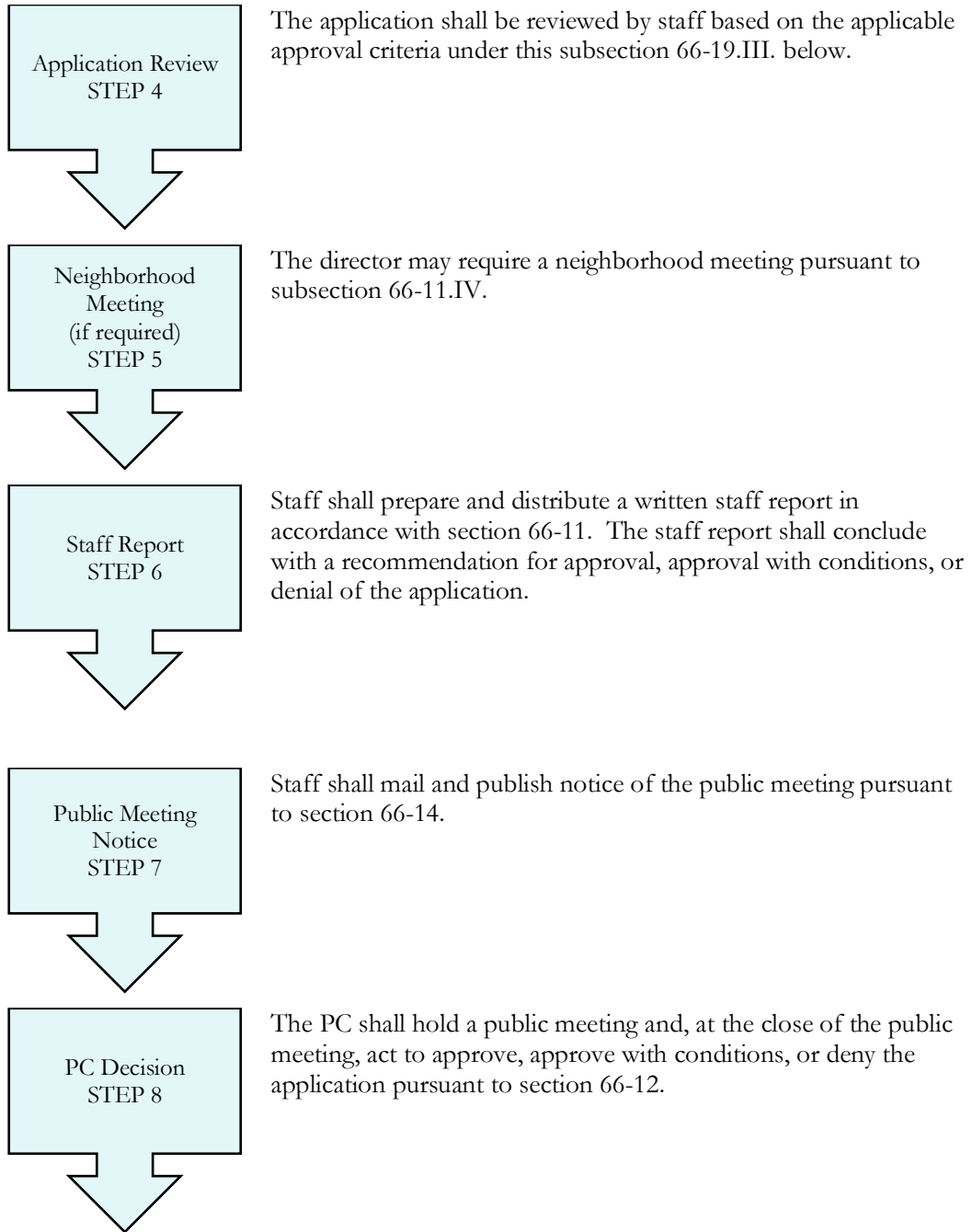


The applicant shall schedule an appointment with staff prior to submittal of the application. The applicant shall submit the application in accordance with the requirements of subsections 66-11.I. and 66-19.V.



The applicant and staff shall comply with all notice requirements pursuant to section 66-14.





**III. Approval criteria.** All sketch plans shall be reviewed for general consistency with the general approval criteria stated in section 66-16, but not for detailed compliance with development standards referenced in such criteria. The review for general consistency shall include a review of the applicant’s concepts for mitigating potential effects expected to be produced by the proposed development in relationship to the general approval criteria. The application may also be subject to additional approval criteria specific to the type of application.

**IV. Sketch plan review and considerations.** At sketch plan, the decision-making body shall determine whether the proposed sketch plan substantially complies with this code and is in general

conformance with the comprehensive plan. The decision-making body shall consider matters such as, but not limited to, the following:

- A. The types of use;
- B. The general locations intended for development and the areas planned to remain undeveloped, including open space;
- C. The general plan for phasing of the development and any infrastructure or other improvements;
- D. The general alignment for access;
- E. The provision of an adequate water supply and whether the water supply and sewage disposal will be provided through on-site water and wastewater treatment systems or through connection to public systems;
- F. Compatibility with the natural environment and the way natural hazards will not be increased as a result of the development;
- G. Compatibility with the existing uses of adjacent properties and other lands that may be significantly impacted.

**V. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicants proposing a sketch plan shall ~~also~~ submit the following:

- A. A sketch plan drawing on one (1) or more sheets illustrating the entire development. Detailed engineering plans and other detailed information shall not be required nor accepted by the county. The sketch plan shall be conceptual in nature, and, at a minimum, including the following information:
  - 1. Uses proposed;
  - 2. Intensity or density of uses proposed;
  - 3. Proposed arrangement of lots;
  - 4. Location of open space;
  - 5. Location of existing and proposed buildings on the site;
  - 6. Conceptual layout of road, street, utilities, drainage and pedestrian facilities existing and proposed;
  - 7. The proposed development phases.
- B. If phasing is proposed, a phasing plan consisting of a written description of each of the proposed phases indicating the type of development and the infrastructure improvements necessary for each phase. This may be included as part of the narrative for the project application.
- C. Mitigation concepts for mitigating potential adverse effects produced by the proposed development. These concepts shall be illustrated on the plan drawing(s) or described in writing, or both. The written description may be included as part of the narrative for the project application.

**VI. Sketch plan outcome.** The outcome of sketch plan review should be an identification of issues and concerns the applicant must address ~~if for the project to be considered ripe for review by the decision-making body is ultimately to receive approval.~~ if for the project to be considered ripe for review by the decision-making body is ultimately to receive approval.

**VII. Effect of approval of sketch plan.**

- A. Limitation on approval. Approval of a sketch plan shall authorize the applicant to submit to the CDD an application for a minor land use permit or in the case of a major land use permit, a

preliminary plan. It shall not constitute final approval. Sketch plan approval vests no development rights.

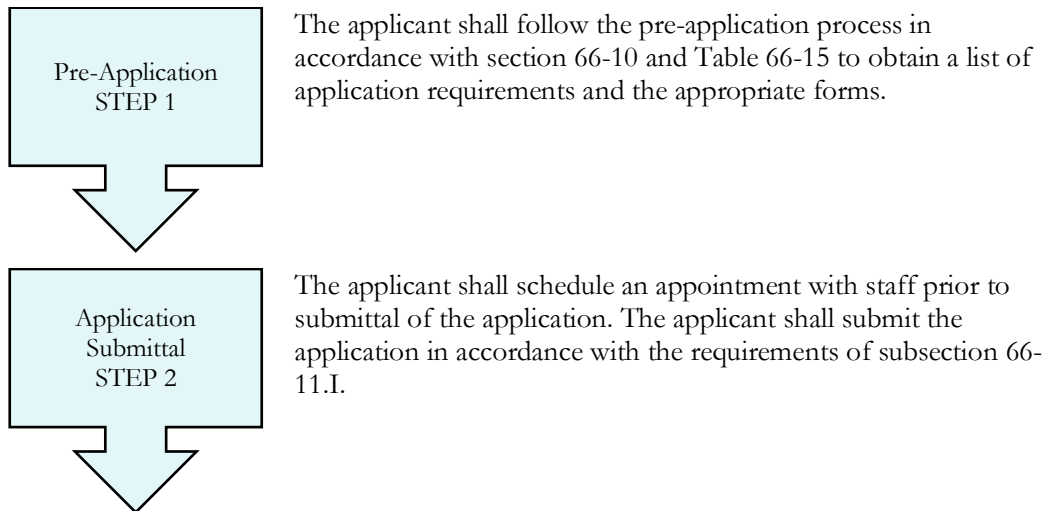
- B. Expiration of approval. Approval of the sketch plan shall be null and void and automatically revoked unless, within one (1) year after the date of approval of the sketch plan, an application for a minor land use permit or in the case of a major land use permit, a preliminary plan is submitted to the CDD and deemed complete by the director.
- C. Extension of sketch plan approval. One (1) extension of time up to one (1) year may be approved by the director upon written request with good cause shown or due to unforeseen circumstances. The owner shall submit a written request for extension to the CDD no later than thirty (30) days prior to the date the sketch plan is set to expire.

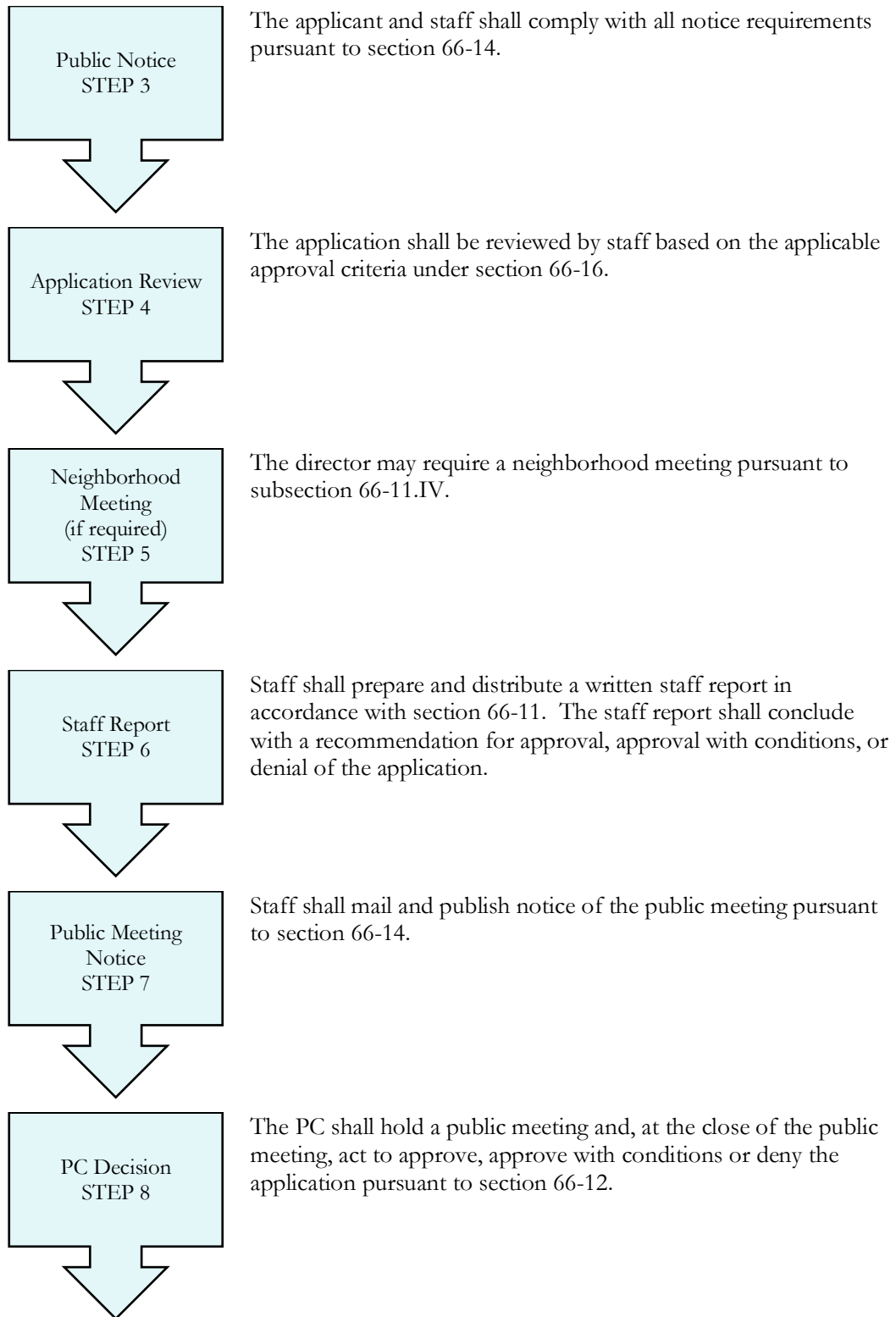
**VIII. Modification of an approved sketch plan.** An approved sketch plan shall not be materially altered, changed or otherwise modified except through the approval of a new sketch plan application. An applicant shall apply for an amendment to an approved sketch plan prior to submittal of an application for any land use permit requiring sketch plan approval. If, in the course of staff's compliance review of a land use permit requiring sketch plan approval, the director determines the preliminary plan or plat is no longer materially consistent with the approved sketch plan, the director shall notify the applicant in writing. If the applicant fails to amend the approved sketch plan, the application may be subject to remand by the board to the planning commission pursuant to section 66-16.

**Sec. 66-20 Minor land use permit procedures**

- I. **Applicability.** Section 66-6 establishes the land uses and development activities that are subject to approval of a minor land use permit. A sketch plan pursuant to section 66-19 for a proposed development is an optional step and may precede an application for a minor land use permit. A sketch plan is a conceptual level to evaluate the basic design and suitability of the project. The minor land use permit requires the submittal of detailed engineered plans and exact locations of all activities and uses.
- II. **Common procedures.** Figure 66-20 below provides an overview of the application steps that apply to the review of minor land use permits.

**Figure 66-20: Summary of Minor Land Use Permit Procedures**



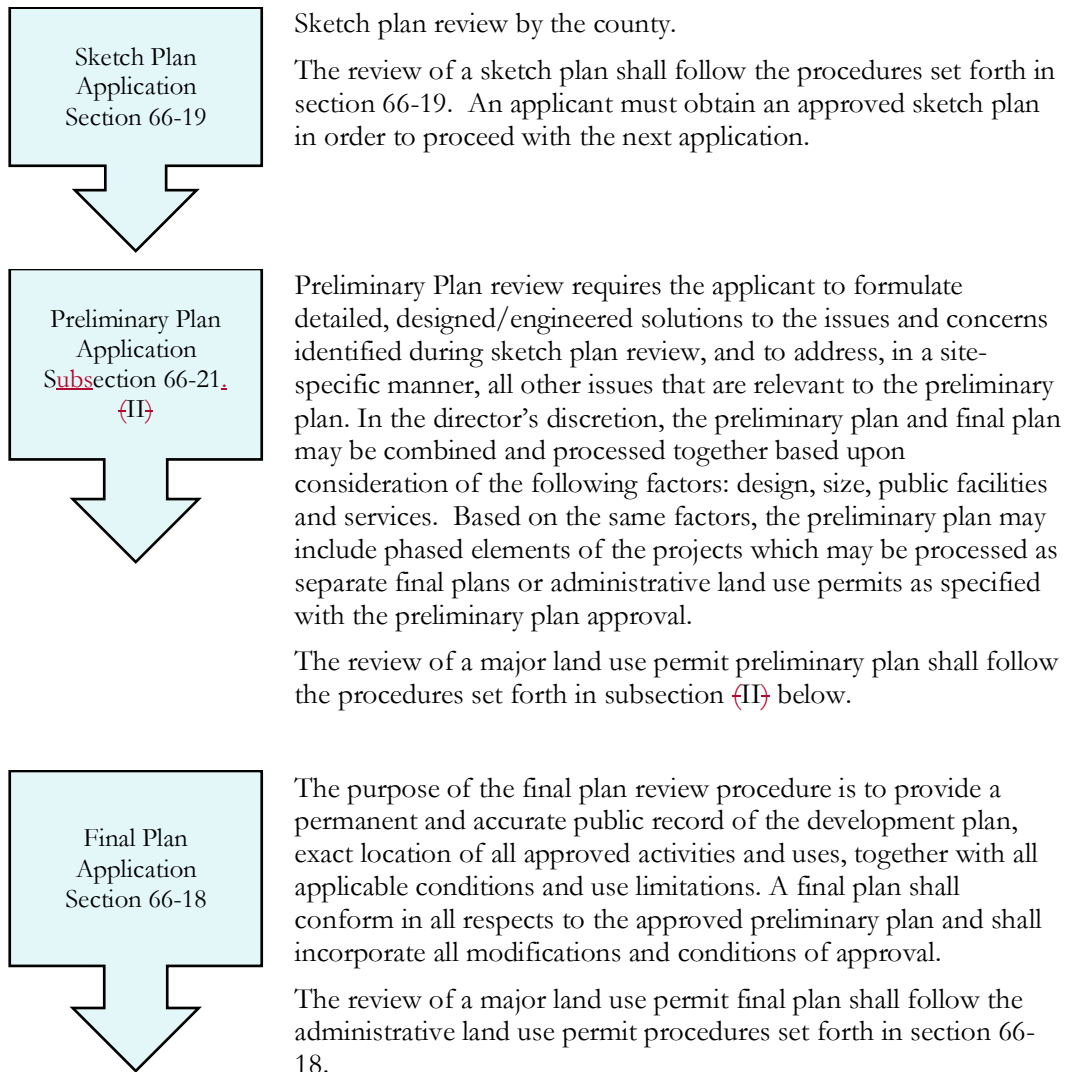


**Sec. 66-21 Major land use permit procedures**

- I. **Applicability.** Section 66-7 establishes the land uses and development activities that are subject to a major land use permit. Major land use permit projects require consideration by the county of a

sketch plan, preliminary plan, and final plan, in that order. Unless a phasing plan was approved as part of a sketch plan, a conceptual development plan as provided in section 66-29 is required when development is proposed in phases and may be processed concurrently with the first phase of the preliminary plan. Each step is a distinct process involving the submittal of an application, an application fee, required plans and reports, referrals of the proposal to other agencies, staff analysis, work sessions and public meetings. At each step of the process, the design and engineering detail increases in order to relieve the applicant from major and potentially unnecessary expenses in situations that may require a redesign and a revision of expensive engineering or planning reports. Approval of any application in the process does not ensure approval of the next application. Figure 66-21\_A below provides an overview of the applications that are required for the review of major land use permits.

**Figure 66-21\_A: Overview of Major Land Use Permit Procedures**



**II. Common procedures for major land use permit preliminary plan.** Figure 66-21\_B below identifies the application steps that apply to the review of a preliminary plan.

**Figure 66-21\_B: Summary of Preliminary Plan Procedures**

Pre-Application  
STEP 1

The applicant shall follow the pre-application process in accordance with section 66-10 and Table 66-15 to obtain a list of application requirements and the appropriate forms.

Application  
Submittal  
STEP 2

The applicant shall schedule an appointment with staff prior to submittal of the application. The applicant shall submit the application in accordance with the requirements of subsection 66-11.I.

Public Notice  
STEP 3

The applicant shall post notice on the property pursuant to section 66-14. Staff shall mail notice of intent to develop pursuant to subsection 66-14.IV.

Application Review  
STEP 4

The application shall be reviewed by staff based on the applicable approval criteria under section 66-16.

Neighborhood  
Meeting  
(if required)  
STEP 5

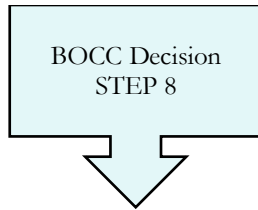
The director may require a neighborhood meeting if it is determined that the application may have adverse neighborhood impacts and/or where neighbors have raised objections based on compliance with this code pursuant to subsection 66-11.IV. If a neighborhood meeting is required, the staff shall mail notice pursuant to section 66-14.

Staff Report  
STEP 6

Staff shall prepare and distribute a written staff report in accordance with section 66-11. The staff report shall conclude with a recommendation for approval, approval with conditions, or denial of the application.

Public Meeting  
Notice  
STEP 7

Staff shall mail and publish notice of the public meeting pursuant to section 66-14.



The BOCC shall hold a public meeting and, at the close of the public meeting, act to approve, approve with conditions or deny the application pursuant to section 66-12.

### III. Lapse of approval.

- A. Lapse of approvals. An approved sketch plan shall lapse and be of no further force and effect if the applicant fails to submit the preliminary plan within one (1) year of the date of the sketch plan approval by the PC. An approved preliminary plan shall lapse and be of no further force and effect if the applicant fails to submit the final plan within one (1) year of the date of the preliminary plan approval by the board.
- B. Lapse of phased elements. If the approved preliminary plan provides for phasing of final plan approvals, failure to obtain approval of a final plan for any phase within the time specified in the approved phasing plan shall result in a lapse of the preliminary plan. For phased projects, an approved final plan for any phase of the preliminary plan shall extend the life of the preliminary plan according to the approved phasing plan, or if not specified in an approved phasing plan, for an additional one (1) year from the date the most recent final plan was approved. If successive final plans are not submitted within this one (1) year period, or within the period specified in an approved phasing plan, then the preliminary plan approval shall lapse and be of no further force or effect for those portions of the subject property not covered by an approved final plan.

#### Sec. 66-22 Special uses in the Animas Valley Land Use Plan

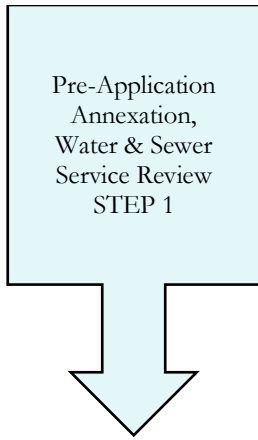
- I. **Applicability.** The special uses in the AVLUP are listed by zoning district in chapter 65.
- II. **Procedures.** Special uses shall be processed according to the minor land use permit procedures in section 66-20.
- III. **Approval criteria.** The approval criteria for special uses in the AVLUP are the general approval criteria for land use permits outlined in section 66-16 and following additional criteria:
  - A. The proposed development shall be in conformance with sections 65-1 through 65-4.
  - B. The proposed development may also be subject to additional approval criteria specific to the type of application.

#### Sec. 66-23 Cooperative planning area development

- I. **Applicability.** The procedures in this section shall apply to the review of applications within a cooperative planning area designated pursuant to section ~~64-565-8~~.
- II. **Procedures.** Figure 66-23 below identifies the application steps that apply to cooperative planning area development review.

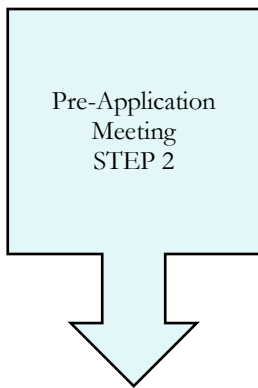
**Figure 66-23: Summary of Cooperative Planning Area Development Review Procedures**





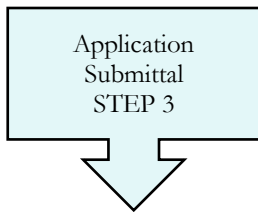
The applicant shall follow the pre-application process in accordance with section 66-10. If the proposal is within a cooperative planning area, prior to the county scheduling a pre-application meeting, the applicant shall be referred to the applicable governmental entity.

In the case of the joint planning area, the applicant shall be referred to the City of Durango for a determination on eligibility for annexation, and central water service pursuant to subsection 66-23.IV. below. If the property is eligible for annexation, the application for joint planning area development shall not be processed by the county until it receives written notice from the city. The applicant may also request an annexation or implied consent review pursuant to subsection 66-23.V. below.

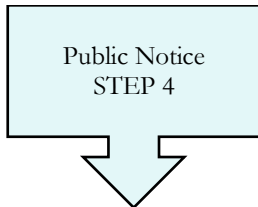


The applicant shall attend a pre-application meeting with the CDD staff (and staff from the ~~city~~ other governmental entity when applicable) to obtain a checklist of application requirements consistent with section 66-10.

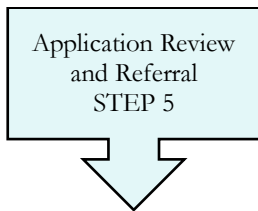
In the case of the joint planning area, if the property is not eligible for annexation, the CDD shall process the application for joint planning area development. The CDD shall schedule a pre-application meeting and shall notify the city in advance of such meeting. When the city is the water and/or sewer service provider, the CDD shall coordinate the scheduling of the pre-application meeting with city staff.



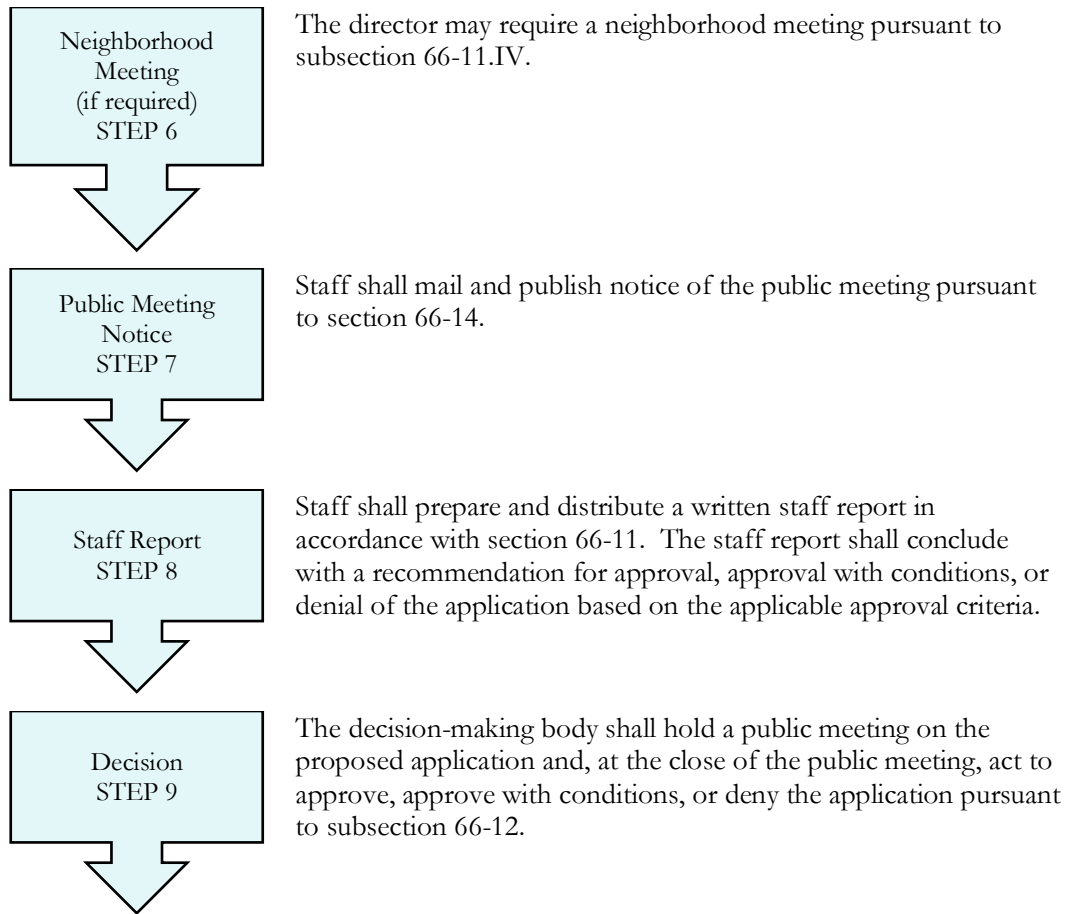
The applicant shall submit the application in accordance with the requirements of subsection 66-11.I.



The applicant and staff shall comply with all notice requirements pursuant to section 66-14.



The application shall be reviewed by staff based on the applicable approval criteria.



**III. Approval criteria.** The approval criteria for cooperative planning area development shall correspond to the type of project.

**IV. Joint Planning Area.** Referral to City of Durango on eligibility for annexation and water service.

A. Annexation.

1. Referral to and review by the City of Durango. Applications for joint planning area development shall be referred to the city for a determination on eligibility for annexation and central water service. The city shall have thirty (30) days to review and comment on annexation eligibility and central water service.
2. Eligible properties. If the property is eligible for annexation, the application for joint planning area development shall not be processed by the CDD until it receives written notice from the city that:
  - a. The owner of the property subject to the application does not desire annexation and there is no other basis for involuntary annexation under C.R.S. § 31-12-107;
  - b. The city does not desire to annex the subject property;
  - c. Annexation of the subject property has been denied;
  - d. The city did not receive comment on eligibility within the time frame referenced in subparagraph 66-23.IV.A.1. above; or
  - e. Annexation is not required pursuant to subsection 66-23.V. below.

3. Ineligible properties. If the property is not eligible for annexation, the application for joint planning area development shall be processed by the CDD.
- B. Water.
1. Implied consent agreements. If the application for joint planning area development is not eligible for annexation but is either required pursuant to section 70-4 to connect to or proposes to connect to the city's central water system, an executed implied consent agreement between the property owner and the city shall be required, unless a determination is made pursuant to subsection 66-23.V. below that an implied consent agreement is not required.
  2. Applications proposing public water systems. Any application for joint planning area development that proposes use of a public water system shall meet and confer with the city. The city shall have sixty (60) days from the date of the meeting to determine whether it will agree to allow the extension of water service for the proposed development. If the city determines that it is willing to allow the extension of water service to the proposed development annexation or an implied consent agreement with the city will be required, subject to subsection 66-23.V. below, unless the applicant can demonstrate that the public water system satisfies the requirements of section 70-4.

**V. Joint Planning Area annexation and implied consent review.**

- A. Review procedure. When a determination is made that annexation or an implied consent agreement is required, an applicant may request an annexation or implied consent review if the applicant is unable to agree to the terms proposed by the city in an annexation or implied consent agreement. A review request shall be submitted to the director in writing and explain the key provisions in the proposed agreement and why such agreement cannot be achieved. A meeting shall be set before the joint planning commission for review of the agreement within twenty-one (21) days of receipt of the letter. The JPC shall review the applicant's submittals and shall make a determination of whether the city is proposing requirements in the agreement that exceed the then current city development standards and land use code.
- B. Determinations. If a determination is made that the proposed requirements in the agreement do not exceed city development standards and land use code, the applicant shall be required to either annex or enter into the proposed implied consent agreement according to the proposed terms required by the city. If it is determined that such standards have been exceeded, the JPC's determination shall set forth in writing and with specificity the nature and extent of the proposed requirements that exceed the current development standards and land use code. The city shall have twenty-one (21) days after the decision to determine if it is willing to bring the requirements into compliance with the then current city development standards and land use code. If the city does not modify its proposed agreement as required by the JPC, annexation or an implied consent agreement shall no longer be required and the joint planning area development application may be processed with the removal of the requirement that the proposed public water system demonstrate compatibility pursuant to section 70-5. However, the applicant shall still demonstrate the public water system satisfies the requirements of section 70-4.

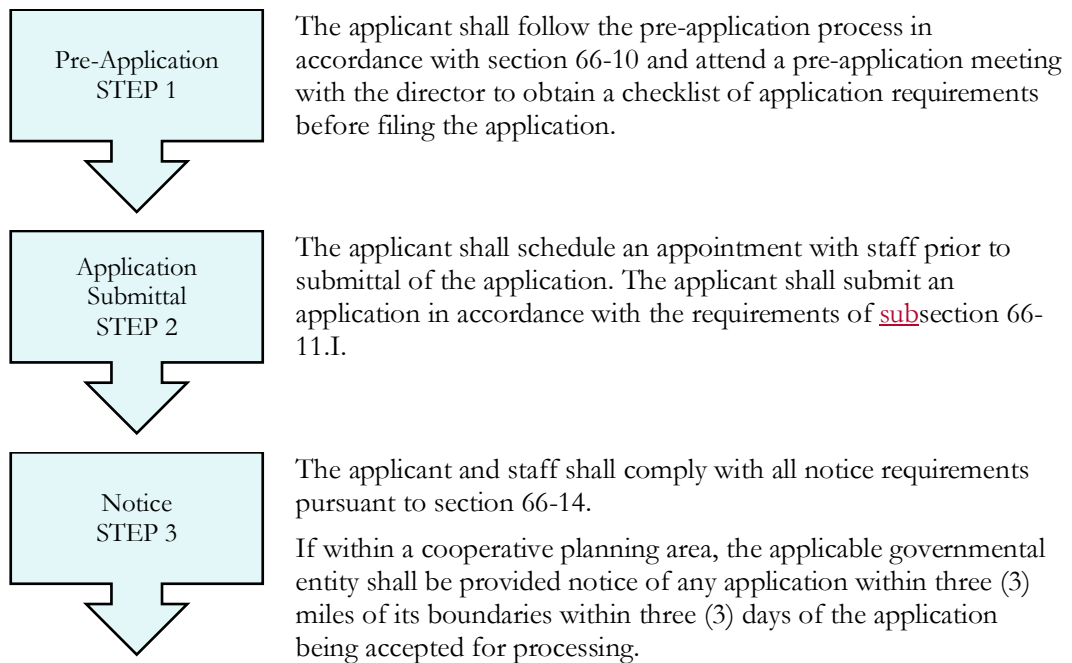
**Sec. 66-24 Location and extent review**

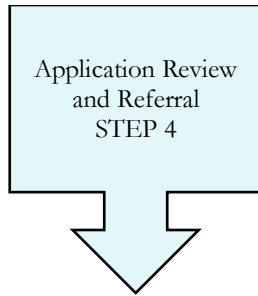
- I. **Applicability.** The location and extent review is for the evaluation of public uses and utilities, whether publicly or privately owned, for general conformance with the comprehensive plan and to provide the PC, ~~or~~ JPC, other body identified by an IGA, and the public, with the opportunity to comment on such uses as provided by C.R.S. § 30-28-110. Location and extent review is intended to be a review process, not a permitting process, for uses as outlined below.

- A. Unless excluded under paragraph 66-24.I.B., the following uses shall be subject to location and extent review:
  1. Public roads and parks;
  2. Public ways, grounds, and spaces;
  3. Public buildings, structures and utilities, whether publicly or privately owned.
- B. Exclusions from location and extent review. The following uses are excluded from location and extent review:
  1. Uses located on unincorporated land that is an enclave within a municipality;
  2. Upgrades to an existing use, including repairing and/or replacing old or outdated equipment, that are required by state, federal, or local regulation, provided that, in the director's discretion, the upgrades do not materially expand levels of service beyond design capacity and that the upgrades do not materially alter the existing location of the existing use;
  3. Any use or subdivision that has been reviewed and approved by the county as part of a separate land use process; and
  4. Any use that is solely necessary to serve development not requiring a land use permit under section 66-3.

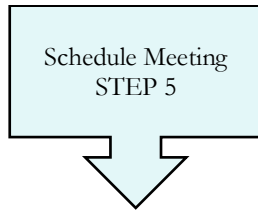
**II. Procedures.** Figure 66-24 below identifies the application steps that apply to the location and extent review process.

**Figure 66-24: Summary of Location and Extent Review Procedures**

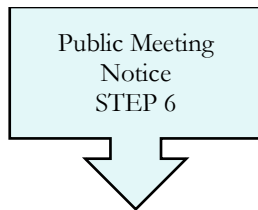




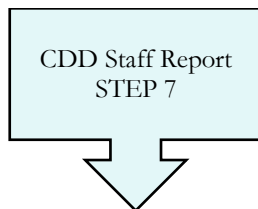
Within ten (10) days of submittal, staff shall review the application to determine if the application is complete to accept for processing. If the application is incomplete, the staff shall provide written notice to the applicant citing the application's deficiencies within the ten (10) day review period. Staff shall distribute the application to the appropriate review agencies pursuant to subsection 66-11.II., which may be combined with the public meeting notice described in Step 5 if the date of the meeting is known.



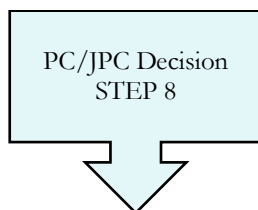
Once the application is accepted for processing, staff shall schedule a meeting before the PC; ~~(or JPC~~ or other appropriate body ~~if the project is within a cooperative planning area)~~. The meeting shall occur within thirty (30) days of the date on which the application is accepted for processing.



Staff shall mail notice of the meeting to interested local, state and federal agencies and/or other jurisdictions, and to surrounding landowners pursuant to paragraph 66-14.



Staff shall prepare and distribute a written staff report in accordance with subsection 66-11.V. The staff report shall conclude with a recommendation for approval, approval with conditions, or denial of the application.



The PC; ~~(or JPC~~ or other appropriate body ~~if within a cooperative planning area)~~, shall hold a public meeting and, at the close of the public meeting, act to approve, approve with conditions, or deny the application pursuant to subsection 66-12.

**III. Approval criteria.** The specific approval criteria for location and extent review is in general conformance with the comprehensive plan pursuant to paragraph 66-16.II.E. of the general approval criteria for land use permits. All other general approval criteria listed in subsection 66-16.II. shall not apply to a location and extent review.

**IV. Submittal requirements.** The director shall provide the applicant with forms pursuant to subsection 66-10.II., which shall include the specific information required to process a location and extent application. The application for a location and extent review shall include the following:

- A. The name and address of the applicant;
- B. The name, address and telephone number of the primary contact person;
- C. The parcel number, and the name and address of the property owner(s) where the use is proposed;
- D. Project narrative that provides a general description of the full scope of the project;

- E. Map prepared at an easily readable scale showing:
  - 1. Boundary, or alignment for linear projects, of the proposed use;
  - 2. Relationship of the proposed use to surrounding topographic and cultural features such as roads, streams and existing structures;
  - 3. Proposed buildings and infrastructure related to the project;
- F. Any other information that the applicant deems beneficial to the public review of the proposed use.

V. **Appeal and notification of decision.** The PC's, ~~JPC's~~ or other appropriate body's decision may be appealed pursuant to C.R.S. § 30-28-110(1)(c). In the event the PC's, ~~JPC's~~ or other appropriate body's decision is overruled by the body or official having jurisdiction as provided in C.R.S. § 30-28-110(1)(c), the applicant shall notify the director in writing of such final decision, and any conditions of approval related thereto, no later than fourteen (14) business days after the decision is made.

#### Sec. 66-25 Use reviews

- I. **Applicability.** Whenever an administrative, minor or major land use permit would otherwise be required, but the existing permitted use on the property is substantially similar to the proposed use, the director may perform a use review and issue a director determination letter for the proposed use if the general approval criteria for a director determination and specific approval criteria for a use review are met.
- II. **Procedures.** Use reviews shall follow the common procedures for a director determination in accordance with section 66-17.
- III. **Approval criteria.** In evaluating the proposal, the request shall be in conformance with the general approval criteria under section 66-16 and the following specific approval criteria for a use review:
  - A. The existing use is a conforming use;
  - B. The location, size, volume, intensity, compatibility and operating characteristics of the proposed use are the same or substantially similar to the existing use;
  - C. The proposed use will not violate, modify, alter or require a change in a condition of approval of the existing use;
  - D. The proposed use is legally and practicably able to maintain compliance with the conditions of approval of the existing use and achieve and maintain compatibility with existing, adjoining land uses to the same extent as the previously approved existing use.

#### Sec. 66-26 Permit adjustments and modifications

- I. **Applicability.**
  - A. Permit modifications. Unless qualifying for a permit adjustment pursuant to paragraph 66-26.I.B. below, no use or development authorized pursuant to this code shall be altered, changed, or otherwise modified unless a new land use permit is obtained.
  - B. Permit adjustments. The director may make adjustments to an approved land use permit to provide expeditious relief to a permittee when an insubstantial change to a permit can solve a practical difficulty, assure compliance with applicable state or federal laws, or implement a permittee's changed intentions for a permitted development. The director may issue a director determination letter to grant adjustments to approved permits. Adjustments permitted and prohibited by this section are outlined below.
    - 1. Permitted adjustments. The director may grant an adjustment in one of any of the following circumstances:
      - a. Reconfiguration of parking areas resulting in no net loss of required spaces;

- b. Minor deviations to roadway alignments;
  - c. Decreases in density;
  - d. Increased compliance with any voluntary guidelines;
  - e. An increase in approved building height of not more than ten (10) percent than originally approved;
  - f. An increase in the approved gross floor area of not more than ten (10) percent than originally approved as calculated on a total project basis;
  - g. An increase in traffic of not more than ten (10) percent than originally approved or eight (8) ADT as calculated on a total project basis, whichever is less;
  - h. An increase in water usage of not more than ten (10) percent than originally approved or three hundred fifty (350) gallons per day as calculated on a total project basis, whichever is less; ~~or~~
  - i. With respect to an on-site wastewater treatment system, an increase in water treatment of not more than ten (10) percent than originally approved or three hundred fifty (350) gallons per day as calculated on a total project basis, whichever is less as may be needed for an amendment to a preexisting permit or new permit issued by the Environmental Protection Agency, Colorado Department of Public Health and Environment, or San Juan Basin Health Department under the On-Site Wastewater Treatment System Act, C.R.S. § 25-10-101 *et seq.* or the Colorado Water Quality Control Act, C.R.S. § 25-8-101 *et seq.*
2. Prohibited adjustments. In no circumstances shall the director grant adjustments that result in the following:
- a. A change in the permitted use or mix of uses except when such change of use meets the criteria for a use review;
  - b. An increase in density;
  - c. A reduction in open space;
  - d. A change to a condition of approval to a land use permit which received final approval from any decision-making body other than the director;
  - e. Any adjustment that would violate a specific standard of this code;
  - f. Any adjustment if the same permit has already received the maximum permitted adjustment.

**II. Procedures.** Permit adjustments shall follow the general procedure for a director determination pursuant to section 66-17.

**III. Approval criteria.** In addition to the general approval criteria for a director determination outlined in section 66-16, permit adjustments shall be subject to following additional approval criteria:

- A. The proposed adjustment is a minor change to a permit and is solving a practical difficulty or implementing the permittee's changed intentions for a permitted development.
- B. The adjusted development has no potential to cause new or increased adverse impacts when compared to the original development.
- C. The proposed adjustment is not being used to avoid compliance with applicable standards.

**Sec. 66-27 Variances**

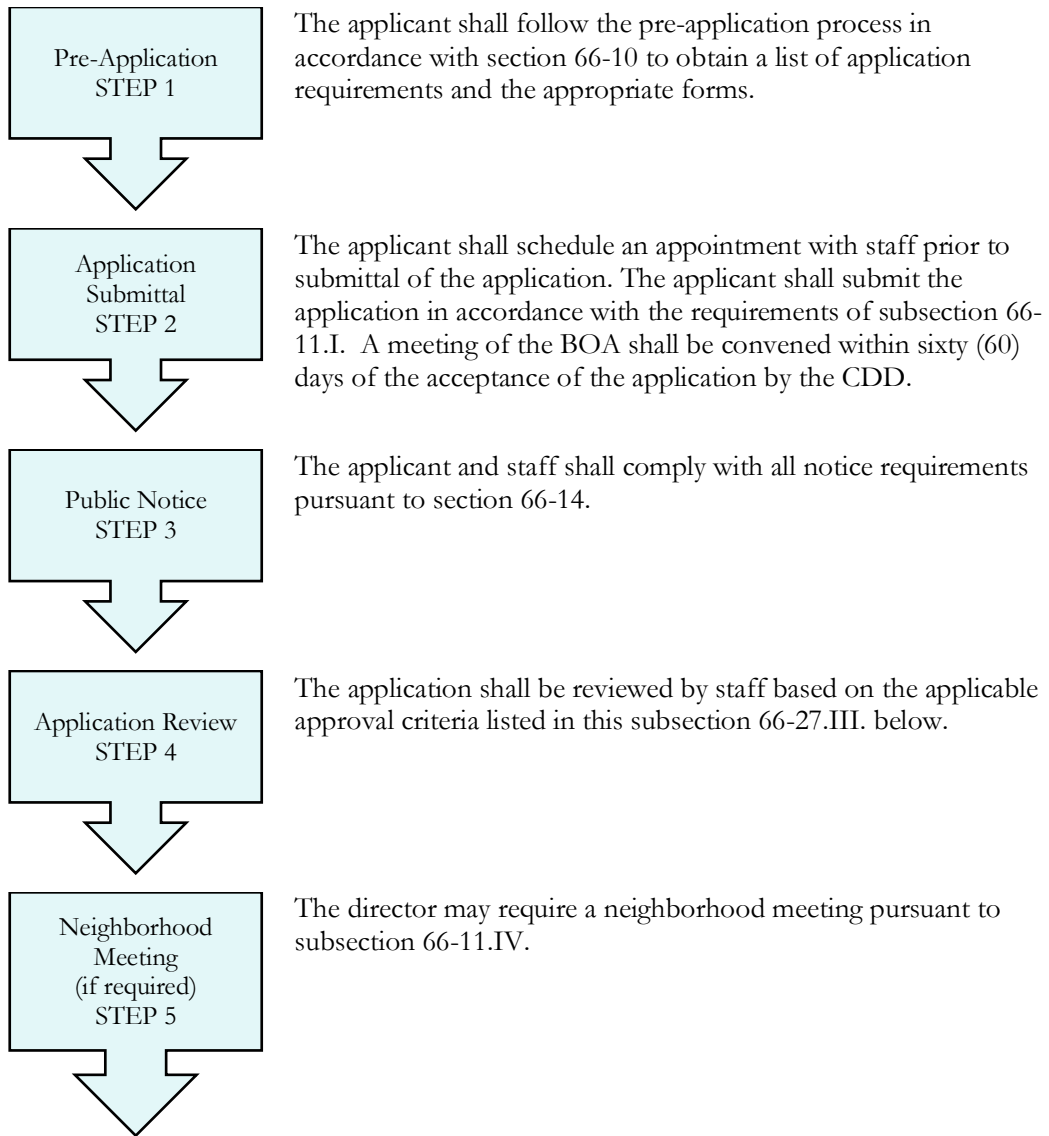
**I. Purpose and applicability.** Variances are intended to alleviate exceptional practical difficulties or undue hardship arising from the strict application of the provisions of this code to a specific

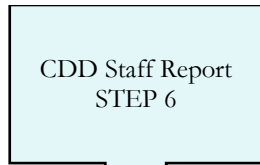


property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. Relief in the form of a variance, however, shall not have the effect of nullifying or impairing the intent and purpose of this code. A variance shall not be granted to allow a use not permitted, or a use expressly or by implication prohibited, under the terms of this code for the subject property. In addition, a variance shall not be granted to allow a greater density or intensity of use than allowed under the terms of this code for the subject property. The BOA shall hear variances from the specific terms of this code.

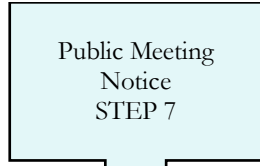
**II. Procedures.** Figure 66-27 below identifies the application steps that apply to the review of variances.

**Figure 66-27: Summary of Variance Procedures**

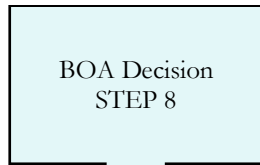




Staff shall prepare and distribute a written staff report in accordance with section 66-11. The report shall conclude with a recommendation for approval, approval with conditions, or denial of the application.



Staff shall mail and publish notice of the public meeting pursuant to section 66-14.



The BOA shall hold the public meeting and, at the close of the public meeting, act to approve, approve with conditions, or deny the application for variance as set forth in section 66-12.

**III. Approval criteria.**

- A. No variance allowed. The BOA shall not grant a variance to this code which allows:
  - 1. The alteration of any definition;
  - 2. A substantial modification to any planned unit development approved by the board;
  - 3. A decrease in the spacing requirements for a marijuana facility set forth in section 73-14.
- B. ~~In order to~~ To allow a variance from the provisions of this code, the BOA shall find all the following:
  - 1. Hardship. Specific development standards, applied to the property in question, create an unnecessary, nonmonetary hardship for the owner, as distinguished from an inconvenience, financial hardship or self-imposed hardship.
  - 2. Special circumstances. Special conditions and circumstances exist which are peculiar to the land and facilities involved; and are not applicable to other lands and facilities. The special conditions do not result from the actions of the applicant or a previous owner of the subject property.
  - 3. No special privilege. Granting the variance will not confer on the applicant any special privilege that is denied by this code to other lands or facilities.
  - 4. Comparison with other properties. The literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other similarly situated properties.
  - 5. Variance minimum. The variance granted is the minimum variance possible to make reasonable use of the land or facilities.
  - 6. Conforms with goals and purpose. The granting of the variance will be in harmony with the general goals and purpose of this code.

- 7. Not injurious to public. The variance will not be injurious to the neighborhood involved or detrimental to the public welfare, require extraordinary public expense, or create nuisances.

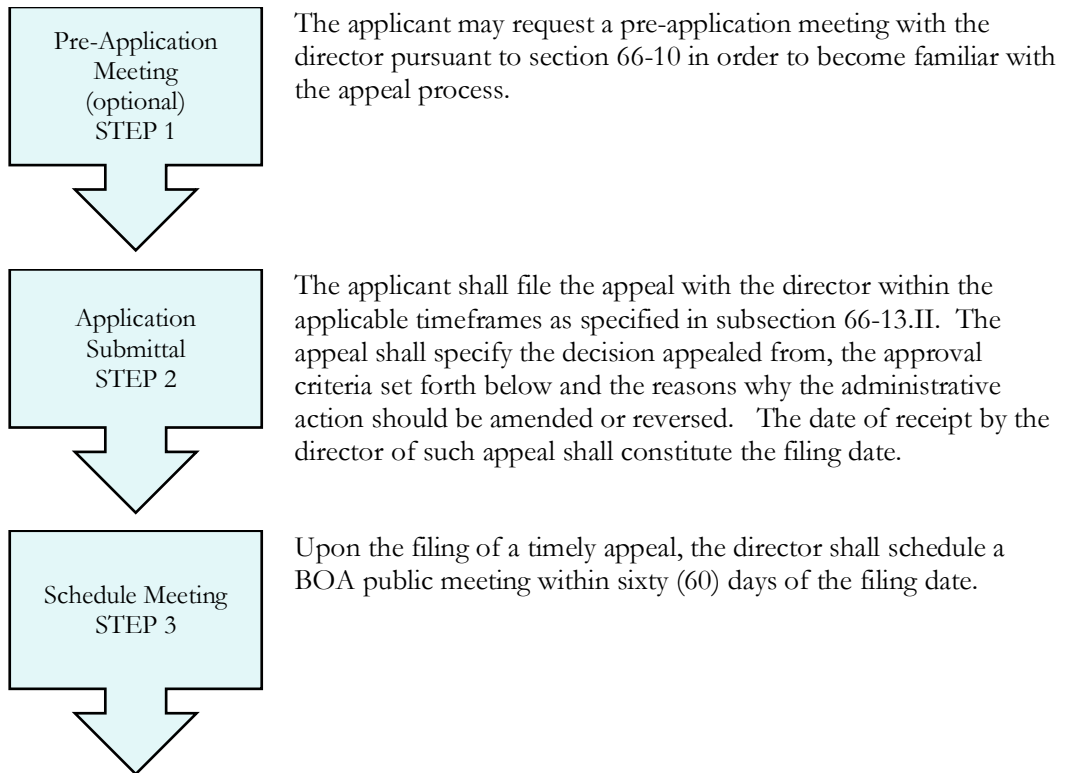
**IV. Effect of approval.**

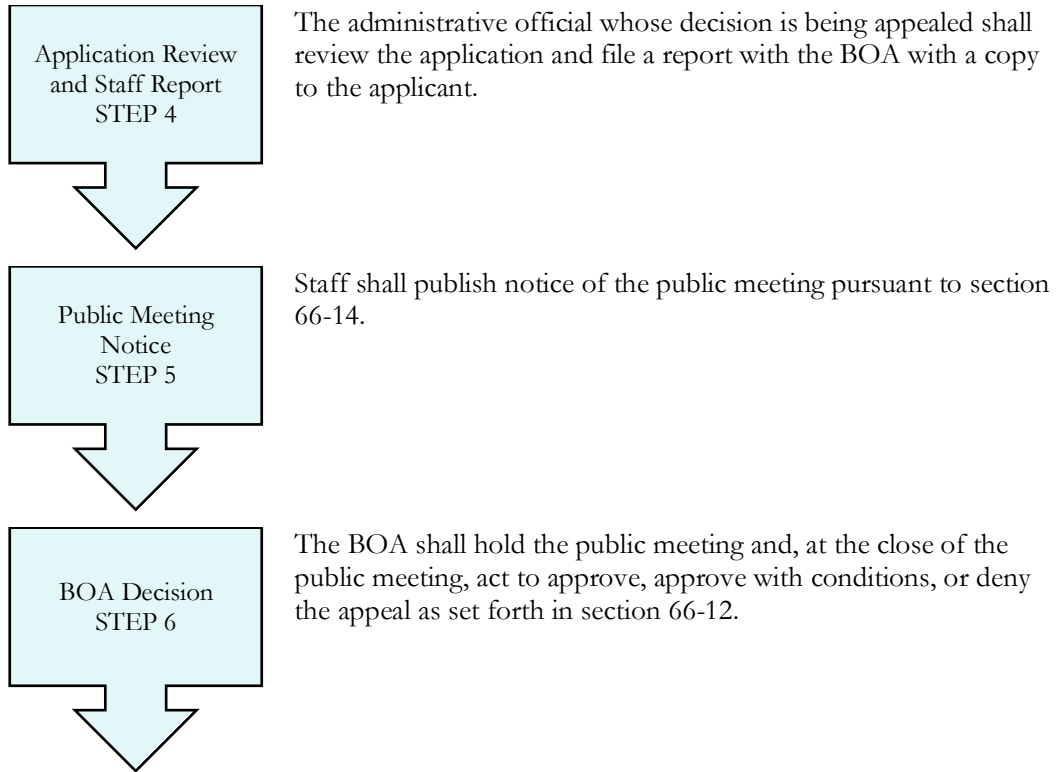
- A. General rule. Unless otherwise provided by the decision-making body, the applicant shall apply for any needed land use permits or building permits within six (6) months of the approval of the variance. The variance approval shall automatically lapse and be of no further force and effect if the applicant fails to ~~obtain~~~~apply for~~ all necessary permits within a one (1) year period or if such permits are denied.
- B. Variances granted as part of development application. The approval period of any variance granted prior to or concurrently with the county’s approval of a land use permit or development application shall be the same as the approval period of the permit or development application and shall lapse with the approved permit or development application.
- C. Approved variances and redevelopment of the property. The variance approval shall automatically lapse and be of no further force and effect if redevelopment of the subject property makes compliance with this code possible without the previously approved variance.

**Sec. 66-28 Appeals to B-oard of Adjustment**

- I. **Applicability.** Pursuant to C.R.S. § 30-28-118, Appeals to the board of adjustment may be taken by any person aggrieved by ~~a director determination, the code interpretation or a decision~~, made in the course of the administration of this code; provided, however, final decisions by the director relating to approval of administrative land use permits shall be appealed to the board.
- II. **Procedures.** Figure 66-28 below identifies the application steps for an appeal.

**Figure 66-28: Summary of Appeal Procedures**





**III. Approval criteria.** In hearing an appeal of an administrative decision or interpretation, the BOA shall consider the following:

- A. The technical meaning of the provision being appealed;
- B. Evidence as to past interpretations and legislative history;
- C. The principles of interpretation and rules of construction in chapter 81;
- D. The effect of the interpretation on the intent of this code and the implementation of the comprehensive plan, other county adopted plans and any applicable intergovernmental agreement affecting land use or development.

**IV. Stay.** An appeal to the BOA shall stay all proceedings in furtherance of the action appealed unless the county attorney determines that by reason of facts provided to the county attorney, a stay would cause imminent peril to life or property.

**Sec. 66-29 Conceptual development plans**

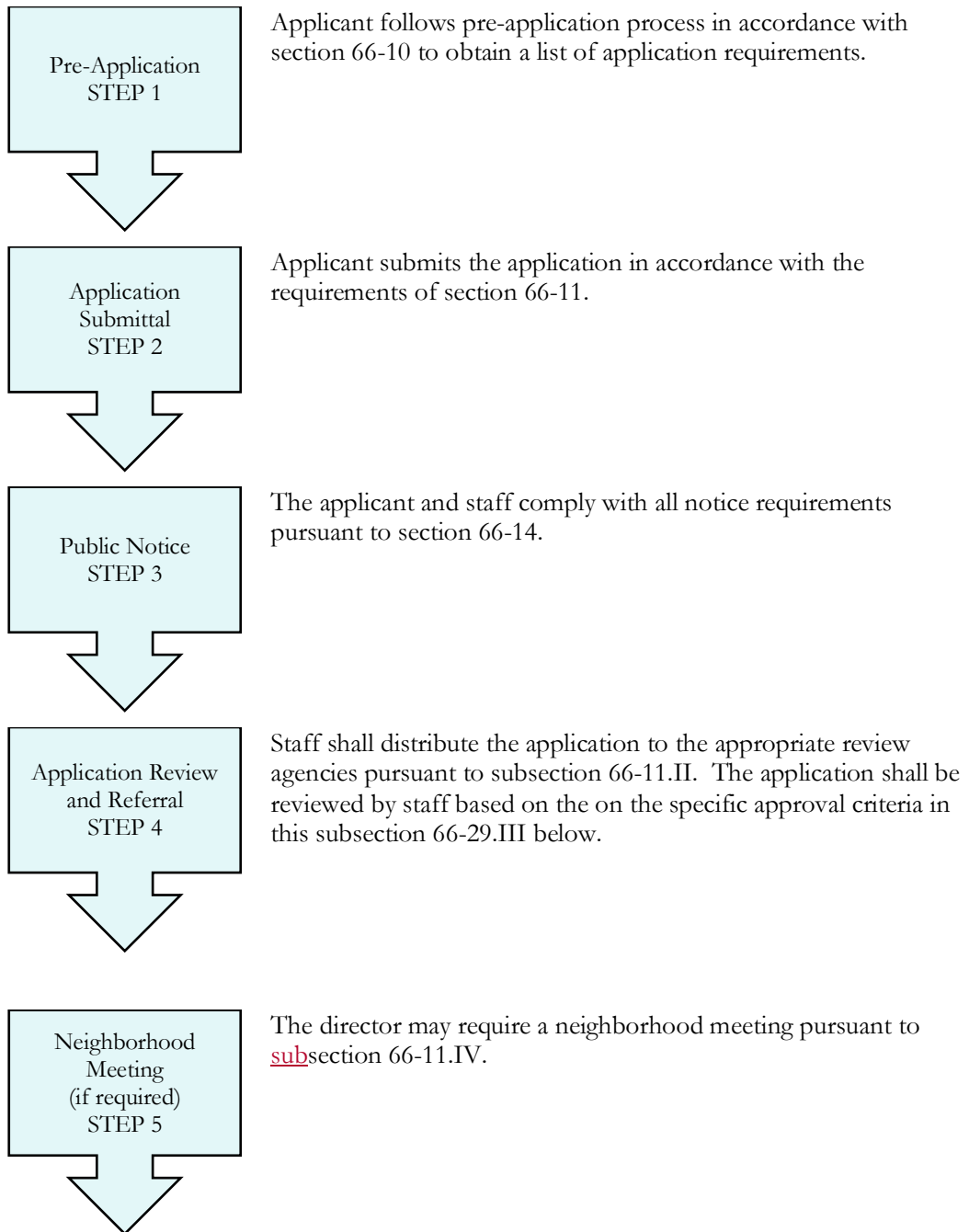
**I. Purpose and applicability.** A conceptual development plan (~~CDP~~) is designed to accommodate the needs of applicants proposing multi-phased projects. The intent of a CDP is to allow early review of the phasing of a proposed major development. A CDP is required for any major land use permit or major subdivision project where the proposed development or subdivision will be accomplished in multiple phases unless a phasing plan is approved as part of a sketch plan. A CDP shall be submitted prior to or concurrently with the preliminary plan or plat of the first phase of the project. The CDP procedure also ensures that each phase of a multi-phased project contains the facilities and improvements that are necessary to serve the development.

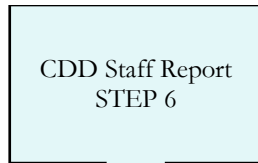
A CDP is a generalized plan that illustrates the amount and types of uses, densities, and proposed vehicle and pedestrian circulation systems within and leading to the proposed development site. Approval of a CDP results in a generalized land use plan for the area proposed to be developed.

However, approval of a CDP does not result in final planning approval for the proposed property, and grading, building, and construction permits may not be issued based on an approved CDP. Because the CDP only requires the applicant to prepare conceptual mitigation measures for design or engineering documents, submittal requirements for a CDP shall not constitute an application for purposes of vested rights (section 66-13) or CRS §24-68-101 *et seq.*

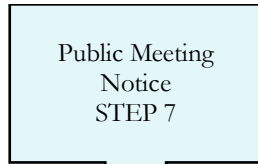
**II. Procedures for review of conceptual development plan.** Figure 66-29 below identifies the application steps that apply to the review of conceptual development plan.

**Figure 66-29: Summary of Conceptual Development Plan Procedures**

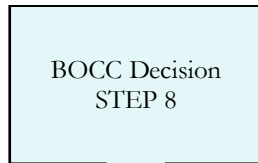




Staff shall prepare and distribute a written staff report in accordance with subsection 66-11.V. The staff report shall conclude with a recommendation for approval, approval with conditions or denial of the application.



Staff shall publish notice of the public meeting pursuant to section 66-14.



The board shall hold a public meeting and, at the close of the public meeting, act to approve, approve with conditions or deny the application pursuant to section 66-12.

**III. Approval criteria.** All applications for a CDP shall be reviewed for general consistency with the general approval criteria stated in section 66-16, but not for detailed compliance with development standards referenced in such criteria. The review for general consistency shall include a review of the applicant's concepts for mitigating potential effects expected to be produced by the proposed development in relationship to the general approval criteria. For example, proof of adequate water, sewer and access shall not be necessary; however, the application shall provide mitigation measures which could be utilized to offset expected demands and impacts based on the proposed uses such as documenting the available capacity of central water or sewer providers, the availability of well permits or describing how road improvements will be provided based on the condition of existing access.

**IV. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicants proposing a CDP shall also submit the following:

- A. A conceptual development plan drawing on one (1) or more sheets illustrating the entire development, conceptual in nature, and at a minimum, including the following information prepared by qualified professionals with experience in land use, transportation, and utility planning and engineering:
  1. Uses proposed;
  2. Intensity or density of uses proposed;
  3. Proposed arrangement of lots;
  4. Location of open space;
  5. Location of existing and proposed buildings on the site;
  6. Road, street, drainage and pedestrian facilities existing and proposed;
  7. Existing or proposed utilities for the development;
  8. The proposed development phases.

- B. A phasing plan consisting of a written description of each of the proposed phases indicating the type of development and the infrastructure improvements necessary for each phase. This may be included as part of the narrative for the project application.
- C. Mitigation concepts for mitigating potential adverse effects produced by the proposed development. These concepts shall be illustrated on the plan drawing(s) or described in writing, or both. The written description may be included as part of the narrative for the project application.

**V. Effect of approval.**

- A. Not a site-specific development plan. An approved CDP does not constitute a "site specific development plan;" ~~as that term is defined in CRS § 24-68-102.~~
- B. Effect of Approval. Approval of a CDP indicates those aspects of the proposed development shown on the plan are generally approved, subject, however, to subsequent consideration and review of a major subdivision or permit for all or a portion of the property, in one (1) or more phases, including conforming to all applicable development standards adopted by the county at the time such subsequent application is submitted.
- C. Lapse of CDP approval. An approved CDP shall lapse and be of no further force and effect if an application for subdivision or development of at least the first phase of the CDP has not been submitted within three (3) years of the CDP approval, unless otherwise specified by the county in its approval of the CDP or phasing plan. Provided such application is submitted within the applicable time period, the term of approval for the remainder of property subject to the CDP shall be extended for an additional three (3) years or as otherwise specified in the approved phasing plan. If the CDP lapses, a new CDP shall be required prior to future development of the subject parcel. Such new CDP shall be processed according to the procedures of this section. Adjustments or modifications to the CDP do not affect the original approval period, unless otherwise provided.

**VI. Modifications to an approved CDP.** Unless qualifying for a permit adjustment pursuant to section 66-26, no CDP shall be altered, changed, or otherwise modified except through the approval of a new CDP application. An applicant shall apply for an amendment to an approved CDP prior to the submittal of applications to commence development of any phase, or prior to the submittal of a preliminary plat, where the proposed phase of development or plat does not conform to the approved CDP.

**Sec. 66-30 Development improvements agreement**

**I. Applicability.** An applicant whose development requires public improvements but who chooses to not construct and complete all such improvements prior to recordation of the plat or issuance of the land use permit shall enter into a development improvements agreement and shall guarantee that such improvements will be constructed in conformance with approved site plans and permits by delivering to the county an irrevocable letter of credit or other sufficient financial commitment approved by the board. The county may also require a DIA and/or performance guarantees for private or common area improvements, including but not limited to on-site landscaping or restoration of preserved natural areas.

**II. Procedures.**

- A. Submittal of cost of improvements worksheet. Prior to execution of agreement and submittal of performance guarantee, the applicant shall submit a detailed cost-of-improvements worksheet prepared by a professional engineer or other qualified professionals, as allowed by the director. The worksheet shall contain a breakdown of the costs of the improvements, utilizing unit prices. Persons designated by the board shall review the proposed costs and approve or disapprove the estimates of cost. For work to be accepted by a special district, the district shall review and approve or disapprove the estimates of cost. In the event of disagreement between



the applicant and the county or special district, standard industry resources such as RS Means, CDOT's cost data books or relevant bid tabulations compiled by local area governments or businesses through a competitive bidding process within the preceding twelve (12) months shall be consulted and shall establish the standards by which the reasonableness of the estimates are determined. The worksheet shall be signed by both the applicant and the reviewer. The county reserves the right to review and adjust the cost estimates at any time before or after the applicant delivers its performance guarantee. Adjusted cost estimates will be made according to changes in the Construction Cost Index as published by the Engineering News Record. If the county adjusts cost estimates for the improvements, the county shall give written notice to the applicant. The applicant shall, within thirty (30) days after receipt of such notice, provide the county with a new or supplemental letter of credit for one hundred twenty (120) percent of the adjusted cost estimate.

- B. Submittal of agreement and performance guarantee. The applicant shall deliver an executed ~~DIA development improvements agreement~~ and the required performance guarantee after approval of the plat or permit by the board but before recordation of the plat.
1. Agreement specifics. The board approves standardized ~~DIA development improvements agreements~~ which may be entered into on behalf of the board by and through the county manager.
  2. Performance guarantee specifics; applicant submits evidence of financial resources. The applicant shall submit satisfactory evidence of adequate financial resources to develop and complete improvements proposed or represented to the board. The applicant shall provide an irrevocable letter of credit or other financial commitment deemed sufficient by the board to ensure that any required public improvements shall be completed or reclaimed as proposed. The letter of credit or financial commitment shall be retained by the county for safekeeping. The letter of credit or other financial commitment shall:
    - a. Guarantee funds payable to the county equal to one hundred twenty (120) percent of the total amount specified on the cost of improvements worksheet in the event of the default of the applicant;
    - b. Upon default, as determined by the board, the creditor shall pay the county, immediately and without further action, such funds as are necessary to complete improvements up to the limit of funds stated in the documents;
    - c. A letter of credit may not be withdrawn or reduced in amount until released by the county.
- C. Responsibility of applicant and security agency. The applicant shall be liable for completion of all improvements as specified in the permit and the standards of the county.
- D. Inspections. The county or the applicable special district may inspect the required improvements during and after construction to ensure satisfactory construction and completion in accordance with the permit and county and special district standards.
- E. Certification of completion. The applicant shall file a certification of completion with the planning engineer when the required public improvements have been completed or prior to any partial or full release of the performance guarantee. In no event shall the certification of completion be filed with the planning engineer less than ninety (90) days prior to the expiration date of the performance guarantee. The certification shall be completed by the applicant and a professional engineer and shall certify that:
1. The improvements have been inspected by the applicant's engineer of record or direct report and special district as required.

2. All required improvements have been completed in accordance with the approved plans and are safe and adequate.
  3. Improvements are in compliance with the standards specified by the permit and this code as well as with those of affected special districts and servicing authorities and all federal and state laws and regulations.
  4. Neither the applicant nor the professional engineer knows of any defects in the improvements from any cause.
  5. Improvements are free and clear of any encumbrances or liens.
- F. Report to the board. Following the final inspection of the development, the official specified by the board and the applicable special district shall present a statement to the board or, if authorized, the county manager. The statement shall certify whether the required improvements are complete and satisfactory in compliance with the permit and this code.
- G. Action by the board. Upon receiving the report and any other evidence from the applicant, agencies and citizens, the board or, if authorized, the county manager, shall take one (1) or more of the following actions:
1. Release the performance guarantee. Upon finding that the applicant has completed the improvements as specified in the permit and this ~~code~~chapter, the board shall approve the release of the performance guarantee.
  2. Reduce the performance guarantee. Upon finding that the applicant has completed a portion of the required improvements, the board may release a portion of the performance guarantee as follows:
    - a. No release shall be for an amount less than twenty-five (25) percent of the total amount of the performance guarantee. In no event shall the release reduce the performance guarantee to an amount below that required to guarantee one hundred twenty (120) percent of the costs to complete all remaining work and any other obligation imposed by the ~~DIA development improvements agreement~~ or to an amount less than ten (10) percent of the initial performance guarantee.
    - b. The performance guarantee covering central water and sewer systems shall not be released until a professional engineer, employed by the applicant, provides a certification stating that the systems have been inspected, that they have been installed as authorized and that the systems are safe and adequate.
  3. Extend the specified completion date. Upon finding a need to extend the specified completion date because of extraordinary circumstances beyond the applicant's control, the board may extend the specified completion date for up to one (1) year beyond the original date provided the letter of credit is similarly extended. Notwithstanding the foregoing, such extension shall not be deemed an extension of the vesting period for a site specific development plan unless specifically requested by the applicant and the board also agrees, in writing, to an extension of the vesting period.
  4. Applicant in default. Upon finding that an applicant has not completed the required development by the specified completion date, or that the improvements are not adequate, the board shall declare the applicant in default. Such declaration shall be in the form of a motion at a meeting of which the applicant has been notified at least ten (10) days prior to such meeting. After finding an applicant in default, the board shall take one (1) or more of the following actions:

- a. Call the performance guarantee. The board may draw on the letter of credit. These funds shall be used to complete the improvements. The work may be completed using county resources or may be contracted out to a private firm.
- b. Initiate plat/permit revocation procedure. The board may initiate the procedure to revoke the plat or permit approval.
- c. Assign proceeds. The board may assign proceeds, if any, collected under an improvement guarantee to any subsequent developer who has acquired the development by purchase, foreclosure or otherwise and who covenants to complete improvements in the subdivision or development. The agreement to assign proceeds, if any, shall only be made after approval of the subsequent developer's plan has been reviewed and approved by the board and after adequate performance guarantee has been provided by the subsequent developer in accordance with the standards of this section. The subsequent developer's obligation to complete improvements pursuant to an agreement under this section shall not be affected by the failure of the county to collect proceeds under the improvement guarantee if the county makes a good faith effort to obtain such proceeds.
- d. Pursue applicant. The board may sue the applicant for specific performance or recovery of any amount necessary to cure the default over and above the amount available under the letter of credit.
- e. Foreclosure. The board may foreclose upon and sell any lot or lots within the permit or subdivision as deemed necessary to recover the amount necessary to pay for completion of the improvements and the county's costs related to the same.
- f. Pursue any other remedy available by law.

**Sec. 66-31 Fair share reimbursement for improvements**

- I. Purpose.** The purpose of fair share reimbursement is to assist developers who are required by the county to install or construct public improvements as a condition of the land use permit by allowing the developer to recover some of their costs from subsequent developers whose property is likely to make use of such improvements. This section establishes the standards and procedures to receive fair share reimbursement pursuant to the authority specifically conferred by C.R.S. § 30-28-133(12) and more generally by C.R.S. §§ 30-28-101 *et seq.* and C.R.S. §§ 29-20-101 *et seq.*
- II. Applicability.** An applicant for one (1) of the following land use permits may simultaneously seek approval of fair share reimbursement for any public improvement required by the county that is estimated to cost more than three hundred thousand (300,000) dollars:
  - A. Major subdivisions under section 67-3;
  - B. Manufactured home subdivisions under section 73-15;
  - C. Planned unit developments under chapter 68 which include a major subdivision under section 67-3;
  - D. The creation of condominiums, townhome ~~dwelling communities~~ and other forms of airspace ownership or air-right subdivisions as described and defined in C.R.S. § 38-33-101 *et seq.*

**III. Procedure and approval criteria for applying for fair share reimbursement.**

- A. Timing of submittals.
  - 1. If a public improvement is identified as a potential requirement during the pre-application process, an applicant who wants to pursue fair share reimbursement must include the submittals required by this section for the application to be deemed complete and ready for agency referral pursuant to subsection 66-11.II.

2. If a public improvement is identified as a requirement as a result of the agency referral or staff compliance review processes identified in subsection 66-11.II., an applicant who wants to pursue fair share reimbursement must provide the submittals required by this section before proceeding with the next step in the application process.
- B. Submittals. An applicant requesting fair share reimbursement for the costs of any improvement shall submit to the director a proposed cost recovery statement for each improvement. This section contemplates the possibility that there may be multiple cost recovery statements per land use permit, but under no circumstances shall an applicant be entitled to submit more than one (1) proposed cost recovery statement for a single improvement. The applicant shall submit the following items as part of the proposed cost recovery statement:
1. A clear description and drawing of the improvement;
  2. An itemized statement, with supporting documentation for each item, of the estimated costs of the improvement. For purposes of an subsequent performance guarantee required by the county, the estimated costs of an improvement shall be the amount determined by the director necessary to guarantee funds for the completion of the improvement at the time of the recording of the final plat for the original developer's subdivision or the issuance of a land use permit, with any percentage of overage (i.e., contingency) required by the county added after such adjustment to the estimated costs;
  3. A statement, report, or study, including any data in support thereof, prepared or certified by a professional engineer, that expresses the maximum capacity of the improvement, the estimated usage of the improvement incurred by the proposed development at its maximum capacity, the net remaining capacity of the improvement after subtracting the maximum usage expected by the proposed development and the expected lifespan of the improvement, all in quantitative terms generally accepted by professionals in the relevant area of expertise and in conformance with any procedures maintained by the county. Such statement, report or study shall also include a calculation that relates the quantitative measurements of capacity to a dollar cost per unit. For example, in the case of a street, the amount should generally be expressed in terms of dollar cost per average daily trip or similar terms;
  4. A list and map of all properties, identified by parcel number, that the applicant proposes should be subject to fair share reimbursement as potentially benefitted properties, together with a scaled drawing establishing the location of the relevant improvement in relation to these properties. For all such potentially benefitted properties, an applicant shall provide a list of the names and mailing addresses of the owners based on the most current records of the county assessor's office;
  5. An explanation describing how each potentially benefitted property is either adjacent to the improvement or will have presumed use of the improvement such that any fair share reimbursement that may be required for the development of such property shall comply with the requirements of C.R.S. §§ 29-20-203, 30-28-133(12) and the United States and Colorado Constitutions;
  6. A statement proposing the duration of the reimbursement period, as well as supporting rationale for the proposed duration based on the expected life and capacity of the improvement throughout the proposed reimbursement period. The proposed duration shall not exceed fifteen (15) years from the date of completion of an improvement.
- C. Director's review. The director shall review the proposed cost recovery statement to make a preliminary determination that it is complete to accept for review. The director has the authority and the discretion to require an applicant to provide updates, revisions, clarifications, or supplementary materials that the director determines are necessary for the initial review. At any time during this review, the applicant may amend the proposed cost recovery statement

either of its own volition or pursuant to any request from the director. Subject to the timing of submittals in paragraph 66-31.III.A. above, an application shall not proceed to the next step of the review and public meeting process until the director determines the submittals required by this section are compliant. Thereafter, any staff report to the planning commission or board shall include a recommendation of approval, approval with conditions, or denial of fair share reimbursement.

- D. Notice to potentially benefitted property owners.
1. If the director determines that a neighborhood meeting is appropriate, the notice required by section 66-11.IV. for neighborhood meetings shall, in addition to any recipients required by section 66-14, include the owners of all potentially benefitted property. In addition to any other information required in the notice by section 66-14, it shall include a narrative of the improvement, estimated cost, and statement that a copy of the proposed cost recovery statement may be obtained from the director. Such notice shall also inform the potentially benefitted property owner that they have the right to send written comments on the proposed cost recovery statement to the director and may comment at any public meeting on the approval of the cost recovery statement. Thereafter, any notices required by this code to be sent to surrounding owners shall include the owners of all potentially benefitted property as well as then-current versions of all materials required by this subparagraph 66-31.III.D.1.
  2. If no neighborhood meeting is held, or if the timing of the fair share reimbursement submittals is after the neighborhood meeting, all notices required by this code to be sent to surrounding owners shall include the owners of potentially benefitted property as well as the then-current versions of all materials required by subparagraph 66-31.III.D.1. above.
  3. Fair share reimbursement shall not be approved without at least one (1) public meeting pursuant to subsection 66-12.II. and without public notice pursuant to section 66-14. All descriptions of the project in public notices shall include applicant's intent to request fair share reimbursement pursuant to this section.
- E. Payment of administrative fee for processing of cost recovery statement. Prior to any meeting that is scheduled for the consideration of final approval of a land use permit for which fair share reimbursement is being requested, the applicant shall submit to the county an administrative processing fee equal to the actual costs incurred by the county in staff time and consulting fees in evaluating the proposed cost recovery statement. This fee shall be charged to reimburse the county for the costs of administering and processing the proposed cost recovery statement and shall be nonrefundable, regardless of fair share reimbursement approval. The county may also charge a fee to reimburse the county for the costs of administering a development application for a secondary developer subject to a fair share reimbursement.
- F. Recording of notice of fair share reimbursement. As soon as practicable after the issuance of a land use permit that includes an approved fair share reimbursement, the original developer shall prepare and submit to the county clerk and recorder for recording a notice of fair share reimbursement in the chain of title for each approved benefitted property in a form approved by the county attorney. Recording of the notice of fair share reimbursement is merely a statement that a unique government land use regulation may apply to a property. The notice is not a lien or any other type of encumbrance on the chain of title for said property. Such notice shall include the original developer's mailing address and specify the approved reimbursement period and that the fair share reimbursement may be amended. The notice shall also specify that it shall automatically expire at such time without filing of a release. The approved version of the cost recovery statement shall be attached to the recorded notice. Because the initial right to fair share reimbursement is approved prior to completion of the improvement, the original developer or its successor in interest must record an amended notice, with an amended cost

recovery statement approved pursuant to paragraph 66-31.III.G. below, in the property records after completion of the improvement. The amended notice shall identify the final cost, the date the improvement was completed and the ending date of the reimbursement period and shall attach the approved amended cost recovery statement. The right to receive fair share reimbursement runs with the land that was subject to the land use permit that included an approved right to fair share reimbursement.

- G. After completion of the improvement, an original developer must amend the cost recovery statement to include the final and actual costs of the improvement. The amended cost recovery statement shall be submitted to the director and may be approved administratively by the director. As-built drawings and documentation shall be provided for each item to support the actual costs and completed improvement. If the director believes that the amended cost recovery statement is significantly different from the original, the director may place such amended cost recovery statement on the board's agenda for consideration.

**IV. Approval criteria.** Fair share reimbursement shall only be approved as part of a land use permit if the decision-making body determines that all approval criteria are satisfied. In reviewing a proposed cost recovery statement, a review body and a decision-making body shall consider the following approval criteria:

- A. The estimated costs are reasonable in light of the nature of the improvement and prevailing market rates;
- B. The improvement confers a public benefit;
- C. All proposed potentially benefitted properties are either adjacent to or will have presumed use of the improvement if the potentially benefitted property is developed in the future;
- D. The reimbursement period is reasonable in light of the nature of the improvement, the amount of excess capacity available for use by potentially benefitted properties, and the expected life-span of the improvement.

**V. Procedure for payment of fair share reimbursement.**

- A. Rebuttable presumption. The recording of a notice of fair share reimbursement pursuant to this section following issuance of a land use permit that includes the right to fair share reimbursement creates a rebuttable presumption that the owner of the benefitted property owes a fair share of the costs of the subject improvement to the owner of record of the property that was subject to the land use permit that included the right to fair share reimbursement, if:
  - 1. The owner of a benefitted property submits an application for a land use permit (or conducts any development for which a land use permit was required, even if no permit was pursued) related to such benefitted property;
  - 2. The reimbursement period had not expired at the time of the activity identified in 1 above.
- B. Payment of fair share reimbursement.
  - 1. If a secondary developer submits an application for a land use permit related to benefitted property, such application shall not be a complete application until the secondary developer submits a statement, report or study, including any data in support thereof, prepared or certified by a professional engineer, that expresses the estimated usage of the improvement incurred by the proposed development at its maximum capacity, all in quantitative terms generally accepted by professionals in the relevant area of expertise and consistent with the units of measurement used in the approved cost recovery statement and any procedures maintained by the county.
  - 2. The owner of record of the original developer's property that was subject to the land use permit that included the right to fair share reimbursement shall receive written notice of the secondary development.



- a. If the director determines that a neighborhood meeting is appropriate, the notice required by subsection 66-11.IV. for neighborhood meetings shall, in addition to any recipients required by section 66-14, include the owner of record of the original developer's property. In addition to any other information required in the notice by section 66-14, it shall include a narrative of the proposed development and a copy of the cost recovery statement, report or study that identifies its proposed use and fair share reimbursement. Such notice shall also inform the owner of record of the original developer's property that they have the right to send written comments on the proposed fair share reimbursement to the director and may comment at any public meeting on the approval of the proposed development. Thereafter, any notices required by this code to be sent to surrounding owners shall include the owner of record of the original developer's property.
  - b. If no neighborhood meeting is held, or if the timing of the fair share reimbursement submittals is after the neighborhood meeting, all notices required by this code to be sent to surrounding owners shall include the owner of record of the original developer's property and shall include the then-current versions of the materials required by sub-subparagraph 66-31.IV.B.2.a. above.
3. Payment of obligation required before recording of final plat or issuance of land use permit. If the decision-making body approves or conditionally approves the secondary developer's development, the secondary developer shall not record a final plat or receive a land use permit until the secondary developer:
    - a. Tenders, or attempts in good faith to tender, good funds in full to the owner of record of the original developer's property in the amount established by the decision-making body;
    - b. Provides adequate proof to the director in a form acceptable to the county that such funds have either been paid or that a good faith effort has been made by the secondary developer to deliver the funds. For the purposes of attempting to tender such funds, the secondary developer shall be determined to have acted in good faith if they have attempted to contact the owner of record of the original developer's property at the last address listed in the assessor's records for the original developer's property as well as the address listed on the most recent notice of fair share reimbursement recorded in the chain of title of the subject property.
- C. Alternative payment. Nothing in this section may be construed to prohibit an original developer and a secondary developer from entering into a private agreement for the recovery by the original developer of all or part of the costs for any particular improvement. However, any such agreement renders an original developer ineligible to seek fair share reimbursement from such secondary developer for the benefitted property pursuant to this section for the relevant improvement. If a private agreement is made with respect to alternative payment of fair share reimbursement, as soon as practicable thereafter the owner of record of the original developer's property shall record a notice of release of fair share reimbursement indicating that the property is no longer subject to any recovery of fair share reimbursement under this section and provide a copy of the same to the director.

**Sec. 66-32      Review of historic resources**

- I. **Purpose.** The purpose of this section is to establish a process that identifies historic resources prior to their demolition, moving, or major alteration. The goal is to provide documentation of historic resources in the county and to encourage applicants to consider the benefits of historic preservation. There is no obligation for an applicant to alter their development proposal based upon this section, rather the process serves as a source of information should a landowner decide to preserve an historic resource on their property.



**II. Applicability.** The review process ~~would~~ pertain~~s~~ to historic resources which are structures or landscape features over fifty (50) years of age and possess architectural integrity or cultural significance. This includes buildings that were erected to shelter human activity such as houses, barns, schools, churches, and other structures which include bridges, and historic landscape features such as orchards, ditches and roads. This applies to historic resources listed on the La Plata County Register of Historic Places, the survey of one hundred (100) historic resources completed in 2010, and any other structure or landscape feature that ~~meets~~ the definition of a historic resource. This section does not address prehistoric archaeological sites, since these sites are reviewed under the Archeological Resources Protection Act of 1979.

**III. Review process.** If the CDD determines a potential historic resource ~~to be~~ located on the development site, the following steps may apply:

- A. The applicant shall identify the historic resource in the project narrative and relevant submittal materials, ~~or revise as necessary, to identify, the historic resource, Such materials which~~ shall ~~then~~ be ~~referred~~provided to the County's Historic Preservation Review Commission (~~HPRC~~) during the agency ~~review~~referral period pursuant to subsection 66-11.II.
- B. A member of the HPRC may contact the applicant to schedule a site visit to gather information on the historic resource. The HPRC member may meet on-site to discuss the history and document any available historical information.
- C. Using available property maps, the HPRC member may develop a rendering, floor plan or site plan of the historic resource indicating dimensions/measurements, and building location within the site. The HPRC member may take site photos and photos of the affected structures including all elevations and notable features. The photos ~~are to~~shall be recorded on a photo log listing the date, subject, photo orientation, and photo number.
- D. The HPRC member may assemble the property materials into a brief report for county staff within one (1) week following the agency ~~review~~referral period. The HPRC member ~~will~~shall email the~~s~~ report to the CDD and be available for any additional discussion or clarification as necessary.

**Sec. 66-33      Reserved**

**Sec. 66-34      Development agreements**

**I. Purpose.** In connection with any development approval, the board shall be authorized, as a legislative act, to enter into a development agreement with the applicant. Development agreements may include provisions clarifying the phasing of construction, the timing, location and financing of infrastructure, reimbursement of oversized infrastructure, vesting of property rights for periods in excess of three (3) years, assurances that adequate public facilities (including roads, water, sewer and fire protection) will be available as they are needed to serve the development and mitigation of anticipated impacts of the development on the general public. Development agreements should not be used to avoid or circumvent requirements of this code.

**II. Contents.** Development agreements may, without limitation, contain the following:

- A. Description of the acceptable and prohibited uses on the property;
- B. The density of proposed uses, including maximum floor area and height of buildings;
- C. Provisions for the preservation or dedication of land for public purposes;
- D. Proposed schedule for the construction of public improvements and assurances that public improvements will be available as needed to serve new development;
- E. Proposed timing and phasing of the project;
- F. Provisions to mitigate the impacts of the development on the general public, including the protection of the environmentally sensitive lands;

- G. Provisions for public benefits or improvements in excess of what is required by county policy or law;
- H. Terms relating to applicant financing of facilities and subsequent reimbursement;
- I. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
- J. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;
- K. Termination date for the development ~~improvements~~ agreement.

### III. Notice requirements and public meeting.

- A. After a proposed development agreement has been negotiated by staff and the applicant, the review body, if applicable, and decision-making body shall each conduct a public meeting at which it shall review and take action on the proposed development agreement.
- B. The process shall include posting the subject property with a notice of public meeting, publishing a notice of the public meeting and providing mail notification to adjacent property owners as prescribed by section 66-14.
- C. Upon approval of the development agreement, a notice of such approval and creation of the vested right shall be made by publication in a newspaper of general circulation within the county no later than fourteen (14) days following approval.

### IV. Approval criteria.

The county shall consider and act upon a request for a development agreement in its sole discretion and the terms of the development agreement may involve negotiation between the county and the developer. The board shall be the decision-making body for all development agreements and the director may, depending upon the nature of the development agreement, also seek review of the development agreement by the applicable review body. If a subdivision or planned unit development is associated with the proposed development agreement, the Any proposed development agreement shall be reviewed by the review body and decision-making body at the same time ~~that as~~ the subdivision or planned unit development ~~is reviewed. Procedures for review and approval of a development agreement shall be the same as for the related development approval; provided, however, the terms of the development agreement may involve negotiation between the county and the developer.~~ In reviewing and acting upon proposed development agreements, the ~~review body and~~ decision-making body and review body, if applicable, shall consider the review and approval criteria for the development application and the following additional criteria:

- A. Whether the plan or project is sufficiently well-defined to justify vesting for the period proposed;
- B. Whether there are sufficient corresponding benefits to the county and its citizens to justify granting any or all of the vested property rights requested for the development;
- C. Whether any forecasts of future off-site land uses, infrastructure, traffic and drainage conditions are reliable throughout the vesting period, as those studies are required to be updated from time to time;
- D. Whether the development agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.

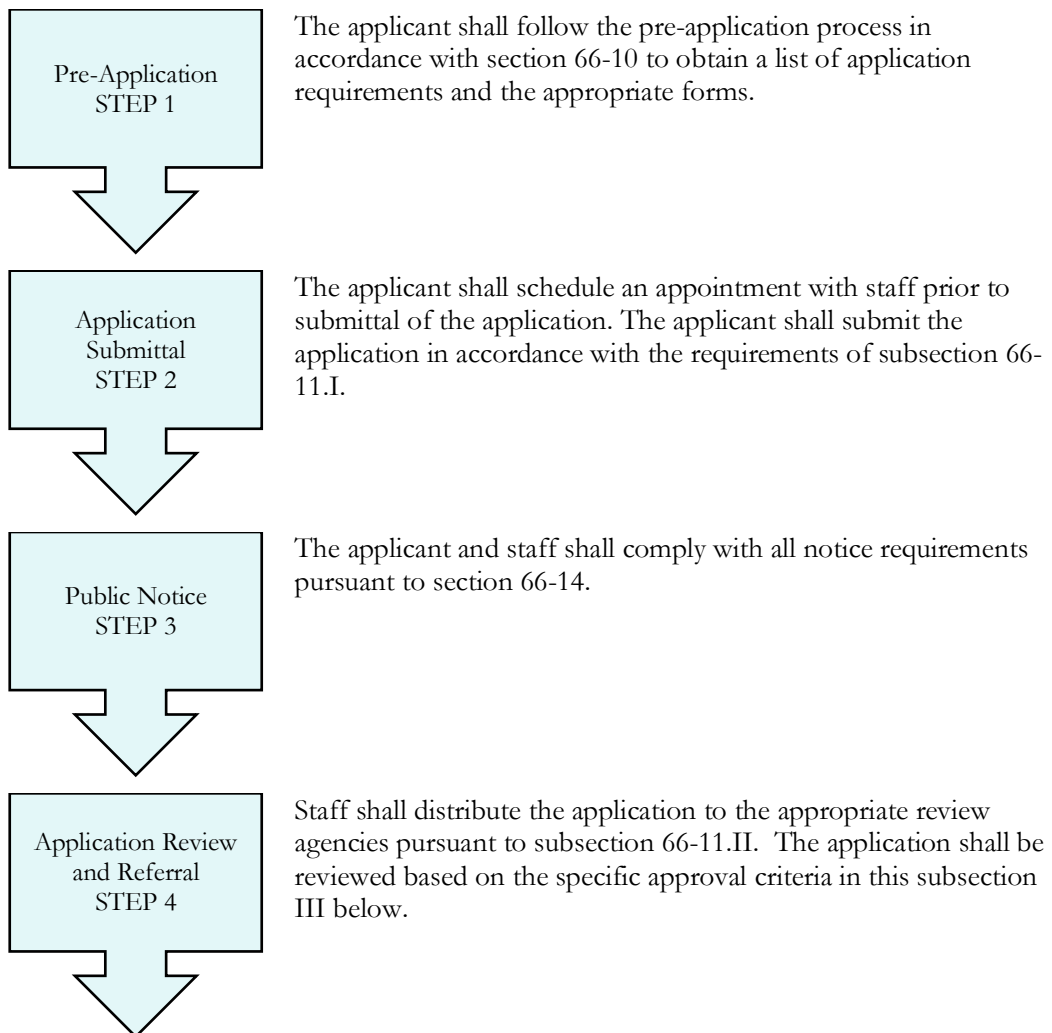
Sec. 66-35 ~~Reserved~~  
~~Adoption and amendment of comprehensive plan and district plans shall be as set forth in section 64-1 and section 64-3.~~

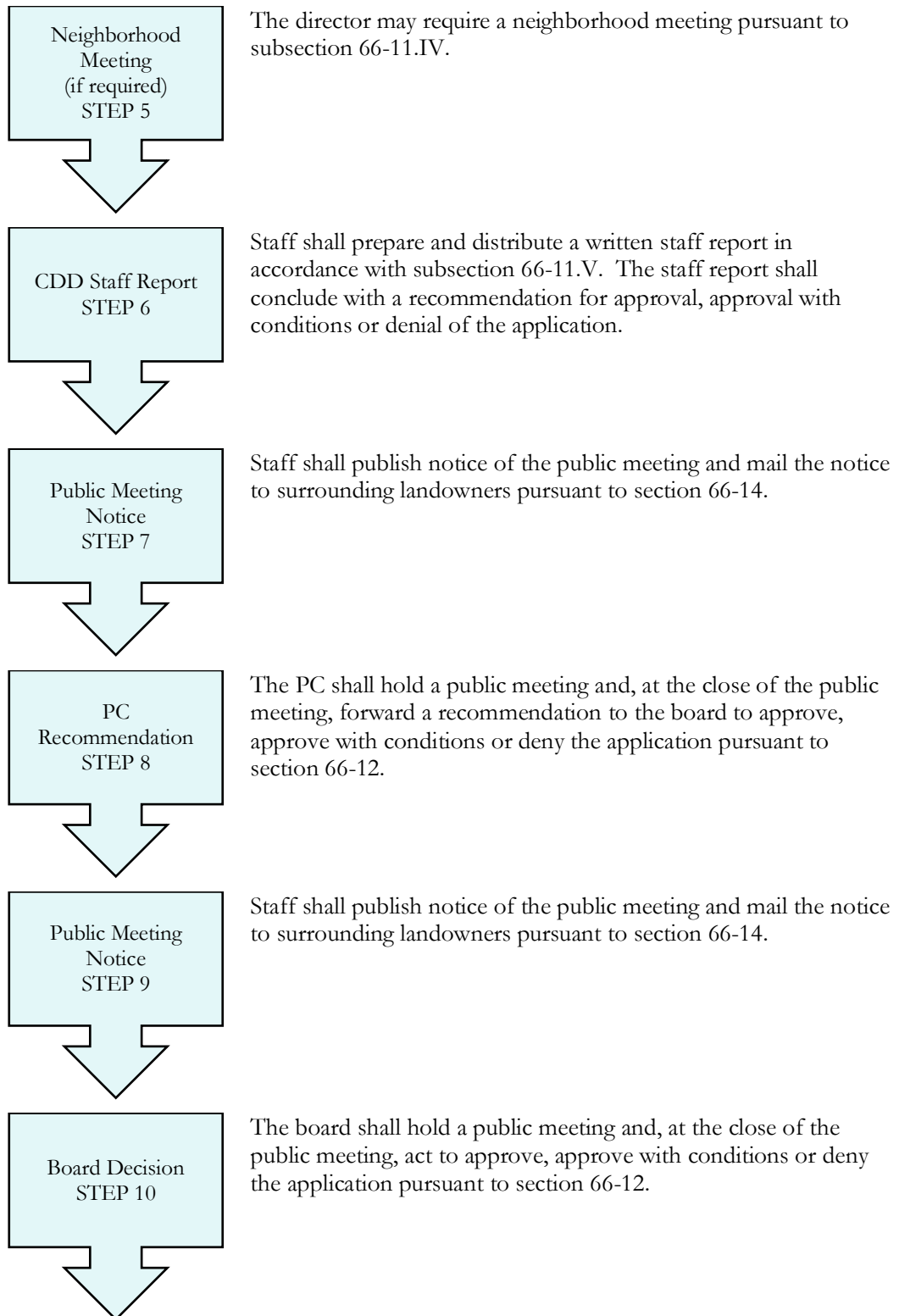
Sec. 66-36 Reserved

Sec. 66-37 Animas Valley rezoning

- I. **Applicability.** Applications for development which are not in conformance with the AVLUP shall not be accepted by staff. To be submitted, the plan must first be amended to allow for the intended use or density. The process for rezoning applications shall require a public meeting before the planning commission or joint planning commission, and a subsequent meeting before the board. This section applies to such rezoning applications.
- II. **Procedures.** Figure 66-37 below identifies the application steps that apply to the review of an Animas Valley rezoning.

**Figure 66-37: Summary of Animas Valley Rezoning Procedures**





**III. Approval criteria.** An amendment to the AVLUP is a matter subject to the board’s legislative discretion. Accordingly, the general approval criteria stated in section 66-16 shall not apply to the review of a proposed rezoning application. Instead, the board shall consider the following specific approval criteria for an Animas Valley rezoning:

- A. The amendment is justified by one (1) of the following factors:
  - 1. The land subject to the rezoning was previously zoned in error.
  - 2. Events subsequent to the adoption of the original plan have invalidated the original intent.
  - 3. The character or conditions of the area have changed so that the rezoning is in general conformance with the comprehensive plan and Animas Valley district plan.
- B. The amendment satisfies all of the following criteria:
  - 1. The change is in general conformance with the goals, objectives and policies of the comprehensive plan and the Animas Valley district plan.
  - 2. The purpose of the proposed zoning district as stated in chapter 65, compared to the existing zoning district, will better implement applicable comprehensive plan or Animas Valley district plan goals, objectives or policies.
  - 3. Adequate infrastructure is available to serve new development in the proposed zoning district; or the proposed zoning district would limit demands upon infrastructure more than the existing zone; or reasonable assurances are provided that adequate infrastructure will be made available to serve new development by the time the new development places demands on the facilities.
  - 4. The types of land uses and density permitted within the proposed zoning district are more suitable to the property when compared to the existing zoning district with respect to identified potential natural hazards such as steep or unstable slopes, avalanche areas, debris fans, and floodplain areas and considering reasonable assurances for mitigation of any such hazards.
  - 5. The proposed rezoning will not adversely affect the existing or planned land uses on adjacent properties or the surrounding area.
  - 6. The change will not conflict with any intergovernmental agreement then in effect between the county and any other unit of government.
- C. The change advances the general public health, safety and welfare.

**Sec. 66-38: Economic development area designations**

- I. Applicability.** This section establishes a process by which the county may designate particular, ~~appropriate~~, geographical areas as being subject to specialized land use regulations for commercial, industrial, or mixed residential/commercial development. Designation of a particular economic development area as being subject to specialized land use regulations may be initiated by the board, the PC, the director, or by any person or collection of persons who own real property within the area to be designated.
- II. Procedures.** Figure 66-38 below identifies the steps that apply to the designation of economic development area. In the AVLUP, an EDA shall be designated using the process for rezoning set forth in section 66-37 followed by recording a designated EDA as set forth in this subsection 66-38.II.

Figure 66-38: Summary of Economic Area Designation Procedures

Pre-Application Meeting  
STEP 1

Unless the proponent is the board, PC, or director, the applicant shall schedule and attend a pre-application meeting with the director to discuss the proposed economic development area designation and to obtain a list of application requirements and the appropriate forms in accordance with section 66-10 and subsection 66-38.IV. below.

Application Submittal  
STEP 2

Unless the proponent is the board, PC, or director, the applicant shall schedule an appointment with staff prior to submittal of the application. The applicant shall submit the application in accordance with the requirements of subsection 66-11.I.

Public Notice  
STEP 3

The applicant and staff shall comply with all notice requirements pursuant to section 66-14.

Application Review and Referral  
STEP 4

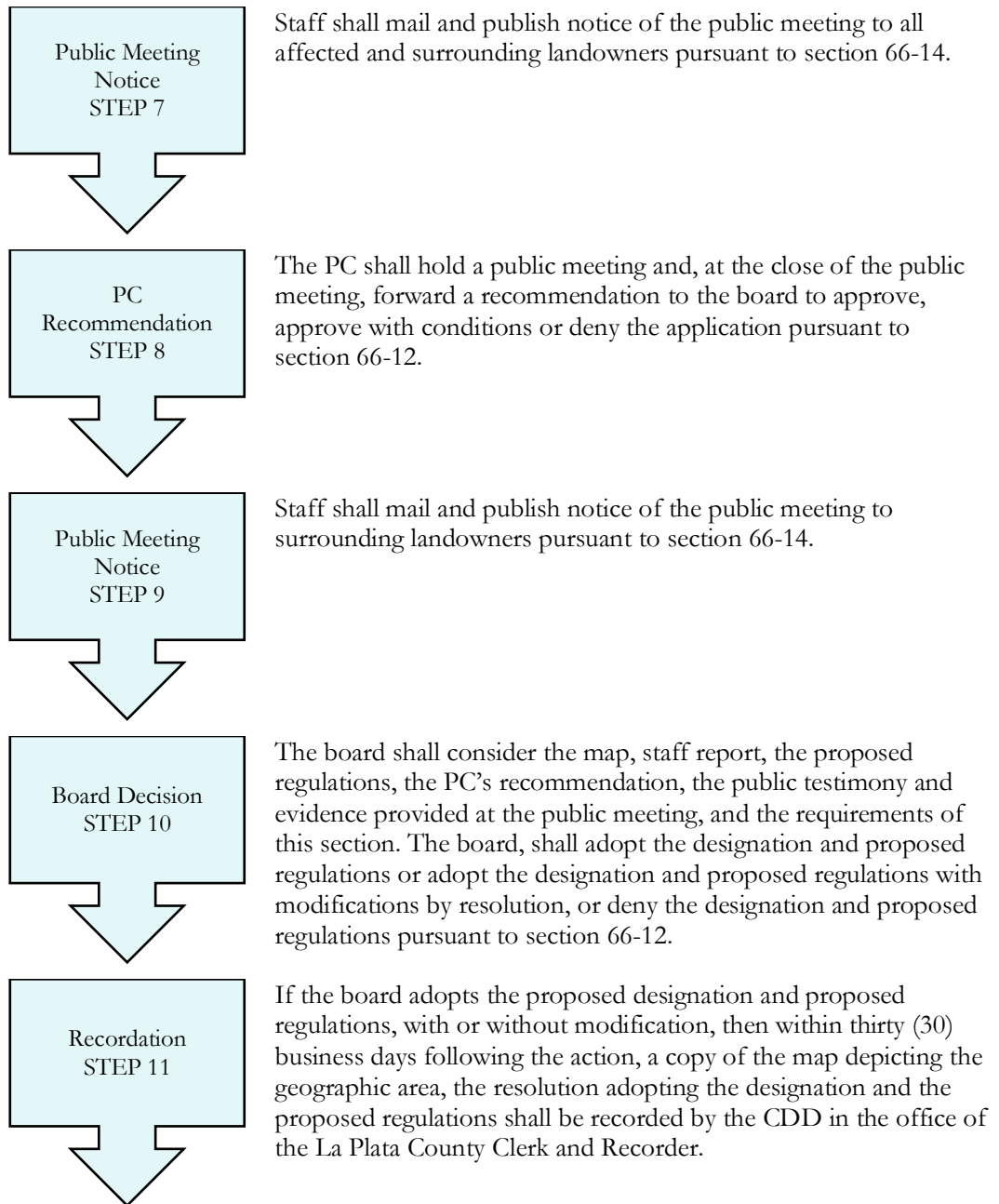
Staff shall distribute the application to the appropriate review agencies pursuant to subsection 66-11.II. The application shall be reviewed based on the specific approval criteria in this subsection III below.

Neighborhood Meeting  
(if required)  
STEP 5

The county encourages and may require informal neighborhood meetings between applicants and citizens of neighborhoods potentially affected by economic development area designation proposals in order to facilitate public input to land use decisions early in the review process. Neighborhood meetings shall follow requirements pursuant to subsection 66-11.IV.

CDD Map and Staff Report  
STEP 6

The director shall prepare a map identifying the proposed economic development area and a draft of regulations governing the economic development area. The director shall prepare and distribute a written staff report in accordance with subsection 66-11.V. The staff report shall conclude with a recommendation for approval, approval with conditions or denial of the application.



**III. Approval criteria.** The PC and board shall consider the following, at a minimum, when designating a particular economic development area as subject to specialized land use regulations, and in their respective actions, shall enter findings relative to each of the following elements:

- A. Existing or potential for infrastructure. The intensity and type of current and foreseeable development in the area, including an analysis and evaluation of the availability of water, wastewater treatment, and capacity of the roadway to adequately serve the development area within five (5) years as demonstrated by either the servicing entity or existing services.
- B. Rationale and need for designation. The purpose and need of the proposed designation, with a demonstrated need for the designation, in the location proposed, to serve the area's existing and projected development.



- C. General compliance with comprehensive plan or technical study. Any technical study that may have been conducted regarding the proposed designation. The designation is in general conformance with the goals and policies of the comprehensive plan, including applicable district plans.
- D. Natural environment and resources. The proposed area shall not adversely impact the natural environment or resources within the surrounding area, which includes but are not limited to archeological or cultural sites, existing wildlife habitat and migration corridors, and wetlands and riparian areas.
- E. Services. The applicant shall submit an evaluation of the expected demands and effects of the development on the ability of local governments and quasi-governmental agencies to provide services including but not limited to fire protection, schools, and law enforcement.
- ~~F.~~F. Compatibility assessment. The proposed uses shall be assessed for compatibility pursuant to section 70-5. To achieve compatibility, some parcels within the proposed economic development area may be more limited than others as to the types of permitted uses.
- ~~F.~~G. Proposed boundaries and use types. The property, when considering the proposed boundaries of the area proposed for designation, is suitable for the intended uses and comports with the criteria listed above in this subsection.

**IV. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-10 and section 66-11.-I., applicants proposing the designation of an economic development area shall also submit the following:

- A. A map identifying the real property for designation;
- B. A list of all real property proposed for designation, including assessor parcel numbers and names and addresses of owners of record for all identified real property;
- C. Identification of any owners of real property within the proposed EDA with whom the applicant has consulted and the respective positions, whether in favor or against, such owners;
- D. A written description of the proposed type of development and uses to be permitted;
- E. A narrative identifying how the proposed location satisfies the approval criteria for designation of an EDA.

**V. Effect of designation.** Property owners within a designated EDA have the benefits of the administrative review of permitted uses but are not restricted from pursuing future development through the applicable land use permit application process pursuant to this code.

## **Chapter 67: Division of Land**

### **Sec. 67-1      General purpose and applicability**

- I. Purpose.** The purpose of this section is to safeguard the public health, safety and welfare, to encourage well-planned, stable neighborhoods and to protect the county's natural environment by:
- A. Ensuring certain subdivision proposals are in general conformance with the goals, policies, actions and other provisions of the comprehensive plan, applicable district plan and provisions of this code;
  - B. Preventing development of areas subject to flood, geologic hazard, wildfire, radiation, noise and air pollution or other environmental hazards unless such hazards can be mitigated;
  - C. Encouraging subdivision design that protects wildlife habitat, wetlands, native vegetation, existing landforms and the county's historical, archeological and paleontological resources;
  - D. Ensuring land intended for development is suited for the proposed uses;
  - E. Coordinating the design and construction of roadway, street and utility systems;
  - F. Requiring the cost of improvements necessary for the development of a proposed subdivision and of benefit to its eventual residents be paid by the proponent of such development;
  - G. Making adequate provision for development of schools, roads, recreational facilities, open space and other infrastructure necessary to serve the needs of the county's population;
  - H. Ensuring land is not subdivided unless the necessary infrastructure, services and facilities to support such development are available.

**II. Applicability and exemptions.**

- A. Applicability. This chapter shall be applicable to all land divisions into two (2) or more resulting lots, where any of the resulting lots are less than thirty-five (35) acres in gross area, where the land division does not otherwise qualify for an exemption under this section or under C.R.S. § 30-28-101(10). However, where the applicant includes the acreage of lots that are thirty-five (35) acres or larger in the calculation of the subdivision's permitted project density, then such lots shall be platted and included in the subdivision application and review. This chapter shall also apply to manufactured home subdivisions and to the creation of certain leasehold interests as described in subparagraph 67-1.II.B.1 and shall apply to the creation of condominiums, townhome ~~dwellingse~~communities, and other forms of airspace ownership or air-right subdivisions, as described and defined in C.R.S. § 38-33-101 *et seq.* No plat of a subdivision shall be used for purposes of sale, lease, or building development until approved under the provisions of this code.
- B. Exemptions. The board hereby determines that, in accordance with C.R.S. § 30-28-101(10)(d), the following divisions of land into separate parcels or interests are not within the purposes of C.R.S. § 30-28-101 *et seq.* and are hereby exempted from the definition of the terms "subdivision" and "subdivided land" but, in some instances, may still require a land use permit or other forms of approval.
  - 1. Creation of certain leasehold interests:
    - a. The creation of separate interests or interests in common for lease but not for sale shall be exempt from the definition of the term "subdivision," except as otherwise specifically provided in this subsection.
    - b. The creation of a leasehold interest in a parcel that is a portion of a larger parcel of land for any other term of years shall constitute a "subdivision" under this code if the county determines the lessor is using the exemption set forth in paragraph B of this subsection to circumvent or evade the subdivision regulations.

2. Boundary adjustments and lot consolidations. The adjustment of lot lines or parcel boundaries without the creation of any additional lots or parcels, or the deletion of existing lot lines or parcel boundaries, shall be exempt from the definition of the term "subdivision," but shall be processed in accordance with the boundary adjustment and lot consolidation procedures in section 67-9.
3. Clustered rural development process. Divisions of land under the clustered rural development described in section 67-7.
4. Lots qualifying for legalization. Lots meeting the approval criteria for legalization under section 67-14.
5. Agricultural exemption subdivision process. Divisions of land under the agricultural exemption subdivision described in section 67-6.
6. Any division of land created by the court pursuant to the procedure set forth in C.R.S. § 30-28-101(10)(d) if the board has been given notice and opportunity to join as a party in interest in the proceeding for the purpose of raising the issue of an intent to evade the statutory requirements for subdivision of land.
7. Any division of land which creates cemetery lots.

**Sec. 67-2 General approval criteria for preliminary and final plat**

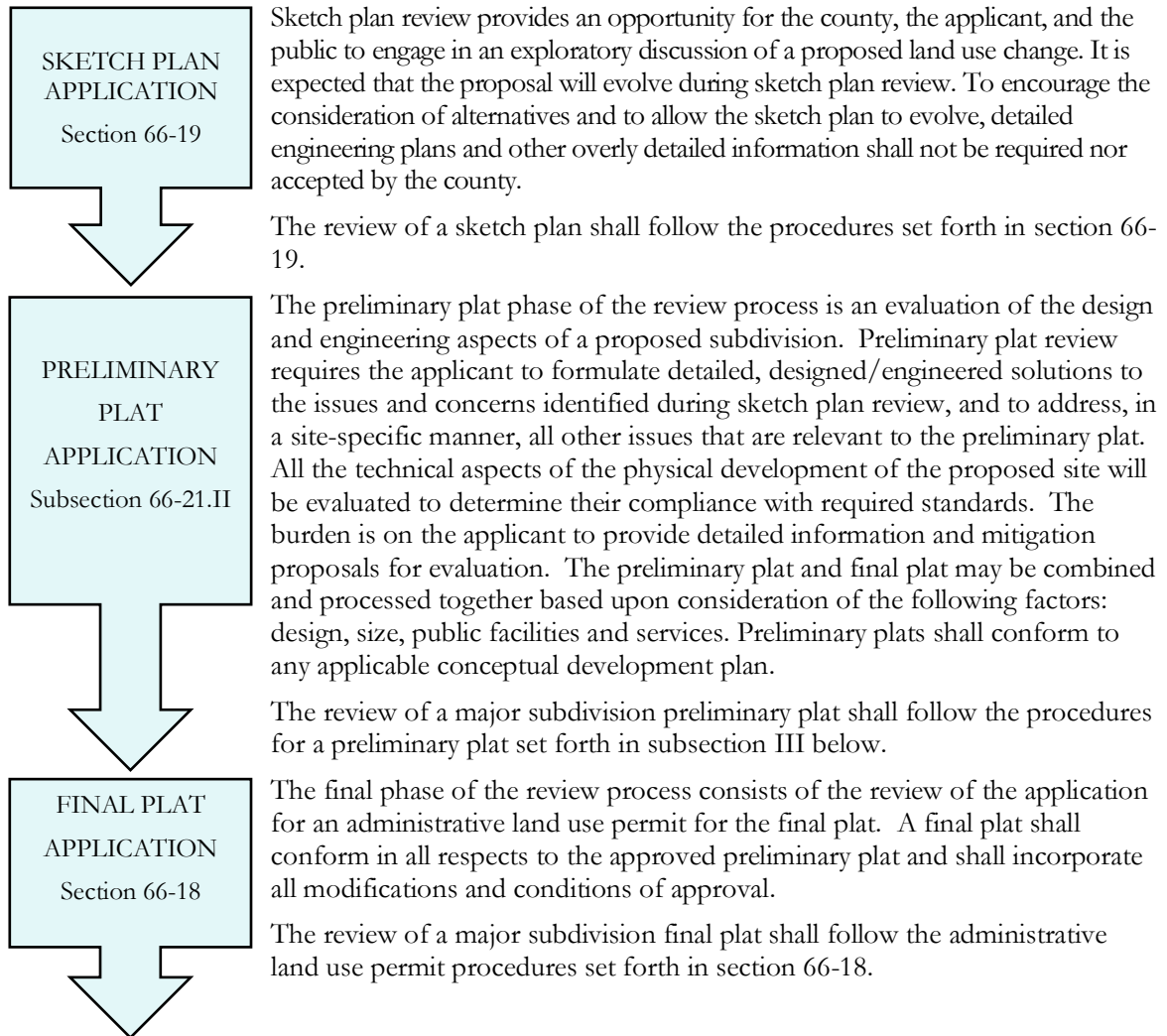
- I. **Preliminary plat criteria.** The preliminary plat phase of the subdivision review process is an evaluation of the design and engineering aspects of a proposed subdivision as well as any relevant conceptual issues. All the technical aspects of the physical development of the proposed site will be evaluated to determine their compliance with required design, planning, performance and engineering standards. To approve a preliminary plat, the decision-making body shall review the subdivision for compliance with the general approval criteria stated in section 66-16.
- II. **Final plat criteria.** The final phase of the review process consists of the review of the application for the final plat. Final plat submittals shall meet all the following criteria:
  - A. Conformity to any and all conditions of approval set forth in the major land use permit approving the preliminary plat.
  - B. The applicant has executed all required development improvements agreements.

**Sec. 67-3 Major subdivisions**

- I. **Applicability.** The major subdivision procedures shall be applicable to all land divisions into four (4) or more lots, ~~where any of the lots are less than thirty-five (35) acres in gross area, and where the land division does not otherwise qualify for an exemption under paragraph 66-1.II.B or under C.R.S. § 30-28-101(10).~~
- II. **Overview of necessary applications.** A major subdivision is subject to a sketch plan review by the PC and a preliminary plat review by the board, followed by the administrative review of the final plat. A conceptual development plan as provided in section 66-29 is required when development is proposed in phases and may be processed concurrently with the first phase of the preliminary plat. Each step is a distinct process involving the submittal of an application, an application fee, required plans and reports, referrals of the proposal to other agencies, staff analysis and public hearings. At each step of the process, the design and engineering detail increases in order to relieve the applicant from major and potentially unnecessary expenses in situations that may require a redesign and a revision of expensive engineering or planning reports. A general description of these steps is outlined below. Approval at any step in the process does not ensure approval at the next step.

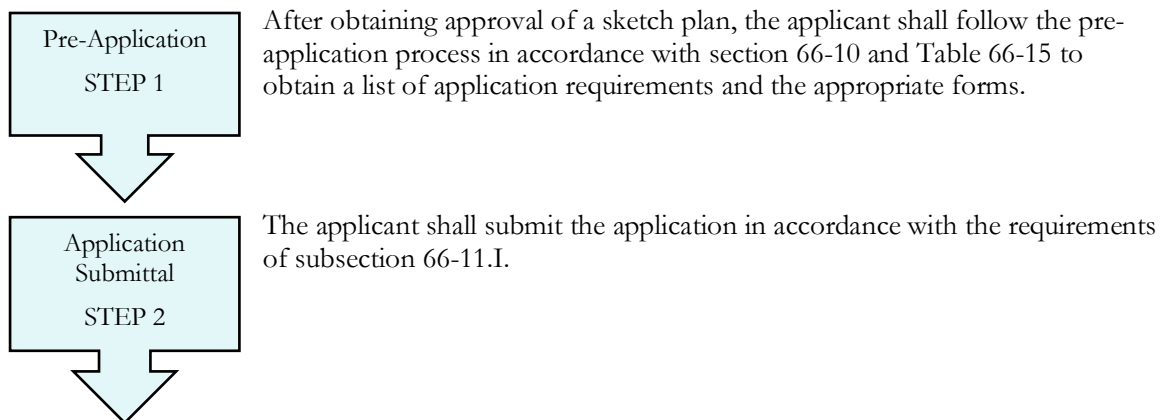
Figure 67-3\_A Overview of Major Subdivision Procedures provides an overview of the application steps that apply to the review major land use permits.

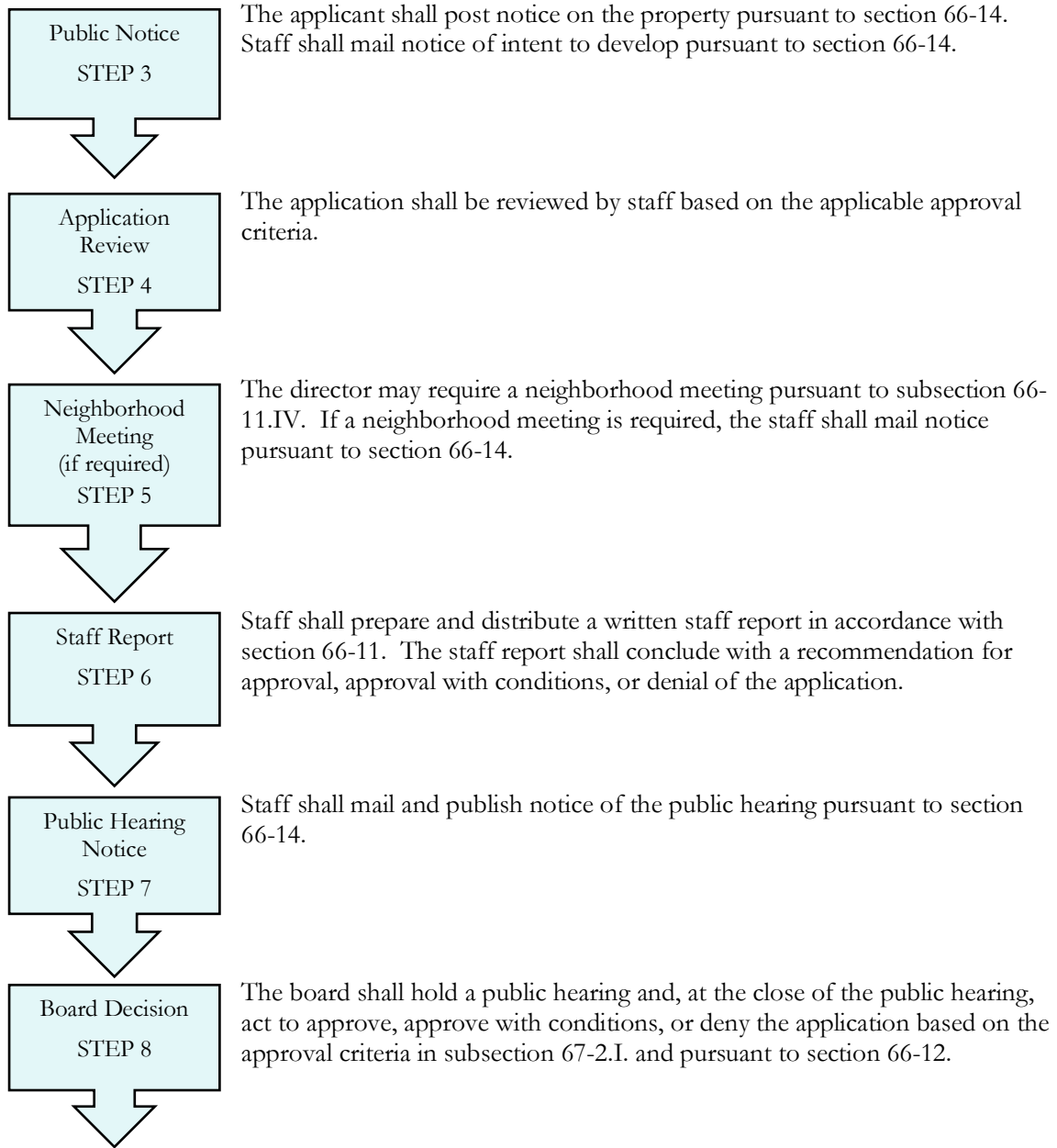
**Figure 67-3 A: Overview of Major Subdivision Procedures**



**III. Preliminary plat procedures.** Figure 67-3 B Summary of Preliminary Plat Procedures identifies the application steps that apply to the review of a preliminary plat.

**Figure 67-3 B: Summary of Preliminary Plat Procedures**





**IV. Requirements for phased development.**

- A. Preliminary plats consistent with phasing plans. Review and approval of a phasing plan in conjunction with a sketch plan or conceptual development plan shall be required for any subdivision proposed in phases. Each preliminary plat shall be consistent with the phasing plan approved under such sketch plan or conceptual development plan.
- B. Phased final plats. The preliminary plat may provide for phasing of final plat approvals as determined by the director based upon consideration of the design, size, and complexity of the subdivision and associated improvements. Such phasing of the final plats shall not require the prior approval of a sketch plan or conceptual development plan; however, it shall require a phasing plan be submitted and approved as part of the preliminary plat application. The locations and schedule of phases shall be clearly stated and indicated on the plat and in supporting documentation. The improvements and drainage plans and specifications shall also

address in detail the subdivision improvements to be constructed and completed in association with each phase.

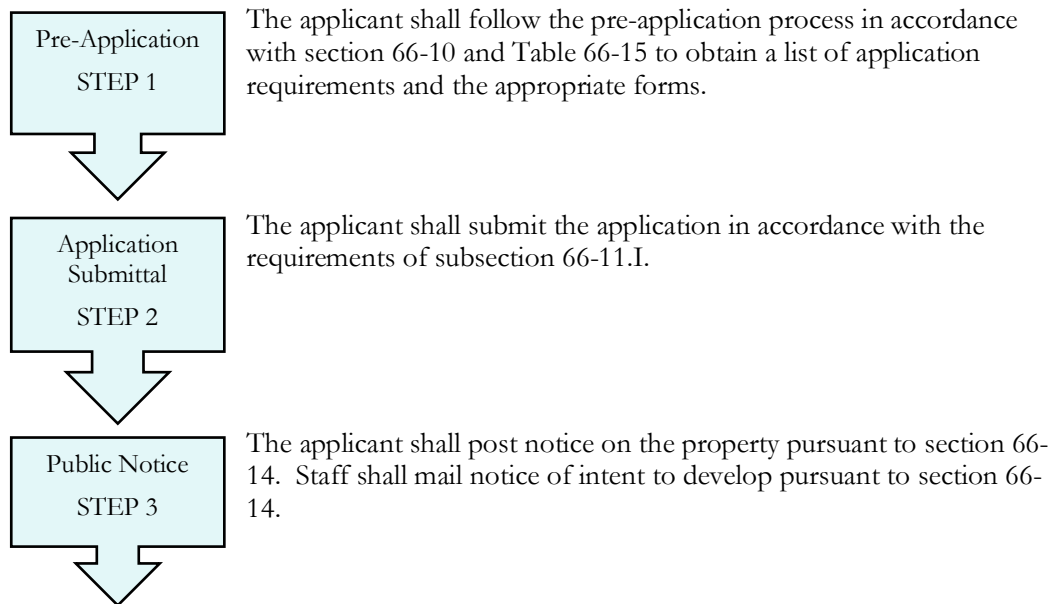
**V. Effect of approval.**

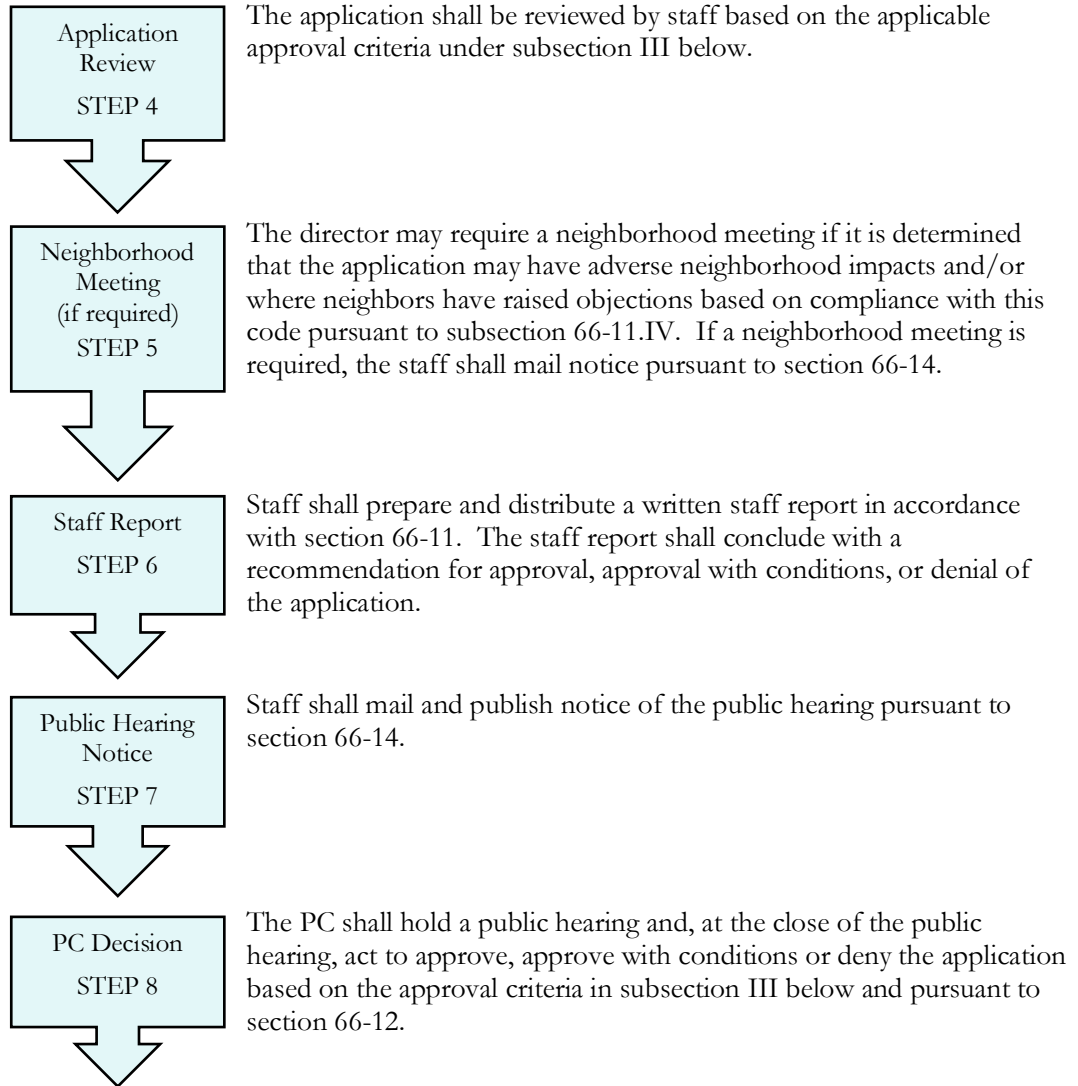
- A. No vested rights. Preliminary plats shall not be construed to be site specific development plans; ~~as that term is defined in C.R.S. § 24-68-102.~~
- B. Preliminary plat approval period. Preliminary plat approval is valid for one (1) year after approval by the board. An approved preliminary plat shall be of no further force and effect if the final plat application for the subdivision is not submitted within one (1) year of the date of the preliminary plat's approval by the decision-making body.
- C. Approval period for preliminary plat for phased final plats. If the approved preliminary plat provides for phasing of final plats, and a final plat application for any phase of a subdivision is not submitted within the time specified in the approved phasing plan, then the preliminary plat approval shall be of no further force or effect. For phased subdivisions, an approved final plat for any phase of the preliminary plat shall extend the life of the remaining preliminary plat according to the approved phasing plan, or if not specified in an approved phasing plan, for an additional one (1) year from the date the final plat is approved. If successive final plats are not submitted within this one (1) year period, or within the period specified in an approved phasing plan, then the preliminary plat approval shall be of no further force or effect for those portions of the subject property not covered by an approved final plat.

**Sec. 67-4 Minor subdivisions**

- I. **Applicability.** The minor subdivision procedures shall be applicable to all land divisions into three (3) or fewer lots, ~~where any of the lots are less than thirty five (35) acres in gross area, and where the land division does not otherwise qualify for an exemption under paragraph 67-1.II.B or under C.R.S. § 30-28-101(10).~~
- II. **Procedures.** Figure 67-4 ~~A~~ Summary of Minor Subdivision Procedures provides an overview of the application steps that apply to the review of minor subdivisions.

**Figure 67-4: ~~A~~ Summary of Minor Subdivision Procedures**





**III. Approval criteria.** The approval criteria for minor subdivisions are the general approval criteria for land use permits outlined in section 66-16.

**IV. Effect of approval.** An approved minor subdivision shall be approved as a site-specific development plan according to subsection 66-13.III (vested rights). If the approved minor subdivision plat is not recorded with the county clerk and recorder within three (3) years of the date of approval of the minor subdivision plat, the minor subdivision plat shall be of no further force and effect.

**Sec. 67-5 Condominium and townhome dwelling developments**

- I. Applicability.** This section applies to the development of condominium and townhome dwelling projects.
- II. Procedures.** Condominium and townhome dwelling developments shall be processed in accordance with the procedures for a major or minor land use permit and a major or minor subdivision application, as applicable based on the number of lots or equivalent condominium units. The land



use permit and subdivision applications may be consolidated pursuant to paragraph 66-11.I.G and processed as a condominium or townhome dwelling development application.

- III. Approval criteria.** The approval criteria for condominium and townhome dwelling developments shall follow the approval criteria for a major or minor land use permit and a major or minor subdivision application, as applicable.

**Sec. 67-6 Agricultural exemption subdivision**

- I. Applicability.** The agricultural exemption subdivision procedures shall be applicable to land divisions where the following conditions exist:
- A. The applicant is not seeking any variances, ~~special exceptions~~, or waivers to any required standards contained in this code.
  - B. The lot was created prior to May 5, 1972, or the lot is seventy (70) acres or larger in size.
  - C. The lot has been taxed agriculturally for the five (5) years preceding agricultural exemption subdivision review.
  - D. The proposed land division results in the creation of no more than a total of two (2) new lots out of the original lot, not counting the remainder of the original lot as a new lot. Any additional land divisions shall be processed as a minor or major subdivision as applicable.
- II. Procedures.** Agricultural exemption subdivisions shall be processed according to the minor administrative land use permit subdivision procedures set forth in section ~~67-466-18~~.
- III. Approval criteria.** The approval criteria for agricultural exemptions subdivisions are the general approval criteria for land use permits outlined in section 66-16, and the plat shall contain the following plat notice:

The creation of a total of two (2) new lots out of the original parcel as recorded under reception \_\_\_\_\_ may be created by the agricultural exemption subdivision process. Any additional land divisions are required to be processed as minor or major subdivisions as applicable.

**Sec. 67-7 Clustered rural development**

- I. Purpose.** The clustered rural development (~~CRD~~) is comprised of two (2) components: the residential cluster and the conservation area. The residential cluster is the portion of the parcel that is subdivided into lots for single-family residential and accessory uses. The conservation area is the larger portion of the development parcel and is conserved primarily for agriculture uses and open space uses. The purpose of the CRD option is to:
- A. Recognize the current thirty-five (35) acre exemption law and implement provisions of C.R.S. § 30-28-401 *et seq.*
  - B. Preserve and protect land such as agricultural land, open space, distinct landscapes, ecosystems, wildlife habitat and critical areas.
  - C. Ensure development maintains the character of rural lands with contiguity to agricultural lands suitable for long-range ~~agriculture farm or ranch~~ operations.
  - D. Develop new methods that encourage the retention of agricultural land as a productive resource.
  - E. Facilitate cooperation among neighboring landowners to create a single proposal for clustering on a portion of property and conservation of the remainder.
  - F. Provide flexibility in land use regulations by responding to the needs of the agricultural community.
- II. Applicability.** Pursuant to C.R.S. § 30-28-101(10)(d), the board hereby establishes CRD divisions as exempt from the definition of subdivision but subject to the minor subdivision review set forth in

section 67-4. The CRD is a voluntary option and process under C.R.S. § 30-28-401 *et seq.* that may be used for any land in the county, other than in the AVLUP, meeting the criteria of this section that involves a single lot at least seventy (70) acres or more in size or two (2) or more contiguous lots that, when combined, comprise at least seventy (70) acres or more in size.

**III. Procedures.** The review process for a CRD subdivision shall be in accordance with the minor subdivision procedures set forth in section 667-4. No later than ten (10) days after approval of a CRD, the county shall notify CDOWR of such approval and provide CDOWR with a copy of the approved CRD.

**IV. Standards specific to clustered rural development process.**

- A. The CRD shall be for single-family residential and accessory uses only. The density shall not exceed two (2) units for each thirty-five (35) acre increment. The layout of the residential cluster shall support the viability of existing agricultural activities and protect significant natural resources.
- B. No less than two-thirds (2/3) of the parcel, or if more than one parcel, two-thirds (2/3) of the total acreage of all parcels shall be preserved as contiguous open area to be used as open space, wildlife habitat, agricultural land, critical lands or similar uses.
- C. The conservation area shall be preserved for conservation purposes for a period not less than forty (40) years through an appropriate legal mechanism to be recorded with the County Clerk and Recorder imposing such restrictions. Acceptable legal mechanisms include, but are not limited to, a fee simple dedication or conservation easement to another governmental entity or a land trust that is a qualified organization as defined in subsection 170(h) of the Internal Revenue Code or is certified through the Colorado Department of Regulatory Agencies to hold conservation easements, provided that entity accepts the grant; a separate tract owned by a mandatory homeowner's association or equivalent entity which agrees to be responsible for the management of the conservation area or other legal instrument, any of which must be approved by the county attorney.
- D. Development on the conservation parcel shall be restricted to accessory structures for agricultural use. Use of the conservation parcel should be limited to activities such as:
  1. Agricultural production and associated activities;
  2. General ranching, livestock and animal raising, not including feed lots;
  3. Use of motorized equipment needed for farming, ranching or management of the open space;
  4. Passive recreational uses such as but not limited to hiking, cross country skiing and equestrian trails, provided the area is primarily left in its undisturbed natural condition and the recreational use is not for profit;
  5. Sanctuary or preserve for wildlife, fishing, forest or natural area;
  6. Other uses approved in the conservation easement or management plan.
- E. The proposed division and development of the land shall maintain the opportunity for agricultural production on the most agriculturally productive and viable portions of the land.

**V. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. CRD report. A detailed report that includes the following information:
  1. The existing environmental conditions, including agricultural values, on the parcel(s) to be developed and the effects of the development on those conditions.

2. A description of the conservation values to be preserved and the means to preserve those values as undeveloped open space, pasture or grazing lands, agriculture production, wildlife habitat or other conservation uses acceptable to the county. The description shall include information on the management of the land as well as a description, and legal proof, of the scope and nature of water rights available for irrigation or maintenance of habitat.
3. A draft of the legal instrument intended to impose legally sufficient restrictions on the conservation parcel. The legal instrument shall specify all development and land division restrictions set forth in this code, the duration of the restrictions, the maintenance requirements and permitted uses for the conservation area.
4. A description of existing uses on the conservation area.

**Sec. 67-8      Obsolete subdivision**

- I. Purpose.** An obsolete subdivision is one in which a substantial number of lots remain undeveloped and do not meet current subdivision requirements, including but not limited to, lot size, environmental conditions, and/or the provision of adequate infrastructure. Obsolete subdivisions may interfere with the orderly development of land within the county, perpetuate obsolete development standards and guidelines, threaten to impose substantial financial burdens on the county, and may create environmental problems and reduce the quality of life for persons who live in or near the obsolete subdivisions. Thus, this ~~section~~~~chapter~~ addresses methods for the county to use for the purpose of eliminating interior lot lines of these obsolete subdivisions and preventing obsolete subdivisions from occurring.
- II. Applicability.** This ~~section~~~~chapter~~ shall apply to all land that was validly platted at any time in unincorporated La Plata County. Illegal lots, parcels, development, structures, other improvements, signs and/or uses of land throughout unincorporated La Plata County are addressed through other provisions of this code.
- III. County merger of obsolete subdivisions.**
  - A. Initiation. The county may initiate the process to vacate all or any portion of a final plat of an obsolete subdivision within the county and thereby merge lots upon its own initiative or upon recommendation by the director.
  - B. Limitation. The county may vacate only the final plat for that portion of an obsolete subdivision consisting of multiple, contiguous lots that are undeveloped and in common ownership.
  - C. Resolution of intent. To initiate the merger process, the board shall adopt a resolution of intent to merge. The resolution shall set forth the reasons that the county desires to merge the final plat, or portions thereof, and shall instruct the director to send notice to the affected property owners as described in paragraph D below. Once a resolution of intent to merge has been adopted by the board, no development plan may be submitted or building permit issued until the matter has been finally decided by the board.
  - D. Notice to owners and lienholders. Upon receipt of the resolution of intent to merge, the director shall send notice of the county's intent to merge to each record surface owner and lienholder of the affected parcels by certified mail. The notice shall specify that each owner may request a hearing on the proposed merger and shall specify action to be taken by the owner to request a hearing, including without limitation the requirement that the owner shall request the hearing within one hundred twenty (120) days of the date the notice is received by the owner. At the county's discretion, it may also provide notice of the county's intent to merge to any easement holder on the affected parcels and seek consent to vacate the easement if the merger is approved by the board.

- E. Public hearing. Where an owner of an affected parcel has timely requested a hearing on the proposed merger satisfying the requirements of this section, a public hearing on the merger shall be held before the board for the purpose of allowing the board to discuss with the owner of each affected parcel its reasons for proceeding with the merger and to give each owner the opportunity to submit any basis provided under law for challenging the merger. In such case, notice of the time, place, and manner of the hearing shall be provided to each owner of the affected parcels and published in a newspaper of general circulation in the county in a manner sufficient to notify the public of the time, place, and nature of the hearing. The hearing shall take place no sooner than ninety (90) days following the date of the notice required by paragraph D. No merger of parcels that is the subject of a hearing pursuant to this subsection shall be effective unless the owner of the parcels has given their consent to the merger of the parcels.
- F. Failure to request a hearing. Where an owner of an affected parcel fails to timely request a hearing on the proposed merger, no hearing is required, and the affected parcels shall be merged as provided in paragraph D.
- G. Merger of property. Upon conclusion of the hearing required by paragraph D, or upon an affected property owner's failure to timely request a hearing, the board may, upon a majority vote, approve the merger of the parcels after making a finding that the properties are located within an obsolete subdivision and that the merger of the parcels will promote the health, safety, and general welfare of the county. The resolution approving the merger shall reference the subdivision name and the final plat on record with the County Clerk and Recorder, and if only a portion of the final plat is to be merged, specifically identifying the parcels to be merged.
- H. Recording. Upon completion of any merger of parcels under this section, the director shall file the resolution in the office of the Clerk and Recorder.
- I. Effect of merger. After all or part of a final plat for an obsolete subdivision has been vacated pursuant to this section:
  1. The merged parcels may not again be subdivided without first complying with the applicable regulations.
  2. The merger of all the parcels within an obsolete subdivision shall also vacate all county easements and rights-of-way designated on the final plat, unless the resolution of merger specifically identifies public easements or rights-of-way that are not vacated. Merger of parcels shall not have the effect of vacating any other easements not described in this paragraph, which are shown on the final plat, unless the holders of those easements have consented in writing to vacation of the easement.

**Sec. 67-9      Boundary adjustments and lot consolidations**

- I. Applicability.** Boundary adjustments are adjustments of property lines that do not create any additional lots or parcels. A lot consolidation includes the deletion of existing property lines. All boundary adjustments and lot consolidations are subject to county review according to this section except where all existing and proposed lots are and will be greater than thirty-five (35) acres and no such existing lot, regardless of the acreage, has been shown on a plat signed by the chair of the board.
- II. Procedures.** Boundary adjustments and lot consolidations shall be processed according to the administrative land use permit procedures in section 66-18.
- III. Approval criteria.** The approval criteria for boundary adjustments and lot consolidations are the general approval criteria for land use permits outlined in section 66-16 and following specific criteria:
  - A. Boundary adjustment and lot consolidation shall only be required to meet the following standards rather than standards generally applicable to other developments requiring an administrative land use permit:

1. Water. Proof of water pursuant to sections 70-4 shall be required if an adjusted or deleted property line directly and negatively impacts a lot's water source or infrastructure.
2. Sewer. Proof of sewer pursuant to section 70-3 shall be required if an adjusted or deleted property line directly and negatively impacts a lot's method of sewage disposal. Unless served by a central sewer system, a boundary adjustment or lot consolidation resulting in a proposed lot less than one (1) acre shall be considered directly and negatively impacting the lot's method of sewage disposal.
3. Driveway; access. A new driveway permit and proof of legal access complying with chapter 74 shall be required if an adjusted or deleted property line directly and negatively impacts a lot's current access.
4. Legal lots. All existing lots shall be legal lots of record.
5. Lot design specifications. The proposal shall not cause a new violation or failure to comply with this code, except as otherwise specifically allowed by subsection IV below in the AVLUP. All proposed lots shall conform to the lot design specifications set forth in subsection 67-15.III unless the existing lot is nonconforming pursuant to chapter 79. Lot consolidations may include existing nonconforming lots regardless of the proposed lots' resulting acreage. Boundary adjustments may only include existing nonconforming lots so long as not increasing the degree of nonconformity.

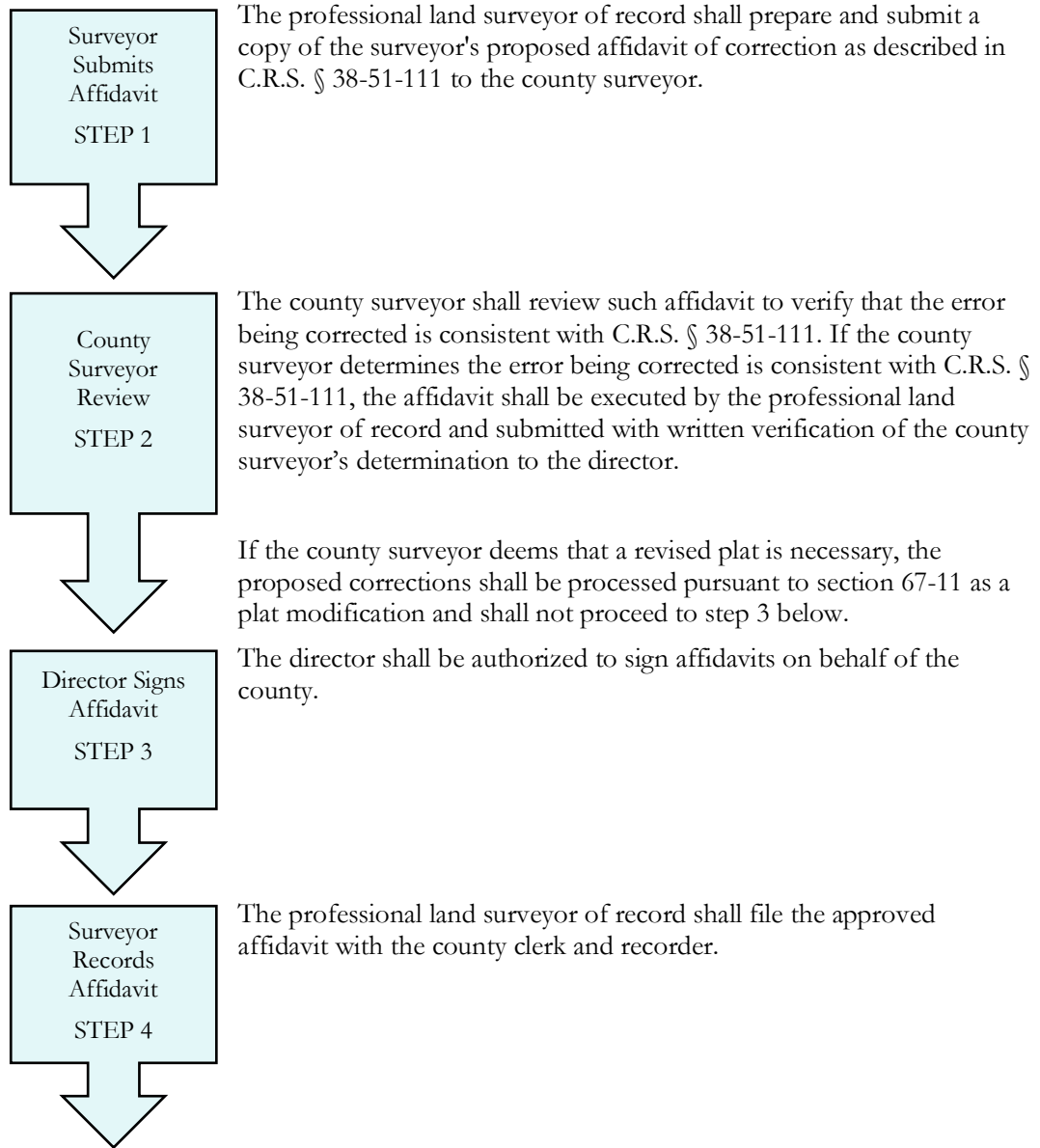
**IV. Nonconforming lots in the Animas Valley River Corridor District.** The following additional provisions shall apply to boundary adjustments for nonconforming lots within the River Corridor District of the AVLUP only. An applicant may submit a boundary adjustment application to adjust the boundaries of existing, adjacent nonconforming lots of record, subject to compliance with the following procedures and approval criteria:

- A. The review process shall follow the administrative land use permit procedures in section 66-18, except that the director shall refer the application to the board, who shall take final action on the boundary adjustment plat.
- B. The boundary adjustment shall be subject to the following additional approval criteria:
  1. The resulting lots allow for no more dwelling units than originally allowed for on the two (2) parcels;
  2. The resulting lots are no smaller than twelve (12) acres;
  3. The plat shall designate minimum building setbacks of fifty (50) feet from all property lines;
  4. The board may require specific building envelopes to be designated on the boundary adjustment, if it finds that such envelopes are reasonably necessary to mitigate adverse visual or other impacts on the Animas River or public roads, or to mitigate adverse impact on wetlands, wildlife, or agricultural operations.

**Sec. 67-10 Corrections to recorded plats**

- I. Applicability.** This process applies to corrections to one (1) or more technical survey errors as described in C.R.S. § 38-51-111 on a recorded plat.
- II. Procedures.** Figure 67-10 below identifies the application steps that apply to the review of corrections to a recorded plat.

**Figure 67-10: Summary of Procedures for Corrections to Recorded Plats**



**III. Approval criteria.** Corrections to plat under this section shall be reviewed for consistency with C.R.S. § 38-51-111.

**Sec. 67-11 Plat modifications, adjustments and amendments**

**I. Plat modifications.** Unless qualifying for a plat adjustment pursuant to subsection II below, or an amended plat pursuant to subsection III below, no use or development authorized by an approved or recorded plat pursuant to this code shall be altered, changed, or otherwise modified but rather shall require a new land use permit through the applicable land division procedure. Corrections to a recorded plat pursuant to C.R.S. § 38-51-111 shall be processed under section 67-10.

**II. Adjustments to an approved but not recorded plat.**

A. **Applicability.** The director may make adjustments to an approved but not yet recorded plat to provide expeditious relief to a permittee when an insubstantial change to a plat can solve a

practical difficulty, assure compliance with applicable state or federal laws, or implement a permittee's changed intentions for a permitted development. The director may issue a director determination letter to grant adjustments as follows:

1. Permitted adjustments to plats. The director may grant an adjustment in the following circumstances:
    - a. Minor deviations to roadway alignments;
    - b. Minor adjustments to property lines which do not alter compliance with any required standard;
    - c. Minor easement relocations or deviations with the consent of any parties benefitting from such easements;
    - d. Decreases in density;
    - e. Increased compliance with any voluntary guidelines.
  2. Prohibited adjustments. In no circumstances shall the director grant adjustments that result in the following:
    - a. An increase in density;
    - b. A reduction in open space;
    - c. A change to a condition of approval to a land use permit which received final approval from the planning commission or board;
    - d. A change to a plat notice or certificate that would decrease or eliminate compliance with a required standard;
    - e. An adjustment to a property line or other change that would require re-subdivision;
    - f. Any revision that would result in a violation of any applicable standard.
- B. Procedures. Plat adjustments shall follow the common procedures for a director determination in accordance with section 66-17.
- C. Approval criteria. The approval criteria for adjustments to an approved but not recorded plat are the general approval criteria for land use permits outlined in section 66-16 and the following:
1. The adjusted plat has no potential to cause new or increased adverse impacts when compared to the original development.
  2. In all instances, an adjustment pursuant to this subsection shall be consistent with the intent of this code and shall not be used to avoid compliance with applicable standards.

### III. Amendments to recorded plats.

- A. Applicability. Unless allowed as an adjustment in subsection II above, revisions under this section 67-11 to an existing An amended plat shall be required to make the following types of changes to a recorded plat signed by the board may proceed as an amended plat pursuant to this subsection III if the proposal satisfies all of the following:
1. The changed aspects of the plat comply with all currently applicable standards contained in this code.;
  2. The amended plat complies with all applicable conditions of approval contained in the original land use permit.;
  3. The development does not require new or changed mitigation measures to remain compatible pursuant to this code.
- B. Procedures. Amended plats shall follow the common procedures for administrative land use permits in accordance with section 66-18.



- C. Approval criteria. The approval criteria for amendments to recorded plats are the general approval criteria for land use permits outlined in section 66-16.

**Sec. 67-12 Vacations**

**I. Vacation of utility easements.**

- A. Applicability. This section applies to any change or vacation to an existing utility easement shown on a recorded plat signed by the chair of the board when such change or vacation is not part of an application that requires a new plat, for example a subdivision, boundary adjustment or lot consolidation application, in which case such change or vacation should be processed as part of that application.
- B. Procedures. A change or vacation to which this section applies shall be processed as an amended plat.
- C. Approval criteria. The director may approve an application for a vacation of a utility easement only after considering the general approval criteria in section 66-16 and determining that no utility provider objects to the proposal.
- D. Submittal requirements. In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  - 1. If the change or vacation does not require recording of a new or revised plat, the applicant shall solicit agreement from the easement holder on a form prescribed by the county, which shall specify that the easement holder consents to the change or vacation of the easement at the time the modified plat is finalized.
  - 2. If the change or vacation requires recording of a new or revised plat, the submitted plat shall include a “vacation certificate” pursuant to subsection 67-15.VI. For changed easements, the plat shall include a similar certificate whereby the easement holder formally consents to the changed easement.

**II. Vacation of plats.**

- A. Applicability. This section applies to the vacation of all or part of recorded plat signed by the chair of the board.
- B. Procedures. The application shall follow the review procedure as applicable for a preliminary plat pursuant to subsection 67-3.III. Board approval of the vacation of any right-of-way associated with the plat, shall be in the form of a resolution. Vacated rights-of-way shall vest according to C.R.S. § 43-2-301 *et seq.* upon recordation of the vacation resolution.
- C. Approval criteria. The board may approve an application for the vacation of a plat only after considering the general approval criteria in section 66-16 and the following additional specific criteria:
  - 1. The vacation of a recorded plat that has associated infrastructure, right-of-way or easement dedication will not adversely impact established beneficiaries for access, utility services, irrigation, drainage or other improvements or services.
  - 2. The vacation of a portion of a recorded plat will not frustrate the purposes of conditions of approval on the portion of the original plat that remains.
- D. Submittal requirements. In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  - 1. ~~The applicant shall submit a~~ copy of the proposed vacation plat in a form approved by the director.

2. Written consent to the petition from each property owner within the boundary of the property on the plat proposed for vacation.

**Sec. 67-13      Lots split by county, state or federal road**

- I. Applicability.** This section applies to existing parcels or lots that span both sides of a county road or a state or federal highway. Pursuant to C.R.S. § 30-28-101(10), such parcels or lots could be created by a court pursuant to the law of eminent domain or are otherwise not a subdivision intended to be regulated by C.R.S. § 30-28-101(10). Thus, they may, in some instances, be divided by deed without obtaining a subdivision permit.
- II. Procedure.** Applicants wishing to divide by deed a parcel or lot to which this section applies shall advise the CDD of the proposed division and follow the procedures for a director determination pursuant to section 66-17. The director shall issue a director determination approving or disapproving of the proposed division based on consideration of the general approval criteria in section 66-16 and the purposes of C.R.S. § 30-28-101(10), as amended.
- III. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  - A. The deed or other instruments confirming legal ownership of the subject parcel;
  - B. A legal description and survey of the lots proposed to be created by the division;
  - C. A legal description and survey of any right-of-way to be dedicated to the county, if required by chapter 74;
  - D. Title insurance for any newly created lots, including those dedicated to the county for right-of-way;
  - E. Proposed drafts of deeds or other instruments dividing the lot or parcel and dedicating right-of-way to the county, all in a form reasonably acceptable to the county attorney.

**Sec. 67-14      Lot legalizations**

- I. Applicability.** The lot legalization process applies to certain categories of lots as defined by the criteria outlined in subsection III below.
- II. Procedures.** Lot legalizations shall follow the common procedures for a director determination in accordance with section 66-17. However, a land use permit for the applicable land division process or other development shall be required for all other purposes as set forth in the code.
- III. Specific approval criteria.** The general approval criteria stated in section 66-16 shall not apply to the review of a lot legalization. The director may issue a director determination letter legalizing any parcel that meets the specific approval criteria for any one (1) of the following three (3) categories of lot legalizations:
  - A. May 5, 1972 to December 31, 1979 lot legalization approval criteria:
    1. The parcel was created between May 5, 1972 and December 31, 1979.
    2. The parcel is in a non-water critical area pursuant to Colorado Division of Water Resources standards in effect at the time of the administrative review or the parcel has a valid well permit, or the parcel is served by a central water system.
    3. The parcel meets current code requirements for access, sewage disposal, and water.
  - B. Existing dwelling lot legalization approval criteria:
    1. The parcel was created between May 5, 1972 and October 2, 2000.

2. The parcel has a single-family dwelling which was built on or after January 1, 1980 and either has a valid building permit, or following inspection by the county building inspector, a valid building permit can be issued.
  3. A valid well permit has been issued for the parcel or the parcel is served by a central water system.
  4. The parcel meets current code requirements for access, sewage disposal, and water.
- C. Court order or foreclosure lot legalization approval criteria:
1. The parcel was created by foreclosure by a financial institution or by court order.
  2. The parcel meets current code requirements for access, sewage disposal, and water.
- D. Subdivision application required. If the subject parcel does not qualify for legalization according to the criteria established under this subsection, the applicant shall submit an application for the applicable subdivision process.

## Sec. 67-15 Standards

### I. Development standards.

- A. Applicable standards. Unless otherwise provided in this code, all subdivision development pursuant to chapter 67 shall be subject to standards within this chapter 67, chapter 70: general site development standards applicable to all developments, chapter 72: supplemental overlay standards and chapter 74: roads, bridges and driveways.
- B. Completion of improvements or performance guarantee. For all approved subdivisions that include required improvements, prior to the recording of the final plat, the applicant shall provide certification of completion of all improvements and inspections as outlined in 66-30.II.D and E, or execute a development improvements agreement ~~(DIA)~~ and submit a performance guarantee according to the procedures and standards outlined in section 66-30.
- C. Improvements maintenance. A homeowners' association or other legal entity or mechanism shall be created as the mechanism by which all improvements will be maintained without expense to the county. These improvements include, but are not limited to, roads, water and sewer systems, streetlights and signs, fences and weed control methods. Such private improvement maintenance agreements shall be recorded in the official records of the county clerk and recorder and referenced in the plat notices including the reception number of the recorded document.

### II. Naming of subdivisions, street and addressing.

- A. Applicability. Notwithstanding any applicability section in this code, this subsection II on naming applies to applications for all land use permits and any owner who seeks to change an existing name.
- B. ~~Standards~~ Names of subdivisions.
  1. Proposed subdivision names shall not duplicate existing subdivision names within the county. Nor shall subdivision names be the reversal or variation of an existing name that, in the opinion of the director, may unnecessarily contribute to confusion for emergency responders.
  2. Naming of streets and addressing. Consistent and appropriate street naming and addressing procedures and standards contribute to the planned and orderly development of the county in a way that assists first responders in maintaining the public health, safety and general welfare of persons within the county. Any person who creates a new street, wants to name or re-name an existing street or requests the assignment of a new or revised address shall meet the minimum standards set forth in the naming and addressing policy

and guidance documents made available by the La Plata County GIS Department, which policy and guidance documents are intended to implement these standards and which may be amended by such department to comport to current industry standards.

### III. Lot design and density standards.

- A. Topography. To the maximum extent practicable, all lots shall be designed to conform to the existing topography in such a way as to avoid future problems or conflicts with access, drainage or utility service, as well as to preserve existing natural features such as unusual rock formations and bodies of water.
- B. Shape. Lots shall have a depth to width ratio of no greater than four (4) to one (1), or minimum buildable area of three (3) to one (1). Depth and width shall be calculated using the average width and depth for the lot.
- C. Layout.
  - 1. A single lot shall not be divided by a public or private road, alley or another lot; unless the director determines that the lot layout protects the natural features of the site or creates additional open space.
  - 2. Side lot lines should be at approximate right angles or radial to the road right-of-way or centerline.
  - 3. Each lot shall have access to a private street, a private access easement or right-of-way, or a dedicated street.
  - 4. Through lots shall be avoided, except where necessary to buffer residential development from conflicting uses, or to overcome specific disadvantages of topography.
  - 5. Wedge shape lots shall not be less than twenty-five (25) feet in width at the property line through which access occurs, or from the road easement if the property line extends into the easement.
  - 6. No single lot shall be divided by a municipal, county or state boundary line.
- D. Sufficient buildable area. All lots shall have sufficient buildable area to accommodate the planned structures and shall have driveway access in compliance with chapter 74; however, buildable areas need not be shown as a designated building envelope on the plat unless needed for mitigation pursuant to paragraph E below.
- E. Designated building envelopes to mitigate impacts. In general, building envelopes designated on plats should only be used when necessary to achieve a guideline or standard. Building envelopes may be utilized to mitigate adverse impacts to surrounding properties pursuant to a compatibility assessment and to avoid or accommodate critical lands such as rivers, wetlands, floodways, steep slopes and geologic hazards. Building envelopes established on plats shall be accompanied by a plat notice describing the ~~purpose and use and building limitations~~ development limitations or allowances of the envelope within both the building envelope and the area of the lot outside of the building envelope.
- F. Lot size and density review. The applicant shall propose the density and sizes of the lots intended for the development. The advisory and decision-making bodies shall review the adequacy of the lot sizes and appropriateness of the density proposed using the required standards outlined in this paragraph F. If the advisory or decision-making body finds that proposed lot sizes or density do not meet standards in this section, they shall request alternative lot sizes, numbers of lots or both. The permit application shall be denied or continued until the appropriate lot sizes and density are proposed by the applicant. Unless otherwise provided in this code, the minimum lot size shall be determined by the following criteria:
  - 1. Minimum lot sizes and dimensions shall exclude street/and or road rights-of-way.

2. Minimum lot sizes may be achieved by counting a prorated share of open space owned in common by all lot owners within the subject subdivision. For example, if the development qualifies for minimum ten thousand (10,000) square foot lots, and two thousand (2,000) square feet of lot area for each lot is included in an open space owned in common by all lot owners, then the minimum lot size may be reduced to eight thousand (8,000) square feet.
3. The minimum lot size shall be three (3) acres if the lot is to be served by individual groundwater well and on-site wastewater treatment systems.
4. The minimum lot size shall be one (1) acre if the lot is to be served by a central water or sewer system, but not both.
5. The minimum lot size shall be ten thousand (10,000) square feet if the lot is served by a central water and sewer system.
- ~~5-6.~~ Lots for multi-family dwellings, townhome dwellings and commercial development may be less than ten thousand (10,000) square feet if the lot is served by a central water and sewer system.
- ~~6-7.~~ Regardless of the minimum lot sizes provided in subparagraphs 3 to ~~5~~6 above, the appropriate minimum lot sizes and density shall also be reviewed and determined based on the following:
  - a. A compatibility assessment pursuant to section 70-5~~;~~
  - b. In the Animas Valley Land Use Plan, the minimum lot sizes and density shall meet the applicable district requirements of chapter 65~~;~~
  - c. Development shall function on one (1) lot. The development shall function efficiently and safely without overcrowding, given the lot's topography, location, hazards and the development's:
    - (i) Utilities;
    - (ii) Vehicular, pedestrian and emergency access;
    - (iii) Parking;
    - (iv) Individual sewage disposal systems;
    - (v) Storage of trash, snow and other identified items associated with the use;
    - (vi) Existing and proposed structures;
    - (vii) Open space;
    - (viii) Room for any proposed future phases or expansion.

#### **IV. Utility and drainage easement standards.**

- A. Easements of not less than ten (10) feet in width for water, sewer, power and telephone shall be provided along at least two (2) property lines for each lot. Where additional easements or wider easements are required to serve the needs of one (1) or more utility providers, the director shall determine the appropriate easement specifications after consultation with utility providers.
- B. Drainage easements of sufficient size and width shall be provided to protect streams, drainage ways of historical use, and the new drainage system and facilities that are part of the approved drainage plan. The minimum width of drainage easements shall be fifteen (15) feet.
- C. All easements shall be shown graphically on the plat, fully dimensioned and include the applicable dedication certificate pursuant to paragraph 67-15.VI.D.

#### **V. Road right-of-way dedication.**

- A. Road rights-of-way or easement dedications within the boundary and adjacent to the project

shall be illustrated on the plat and include the applicable dedication certificate pursuant to paragraph 67-15.VI.D. Existing rights-of-way and easements shall also be illustrated on the plat with a reference to the applicable reception number of the recorded document.

- B. An off-site easement or right-of-way providing proof of access located between the subdivision and a county road or state highway shall be illustrated on the plat with a reference to the applicable reception number of the recorded easement or right-of-way.
- C. All road right-of-way dedications shall be in accordance with chapter 74.

#### **VI. Plat preparation standards.**

- A. Plats required. A plat shall be prepared in conformance with the standards in this subsection **VI** for all minor subdivisions, major subdivision preliminary and final plats, agricultural exemption subdivisions, clustered rural developments, boundary adjustments, lot consolidations, plat adjustments and plat amendments.
- B. Plat format. Plats shall be prepared pursuant to this code and shall also comply with the following additional standards:
  - 1. All information shall be presented accurately and legibly. If all the information cannot be contained accurately and legibly on a single sheet, additional sheets shall be drafted. The plat submitted for recording shall be presented on twenty-four (24) inch by thirty-six (36) inch mylar (polyester) drafting film.
  - 2. The scale for the final plat shall be at least one (1) inch equals one hundred (100) feet and shall be sufficient to show detail and be legible.
  - 3. Title block. The title block should be in the lower right-hand corner of the sheets. The title block shall contain the following:
    - a. Name of the development;
    - b. Names of the owners, applicants, surveyors, architects, engineer and builders, when applicable;
    - c. Date of preparation;
    - d. Project number;
    - e. Section, township and range of the project.
  - 4. Land use table. ~~Subdivision p~~Plats shall have a table containing the following:
    - a. Total number of lots;
    - b. Total acreage of the subdivision;
    - c. Gross residential density;
    - d. Range of lot sizes;
    - e. Total acreage of slopes over thirty (30) percent;
    - f. Total acreage of critical lands;
    - g. Total acreage of open space.
  - 5. Vicinity map of project location. Plats shall include a vicinity map with a minimum scale one (1) inch equals one thousand (1,000) feet depicting the following:
    - a. Major roads, adjoining subdivisions, town boundaries;
    - b. Section, township and range;
    - c. Rivers and streams;

- d. Location of project;
  - e. Property within one-quarter of a mile under the control of the applicant.
6. Roads, access, ~~and driveways and parking~~, as applicable, shall be indicated and shall include the following:
    - a. The street layout, width, pedestrian and equestrian ways ~~and parking areas~~ shall be indicated.
    - b. The access points to the subdivision, including connections to the adjoining subdivision, shall be shown as well as the county and state roads.
    - c. The proposed ownership of roads shall be clearly labeled and the method of maintenance of the roads shall be indicated.
  7. The size of proposed open space and dedicated land shall be clearly located, labeled and indicated.
  8. Slopes over thirty (30) percent shall be clearly identified.
  9. The location of floodplain and floodway.
  10. The location of geologic hazard areas for avalanche, landslides, rock fall, mudflows and debris fans shall be shown.
- C. Existing conditions plat. The following existing conditions shall appear on a plat sheet identical in scale to the plat. Unless otherwise indicated below or required by the director, all items shall be shown within fifty (50) feet of the property boundary. The existing items required to be shown on a plat include the following:
1. Subdivision, municipal, school district, fire district and other jurisdictional boundaries;
  2. Property lines of adjoining property and names of adjoining property owners;
  3. Location, width and identification of all roads, railroads, utilities and other easements of any kind;
  4. Location and identification of all water wells (active or abandoned), springs, reservoirs, rivers, streams, wetlands and ditches;
  5. Location and identification of all central water and sewer lines within four hundred (400) feet of the property boundary;
  6. Location and identification of all existing oil and gas facilities and gas pipeline easements and rights-of way within five hundred (500) feet of the property line;
  7. Location and identification of all existing structures including, but not limited to, building, accessory building, parking areas, culverts, fire hydrants, septic or sewer systems, manholes, irrigation structures and ditches;
  8. Trees and clusters of trees;
  9. Fence lines;
  10. Topography of the subdivision shall be shown at minimum of twenty- (20-) foot topographic contours, or other appropriate contour interval as approved by the director. The contours shall clearly and accurately depict the site topography and the location of existing and manmade features on and adjacent to the site. ~~Slopes over thirty (30) percent shall be clearly identified;~~  
~~The locations of the floodplain and floodway;~~
  11. Critical lands (plat and/or supporting documents). Draft the location of any critical lands onto the plat/site plan. Critical lands include:



- a. Slope movement areas;
- b. Floodplain, ~~floodway, and~~ /flash flood;
- c. Severe soil areas;
- d. Slopes over thirty (30) percent;
- e. Avalanche;
- f. Mine subsidence;
- g. Seismic activity;
- h. Liquefaction areas;
- i. Identified wildlife migration corridors and wildlife habitats;
- j. Historical/archaeological lands;
- k. Agricultural lands; ~~and~~
- l. Wildfire areas.

D. Plat certificates. The certificates below shall be shown on the plat as determined by the director. The certificates shall include signature blocks for all applicable parties to the certification and shall be executed by such parties prior to plat recording.

1. Certificate of owners. The heading "CERTIFICATE OF OWNERS" shall be printed in capital letters above the certificate. The certificate shall include a reference to any covenants associated with the subdivision and blanks where the county clerk and recorder will enter the book and page of the covenants. The owners' certificate includes, but is not limited to, a legal description of the subdivision's boundaries, water rights and irrigation information, easements and dedication of roads and spaces.
2. Surveyor's certification. The words "CERTIFICATE OF SURVEYOR" shall be printed in capital letters. Such certification shall be signed and dated by a land surveyor registered in the state.
3. Certificate of approval. The words "CERTIFICATE OF APPROVAL" shall be printed in capital letters. This shall be followed with a certification by the board, to be signed, attested and dated by the chair of the board.
4. Reviewing county surveyor approval. A certificate of approval for content and form only shall be issued by the county surveyor, pursuant to C.R.S. §30-10-903.
5. County clerk and recorder certification. Certification of recordation, signed and dated, shall be made by the county clerk and recorder.
6. Consent of mortgagee. If there are deeds of trust, mortgages or liens of record against the property being subdivided or dedicated, written consent of the holders of such deeds of trust, mortgagee or lienholder shall be obtained. This consent shall be in the form of a certification on the plat. The words "CERTIFICATE OF MORTGAGEE" shall be printed in capital letters followed by the certification.
7. Dedication certificate. If there are to be dedications of property, right-of-way or easements as a part of the subdivision, a certification of such dedication shall be placed upon the plat. The words "GENERAL DEDICATION" shall be printed in capital letters followed by the certification.
8. Vacation certificate. If there is to be a vacation of streets, roads, lots or easements as a part of the subdivision, a certification of this vacation shall be placed upon the plat. The words "VACATION CERTIFICATE" shall be printed in capital letters followed by the certification describing all vacations, to be signed by all applicable parties having an interest

in the vacation such as utility providers.

- E. Plat notices. The applicant shall include applicable plat notices on the plat. The purpose of such notices is to alert owners or potential owners of property within the subdivision of specific land use and site-specific limitations or restrictions. Any reproduction of the plat or lots therein shall contain the plat notices. All plat notices shall appear under the heading "PLAT NOTICES" printed in capital letters. The director shall determine which plat notices pertain to a particular subdivision application. Plat notices are as follows:
1. Lack of central sewer system. If no central sewer system is proposed for the subdivision, the following shall be stated, along with any additional constraints upon sewage disposal:  
NO PROPOSED CENTRAL SEWER SYSTEM. LOT OWNERS SHALL BE RESPONSIBLE FOR INSTALLING AN ON-SITE WASTEWATER TREATMENT SYSTEM TO MEET STATE STANDARDS AND OBTAINING ALL APPLICABLE PERMITS. NO BUILDING PERMITS SHALL BE ISSUED FOR AN INDIVIDUAL LOT UNTIL A PERMIT FOR ON-SITE WASTEWATER TREATMENT SYSTEMS HAVE BEEN ISSUED FOR SUCH LOT.
  2. Lack of central water system. If no central water system is proposed for the subdivision, the following shall be stated:  
NO PROPOSED CENTRAL WATER SYSTEM. LOT OWNERS SHALL BE RESPONSIBLE FOR BUILDING A WELL WHICH MEETS STATE AND COUNTY STANDARDS AND OBTAINING A WATER WELL PERMIT FROM THE COLORADO DIVISION OF WATER RESOURCES. NO BUILDING PERMITS SHALL BE ISSUED FOR AN INDIVIDUAL LOT UNTIL A WELL PERMIT HAS BEEN ISSUED FOR SUCH LOT.
  3. Severe soils limitations. If any portion of any lot is within an area classified as having severe soil limitations, either by the Soil Conservation Service or by percolation tests, the following shall be stated:  
NOTICE: LOTS \_\_\_\_\_ [appropriate lot numbers are listed] ARE LOCATED IN AREAS OF SEVERE SOIL LIMITATIONS. SITE CONDITIONS MAY PREVENT THE USE OF CONVENTIONAL SEPTIC SYSTEMS AND BUILDING TECHNIQUES.
  4. Statement of water quality and availability. The applicant shall make a statement concerning the adequacy, quality and reliability of the proposed water supply based on the information obtained for the subdivision under section 70-4. Plat notices regarding water quality pursuant to subparagraph 70-4.V.D.1.b and development served by bulk water pursuant to subparagraph 70-4.VI.A.3 shall be required when applicable.
  5. Lack of county road maintenance. As no county road maintenance is accepted in private subdivisions, the following shall be stated:  
NO COUNTY MAINTENANCE OF STREETS OR ROADS. THE COUNTY'S ACCEPTANCE OF THIS PLAT CONSTITUTES ACCEPTANCE, ON THE PUBLIC'S BEHALF, OF THE OFFER OF DEDICATION OF RIGHTS-OF-WAY OVER THE SUBDIVISION ROADS BUT DOES NOT CONSTITUTE ACCEPTANCE OF ROAD MAINTENANCE OBLIGATIONS. THE OWNERS, DEVELOPERS AND/OR SUBDIVIDERS, THEIR SUCCESSORS AND/OR ASSIGNS IN INTEREST, SHALL BE RESPONSIBLE FOR ALL ROAD MAINTENANCE OBLIGATIONS FOR ALL ROADS IN THE SUBDIVISION.
  6. Natural gas pipelines. If any major transportation pipeline containing natural gas or slurry exists in or within five hundred (500) feet of the proposed subdivision, the following shall be stated:

NOTICE: NATURAL GAS PIPELINE. [Add a description of the general location of the pipeline].

7. Toxic natural gas pipeline. If a natural gas pipeline containing hydrogen sulfide or other toxic elements exist in or within one (1) mile of any lot, the following shall be stated:  
NOTICE: SOUR GAS PIPELINE; RUPTURE MAY BE EXTREMELY HAZARDOUS TO HEALTH AND SAFETY. [Add a description of the general location of the pipeline.]
8. Hazards/critical lands. If any hazard which has been identified on the site of the proposed subdivision, the following shall be stated:  
NOTICE: [Name of hazard.] Example: FLOODPLAIN EXISTS ON LOT(S). [List lot numbers affected by hazard.] If Geologic Hazards have been identified, the plat notice shall include a reference to any geologic reports and recommendations from the Colorado Geological Survey which shall be recorded and cross referenced by reception number in the plat notice.
9. Airport noise. If any part of the subdivision is to be located within two (2) miles of an airport, the following shall be stated:  
NOTICE: AIRCRAFT NOISE MAY EXIST WITHIN SUBDIVISION.
10. Severed mineral ownerships/split estates. If a subdivision is located on property in which the surface ownership is split from the subsurface mineral ownership, the following shall be stated:  
NOTICE: LOTS IN THIS SUBDIVISION MAY BE SUBJECT TO THE EXPLORATION AND/OR DEVELOPMENT OF MINERALS INCLUDING OIL AND GAS. THIS INCLUDES THE RIGHT TO MAKE SUCH USE OF THE SURFACE AS IS REASONABLY REQUIRED TO DEVELOP THE MINERAL ESTATE.
11. Fire response. If on-site firefighting facilities are not provided or the subdivision does not fall within a legally formed fire protection district, the following shall be stated:  
NOTICE: ON-SITE FIREFIGHTING FACILITIES ARE NOT PROPOSED.
12. Electrical service. If electrical service is not proposed, the following shall be stated:  
ELECTRIC POWER TO INDIVIDUAL LOTS IS NOT PROPOSED.
13. Telephone service. If telephone service is not proposed the following shall be stated:  
TELEPHONE SERVICE TO INDIVIDUAL LOTS IS NOT PROPOSED.
14. Right-to-farm. Where a residential subdivision, ~~or minor agricultural~~ exemption subdivision, ~~or clustered rural development~~ is located adjacent to agricultural lands, the following shall be stated:  
NOTICE: COLORADO IS A RIGHT TO FARM STATE WHICH MAY PRECLUDE NUISANCE LAWSUITS AGAINST EXISTING FARM OPERATIONS. C.R.S. § 35-3.5-101 *ET SEQ.*
15. Fence law. Where a residential subdivision, ~~or minor agricultural~~ exemption subdivision, ~~or clustered rural development~~ is located adjacent to agricultural lands, the following shall be stated:  
NOTICE: COLORADO IS A FENCE LAW STATE. OWNERS OF PROPERTY SHALL BE REQUIRED TO FENCE LIVESTOCK OUT IN ORDER TO RECOVER DAMAGES FOR TRESPASSING LIVESTOCK. C.R.S. § 35-46-101 *ET SEQ.*
16. Ditch maintenance. If irrigation facilities exist within the subdivision, the following shall be stated:  
IRRIGATORS HAVE A LEGAL DUTY TO MAINTAIN CANALS OR DITCHES USED FOR IRRIGATION PURPOSES, DITCH EMBANKMENTS AND HEAD-

GATES. A DITCH OWNER HAS THE RIGHT TO ENTER THE PROPERTY OF ANOTHER TO PERFORM REASONABLY NECESSARY MONITORING, INSPECTION, MAINTENANCE AND OPERATIONS ON THE DITCH AND ASSOCIATED STRUCTURES, EVEN IF IT MEANS DISTURBING LAND WITHIN ANY EASEMENT AREA SHOWN ON THE PLAT. NOTWITHSTANDING ANY REPRESENTATION OF THE WIDTH OF A DITCH EASEMENT ON THIS PLAT, IN SOME INSTANCES THE ACTUAL DITCH EASEMENT WIDTH MAY BE GREATER THAN DEPICTED.

- F. Survey data.
1. All plats shall comply with state standards for survey accuracy, in accordance with C.R.S. § 38-51-102, as amended and all applicable state statutes and rules.
  2. All lots shall be identified and numbered. All lots are to be numbered progressively and in a logical fashion. Block numbers shall not be used.
  3. Accurate angular and lineal dimensions for all lines, angles, curves and arcs used to describe boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features shall be labeled. Inclusion of a curve data chart is optional.
  4. Dimensions of all lot lines and plat boundaries shall be shown in feet and hundredths of feet. The areas of all lots, to the hundredth of an acre, shall appear on the plat.
  5. Perimeter subdivision lines shall be labeled with the distance and bearing to the public land survey system. Closure shall be in accordance with ALTA/ACSM Standards.
  6. True angles and distances to the nearest established streets, lines or official monuments shall be accurately described with appropriate symbols.
  7. Radii, internal angles, points and curvatures, tangent bearings and lengths of all arcs shall be labeled.
  8. The accurate location and description of all monuments are to be shown by the appropriate symbol, including all federal, state, county or other official benchmarks, monuments or triangulation stations in, or adjoining, the property shall be preserved in their precise position. Monument reports for all applicable corners shall be filed with the county clerk and recorder.
  9. All monumentation, including lot corners, shall be set at a minimum with a durable surveyor's cap attached to a five-eighths (5/8) inch × eighteen (18) inch rebar. The surveyor's cap shall be stamped with the state registration number of the professional land surveyor responsible for the establishment of the monument.
  10. In addition to any other requirements of a plat permitted or required by this code, all plats shall meet the minimum standards for land survey plats, as defined in C.R.S. §§ 38-51-102 and 38-51-106 and shall include all recorded or apparent rights-of-way and easements.

**VII. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. Tax certificate. At the time of plat recording, the applicant shall provide a certification from the county treasurer showing that all ad valorem taxes applicable to the property have been paid for all years prior to the current year.
- B. Mitigation plan. As determined by the director based on existing site conditions and the identification of potential geologic hazards, the applicant shall submit a geologic mitigation plan prepared by a professional geologist pursuant to C.R.S. § 23-41-208 that addresses how the development will either avoid or substantially mitigate the identified hazard and how to avoid

the creation or increase in the severity of adverse impacts on adjacent properties, including county roadways, as a result of the development. The report shall include maps and written information as appropriate to allow staff and the Colorado Geological Survey to determine the impact of geologic conditions on the site. As staff determines applicable, the mitigation plan shall also include:

1. A geologic map showing the proposed subdivision, including the lots and road alignments, the natural topography of the site shown by contour lines, the location of the geologic test holes used in the investigation, and the surface geology;
  2. A narrative report describing the geology of the site; the hydrology of the site, including the depth to groundwater; and identifying geologic hazards that may preclude development of any part of the site.
- C. Soils report. As determined by the director based on existing site conditions, a soils report prepared by a professional engineer shall be submitted. The soils report shall include maps and written information, as appropriate, including the following information:
1. A soils map showing the proposed subdivision, including the lots and road alignments, the natural topography of the site shown by contour lines, the location of any soils test holes used in the investigation, and the designation of soils types and their boundaries based on the national Cooperative Soil Survey, prepared by the U.S.D.A. Soil Conservation Service;
  2. A table of interpretations of the soils types as prepared by the SCS. The report shall identify soils conditions that may preclude development of any part of the site or require particular design considerations.
- D. Water rights and irrigation rights. If the subdivision is located within land served by a ditch, irrigation company or association, evidence that the plan has been submitted to the district board or other appropriate individual must be given, or written evidence shall be given that the applicant will comply with such requirements.
- E. Title report. A title commitment, a "TBD" title commitment, or an owners and encumbrance report issued by a title insurance company or attorney within one hundred and twenty (120) days is required prior to the chair of the board executing the final plat for a major subdivision, and may be required by the director for other plats. The insurance certificate should list the owners of the property, a legal description of the property, easements and any other liens or encumbrances placed upon the property.
- F. Covenants. The applicant shall provide a copy of proposed declarations, conditions, covenants and restrictions for the subdivision.
- G. Improvements maintenance plan and declarations. A plan specifying the mechanism by which any and all improvements will be maintained including, but not limited to, roads, water and sewer systems, streetlights, signs, fences, open space, landscaping, buffers and weed control methods is required. If specified within the subdivision declarations, conditions, covenants and restrictions, or any condominium declarations, these may serve the purpose of this report.
- H. Condominium declarations. The applicant shall provide condominium declarations if the subdivision is to include condominium units, to include the following:
1. A statement defining the character, duration, rights, obligations and limitations of condominium ownership including any restrictive covenants affecting individual units;
  2. A statement of the method by which the proportionate valuation of common elements shall be assessed to individual units;
  3. Provisions for creating conditions, restrictions and limitations on time sharing ownership, if applicable.

- I. Other applicable specifications. The director may determine that other supporting documents or specifications shall be required as applicable to the project and may include, but are not limited to, specifications and drawings illustrating signage, lighting, curb plans, walkways, sidewalks, irrigation, landscaping, and landscape maintenance plans. ~~The director may require that the plans be stamped by a professional engineer.~~

## **Chapter 68: Planned Unit Developments**

### **Sec. 68-1 Purpose**

The purpose of a planned unit development is to encourage innovation and flexibility and to facilitate a mix of uses in the development of a balanced community which cannot be accommodated under the provisions of this code but remain compatible with the site's physical and environmental characteristics, in accordance with C.R.S. § 24-67-101; *et. seq.* The intent is to create high quality residential, mixed-use, commercial or industrial development and employment centers and to allow greater flexibility in project design in return for greater development quality, amenities, a public benefit and protection of nearby properties from adverse impacts of new development. A PUD creates a custom zone district with its own standards, restrictions and uses.

### **Sec. 68-2 Applicability**

This chapter applies to applications to designate a new PUD and, subject to section 68-89 below, PUDs existing prior to the effective date of this code. A PUD designation is primarily intended for use on a parcel or parcels of property that consists of a minimum of ten (10) acres. An applicant may request a PUD designation for a parcel that consists of less than ten (10) acres if the applicant demonstrates to the satisfaction of the PC board during PUD sketch plan review that the proposed development would not negatively affect surrounding uses and the PUD would result in a greater benefit to the community than would development under conventional methods. A PUD designation should not be granted solely to permit variances for development of a single lot, building or use.

No PUD may be approved without the written consent of all owners whose properties are included within the PUD.

If a PUD consists of individual lots, subdivision plat or exemption plat approval shall also be required.

Except as otherwise expressly provided in an approved PUD guide, all development of real property pertaining to a PUD shall conform with this code. If the PUD guide is silent concerning a standard, restriction or requirement but this code is not, this code shall control. If the PUD guide conflicts with this code, the PUD guide shall control.

### **Sec. 68-3 Outline of procedure**

~~The PUD review process shall consist of the following procedures:~~

~~Pre-application conference. A pre-application conference in accordance with section 66-10.~~

~~Sketch plan review. Unless otherwise noted in this chapter, sketch plan review shall be in accordance with section 66-19.~~

~~Preliminary PUD plan review. Unless otherwise noted in this chapter, preliminary PUD plan review shall be in accordance with section 66-21.~~

~~Recordation of PUD preliminary plan.~~

~~Final plat for subdivision. Unless otherwise noted in this chapter, final plat for subdivision within an approved preliminary PUD plan shall be in accordance with section 67-3.~~

### **Overview of PUD procedure**

PUD projects require consideration by the county of a PUD sketch plan, PUD preliminary plan, and if applicable final plat for subdivision within the approved PUD, in that order. Unless a phasing plan was approved as part of a sketch plan, a conceptual development plan as provided in section 66-29 is required when development is proposed in phases. Each step is a distinct process involving the submittal of an application, an application fee, required plans and reports, referral of the proposal to other agencies, staff analysis, work sessions and public meetings. Approval of any application in the process does not ensure approval of the next application.



**Sec. 68-4 Sketch plan**

- I. **Purpose.** An applicant proposing to develop a PUD shall obtain approval for a sketch plan pursuant to the procedures and standards of this chapter. The purpose of the sketch plan review is for the applicant, the county and the public to evaluate and discuss the basic concepts for development of the proposed PUD and to consider whether the development of the real property as a PUD will result in a significant improvement over its development as a conventional subdivision. Where appropriate, the sketch plan process may also examine alternative approaches to development of the property. Typically, a proposal will evolve during sketch plan review.
- II. **Sketch plan review and considerations.** At sketch plan, the decision-making body shall determine whether the proposed PUD substantially complies with this code and is in general conformance with the comprehensive plan. In addition to addressing applicable standards, the applicant and the county shall reach general agreement on matters such as, but not limited to, the following:
  - A. The types of use;
  - B. Applicable site development standards, including dimensional standards, or variations thereof;
  - C. The general locations intended for development and the areas planned to remain undeveloped, including open space;
  - D. The general plan for phasing of the development and any infrastructure or other improvements;
  - E. The general alignment for access;
  - F. The provision of an adequate water supply and whether the water supply and sewage disposal will be provided through on-site water and wastewater treatment systems or through connection to public systems;
  - G. Compatibility with the natural environment and the way natural hazards will not be increased as a result of the development;
  - H. Compatibility with the existing uses of adjacent properties and other lands that may be significantly impacted.
- III. **Sketch plan outcome.** The outcome of sketch plan review should be a finding on the project's compatibility as well as an identification of issues and concerns the applicant must address ~~if for~~ the project to be considered ripe for review by the decision-making body is ultimately to receive approval.
- IV. **Sketch plan submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  - A. If the applicant is not the sole owner of all real property proposed to be included within the PUD, written consent from every owner of real property proposed to be included within the PUD, including identification of the applicant as an agent on behalf of each owner;
  - B. The reasons why the PUD procedure is more desirable than the conventional subdivision or land use process;
  - C. Proposed land uses; commercial, industrial and multi-family building locations; residential densities and commercial square footage;
  - D. Proposed vehicle circulation pattern;
  - E. Proposed pedestrian circulation pattern;
  - F. Proposed open space;
  - G. Narrative explanation of proposed land use restrictions;

- H. Any or all the following requirements, as determined by the director, based on the complexity of the proposal:
1. Proposed schedule of development phasing;
  2. Statement of estimated demands on county services;
  3. Statement as to the impact of the proposed PUD on county school systems;
  4. Conceptual site plans and conceptual architectural plans;
  5. Proposed method of fire protection including information demonstrating a legal, adequate water supply for fire-fighting purposes.

V. **Sketch plan review and action.** The submission of an application for a PUD sketch plan, determination of compliance, staff and agency review and notice and scheduling of the hearing for the application shall comply with the procedures in section 66-11. The process for review of the PUD sketch plan application by the planning commission ~~and action by the board~~ shall be as set forth in section 66-19. Except where the purposes set forth in section 68-1 may be furthered, the sketch plan shall be reviewed for general consistency with the approval criteria stated in section 66-16, but not for detailed compliance with development standards referenced in such criteria. The county may confer with the applicant on changes deemed advisable and the kind and extent of changes. No PUD sketch plan may be approved without the written consent of all owners whose real property is included within the PUD.

VI. **Effect of approval of sketch plan for PUD.**

- A. **Limitation on approval.** Approval of a PUD sketch plan shall authorize the applicant to submit to the CDD an application for a PUD preliminary plan. It shall not constitute final approval for the PUD. PUD Sketch plan approval vests no development or vested rights.
- B. **Expiration of approval.** Approval of the sketch plan ~~by the board~~ shall be null and void and automatically revoked two (2) years after the date of the board's approval of the sketch plan, unless, prior to such expiration, an application for a preliminary plan for the PUD is submitted to the CDD and deemed complete by the director.
- C. **Extension of sketch plan approval.** One (1) extension of time up to one (1) year may be approved by the director upon written request when deemed necessary to resolve review comments or due to unforeseen circumstances. The owner shall submit a written request for extension to the CDD no later than thirty (30) days prior to the date the sketch plan is set to expire. The director's approval of the extension shall be set forth in writing and shall clearly state the new sketch plan expiration date.

Sec. 68-5 **Preliminary plan for PUD**

- I. **Purpose.** An applicant proposing to develop a PUD shall obtain approval for a preliminary plan pursuant to the procedures and standards of this chapter. The purpose of the preliminary plan review is to confirm whether the development of the real property as a PUD will result in a greater benefit to the community than would development under conventional methods, for the applicant to respond to the issues and concerns identified during the sketch plan review and to formulate detailed, properly engineered solutions to those issues and concerns that conform to the approved sketch plan. At the preliminary plan stage, the applicant shall provide detailed information on conformance with applicable standards and mitigation proposals for evaluation by the county.
- II. **Preliminary plan submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11 applicant shall submit the following documents and materials:

- A. If the applicant is not the sole owner of all real property proposed to be included within the PUD, written consent from every owner of real property proposed to be included within the PUD, including identification of the applicant as an agent on behalf of each owner;
- B. An overall development plan including but not limited to, coordination of infrastructure and other improvements within and among individually platted lots, sections or phases of the project including open space and recreational facilities;
- C. If the project is planned in phases, a phasing plan and schedule demonstrating the sequence of development of uses;
- D. Statement of estimated demands on county services;
- E. Statement as to the impact of the proposed PUD on county school systems;
- F. Where the preliminary plan departs from a condition of the sketch plan approval, the applicant shall identify any and all such deviations or inconsistencies and shall set forth justifications for the deviations or inconsistencies.
- G. A PUD guide that establishes a comprehensive set of land use regulations, standards and controls for land uses, development and actions within the boundaries of the PUD. At a minimum the PUD guide shall set forth:
  - 1. The proposed land use restrictions and standards of development;
  - 2. Use definitions and designations;
  - 3. Landscape and design guidelines that include design criteria for the construction of community facilities, parks, trails, rights-of-way and all other real property held in common;
  - 4. An outline of the areas of ~~common~~ open space, parks, trails and recreational lands and specify any agreement on the part of the owner to improve and preserve the open space, parks, trails and recreation lands, including implementation by deeding the property to the appropriate entity. The PUD guide shall also identify any deed or other restrictions against future residential, commercial or industrial development and include the terms by which any common areas shall be maintained;
  - 5. All development within the PUD shall be administered by a homeowner<sup>2</sup>s' association, property owner<sup>2</sup>s' association or other appropriate authority having jurisdiction in accordance with the PUD guide.
- H. If the proposed PUD preliminary plan includes ~~common~~ open spaces, recreation areas, or other shared facilities, a legal instrument acceptable to the county attorney guaranteeing the permanent care and maintenance of the common lands and facilities, and including the authority to allow the county, in accordance with C.R.S. § 24-67-105, to file tax liens for unpaid maintenance assessments, and to takeover maintenance of the common areas if the organization fails in its responsibilities and duties.
- I. Payment of or provision for payment of consultant fees, if any, pursuant to section 66-11.
- J. Any other information required by the sketch plan approval.

**III. Procedures for preliminary plan review.** Except as set forth in this section, an application for a PUD preliminary plan shall be processed as a major land use permit as set forth in section 66-21. Nothing in this subsection shall prevent the decision-making body from denying a PUD preliminary plan application if such body finds the plan fails to satisfy the applicable standards or approval criterion. The county may confer with the applicant on changes deemed advisable and the kind and extent of changes. No PUD preliminary plan may be approved without the written consent of all owners whose real property is included within the PUD.

- A. Compliance and scheduled hearing. Upon a determination of compliance pursuant to section 66-11, the director shall schedule the PUD preliminary plan for consideration by the PC. Unless a longer period is agreed to in writing by the county and the applicant, the public hearing by the PC shall be held within sixty (60) days of the date of determination of compliance.
- B. PC review. After the PC's review of and formal recommendation on the preliminary plan, the director shall schedule the project for consideration by the board. The public hearing by the board shall be held within sixty (60) days of the date of the PC's recommendation, unless otherwise agreed to in writing by the applicant. The PC's formal recommendation shall include a detailed explanation as to the how the development of the real property as a PUD will result in a greater benefit to the community than would development under conventional methods.
- C. Conduct of hearing. The public hearing on the preliminary plan shall be conducted in conformance with C.R.S. § 30-28-116, § 24-67-104 and § 24-67-105.5.
- D. Request for redesign. Pursuant to C.R.S. § 24-67-105.5, the decision-making body, during its review of an application for a PUD preliminary plan, may request redesign of all or any portion of the proposed PUD:
  - 1. When such redesign is necessary to comply with a duly adopted county resolution, ordinance or regulation.
  - 2. Under all other circumstances, only if the request includes specific, objective criteria for the applicant to follow. If the applicant redesigns the PUD in accordance with the request, no further redesign shall be required unless necessary to comply with a duly adopted county resolution, ordinance, or regulation, or unless the applicant waives this limitation in writing.
- E. PUD guide. Concurrent with the approval of the PUD preliminary plan, the applicant and the board shall agree to a PUD guide binding the PUD to terms and conditions in the guide and such supplemental agreements related to the PUD as may be appropriate and necessary.
- F. Recordation. Subsequent to approval of a resolution approving a PUD preliminary plan, the applicant shall file with the County Clerk and Recorder the resolution, approved preliminary plan, PUD guide and any applicable supplementary agreements. Such instruments shall be binding on all owners, successors and assigns and shall constitute the development regulations and custom zones for the real property. Development of the real property shall be limited to the uses, density, configuration and all other elements and conditions set forth on the PUD preliminary plan, the PUD guide and any supplemental agreements. Failure of the applicant to record the PUD resolution, PUD preliminary plan, PUD guide and any supplemental agreements within thirty (30) days shall render the resolution, PUD preliminary plan, PUD guide and supplemental agreements null and void and the property shall no longer be subject to the approval and its conditions, if applicable.

#### **IV. Effect of approval of preliminary plan for PUD.**

- A. Effect. Recordation of a PUD preliminary plan shall constitute establishment of ~~—~~ a custom zone district for the real property subject to the PUD with its own standards, restrictions and uses.
- B. Subdivision plat. Following approval and recordation of the PUD preliminary plan, the applicant may apply for final plat for subdivision, in compliance with the requirements of section 67-3.
- C. Length of approval. Single-phase PUD preliminary plans are valid for five (5) years from the date of approval by the board. Multi-phase phase PUD preliminary plans are valid for ten (10) years from the date of approval by the board, though development of at least the first phase must be completed within five (5) years of the date of approval.

- D. Extension of approval. One (1) extension of time up to one (1) year may be approved by the director upon the applicant's written request when deemed necessary to resolve review comments or due to unforeseen circumstances. With the written consent of all owners whose real property is included within the PUD, one extension of time up to three (3) years may be approved by the board due to conditions beyond the applicants' control, including economic cycles and market conditions. The applicant shall submit a written request for extension to the CDD no later than thirty (30) days prior to the expiration date of the PUD preliminary plan or prior to the end of the first five (5) years after approval with respect to a request to extend the deadline for completing the first phase of a multi-phase PUD preliminary plan.
- E. Minor deviations or adjustments. Authorized minor deviations or adjustments from the PUD preliminary plan may be approved by the director or, in instances relating to access or roads, the planning engineer. All changes not qualifying for minor deviations or an adjustment shall be considered amendments and shall comply with this chapter.

Authorized minor deviations or adjustments are as follows:

1. Those that are necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process, if they comply with the established land use regulations;
2. Technical survey errors as described in C.R.S. § 38-51-111 provided an affidavit of correction is prepared by a surveyor unless the county surveyor determines that a revised plat is necessary;
3. Reconfiguration of snow load areas or parking areas resulting in no net loss of required spaces;
4. Increased compliance with any voluntary guidelines.

**V. Amendment to PUD preliminary plan.** No PUD preliminary plan may be amended by an individual property owner without the written consent of the governing body of the homeowner's association or property owner's association that manages the PUD. The homeowner's association or property owner's association, with a majority vote of its constituents, may apply for a PUD amendment on behalf of all individual property owners of the land subject to the conditions and standards of the PUD to be amended. Amendments to the PUD preliminary plan shall be considered at a public hearing called and held in accordance with the provisions of C.R.S. § 24-67-104(1)(e). The applicant shall provide notice to every property owner within the PUD and all adjacent property owners as required in section 66-14. No substantial modification, removal or release of the provisions of the PUD preliminary plan or PUD guide shall be permitted except upon a finding by the board, that:

- A. Modification. The modification, removal or release is consistent with the efficient development and preservation of the entire PUD.
- B. Special benefit. The PUD amendment is not granted solely to confer a special benefit upon any person.
- C. Consistent with original approval. The amendment, extension, variation or alteration is pursuant to the standards and procedures established for its original approval.
- D. Standards. The PUD amendment addresses the standards set forth in this chapter and/or the PUD guide. Applicant shall provide a copy of the PUD guide clearly demonstrating what amendments are to be made. The director may require such additional submittal materials as necessary to evaluate the proposal.

Amendment of the PUD preliminary plan shall not have the effect of extending the vesting period absent a specific finding and declaration to that effect.

**VI. Enforcement of PUD.**

- A. By county. Approval of a PUD preliminary plan, PUD guide or supplementary agreements relating to the use of real property and the location of ~~common~~ open space shall run in favor of the county and shall be enforceable at law or in equity by the county.
- B. By residents. All provisions of the PUD preliminary plan, PUD guide and supplementary agreements shall also run in favor of the residents, occupants and owners of the PUD, but only to the extent expressly provided and in accordance with the PUD preliminary plan or PUD guide. To that extent, provisions, whether recorded by plat, conservation easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization designated in the PUD guide to act on their behalf.

**Sec. 68-6 PUD approval criteria**

In addition to the applicable standards set forth in chapters 70-74, as the same may be waived or modified by the board to fulfill the purposes set forth in section 68-1, the decision-making body shall consider the following approval criteria and find that each criterion has been met or determined to be inapplicable:

- I. The PUD is supported by all owners whose properties are included within the PUD.
- II. The PUD is in general conformance with the comprehensive plan.
- III. The PUD demonstrates the provision of a public benefit or amenity.
- IV. The PUD complies with all applicable statutory provisions.
- V. To ensure compatibility among the various land uses in the PUD, and among the various phases of the development, the plan addresses the entire land ownership in a comprehensive manner and demonstrates the entire PUD will function as an integrated whole when complete. In cases where conflicts between uses or phases are identified, increased setbacks, design buffers, changes to elements considered within compatibility, and similar mechanisms may be required to ensure the desired compatibility.
- VI. The proposed development will be serviced by adequate public facilities and services, including water, sanitation, and fire protection.
- VII. The PUD is compatible with and will not have a material adverse impact on the surrounding area; and will be in harmony and compatible with the adjacent properties including, but not limited to, size, scale, mass and landscaping.
- VIII. The real property is suitable for the intended use, is compatible with the natural environment and natural hazards will not be increased as a result of the development.
- IX. The PUD provides for unified development control under a unified plan.
- X. The PUD preliminary plan and PUD guide provide a clear assumption of responsibility for maintaining all roads, streets, parking areas ~~common~~ open spaces, and other public and common facilities in the project.

**Sec. 68-7 Applicable standards**

- I. **Established code standards.** The development allowed within a PUD shall not exceed the level that can be adequately served by public facilities and services, including without limitation water, sanitation and fire protection. Except as otherwise provided in this section, the PUD preliminary plan, PUD guide, plats and all aspects of the PUD development shall comply with all applicable standards stated in this code, including without limitation, the standards stated in chapters 70--74.
- II. **Recreation and open space requirements.** Portions of the PUD area should be devoted to open air recreation or other usable open space, public or quasi-public. Parking and loading areas, road rights-of-way and areas with slopes greater than thirty (30) percent shall not count toward usable open space. Water bodies, lands within critical wildlife areas, riparian areas and one hundred (100)



year floodplains that are preserved as open space shall count towards the minimum standard, even when they are not usable by or accessible to the residents of the PUD. All other open space lands shall be conveniently accessible from all occupied structures within the PUD.

**III. Other standards.** The director and the PC shall have the authority to recommend that otherwise applicable standards in this code such as density, setbacks, height restrictions, land dedications and related requirements be waived or modified by the board. The board may waive or modify applicable standards as part of the approval of a PUD, if the board finds each of the following:

- A. The modification is in general conformity with the comprehensive plan.
- B. The applicant has demonstrated the modification is necessary to achieve the purposes of a PUD as set forth in this chapter and the extent of the modification has a direct and proportional relationship to the magnitude of the public benefit that is obtained.
- C. The waiver or modification furthers the objectives of these PUD regulations.

**Sec. 68-8 Pre-existing PUDs**

**I. Continuation of existing PUDs.** PUDs approved prior to January 1, 1988 shall be vested to allow development, but only to the extent of the actual construction completed or building permits issued and still valid prior to the effective date of this code. PUDs approved on or after January 1, 1988 may be developed in accordance with the approved site-specific development plan as provided in and subject to the limitations of C.R.S. § 24-68-101 *et seq.* and this code. Future phases, components or amendments within PUDs shall occur in accordance with the requirements of this code.

**II. Requirements.** The following shall apply to pre-existing PUDs to which this section applies:

- A. Amendment. A pre-existing PUD may only be amended pursuant to the terms, conditions, criteria and standards of this chapter.
- B. Continued development.
  - 1. Procedure. Proposals for further development within the PUD shall apply for and obtain a land use permit pursuant to the terms and procedures of this code.
  - 2. Standards. Proposals for further development within the PUD shall comply with the PUD's standards. If any subject matter regulated by this code is not addressed by the PUD's negotiated standards or conditions of approval, the standards of this code shall apply.



## **Chapter 70: General Site Development Standards Applicable to All Development**

### **Overview**

This code contains two (2) types of standards: prescriptive and performance based. Prescriptive standards require the applicant to satisfy criteria in a specific manner and ensure certainty, predictability and uniformity in the decision-making process. Because of their relevance to public health, safety and welfare, these standards oftentimes apply technical or quantitative measures and are strictly applied to each development. Some examples of prescriptive standards in this code are those pertaining to water, sewer, access, emergency services and regard for natural hazards. In exceptional circumstances, an applicant may seek relief from a prescriptive standard by obtaining a variance as described in section 66-27.

In contrast, a performance-based standard allows the applicant and the decision-making body greater flexibility to determine the way a performance goal is reached. The necessity of reaching the stated goal is not waived or varied but the means for accomplishing it may take account of distinguishing attributes of the project and the ability of the applicant to mitigate adverse impacts. For example, the compatibility analysis in section 70-5 is a performance-based standard that focuses on the effects of a proposed land use. Where the effects of a development are deemed undesirable, adverse or detrimental, this code allows the applicant to propose measures designed to mitigate those effects and thereby make the development compatible with the surrounding area or natural environment. Some common types of development constraints and forms of mitigation are described in Table 70-5.

### **Sec. 70-1 Applicability**

Chapter 70 of this code contains the general site development standards that are applicable to all development, except oil and gas, in the unincorporated county. Oil and gas development are subject to the provisions of chapter 90 of this code. The standards in this chapter cover a wide variety of subject areas, including building setbacks and height, buffers, protection of critical lands and scenic resources, open space and parks, road design and vehicle access, off-street parking, outdoor lighting, neighborhood protection, utilities and services, and signs. The general site development standards of this chapter work together with the supplemental overlay standards in chapter 72, standards for specific uses in chapter 73, and the road standards in chapter 74 to comprise the substantive standards governing new development in the county. These standards are applied at all stages of the development review process and the applicant shall demonstrate compliance with all applicable standards. Unless otherwise specifically addressed by a section of this code, the development standards set forth in this chapter 70 shall apply to all new development on the effective date of this code.

### **Sec. 70-2 Utilities and services**

- I. Minimum required services.** This section, along with chapter 74, sets forth the minimum infrastructure standards to be satisfied by a proposed project. Except for temporary uses and other uses specifically exempted elsewhere in this code, all developments shall be required to demonstrate that adequate utilities and services, such as water, wastewater treatment, electrical, telephone, internet, cable TV and fuel supplies, are available to serve the development.
- II. Utility installation and easements.** Utilities shall be placed within a county right-of-way or legally established easement and shall be free from conflicting legal encumbrances, avoid unnecessary excavations and be reasonably free from physical obstructions. Multiple use of a given easement is encouraged to minimize the number of easements burdening the real property. Where utility lines are to be provided to a development, these facilities shall be installed to the property line of each individual lot within the development. Electrical utilities may be installed to a central location.
  - A. To the maximum extent practicable,** Utility lines shall be installed below ground. Except for residential lots larger than ten (10) acres, all utility lines serving new development shall be installed to meet minimum depth standards established by any applicable utility, ditch company

or county/state road standards, but no less than two (2) feet minimum within a county road right-of-way. The applicable decision-making body may also allow utility lines to be placed above ground in areas where it is determined that existing utility infrastructure, safety, environmental degradation, destruction of wetlands, adverse impacts to cultural resources, or similar adverse impacts render it infeasible to place the utilities underground.

- B. Minimum clearance. A minimum ground clearance of eighteen (18) feet shall be provided where there are overhead utility lines that cross public roads and streets. The clearance shall be measured at the lowest point where the line crosses the traveled portion of the street.
- C. Notification and inspection. The applicant shall notify affected ditch companies prior to installation of utilities and shall obtain a permit from the public works director prior to the commencement of any utility installation projects in a county right-of-way. At the discretion of the public works director an inspection of the installation may be conducted to evaluate, among other things, densities, moisture content, resurfacing, and cleanup activities. An advance request for inspection shall be made in instances where the acceptability of materials used for backfill is questioned.

**III. Solid waste disposal.** Applicants shall demonstrate that adequate solid waste disposal sites and facilities will be provided within the development and the method in which solid waste will be collected from the development. Where common trash facilities are provided, these shall be screened, as specified in section 70-17, and shall be enough in number, size and design to prevent overflowing and access by animals.

**IV. Fire protection.** Except for administrative land use permits, applicants shall submit a fire response plan to the appropriate fire protection district and shall comply with the adopted fire code, as prescribed by the fire chief of the district. The fire response plan shall provide fire equipment access to each building or potential building on the proposed site, and shall indicate the available fire flow in gallons per minute, the amount of water storage available, any on-site firefighting equipment to be provided, and the response time anticipated during summer and winter months. The fire response plan shall meet the approval of the local fire chief.

### **Sec. 70-3 Sewage disposal**

Applicants shall document sewage disposal for a development through one (1) of the means described in subsections I through III of this section:

#### **I. Connection to existing system.**

- A. Except for land uses specifically exempted elsewhere in this code, development located within four hundred (400) feet of an existing central sewer system shall connect to that system, unless the existing system's provider certifies the system lacks sufficient capacity to serve the proposed development, the connection would be technically impracticable, or the provider otherwise refuses to serve the proposed development. The distance from the proposed development to the applicable existing system shall be measured in a direct line from the nearest point on the development's property line to any main of the provider's collection system.
- B. Binding commitment. At project submittal the applicant shall provide written confirmation from the existing sewer provider stating the provider has the physical and legal capacity to serve the development and is willing to provide sewer service sufficient for build-out of the proposed development, including all phases if multiple phases are contemplated. Prior to permit issuance or final plat recording, the applicant shall provide a binding commitment for service signed by the service provider (such as a perpetual, non-revocable tap reservation) or evidence of tap purchases from the service provider.

**II. Individual systems—approval required.** Individual, on-site wastewater treatment systems (~~OWTS~~) shall comply with the applicable standards adopted by SJBPH Confirmation of conformance to the standards shall be provided by SJBPH prior to project approval. OWTS with design capacity less

than or equal to two thousand (2,000) GPD, including all permits, performance, location, construction, alteration, installation and use must be reviewed and approved by SJBPH. OWTS with a design capacity greater than two thousand (2,000) GPD must be reviewed and approved by CDPHE including site location and design approval in conformance with C.R.S. § 25-8-702; and discharge permit requirements in conformance with the Water Quality Control Act, C.R.S. § 25-8-501 *et seq.*

**III. Common sewage disposal.** If a common sewage disposal system is proposed, all detailed plans and specifications for such system shall be prepared by a registered professional engineer.

- A. The plans shall be submitted to the CDPHE and/or SJBPH, whose approval shall be required before a new common sewage disposal system may be created. A copy of the easement and maintenance agreement approved by SJBPH shall also be provided to the county.
- B. The applicant shall provide written certification from the professional engineer of the adequacy and safety of the proposed system including, but not limited to, the adequacy of the proposed system in relation to the topography of the proposed development, the proposed population density, soil conditions, and watersheds located on or draining into or over the proposed development. The certification shall appear on both the final plat and the detailed plans and specifications of the planned sewage disposal system.
- C. Construction specifications for the proposed sewage disposal system shall comply with the applicable guidelines of the American Public Works Association, the regulations of CDPHE, and the county.

**IV. Future connections in urbanizing areas.** Developments located within a municipality's adopted 3-mile planning area shall include utility easements along the development's public road rights-of-way to provide the opportunity for future sewage service connections. The applicant shall consult with the municipality, or applicable municipal service provider, to determine the minimum width necessary for such easements, and their specific locations.

#### **Sec. 70-4 Domestic water**

##### **I. Purpose, authority, and applicability.**

- A. Purpose. Securing a reliable and safe water source for all development, while mitigating any impacts of new development's water consumption on existing uses' water supply, is necessary to protect the community's health, safety, and welfare, and the continued viability of residential, commercial, and industrial development. These water quantity and quality standards, therefore, are intended to secure the continued availability of adequate, potable water to development within the county's unincorporated territories.
- B. Authority. Article 20 of Title 29 and Title 30 of the Colorado Revised Statutes authorize the Board of County Commissioners to regulate the use of land in a manner that protects against adverse impacts on the community, surrounding areas, and the natural environment, consistent with constitutional rights. This authorization includes a delegation of authority to consider the impacts of development on the quantity and quality of the region's water resources. These water quantity and quality standards are intended to protect the community's water resources and their availability for existing and future uses and to operate parallel to and consistent with those regulations promulgated, and permits issued, by the Division of Water Resources pursuant to Title 37 of the Colorado Revised Statutes and Title 402 of the Colorado Code of Regulations.
- C. Applicability. These provisions apply to all future development except for:
  - 1. Development not requiring a land use permit.
  - 2. Adjustments and plat modifications approved pursuant to section 66-5 which do not require a change to existing water supply or demand.

3. Lot consolidations and boundary adjustments approved pursuant to section 66-5, which do not require a change to existing water supply or demand.
4. Special events approved pursuant to section 66-5.
5. Temporary uses approved pursuant to section 66-6.
6. Conceptual development plans and sketch plans submitted pursuant to section 66-6.

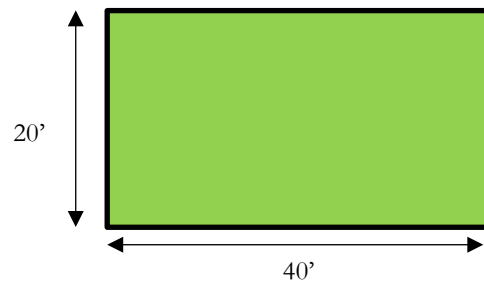
Nothing in this section 70-4 shall be construed to exempt any development from complying with the requirement for adequate fire flow set forth in chapter 34 of the county code, Fire Prevention and Protection, as the same may be amended, replaced or modified. Fulfillment of the requirements set forth in chapter 34 may be a condition of approval for all development projects.

**II. Water demand estimate and criteria.** At the time of project submittal, all development subject to these water quantity and quality standards must provide the county with a representative estimate of the development's peak daily water demand during a period of sustained water usage, according to either the stated requirements set forth in this subsection II or based upon completion of a site-specific water demand study. Required fire flows, if any, are not part of the water demand estimates required under this subsection II.

- A. Peak daily water demand required. Estimated water demand based upon the proposed development's peak daily water demand shall be provided.
- B. Demand associated with water treatment. If a given water source requires water quality treatment, the peak daily water demand shall be increased to account for the water consumed by the anticipated treatment process. The applicant shall provide a specification sheet for the treatment unit or a statement from the engineer designing the treatment system (e.g. chlorinated cistern) that estimates the water efficiency of the treatment process.
- C. Residential uses.
  1. General demand. Except as otherwise provided herein, water demand for all residential projects shall be estimated to be three hundred fifty (350) gpd per dwelling unit, which accounts for both in-house demand (e.g., drinking, cooking, bathing, and washing) and outdoor demand during peak season (e.g., landscaping and irrigation).
  2. Multifamily dwelling demand. Residential uses that are multifamily dwellings with an anticipated irrigated area (e.g., lawn or garden) of one thousand five hundred (1,500) square feet or less per dwelling unit (including each dwelling unit's individual private irrigated area and its pro rata share of any irrigable common areas or open space) shall be subject to the following calculations:
    - a. The minimum daily quantity requirement for landscaping or irrigation demand is 0.105 gallons per square foot per day.
    - b. The general residential demand estimate of three hundred fifty (350) gpd may be reduced by 0.105 gallons per square foot, for each square foot of irrigated area less than one thousand five hundred (1,500), as illustrated below.

Figure 70-4 Residential Demand Estimate

$20' \times 40' = 800\text{ft}^2$  irrigable lawn  
 $1,500\text{ft}^2 - 800\text{ft}^2 = 700\text{ft}^2$   
 $700\text{ft}^2 \times .105 = 74\text{gpd}$   
 **$350\text{gpd} - 74\text{gpd} = 276\text{gpd}$**   
**residential demand estimate**



- c. In no instance shall the minimum indoor demand be less than one hundred ninety-five (195) gpd.
- d. As an alternative to the calculation set forth above in sub-subparagraphs II.C.2.a-b, an applicant proposing development of a multifamily dwelling may conduct a site-specific water demand study pursuant to paragraph II.E below.

D. Non-residential water demand.

1. Calculation based on Table 70-4 A. Non-residential water demand, including but not limited to those for all commercial and industrial uses, shall be calculated based on the proposed use, according to the rates set forth in Table 70-4 A. Table 70-4 A's rates are cumulative. Uses implicating two (2) or more of the listed demands must include all demands to derive the total required demand.
2. Alternative methods for calculation. For any proposed use not listed below, and for which a site-specific water demand study is not specifically required, during the pre-application process prior to project submittal, the applicant may choose to prepare a site-specific water demand study pursuant to paragraph II.E. below, or subject to paragraph II.E., the applicant may request that the director determine, in writing, the applicable rates by equating or approximating a proposed use's demand based on commonality with one (1) or more uses listed below. If the director determines that the proposed use is not sufficiently comparable to a use listed in Table 70-4 A for the purpose of estimating the proposed use's water demand, the director may require the applicant to complete a site-specific water demand study.

<b>Table 70-4 A La Plata County Non-residential Water Demand</b>		
<b>Water Demand</b>	<b>Rate</b>	<b>Units</b>
Airport (cumulative)	10 gpd	Per employee
	5 gpd	Per passenger
Barber/beauty shops	100 gpd	Per chair
Campground	50 gpd minimum <sup>7*</sup>	Per campsite
Commercial (no showers)	20 gpd	Person/per 8-hr shift
Commercial (with showers)	35 gpd	Person/per 8-hr shift
Churches	5 gpd	Per seat
<b>Daycare &amp; preschools</b>	Day (without cafeteria or showers)	15 gpd Per person
	Day (with cafeteria, no showers)	20 gpd Per person
	Day (with cafeteria and showers)	25 gpd Per person
Doctors office	250 gpd	Per doctor
Equine or llama boarding facility	12 gpd	Per animal
Event facilities with short-term or transient visitors	5 gpd	Per seat
<b>Individual fixtures<sup>8</sup></b>	Bath/shower	15 gpd Per fixture
	Dishwasher	2 gpd Per fixture

<sup>7</sup> Table Note: For each campsite, campgrounds must provide the minimum volume of water supply required to meet the regulations established by CDPHE in 6 CCR 1010-9, as amended.

<sup>8</sup> Table Note: If the director determines there is no commonality for a proposed use, the rate set forth for fixtures will be used as the primary basis for determining estimated water demand, unless a site-specific water demand study is prepared.

\* Or as may be allowed by state regulations.

<b>Table 70-4 A La Plata County Non-residential Water Demand</b>			
<b>Water Demand</b>		<b>Rate</b>	<b>Units</b>
	Kitchen sink (with garbage disposal)	6 gpd	Per fixture
	Laundry washer	20 gpd	Per fixture
	Lavatory	8 gpd	Per fixture
	Toilet	25 gpd	Per fixture
Hospitals		250 gpd	Per bed space
Hotels/motels (with private baths)		75 gpd	Per room
Indoor commercial cultivation		300 gpd	Per 1,000 ft <sup>2</sup> of grow area
Kennels		30 gpd	Per animal
Laundries (Self-service)		400 gpd	Per commercial washer
Nursing homes		250 gpd	Per bed space
Office buildings		15 gpd	Per employee/per 8-hr shift
Outdoor irrigation/landscaping		0.105 gpd	Per ft <sup>2</sup> /day
<b>Public park</b>	Faucet	15 gpd	Per fixture/per hour open
	Flush toilet	36 gpd	Per fixture/per hr open
	Urinal	10 gpd	Per fixture/per hr open
Resort (night and day)		50 gpd	Per person
Restaurant (open 1 or 2 meals)		50 gpd	Per seat
Restaurant (open 3 meals)		62.5 gpd	Per seat
Restaurant (open 24 hours per day)		75 gpd	Per seat
RV space (with hookups)*		100 gpd*	Per unit
RV space (without hookups)*		50 gpd*	Per unit
Self-storage		20 gpd	Per employee/per 8-hr shift
Service stations		250 gpd	Per toilet fixture
Stadiums, racetracks, ball parks		5 gpd	Per seat
Store/shopping centers		0.1 gpd	Per ft <sup>2</sup> of retail space
Swimming pools, bathhouses, and hot tubs		10 gpd	Per person

E. Site-specific water demand study.

1. Alternative to standard requirements. As an alternative to the standard water demand rates set forth in paragraph II.D. above, a site specific water demand study may be prepared by the applicant to quantify the amount of water that will reasonably be required to serve the proposed development. Applicants may seek review and comment of the study from the planning engineer during the pre-application process prior to project submittal.
2. Site-specific water demand study required for certain development. At the director's discretion, a site-specific water demand study may be required for any proposed development not identified in Table 70-4 A. Applications proposing the following types of development shall prepare a site-specific water demand study and may not request a director determination letter based on commonality with existing estimates:
  - a. Mineral extraction.
  - b. Landfills and recycling centers.
  - c. Batch Plants.
  - d. Any use regulated by the county pursuant to C.R.S. §§ 24-65.1-101 *et seq.*, Areas and Activities of State Interest.



- e. Breweries, distilleries, cideries, and wineries.
- 3. A site-specific water demand study shall fulfill the following minimum requirements:
  - a. Preparation and stamp by a professional engineer or preparation by a certified professional geologist or professional hydrologist.
  - b. Contents. A site-specific water demand study with the following information:
    - (i) The water source.
    - (ii) The number of square feet of land surface to be irrigated (if any).
    - (iii) Plant types and amounts (if any).
    - (iv) Estimates of plant/crop evapotranspiration and application efficiency of irrigation water.
    - (v) Itemized estimates of the water demands of any other activities, individual fixtures, or equipment associated with the proposed development.
    - (vi) Itemized quantification of projected water demand.
  - c. It is the county's policy to encourage all development to establish water conservation measures. Preparation of a conservation plan, including specific measures to reduce water demand, is encouraged for all site-specific water demand studies.

**III. Criteria for verification of legal water supply.** Unless specifically excepted herein, all proposed development must demonstrate proof of a legal water supply. Verification requirements for the water supply are set forth in this section. Proposed development that fails to demonstrate an adequate legal supply to meet its water demand at full buildout shall not be approved.

- A. Service by existing public water provider or designated regional public water provider.
  - 1. Adequate legal water supply for the development may be established as follows:
    - a. At project submittal, written confirmation from an existing public water provider or designated regional public water provider stating that such provider has the physical and legal capacity to serve the development and is willing to provide a water supply sufficient for build-out of the proposed development, including the information required in paragraph IV.A below if applicable.
    - b. Signed commitments of firm water delivery (such as a perpetual, non-revocable tap reservation) or evidence of tap purchases from the existing public water provider or designated regional public water provider prior to permit issuance or final plat recording.
  - 2. Requirement to connect to water system.
    - a. General requirement. All proposed development within four hundred (400) feet of a water main of a public water system or designated regional public water system shall connect to such system, unless the applicable provider certifies, in writing, that the system lacks sufficient capacity to serve the proposed development; or the connection would be technically impracticable; or the provider otherwise refuses to serve the proposed development.
    - b. The distance from the proposed development to the applicable water main shall be measured in a direct line from the nearest point on the development's property line to any water main of the applicable provider's distribution system.
- B. Other development. For development proposing service by any means other than an existing public water system or by a designated regional public water provider, a legal water supply may be established at project submittal through verification, by the Colorado State Engineer's Office,



Division of Water Resources, of the applicant's water rights and/or permanent water well permit and any augmentation plan(s) or other decreed water rights. For subdivisions, legal water shall be established by providing a well permit for the well that was used to verify physical water supply per subsection IV below, as well as positive comments from the Colorado State Engineer's Office, Division of Water Resources that the remainder of the subdivision has the ability to obtain well permits in the future. Plans relying on a temporary or substitute water supply do not to meet the requirements of this section.

**IV. Criteria for verification of physical water supply.** At project submittal, all proposed development subject to these provisions shall demonstrate a water supply adequate to meet the development's estimated demand rate, as calculated pursuant to subsection II above, according to the following standards.

- A. Service by existing public water provider or designated regional public water provider for developments with demand exceeding 9,750 gallons per day. For developments exceeding 9,750 gallons per day, that is proposing to use water from an existing public water provider or designated regional public water provider, written confirmation that the provider has the physical capacity to serve the development and is willing to provide a water supply sufficient for build-out. Such written confirmation must be provided in a report or letter prepared by a professional engineer or by a water supply expert, acceptable to the county, from the public water or designated regional public water provider and must include the following:
1. An estimate of the water demand requirements for the proposed development through build-out conditions.
  2. A description of the physical source of water supply to be used to serve the proposed development.
  3. An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions.
  4. The present demand on the water provider and the anticipated demand due to commitments for service entered into but not yet supplied.
  5. The amount of uncommitted firm supply the provider has available for future commitment and development.
  6. Water conservation measures, if any, that may be implemented within the development.
  7. Water demand management measures, if any, that may be implemented to account for hydrologic variability.
  8. A summary of the water rights owned and controlled by the provider.

The specific requirements set forth in this paragraph IV.A may be waived by the county's planning engineer if a water supply plan is on file with the county for the applicable water provider and such plan has been reviewed and updated, if appropriate, within the past ten (10) years by the governing board of the public water provider or designated regional public water provider, has a minimum twenty (20) year planning horizon and otherwise meets the requirements of C.R.S. § 29-20-304, as amended from time to time.

- B. Groundwater. For development proposing to use groundwater from a source other than an existing public water provider or designated regional public water provider subject to paragraph IV.A, aquifer data and/or testing shall be required, the scope and duration of which shall be determined based upon the development's estimated water demand. For phased development, when the cumulative water demand of any previously approved phase(s) and/or the current proposed phase meets or exceeds any of the tiered thresholds set forth in this paragraph IV.B, the applicant shall establish adequate water supply by completing additional tests or reports (i.e.

well aquifer constant-rate tests or a comprehensive hydrogeologic report, based on aquifer testing and a water balance estimate), as appropriate.

1. Basic standards for adequate supply. An adequate water supply for the proposed development shall be demonstrated through satisfaction of the following and other applicable criteria set forth in this paragraph IV.B:
  - a. The well can maintain a minimum average pumping rate of two and two-tenths (2.2) gpm over the prescribed duration of pumping.
  - b. Pumping rates do not vary more than ten (10) percent over the duration of the test.
  - c. Recovery data demonstrates the water level recovered to within ninety (90) percent of the total drawdown within two (2) times of the pumping duration during the aquifer test. If recovery is deficient, a professional engineer or a professional geologist may provide supplemental data to demonstrate adequate recharge to the well.
2. Development with estimated demand of one thousand fifty (1,050) gpd or less. For development with an estimated water demand of one thousand fifty (1,050) gpd or less, the applicant shall provide the following information and/or perform the following testing:
  - a. For development of additional dwelling units subject to director determination approval pursuant to subparagraph 66-4.I.A or minor permit approval pursuant to subparagraph 66-6.I.B, for which an existing well (whether an individual groundwater well or a micro water system) has been in operation for one (1) year or more and is located on a portion of the development, and where the anticipated development will not increase the water demand of current uses, the applicant shall provide:
    - (i) A copy of the well's pump installation report.
    - (ii) A copy of the well's construction and test report, or a statement from a well driller, pump installer, professional engineer or professional geologist who has constructed, serviced, or tested the well, describing the well's production capabilities.

If the information listed above is not available, or if it indicates the well may not be capable of producing a minimum sustainable yield of two and two-tenths (2.2) gpm, the applicant shall perform a single well aquifer constant-rate test according to the specifications set forth below in subparagraph IV.B.2.b.
  - b. For all other wells (whether an individual groundwater well or a micro water system) serving development with an estimated demand of one thousand fifty (1,050) gpd or less, the applicant shall perform a single well aquifer constant-rate test within one (1) year prior to the county land use application submittal date according to the following specifications:
    - (i) The test shall be conducted for a minimum of eight (8) continuous hours.
    - ~~(ii)~~ The test shall follow the protocol requirements outlined under subparagraph IV.B.4 below.
    - ~~(iii)~~ The well tested must be located on the subject property.
    - ~~(iv)~~ The test shall be conducted by a licensed well driller, licensed pump installer, or by the landowner with oversight and -certification by a professional engineer.
3. Development with an estimated demand of more than one thousand fifty (1,050) gpd. For development with an estimated water demand of more than one thousand fifty (1,050)

gpd, the applicant shall submit a comprehensive hydrogeologic report prepared by a professional engineer or professional geologist, based on aquifer testing and a water balance estimate. The report shall include estimates based on the test data of the underlying aquifer's hydraulic conductivity, transmissivity, storage coefficient or specific yield, and the distance from the well that appreciably zero (0) drawdown is anticipated to occur. The report shall include water conservation measures, if any, that may be implemented within the development and water demand management measures, if any, that may be implemented within the development to account for hydrologic variability.

- a. Basic testing requirements:
  - (i) An aquifer constant-rate test with at least one (1) production well and one (1) observation well. Existing wells meeting the standards specified in subparagraph IV.B.4.a(iii) below may be used with their owners' written permission.
  - (ii) The test shall be conducted for a minimum of twenty-four (24) continuous hours.
  - (iii) The test shall be supervised by a professional engineer or professional geologist, in coordination with the county's planning engineer. The county's planning engineer shall approve the proposed locations of all production and observation wells and determine whether any additional testing, as set forth in sub-subparagraph IV.B.3.b below, may be required.
  - (iv) The test shall follow the protocol requirements outlined under subparagraph IV.B.4 below.
- b. Additional testing requirements. The need for any additional testing requirements, including but not limited to an aquifer step test, additional duration, or additional production or observation wells shall be determined by the county's planning engineer in coordination with the applicant's professional engineer or professional geologist. Factors used to determine the number of production and observation wells shall include:
  - (i) Aquifer and geological characteristics (i.e. hydrogeologic setting).
  - (ii) Project acreage.
  - (iii) Anticipated water demands and type of proposed development.
  - (iv) Neighboring parcels' water uses and water sources.
- c. Contents of hydrogeologic report. The hydrogeologic report shall include, at a minimum, the following information and analyses:
  - (i) Geological maps, cross-sections, and descriptions of the aquifer systems proposed for production, including information concerning the probable hydrogeologic boundaries, recharge areas, and location of discharge of those aquifers.
  - (ii) Maps and cross-sections showing the depth to the water, and the estimated saturated thickness in the aquifers.
  - (iii) Identification of the nature of the aquifer geology (e.g. bedrock formation, alluvial deposit, or unconsolidated material) and the type of aquifer (e.g. confined, unconfined, or semi-confined).
  - (iv) A water budget of the aquifer demonstrating that the overall depletion rate of the aquifer will not exceed the recharge rate, excluding recharge from regional and/or adjacent irrigation on other properties. Recharge from irrigation and/or other sources on the development may be considered if the applicant can

reasonably assure their continued practice and permanence after development of the parcel. Such assurance may take the form of a deed restriction or substantially similar mechanism acceptable to the county's planning engineer. The depletion rate must include current and probable future demands on the aquifer. Probable future demands must include any development which has obtained land use approval or has valid existing vested rights but has not yet been completed.

- (v) Probable yields of the proposed well(s), based on aquifer test analysis, calculated aquifer characteristics, description of possible hydrologic boundaries, historic water level changes, and logs and yields of existing wells (on-site proximate).
  - (vi) A projection of drawdown on properties that may be affected by the proposed withdrawals.
- d. Time period for validity of hydrogeologic report.
- (i) The aquifer constant-rate test relied upon for the hydrogeologic report must have been completed within one (1) year of the hydrogeologic report's submittal date.
  - (ii) A completed hydrogeologic report that was approved and/or accepted by the Planning Department shall be valid for a period of two (2) years from the submittal date of the report; provided, that: (a) the previously completed hydrogeologic report meets all requirements listed in this paragraph IV.B; and (b) the proposed demand is substantially the same as the original development plan based on factors including, but not necessarily limited to: the type of development; total, daily, peak, and seasonal demands that are less than or equal to the previous application; the same physical and legal water supply; and overall water balance and total recharge validity.
  - (iii) For a completed hydrogeologic report that was approved and/or accepted by the Planning Department and is between two (2) and five (5) years old, the requirements set forth in subparagraph IV.B.3.d(ii) above must be satisfied and a current twenty-four (24) hour aquifer constant-rate test and a condensed report must be completed to supplement the existing hydrogeologic report. The condensed report shall compare the original and current aquifer tests to verify that aquifer and/or well conditions have not changed as to static water level, duration of test, pumping rate, rate of drawdown, and recovery.
  - (iv) Hydrogeologic reports older than five (5) years will not be accepted.
4. Aquifer testing protocol. All aquifer testing conducted pursuant to this paragraph IV.B shall adhere to the following requirements:
- a. Well construction.
    - (i) All production and observation wells shall be constructed by a well driller licensed by the Colorado State Board of Examiners of Water Well Construction and Pump Installation Contractors.
    - (ii) The licensed driller drilling any well intended to satisfy the provisions of this section shall prepare a well construction and test report for each production and observation well drilled, which shall include the following documents:
      - (1) Detailed completion of Colorado State Engineer's Office Form No. GWS-31 Well Construction and Test Report, as amended, or a facsimile thereof.

- (2) Detailed completion of section 5, Geologic Log of the GWS-31 form, as amended, including accurate log notations of the depth(s) at which water is encountered.
  - (3) Submission of a supplemental county well test data form and copies of all well construction and testing reports (Form No. GWS-32, as amended) and pump installation and test reports (Form No. GWS-31, as amended) that have been submitted to the State Engineer's Office.
- (iii) Observation wells shall be drilled to a depth similar to the depth of the production well and should screen at a minimum eighty (80) percent of the same interval screened in the production well.
- b. Measuring rates. For discharge rates of thirty (30) gpm or less, volumetric measurement using a minimum five (5) gallon sized calibrated bucket and a stopwatch is acceptable. For discharge rates of water over thirty (30) gpm, a calibrated flow meter or a comparable measuring device approved by the planning engineer (e.g., orifice plate and manometer, magnetic flowmeter, ultrasonic meters, cutthroat flume, or Parshall flume, etc.) shall be used.
  - c. Measuring water level. Water levels must be measured with a device that measures water levels within one-fourth (1/4) of an inch. The static water levels in all test wells must be recorded before pumping begins.
  - d. Water level measurement intervals. The water level measurement intervals set forth below in Table 70-4 B. shall be used for all aquifer constant-rate tests.

**Table 70-4 B Minimum Recording Intervals for Water Level Testing in the Production Well during an Aquifer Constant Rate Test/Measuring Recovery Level Data**

<b>Time of Aquifer Constant Rate Test</b>	<b>Recording Interval</b>
0 to 5 minutes	Every 1 minute
6 to 10 minutes	Every 2 minutes
11 to 60 minutes	Every 5 minutes
61 to 120 minutes	Every 15 minutes
121 to 240 minutes	Every 30 minutes
241 to 600 minutes	Every 60 minutes
601 to 1440+ minutes	Every 120 minutes

- e. Prevention of return flow during aquifer tests. The water discharged from a well during any aquifer test must be discharged in a manner that minimizes recharge to the source aquifer during the time of testing.
- f. Recovery test. Once the aquifer constant-rate test is completed a recovery test shall be performed. Water level recovery data shall be recorded in the same manner and on the same form as the aquifer test data, with time and depth measurements taken pursuant to Table 70-4 B above. Recovery tests shall be conducted for a minimum of one-half (1/2) the duration of the aquifer test, or until the static water level recovers ninety (90) percent of the total drawdown during the aquifer test, whichever is greater.

- C. Surface water. Development proposing to utilize a surface water system from a source other than an existing public water provider or designated regional public water provider subject to paragraph IV.A shall comply with the requirements set forth below.
  - 1. Firm yield analysis. The applicant shall submit a firm yield analysis which satisfies the following criteria:
    - a. Prepared by a professional engineer, professional hydrologist or professional geologist;
    - b. Demonstrate that any adjudicated water rights, and any water storage, are sufficient in terms of quantity and seniority to meet the development’s estimated demand (including cumulative demand for any phased development with previously approved phases), as calculated pursuant to subsection II above, in times of minimum stream flows or reservoir levels;
    - c. Minimum stream flows or reservoir levels shall be determined by using the lowest recorded data. If actual historical data is insufficient, estimated data may be utilized using the engineer’s best professional judgment; and
    - d. Include water conservation measures, if any, that may be implemented within the development and water demand management measures, if any, that may be implemented within the development to account for hydrologic variability.

**V. Water quality standards.** Except development exempt from this subsection V, as specified in paragraph V.A, all development subject to these provisions must submit, with its project submittal, water quality data according to the requirements below. Water quality data shall be valid for no more than one (1) year from the date of the sample results and shall be taken from a water source on the subject property. These requirements are in addition to water quality requirements promulgated by CDPHE.

- A. Applicability/exemptions. The following development is exempt from the water quality standards set forth in this subsection V.
  - 1. Development served by an existing public water system or designated regional public water system subject to water quality testing and treatment requirements established by CDPHE.
  - 2. Accessory uses that satisfy both of the following conditions: (a) no more than two (2) employees, agents, assistants or other individuals related to the normal operations of the accessory use who do not reside at the dwelling unit will be on site for operations related to the accessory use; and (b) no customers or other members of the public will be on site for operations related to the accessory use. Any accessory use that fails to satisfy either, or both, conditions shall be subject to the standards set forth in this subsection V.
- B. Submittals/Certified laboratories. Applicants shall submit water quality data to the county on forms prescribed by the Planning Department and shall include the actual test results from a laboratory or laboratories certified to perform the appropriate testing by CDPHE with their submittals.
- C. Constituents tested. Water quality data shall include, at a minimum, the basic primary drinking water constituents set forth below in Table 70-4 C.

<b>Table 70-4 C Water Quality Testing Constituents</b>	
<b>Primary Drinking Water Constituents – Testing Required</b>	
Antimony	Fluoride
Arsenic	Lead
Barium	Mercury

Beryllium	Nitrate
Cadmium	Nitrite
Chromium	Total coliforms (presence/absence)
Copper	Selenium
E. coli (presence/absence)	Thallium

Further, while not mandatory, additional testing for secondary constituents listed in Table 70-4 D below is encouraged for all development.

<b>Table 70-4 D Secondary Drinking Water Constituents – Testing Encouraged</b>	
Alkalinity	pH
Chloride	Sulfate
Iron	Total dissolved solids
Manganese	Total hardness
Nickel	

D. Testing and treatment requirements.

1. Subdivision lots served by individual groundwater wells.
  - a. Applicants shall test water quality for primary constituents identified in paragraph V.C above and shall provide copies of such results to the county.
  - b. If water quality results for any of the primary drinking water constituents tested under paragraph V.C above exceed the applicable MCL as enumerated by CDPHE, a plat note shall be added to the plat identifying that one (1) or more constituents exceeds the MCLs and that future development using the water tested may require treatment.
2. Other development. For all other development,
  - a. Applicants shall test water quality for primary constituents identified in paragraph V.C above and shall provide copies of such results to the county.
  - b. If any of the primary constituents tested exceeds the applicable MCLs, as enumerated by CDPHE, the applicant shall install appropriate treatment measures and re-test the water quality to demonstrate that no constituents listed under Table 70-4 C exceed the applicable MCLs, as enumerated by CDPHE.

**VI. Cistern and hauled water supply.**

- A. With respect to new development, cistern and hauled water is allowed only for administrative or minor land use permits for second or third dwelling units approved pursuant to chapter 66, and for agricultural exempt and single (involving only two (2) lots) subdivisions; provided, when compliance with the following criteria is met.
  1. Unavailability of water service. The applicant must prove the unavailability of water service from a public water system or designated regional public water system if the proposed development within four hundred feet (400) of a water main of a public water system or designated regional water system. The applicable provider must certify, in writing, that the system lacks sufficient capacity to serve the proposed development; or the connection would be technically impracticable; or the provider otherwise refuses to serve the proposed development.



2. Unavailability of groundwater. The applicant must demonstrate to the planning engineer's satisfaction the technological infeasibility of using groundwater by providing one (1) or more of the following:
  - a. A driller's log, aquifer constant-rate test data, water quality data, or other information satisfactory to the planning engineer pertaining to a new or existing production or observation well on the subject property that has been drilled to a depth within five (5) percent of the depth of the nearest producing well; or
  - b. A report from a professional engineer or a professional geologist demonstrating that a new well on the subject property will produce water from the same aquifer as neighboring well(s) based on the number of neighboring wells, the relative depth of each of the neighboring wells, aquifer constant-rate test data and the distance of the neighboring wells from the subject property.
  - c. Factors the planning engineer may consider to determine the unavailability or technological infeasibility of using groundwater includes, but shall not be limited to, the following:
    - (i) The Division of Water Resources will not issue an exempt well permit for the development and augmentation water is unavailable.
    - (ii) An existing observation or production well on the subject property, or neighboring production well(s) pumping water from the same aquifer, produces a minimum sustainable yield of less than two and two-tenths (2.2) gpm.
    - (iii) An existing observation or production well on the subject property, or neighboring production well(s) pumping water from the same aquifer, produces poor quality water and treatment is not technically practicable.
3. Execution of notice required. The applicant for any development approved to be served by bulk hauled water must sign a notice acknowledging: "La Plata County provides no assurance or representation that the use of bulk water and a cistern will be an approved or acceptable long-term source of potable water. There is no guarantee that bulk hauled water will always be available for sale, and La Plata County has no authority or jurisdiction whatsoever over water suppliers or their decision to sell water in bulk to the general public." The foregoing acknowledgment shall also be included in any covenants and as a plat note, where applicable.
4. Requirement to connect to water system. At which future time a public water system or designated regional public water provider extends its water mains to within four hundred feet (400) of any development served by cisterns and hauled water, such development shall be required to connect to and use water from such public water system or designated regional public water provider's system within eighteen (18) months of the date on which the determination of capacity and willingness to serve has been confirmed by the CDD.  
 The requirement to connect shall not apply if the applicable provider certifies, in writing, that the system lacks sufficient capacity to serve the development; or the connection would be technically impracticable; or the provider otherwise refuses to serve the development. The distance from the development to the applicable water main shall be measured in a direct line from the nearest point on the development's property line to any water main of the applicable provider's distribution system.

**VII. Design and construction standards and specifications for central water supply systems and micro water system.** Except for development exempt from this subsection VII, as specified in paragraph VII.A, all future development shall meet the design and construction standards set forth in this section.

- A. Applicability/exemptions. The following development is exempt from the design and construction standards and specifications set forth in this subsection VII.
1. Development served by an individual groundwater well(s).
  2. Development of additional dwelling units subject to director determination approval pursuant to paragraph 66-4.I.A.
  3. Development of additional dwelling units subject to administrative approval pursuant to paragraph 66-5.I.B.
  4. Development of additional dwelling units subject to minor approval pursuant to paragraph 66-6.I.I.
- B. General requirements.
1. Relevant law. All minimum standards and requirements of relevant Federal and State agencies shall be followed in design and construction.
  2. Easements and specifications. All water distribution systems shall be located within appropriate easements or public or private rights-of-way and shall conform, as applicable, to the specification set forth in water detail W03, Appendix A to section 70-4 - La Plata County Water Specifications and Standard Water Details, which specifications and details may be amended from time to time by the county's planning engineer to comport with current industry standards.
  3. Required plan submittals and submittal procedures.
    - a. Construction plans and specifications. All submitted construction plans and specifications shall meet the minimum formatting and content requirements set forth in water plan guidance documents made available by the CDD, which guidance documents may be amended from time to time by the planning engineer to comport to current industry standards.
      - (i) Preparation requirements. All construction plans and specifications submitted shall be:
        - (1) Prepared under the direction of, and signed and sealed by, a professional engineer.
        - (2) Completed with sufficient detail to facilitate review and clearly describe the existing conditions and proposed construction of the development in its entirety and detail all equipment, infrastructure, and access. The required detail of construction plans and specifications will depend upon the size, nature, and complexity of the project.
      - (ii) Timing of construction plan submittals.
        - (1) Preliminary construction plans. One (1) set of preliminary construction plans and specifications, in an acceptable electronic format, shall be provided at project submittal.
        - (2) Final construction plans. Prior to construction, the applicant shall submit final, approved construction plans and specifications, signed and sealed by a professional engineer.
    - b. Capacity statement. At project submittal, applicants shall provide a statement of the maximum number of taps and/or units the central water supply system or micro water system has capacity to serve.
    - c. Calculations. One (1) set of calculations supporting the design criteria employed shall be furnished with the preliminary and final construction plans and specifications.

Each sheet of calculations shall be dated and shall include the name or initials of the individual making the calculations. All calculations shall be prepared, signed and stamped by a professional engineer.

4. Development improvements agreement. For developments that choose not to construct and complete water distribution systems prior to recording of the final plat, the applicant shall enter into a development improvement agreement, pursuant to section 66-30 and be subject to the requirements set forth in section 66-30.
- C. Central water systems and campgrounds regulated by CDPHE.
1. CDPHE review. Construction plans and specifications, meeting the design and construction standards set forth by CDPHE and the requirements set forth in subparagraph VII.B.3 above, are required at project submittal for any central water supply system regulated by CDPHE and may be sent to CDPHE for review and comment.
  2. Designated regional public water provider design and comment. Any development whose property is served by or located within a designated regional public water provider's service area or whose boundaries are within four hundred (400) feet of the boundary of such service area shall design and construct its water supply system in accordance with the designated regional public water provider's construction and design standards and specifications. The CDD will provide the designated regional public water provider with an agency referral and access to the drawings and specifications submitted by the applicant. Positive comments from that designated regional public water provider shall be obtained prior to scheduling a PC meeting.
  3. More stringent design standard. In circumstances where the service area of two (2) designated regional public water providers abut or overlap and/or where development is subject to both CDPHE approval and the design and construction standards of a designated regional public water provider, the more stringent design and construction standards shall apply to the development; provided, that if the more stringent standard creates a conflict or inconsistency that is reasonably anticipated to affect future provision of water by a designated regional public water provider, as determined by the county's planning engineer, the following criteria will be used to determine which design and construction standards apply:
    - a. When development occurs within the defined service area of only one (1) designated regional public water provider, the design and construction standards of such water provider shall control regardless of the location of a second regional public water provider.
    - b. When development occurs within the defined service area of two (2) or more designated regional public water providers or within four hundred (400) feet of the same while being outside of the designated boundaries of any such provider, the planning engineer shall determine which design and construction standards apply, after considering the following factors:
      - (i) The ability of one of the designated regional public water providers to waive a conflicting standard.
      - (ii) The closest designated regional public water provider's water main. The distance from the proposed development to the applicable water main shall be measured in a direct line from the nearest point on the development's property line to any water main of the applicable provider's distribution system.
      - (iii) Any town, city, or municipality's adopted future land use map.

- (iv) Any other factors that may reasonably affect future service to the development by a designated regional public water provider.
  - 4. Plat recording or permit issuance. Approval of the construction plans and specifications by CDPHE, or written notice that such approval is not required, must be received prior to plat recording or permit issuance. Further, installation of the central water supply system is required prior to plat recording or permit issuance unless a development improvements agreement is executed.
- D. Micro water providers. Micro water systems shall comply with the following.
- 1. Designated regional public water provider design and comment. Any development whose property is served by or located within a designated regional public water provider's service area or whose boundaries are within four hundred (400) feet of the boundary of such service area shall design and construct its micro water system in accordance with the designated regional public water provider's construction and design standards and specifications. The CDD will provide the designated regional public water provider with an agency referral and access to the drawings and specifications submitted by the applicant. Positive comments from that designated regional public water provider shall be obtained prior to scheduling a Planning Commission meeting.
  - 2. More stringent design standard. In circumstances where the service area of two (2) designated regional public water providers abut or overlap, the more stringent design and construction standards shall apply to the development; provided, that if the more stringent standard creates a conflict or inconsistency that is reasonably anticipated to affect future provision of water by a designated regional public water provider, as determined by the county's planning engineer, the following criteria will be used to determine which design and construction standards apply:
    - a. When development occurs within the defined service area of only one (1) designated regional public water provider, the design and construction standards of such water provider shall control regardless of the location of a second regional public water provider.
    - b. When development occurs within the defined service area of two (2) or more designated regional public water providers or within four hundred (400) feet of the same while being outside of the designated boundaries of any such provider, the planning engineer shall determine which design and construction standards apply, after considering the following factors:
      - (i) The ability of one of the designated regional public water providers to waive a conflicting standard.
      - (ii) The closest designated regional public water provider's water main. The distance from the proposed development to the applicable water main shall be measured in a direct line from the nearest point on the development's property line to any water main of the applicable provider's distribution system.
      - (iii) Any town, city, or municipality's adopted future land use map.
      - (iv) Any other factors that may reasonably affect future service to the development by a designated regional public water provider.
  - 3. County design standard. Any development not served by a designated regional public water provider whose property boundaries are more than four hundred (400) feet from a designated regional public water system's service area shall design and construct its micro water system in accordance with the design and construction standards set forth in Appendix A to section 70-4 - La Plata County Water Specifications and Standard Water

Details, which specifications and details may be amended from time to time by the county's planning engineer to comport with current industry standards.

4. System storage. All micro water systems shall be designed to provide storage capacity to store a quantity of water sufficient to supply two (2) days of the development's estimated daily demand.
5. Meters required.
  - a. Common source of water. Installation of a water meter (or equivalent measuring device) on the common water source of water is required for the all development subject to this paragraph VII.D.
  - b. Individual water meters required. Where more than one (1) building or structure is served by a common water source, installation of individual water meters, to measure consumption at each building or separate structure, is required for the following types of development:
    - (i) Single-family residential development, including manufactured home subdivisions but not manufactured home parks, with four (4) or more lots.
    - (ii) Developments of multi-family dwellings with four (4) or more total dwelling units in the development; provided, that manufactured home parks are exempt from this requirement.
    - (iii) All other types of development, including but not limited to mixed use development.
    - (iv) Any single-family residential development or development of multi-family dwellings, other than manufactured home parks, regardless of size, that proposes to use a micro water system that supplies or will supply water to a total of four (4) or more lots or dwelling units, as applicable.
6. Additional required plan submittals and submittal procedures. In addition to plan submittals required in subparagraph VII.B.3 above, development to be served by micro water systems and providers must submit the following additional plans:
  - a. System maintenance plan. A system maintenance plan, which includes the following items must be submitted at project submittal:
    - (i) A list of equipment, parts, and supplies needed to ensure the micro water system's continued mechanical functioning.
    - (ii) A regular maintenance schedule to ensure the continued safe operation of the micro water system.
    - (iii) Name of a person or entity responsible for carrying out the system maintenance plan.
  - b. Soils report. If required by the planning director, a soils investigation report shall be provided with the preliminary construction plans. Sufficient subsurface exploration borings and analyses shall be made to permit the planning director to make an adequate assessment of any soil problems that may be encountered.
  - c. Surveys. All the existing conditions, including rights-of-way easements and horizontal and vertical control information, shall be prepared by a professional land surveyor licensed in the state of Colorado.
7. Construction process and project acceptance.

- a. Development completing construction prior to plat recording. For developments that construct and complete water distribution systems prior to recording the final plat and/or permit issuance, the applicant shall submit the following:
  - (i) Record drawings. Record drawings of water distribution systems, in an acceptable electronic format, and the AutoCAD file of the system. CAD files shall contain GPS points that can be easily incorporated into the county's GIS database.
  - (ii) Engineer's certification. The project engineer shall submit a certification that the micro water system has met the following requirements:
    - (1) The micro water system has been constructed in accordance with the approved drawings and specifications.
    - (2) The potable water lines have been disinfected in accordance with the specifications outlined in Appendix A. Bacteriological test results, demonstrating compliance with specifications outlined in Appendix A, must be submitted with the engineer's certification.
    - (3) The hydrostatic testing has been conducted in accordance with the specifications outlined in Appendix A. Documentation of successful hydrostatic testing, demonstrating compliance with the specifications outlined must be provided with the engineer's certification.

### VIII. County water rights.

- A. 06CW99 water rights. La Plata County owns conditional water rights decreed in Case No. 06CW99, which are available to provide a legal water supply in some portions of the county (Animas River, Junction Creek, and Lightner Creek watersheds) for specific decreed uses. The decree in Case No. 06CW99 and chapter 94, Article IV of this code detail the process of applying for and conveying a deeded portion of the decreed water right to an individual user to cover the stream depletions associated with their individual project.
- B. 06CW127 water rights. La Plata County, together with the Southwestern Water Conservation District, owns conditional water rights decreed in Case No. 06CW127, which can be perfected to provide a legal water supply in some portions of the county for specific decreed uses. The decree in Case No. 06CW127 and chapter 94, Article V of this code detail the process of filing a notice of intent and perfecting and transferring increments of the conditional Animas Service Area water right to an individual user to cover the stream depletions associated with their individual project.

### Sec. 70-5 Compatibility assessment

- I. **Applicability.** All applications for minor and major land use permits shall be assessed in terms of the proposed development's ability to achieve and maintain compatibility with the natural environment and the existing and desired uses where the development is located as described in this section.
- II. **Conformance with adopted plans.** All applications shall be in general conformance with the county's adopted plans including but not limited to the comprehensive plan and applicable district plan. In determining compatibility, the decision-making body shall weigh competing goals, policies, objectives, and strategies and may approve an application that provides public benefit even if the development is contrary to some of the goals, policies, objectives, or strategies of the adopted plans.
- III. **Compatibility criteria.** All applications for minor and major land use permits shall demonstrate compatibility ~~by through compliance with the standards set forth in this code and~~ fulfilling the criteria in this section. The standards in this code are those considered to be the minimum necessary to achieve compatibility and shall not be lessened except where a variance is obtained. Fulfillment of



the criteria may be achieved through the implementation of mitigation measures for all potential adverse impacts. A compatible development is one which will achieve each of the following:

- A. Appropriate densities and uses for the parcel. In determining appropriate densities and uses for the parcel, the decision-making body shall take into account, among other things, the parcel's physical characteristics including natural topography and the location of the property relative to available infrastructure and community services.
- B. Avoidance of unmitigated nuisance conditions. The development shall not create nuisance conditions that negatively impact adjacent properties or the public. The following nuisances shall be contained within and beyond the development parcel's property lines.
  1. Noise. Noise shall not exceed the established levels as set forth in section 70-21.
  2. Odor. Subject to any applicable federal or state law, no development shall produce adverse or noxious odors as perceived at the development's property line. At a minimum, the development shall comply with CDPHE, Air Quality Control Commission, Regulation No. 2 Odor Emissions, 5 CCR 1001-4.
  3. Vibration. All equipment and structures associated with the development shall, when applicable, be anchored or constructed so transmission of vibrations is not detectable on surrounding properties through the ground or air.
  4. Dust. Dust generated on-site shall not impact surrounding properties. Where non-paved roads are created or used by the development, the development shall provide adequate dust suppression.
  5. Glare. Reflective materials utilized for new development shall not produce brightness to cause annoyance, discomfort, or loss in visual performance as seen from the public right of way or from surrounding properties.
  6. Hours of operation. ~~The decision making body shall establish hours of operation that best mitigate offsite impacts and based upon the hours in Ch. 73. Unless approved otherwise by the decision-making body, commercial development and industrial development shall only operate outdoors between the hours of 7:00 a.m. to 7:00 p.m.~~
- C. Pollution control practices and permits. Development shall not impermissibly cause pollution of groundwater or surface waters, air and soil. Where applicable, the applicant shall identify any substances, contaminants or human-made or human-induced alteration of the chemical, physical, biological, or radiological integrity of air, ground, or water and provide a copy of the regulatory permit and permit conditions demonstrating conformance to the standards adopted by the applicable regulating agency.
- D. Maintenance of existing character. Development, whether through density, type of use or otherwise, should strive to maintain the existing characteristics and conditions of an area but, where not feasible, mitigation measures are required. If the development will change the existing characteristics or conditions of an area, the applicant shall demonstrate the surrounding area's characteristics are already changing to such a degree that it is in the public interest to encourage a new use in the area. Consideration of the characteristics of the surrounding area shall encompass one-quarter (1/4) mile from the subject parcel's property line.

Where conflicting land uses are proposed, the applicant shall identify mitigation for all potential adverse impacts sufficient to achieve each of the following:

1. Orderly land use pattern. The proposed development generally shall not result in an illogical or otherwise unordered land use pattern.
2. Adequate buffering. The development's lot size shall be large enough to allow for adequate buffering for the adjacent use, and to ensure adequate privacy for adjacent uses.



3. Minimal increase in density. Density of new lots ~~should shall~~ not deviate more than ~~fiftyten~~ (450) percent from the average of the density of surrounding properties as measured from one-quarter (1/4) mile of the subject parcel's property line. Parcels greater than 35 acres are calculated as the equivalent of one unit per 35 acres.
  4. Similarity of structures. Structures associated with new development shall be generally of the same scale, mass, height, and configuration of surrounding land uses.
  5. No increase in hazards. The proposed development shall not create or result in hazards, to an extent greater than other uses in the surrounding area to which it would be added.
  6. Application of development standards. Application of required development standards that result in infrastructure improvements that are not generally comparable with the characteristics of surrounding land uses.
- E. Adequate provision of services. The development shall not have a significant adverse effect on the ability of local governments and quasi-governmental agencies to provide the services necessary to accommodate the development or exceed the capacity of existing service delivery systems. The applicant shall submit an evaluation of the expected demands and effects of the development on service delivery systems, including but not limited to water, transportation, sanitation, electricity, fire protection, schools, police and flood protection.
- F. Natural environment and resources. The development shall not adversely impact the natural environment and/or resources within the surrounding area, which includes critical lands such as but not limited to archeological or cultural sites, existing wildlife habitat and migration corridors, and wetlands and riparian areas. In considering gravel, sand, topsoil and mineral extraction which may inherently adversely impact the natural environment and resources, the decision-making body shall consider best management practices for the mitigation of environmental impacts under the circumstances and final reclamation of the subject property to a form beneficial to the natural environment.

**IV. Mitigation measures.** If the development parcel has physical constraints or lacks compatibility for one or more criteria, the applicant shall propose measures designed to mitigate the adverse impacts created by the development, including, but not limited to mitigation measures, as identified in Table 70-5.

Table 70-5 Development constraints and possible mitigation measures		
Type Of Constraint	Public Health And Safety Concerns	Mitigation Measures
FLOODWAY	Flood hazards to structures Public health, safety, welfare	a. Compliance with <del>E</del> county floodplain regulations (see chapter 78)
GEOLOGIC HAZARD AREAS	Avalanche paths	a. Avoid placing any structures on areas subject to geologic hazards
	Landslide areas	b. Submit geotechnical report identifying hazards and recommending methods of construction to alleviate hazards; designing structures in accordance with recommendations contained in geotechnical report -(see section 70-8)
	Rock falls	
	Debris flows	c. Provide grading and foundation plans prepared by a registered - professional engineer (see section 70-9)
	Mudflows	
Unstable slopes or soils	d. Comply with recommendations of the State Geologic Survey (see section 70-8)	
Seismic effects	e. Modify land uses so that structures are minimized or eliminated	
Ground subsidence		

Table 70-5 Development constraints and possible mitigation measures		
Type Of Constraint	Public Health And Safety Concerns	Mitigation Measures
	Radioactivity	f. Cluster development to avoid hazard areas
SLOPES EXCEEDING 30%	Amount of site disturbance Visual scarring Slope stability Soil erosion Wildfire potential	a. Modify land uses so site disturbance is minimized
		b. Cluster development to avoid steep slopes
		c. Propose smaller scale rather than larger scale development in order to minimize the amount of site disturbance
		d. Design structures so they are stepped or otherwise fit with the terrain
		e. Minimizing the extent of roads
WETLANDS	Degradation of natural environment Loss of wildlife habitat Loss of cleansing action of wetlands Disruption of natural corridors	a. Propose land uses which are not disruptive to wetlands
		b. Cluster development to avoid wetlands areas
		c. Complying with 404 permit procedures
		d. Increased setbacks
WILDLIFE HABITAT	Protection of habitat critical to survival of species; Importance of wildlife to county economy	a. Propose land uses or land use intensities which are not disruptive to wildlife
		b. Cluster development to avoid critical wildlife habitat
		c. Consult with the CPW prior to designing development, and incorporate CPW's recommendations
		d. Minimize roads to reduce fragmentation of habitat
DUST	Increased air pollution Adverse health effects Decreased visibility	a. Frequent watering
		b. Use of dust palliatives
		c. Paving
		d. Speed control
		e. Surface treatment with prevention chemicals
ODOR	Adverse health effects	a. Filtration b. Separation from surrounding uses
VIBRATION	Adverse health and safety effects	a. Utilize best management practices
GLARE	Safety effects	a. Utilize best management practices
WILDFIRE	Potential loss of life and property	a. Consult with experts in wildland-urban interface or wildfire prevention
		b. Avoid areas most prone to wildfire
		c. Create and maintain defensible space around all structures

Table 70-5 Development constraints and possible mitigation measures		
Type Of Constraint	Public Health And Safety Concerns	Mitigation Measures
		d. Remove potential vegetative fuel even beyond the defensible space e. Have on-site fire response equipment and plans f. For subdivisions, have multiple points of emergency access (ingress and egress) g. Choose designs that make structures more fire resistant h. Choose building materials that make structures more fire resistant i. Identify responsibility and expectations for maintaining mitigation efforts through the homeowner's association or similar organization, when applicable
NOISE	Adverse health effects Hearing impairment Adverse impacts on wildlife	a. Limit hours of operation b. Conduct activities inside c. Additional buffering d. Propose land uses with lesser noise impacts e. Propose smaller scale rather than larger scale development in order to minimize the amount of noise

**Sec. 70-6 Setbacks and structure height**

**I. Setbacks.** The following minimum setbacks, unless otherwise specified, shall apply to structures and improvements which require a building permit:

**Table 70-6-A Setbacks**

	Agricultural/ Residential > 10,000sq/ft.	Residential Lots < 10,000sq/ft.	Commercial/ Industrial/Mixed Use	All public roads or streets
<b>Front</b>	20ft.	20ft.	<del>50ft.</del>	20ft.
<b>Side</b>	10ft.	5ft.	<del>10ft.</del>	20ft.
<b>Rear</b>	10ft.	5ft.	<del>10ft.</del> <u>To be determined by decision making body, unless prescribed elsewhere in this code, such as Ch. 73.</u>	20ft.

A. General setback criteria.

1. The front lot line shall be that from which primary access is obtained.
2. On corner lots, each right-of-way frontage shall meet front setback regulations.

3. Above-grade architectural features including but not limited to decks, eaves, attached canopies (excluding carports), fences and other screening walls, retaining walls, or other similar features may encroach up to five (5) feet into a required setback.
4. Above-grade ~~surface utility~~ equipment for propane and other utility gasoline or oil shall be setback a minimum of ten (10) feet from any right-of-way.
5. Should a greenbelt or open space exist between the property line and the public right-of-way, the greenbelt or open space may be applied to the setback.
6. Fences and screening, buffering, privacy, and retaining walls are exempt from these setback requirements.

~~7. Decks may encroach up to four (4) feet into a required side or rear setback.~~

- B. Setbacks from streams, lakes, rivers, and wetlands. Structures and improvements shall have a minimum setback of fifty (50) horizontal feet as measured from the wetlands, and bank high-water line of streams and rivers.
- C. Measurements.
  1. Front/Side/Rear Property Line. Property line setbacks shall be measured as the shortest distance between the lot or property line and the closest exterior wall or projection of a building or structure along a line at right angles to the lot or property line.
  2. Highway and Road Setbacks. For state highways, county roads and all other streets and roads, roadway setbacks are measured as the shortest distance between the edge of right-of-way and the closest exterior wall or projection of a structure or improvement. Alternately, if the width of the right-of-way is unknown, the setback shall be measured from the road center line with an additional forty (40) feet added to the minimum roadway setback requirement.
- D. Development prohibited within right-of-way. Development and obstructions within a county right-of-way or easement is prohibited and shall be removed by the property owner immediately upon discovery, at the owner's expense. Failure to remove development or an obstruction within the right-of-way or easement may be a violation of C.R.S. § 43-5-301, subject to criminal prosecution and civil action by the county.
- E. Minor and major land use permit setback criteria. The applicant may propose alternative setbacks which meet the criteria of this subsection, except for setbacks from public roads which are required to be twenty (20) feet or prescribed elsewhere in this code, such as Ch. 73. The review body and decision-making body shall review the adequacy of the proposed setbacks using all setback criteria in this section. If the review body or decision-making body finds that the proposed setbacks ~~do not meet are inadequate in terms of~~ the criteria, it shall increase or decrease determine the setbacks. The permit application shall be denied or continued until setbacks that comply with this subsection are provided. Structures shall be set back far enough from the property line to allow for:
  1. Sunlight and air to enter the structure.
  2. Preventing the spread of fire.
  3. Maintaining existing vegetation whenever possible. Existing vegetation may require alternative setbacks.
  4. Protecting the privacy of neighbors. Development which causes noise, odor, dust, smoke, glare, vibration, unsightly equipment or other external effects which can reasonably disturb neighbors may require alternative setbacks.
  5. Compatibility with similar existing setbacks in the general area.

6. Providing room for snow removal and for preventing the shedding of snow onto adjacent properties or facilities and roadways.
7. Adequate visibility of traffic from driveways and intersections.
8. Meeting building code requirements.
9. Adequate ingress, egress and general traffic safety.
10. Adequate building maintenance between properties.

**II. Structure height.** The following height standards shall apply to all new development in the county, except for sign structures, telecommunication facilities and small scale solar that are governed by the chapters 70 and 98, and except where a different height is permitted as part of an approved planned unit development or development agreement.

- A. The maximum structure height shall not exceed thirty (30) feet within twenty-five (25) feet of the lot line adjacent to a lot containing a dwelling unit or vacant lot.
- B. Properties subject to regulations set forth in the Animas Valley Land Use Plan in chapter 65 shall have a general maximum building height of thirty (30) feet for all nonagricultural structures, and a maximum of thirty-five (35) feet for agricultural structures.
- C. Roof height measurement. Roof height measurements shall be taken from pre-construction grade or from the lowest point along the foundation wall whichever is more restrictive, and the midpoint of a pitched roof or the highest point of a flat roof or parapet.

**III. Verifying setbacks or structure height.** The applicant or owner may be required, at the applicant or owner's expense, to verify compliance with the height or setback requirements of this section through a site improvement location certificate, if requested by the director.

#### **Sec. 70-7      Lighting**

**I. Purpose.** The purpose of this section is to provide standards for outdoor exterior lighting that assure the safety, utility, and security of development and prevent night lighting from adversely affecting adjacent properties and neighborhoods.

**II. Applicability.** All new development requiring a building permit shall comply with the standards in this section except:

- A. Outdoor lighting whose primary purpose is to serve the function or security of an agricultural use (outdoor lighting of residential dwellings and accessory structures located on the same property as the agricultural use are not exempt);
- B. Temporary decorations that are non-permanent and displayed on private property for not more than thirty (30) consecutive days; and up to no more than twice per year for a total of no more than sixty (60) days during a calendar year;
- C. Lighting used exclusively for aviation purposes, except that all heliport lighting shall be turned off when the heliport is not in use;
- D. Temporary lighting of construction sites and special events;
- E. Lighting within the public right-of-way that is used principally to illuminate streets;
- F. Lighting for seasonal, outdoor recreational facilities including ball diamonds and playing fields, is exempt from the full cutoff fixture and pole height requirements of this section, provided such lighting complies with the following standards:
  1. Exterior light sources do not exceed a maximum pole height of forty-five (45) feet;
  2. The maximum permitted illumination at the nearest interior setback line of a residential structure shall not exceed one and one-half (1 ½) foot candles;

3. All outdoor lights shall be extinguished by no later than 10:00 p.m.
- G. Lighting for the sole purpose of illuminating an American flag on agricultural and residential properties.

### III. General requirements.

- A. Unless otherwise specified in this section, all outdoor lighting fixtures with an initial output of more than two-thousand (2,000) lumens (equivalent to a twenty-six (26) watt compact fluorescent or one hundred (100) watt standard incandescent lamp type), including road, parking area, security, walkway, and building lighting shall be fully shielded.
- B. Unless otherwise specified in this section, the maximum mounting height of permitted outdoor lighting fixtures shall be thirty-five (35) feet above finished grade.
- C. All nonresidential outdoor lighting fixtures, including display lighting, shall be turned off after the close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.
- D. All lighting shall be downward directed and shall not spill across property lines.
- E. Permanent lights that blink, flash, or change in intensity are prohibited, except for government-authorized traffic control devices, or lights required by the Federal Aviation Administration for air traffic control and warning purposes.

#### Figure 70-7 Light fixtures

- IV. Lighting plan requirements.** Multi-family dwellings and all nonresidential development applications shall include a plan describing the outdoor lighting on the property, if any, in conformance with the requirements of this section. The plan shall show the lamps and wattage and height and location of outdoor lighting devices, fixtures, lamps, shields, supports, and reflectors. Descriptions of these lighting features shall also be submitted, which may be in the form of photographs or illustrations by manufacturers.

### Sec. 70-8 Avoidance of natural hazards and protection of sensitive lands

- I. **Purpose.** Natural hazards, including geologic hazards, pose a risk to county residents and their property. Development also occurs in the natural habitat of wildlife species. Development must therefore be sensitive to, and take account of, these natural conditions. This section establishes standards intended to:
  - A. Partially fulfill the goals and objectives of the county's 2018 Multijurisdictional Hazard Mitigation Plan, including but not limited to:
    1. Minimize loss of life and injury to people due to anticipated hazard events;
    2. Reduce damage to critical facilities and infrastructure;
    3. Reduce risks to property, the environment and economy of the county from the impacts of natural hazards.
  - B. Protect the county's significant natural resources, including areas containing unique and sensitive natural features such as rivers and streams, wetlands, and critical wildlife habitat;
  - C. Plan and design land uses to be harmonious with wildlife habitat and the species that depend on that habitat for the economic, recreational and environmental benefit of county residents and visitors.
- II. **Applicability.** Unless otherwise excepted, these standards apply to all new development and land disturbing activity where such activity occurs on land that contains any of the natural resources, steep slope areas, habitat, or hazard areas addressed by this section. Each lot or parcel shall contain a buildable area that complies with this section's standards.

- A. Exemptions – These standards do not apply to:
  - 1. Agricultural operations and structures: Agricultural activities such as soil preparation, irrigation including irrigation district and ditch activities, and irrigation pipelines, planting, plowing, harvesting, and grazing.
  - 2. Minor land disturbing activities: Activities that will disturb less than five thousand (5,000) square feet in area and less than eighteen (18) inches in depth and that are not required to obtain a building permit.
  - 3. Oil and gas drilling activities: See chapter 90 for applicable standards.

**III. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials: a site analysis map that provides information about existing physical site conditions and context, and that comprehensively analyzes existing physical conditions both on and off the proposed development site.

**IV. Existing maps and other data sources.** The information presented in the site analysis map should be produced primarily from existing governmental sources, maps, and data. However, in some instances accurate and reliable mapping may not be available at a site-specific level of detail. In situations where existing mapping and resources are unavailable or inaccurate, or where the applicant disputes the mapped boundaries of a resource or hazard area, the applicant shall retain a qualified professional acceptable to the county and with demonstrated expertise in the field to delineate the boundaries of any resource or hazard area addressed by this section's standards.

**V. Protection of wetlands.** Boundary delineation of wetlands shall be established by reference to the current USACE Wetlands Delineation Manual, which is available for reference in the USACE office. All wetland boundary delineations are subject to the county's approval.

- A. No person shall engage in any activity that shall disturb, remove, fill, drain, dredge, clear, destroy, or alter any area, including vegetation, within a wetland that falls in the jurisdiction of the federal government and its agencies, except as may be expressly allowed under applicable federal laws or regulations.
- B. Notwithstanding any contrary federal law or regulations, draining any wetland that falls in the jurisdiction of the federal government and its agencies is prohibited.
- C. The county shall not grant final approval to any development or activity, including subdivisions, in a wetland that falls within the federal government's jurisdiction until the applicant shows that all necessary federal approvals and permits have been obtained.
- D. The county shall not prohibit execution of a permitted mitigation plan or maintenance of those projects, nor shall it take responsibility for the mitigation project, even within areas to be accepted by the county upon final acceptance of all improvements. A letter from the USACE, accepting the mitigation, is required to release the development from further obligations.

**VI. Avoidance of steep slope areas.** Improper uses and disturbances on steep slopes may cause erosion, lead to structural failure, and increase downstream flooding and other hazards. The provisions in this subsection are intended to reduce potential for hazards due to slope failure, reduce potential for increased erosion and sedimentation, as well as preserve the visual quality of steep slope areas, which are a valuable natural and economic resource in the county. Where steep slope areas exist, the following shall apply:

- A. The USGS quadrangle maps shall be used to delineate steep slope areas on the site analysis map. A field-prepared or aerial topographic survey of greater accuracy (two (2) feet or smaller contour interval), having a scale of not less than one (1) inch equals one hundred (100) feet, certified by a licensed surveyor or professional engineer may also be used.



- B. Slope shall be computed on the existing slope of the land before any grading for the proposed development has commenced, as determined from the topographic survey.

**VII. Geologic hazard areas.** Geologic hazard areas have the potential to pose hazards to human life and safety and to property due to their geologic characteristics. Geologic hazard areas in the county include but are not limited to landslide areas, avalanche chutes, debris fans, rock falls, and areas with potentially unstable soils or slopes. This subsection is intended to ensure that new development avoids these geologic hazard areas to the maximum extent feasible. Where it is not possible for development to avoid these areas, standards are provided to reduce or minimize the potential impacts of the hazard on the occupants of the property and the occupants of adjacent properties, and to reduce or minimize the environmental impacts of development in these areas.

- A. Delineation of geologic hazard areas. The standards in this section apply to those areas delineated on the La Plata County Geologic Hazards Maps, prepared by the Colorado Geological Survey (CGS) that depicts the location of geologic hazard areas and parcels where field verification by a professional geologist determines the parcel contains geologic hazards although the Geologic Hazard Maps may not reveal such hazards. Conversely, if the Geological Survey maps indicate the parcel is in the location of a geologic hazard area and the applicant provides a field survey by a professional geologist which demonstrates no hazards or minimal hazards that do not require mitigation, the director may accept the field verification and waive compliance with this section's mitigation requirements.
- B. Mitigation plan required. Applicants proposing development within a mapped or identified geologic hazard area shall prepare and submit a mitigation plan prepared by a professional geologist that addresses how such development will either avoid or substantially mitigate the identified hazard. The plan shall identify how to avoid the creation or increase in the severity of adverse impacts on adjacent properties, including county roadways, as a result of the development.
- C. Referral to CGS. The county shall refer all applications for new development within an identified geologic hazard area, and mitigation plan, to the Colorado Geological Survey (CGS) for review and comment.
  - 1. CGS will review the application and provide comments to staff. The review shall be used to determine if the mitigation plan for the proposed development is reduces or minimizes the potential impacts of the hazards on the occupants of the property and the occupants of adjacent properties, and to reduce or minimize the environmental impacts of development in the area.
  - 2. If CGS determines the applicant has not adequately addressed geologic hazards on the property, or that the application is otherwise incomplete or inadequate, staff shall require the applicant to revise the application to properly address the CGS's comments and concerns or a qualified consultant retained by the county pursuant to section 66-11.
- D. Geologic hazard area development standards. No development shall expose persons (including emergency service personnel or neighboring properties) to significant and unmitigated dangers or risk or be located or designed in a manner that imposes a substantial burden on the resources of the county. Development may be permitted in a geologic hazard area if the development complies with the following minimum requirements and standards:
  - 1. When the collection and submittal of data, and design of structural or mechanical elements are required by this subsection VII, the data and design shall be certified by a professional engineer, or by a professional geologist. Such designs shall be based on site-specific geotechnical analyses and recommendations, including, where appropriate, a geotechnical analysis of adjacent properties that may be impacted by the development.

2. The development shall not cause or intensify adverse natural conditions in a geologic hazard area, whether on-site or off-site. Site planning and engineering methods shall substantially mitigate any potential hazards to public health, safety, and welfare, including but not limited to the following, where applicable:
    - a. Except as described in subsection 70-8.XI. pertaining to steep slopes, driveways and subdivision roads shall avoid geologic hazard areas to the maximum extent feasible;
    - b. Above ground utility facilities located in the hazard area shall be protected by barriers or diversion techniques. The determination to locate utility facilities above ground shall be based on the recommendations and requirements of the utility service provider and approved by the county. The activities associated with the development that increase the existing grade of a potentially unstable slope or slide area, or that remove vegetation or other natural support materials that contribute to site stability are prohibited.
    - c. When the proposed location of development alone will not provide adequate protection for people and structures from geologic hazards, then the applicant shall also comply with construction practices recommended by a professional engineer, or by a professional geologist, to artificially stabilize, support, buttress, or retain the potential hazard area, and to control surface and subsurface drainage that affects the area. The proposed locations, dimensions, and specification of such mitigation measures and other protective measures shall be included in the application.
    - d. When a geological hazard cannot be avoided, the development shall be restricted to those areas on the property that are subject to the least degree of potential hazard and has been located as far away as possible from landslide paths.
  3. As a condition of approval of the proposed development, all plats, the applicable land use permit, and the applicable document that approves the application shall contain appropriate language approved by the county to identify and disclose any geologic hazard.
  4. If the design or mitigation measures will result in an alteration of the natural drainage of surface water, including mud or debris, the applicant shall obtain a drainage easement from impacted downstream property owners. A natural watercourse may be used as a conduit or outlet for the drainage so long as the augmented flow will not tax the stream beyond its capacity and cause flooding of adjacent properties. The applicant may be required to mitigate impacts off-site.
- E. Development in avalanche hazard areas. Development may be permitted in an avalanche hazard area if the development complies with the following minimum requirements and standards, as certified by a professional engineer:
1. Building construction shall be certified to withstand avalanche impact and static loads and otherwise protected by external avalanche defense structures that have been similarly certified.
  2. Driveways and subdivision roads shall avoid areas where avalanches have return periods of fewer than ten (10) years.
  3. Clear cutting or other large-scale removal of vegetation is prohibited in avalanche path starting zones, or in other locations that can increase the potential avalanche hazard on the parcel.
- F. Development in landslide hazard areas. Development may be permitted to occur in landslide hazard areas only if the development complies with the following minimum requirements and standards, as certified by a professional engineer:

1. Development shall comply with recommended construction practices to artificially stabilize, support, buttress, or retain the potential slide area and to control surface and subsurface drainage that affects the slide area.
  2. The following development activities shall be prohibited in landslide hazard areas:
    - a. Activities that add water or weight to the top of the slope, or along the length of the slope, or otherwise decrease the stability of the hazard area. Measures and structural improvements to permanently control surface and subsurface drainage from the development shall be required;
    - b. Activities that remove vegetation or other natural support material that contributes to its stability;
    - c. Activities that increase the steepness of a potentially unstable slope;
    - d. Activities that remove the toe of the landslide, unless adequate mechanical support is provided.
- G. Development in rockfall hazard areas. Development may be permitted to occur in rockfall hazard areas only if the applicant demonstrates that the development cannot avoid such areas and the development complies with the following minimum requirements and standards, as certified by a professional engineer:
1. Development shall comply with recommended construction practices to minimize the degree of hazard. Construction practices may include without limitation:
    - a. Stabilizing rocks by bolting, gunite application (cementing), removal of unstable rocks (scaling), cribbing, or installation of retaining walls;
    - b. Slowing or diverting moving rocks with rock fences, screening, channeling, damming, or constructing concrete barriers or covered galleries;
    - c. Installation of structural barriers around vulnerable structures to prevent rock impact.
  2. The following development activities shall be prohibited in rockfall hazard areas:
    - a. Activities that add water or weight to, or otherwise decrease the stability of, cliffs or overhanging strata;
    - b. Activities that will reduce stability, including activities that remove vegetation or other natural support material, or that require excavation, or cause erosion that will remove underlying support to a rockfall hazard area.
- H. Development in alluvial fan hazard areas. Development shall only be permitted to occur in an alluvial fan if the applicant demonstrates the development cannot avoid such areas, and the development complies with the following minimum requirements and standards, as certified by a professional engineer:
1. Development shall be protected using structures or other measures on the uphill side that channel, dam, or divert the potential mud or debris flow.
  2. Disturbance shall be prohibited in the drainage basin above an alluvial fan, unless an evaluation of the effect on runoff and stability of the fan and on the groundwater recharge area shows that disturbance is not substantial or can be successfully mitigated.
- I. Slope development.
1. Slopes twenty (20) percent or greater. Development on slopes twenty (20) percent or greater shall only be permitted to occur if the applicant demonstrates the development complies with the following minimum requirements and standards, as certified by a professional engineer or professional geologist:

- a. Building lots with twenty (20) percent or greater slope shall require a special engineering study to establish the feasibility of development proposed for the site. The study shall address feasibility of construction required for the use and describe the mitigation measures to be used to overcome excessive slope problems.
2. Slopes greater than thirty (30) percent. Development shall be permitted to occur on slopes greater than thirty (30) percent only if the applicant demonstrates that the development cannot avoid such areas and the development complies with the following minimum requirements and standards, as certified by a professional engineer or professional geologist:
  - a. Cutting, filling, and other grading activities shall be confined to the minimum area necessary for construction.
  - b. Development shall be located and designed to follow natural grade, rather than adjusting the site to fit the structure. Roads and driveways built to serve the development shall follow the contours of the natural terrain and, if feasible, shall be located behind existing landforms.
3. Development on unstable or potentially unstable slopes. If a parcel is identified as having moderate or extremely unstable slopes, then development shall be permitted only if the applicant demonstrates that the development cannot avoid such areas and the development complies with geotechnical design and construction stabilization and maintenance measures, as certified by a professional engineer.
  - a. Cutting into the slope is prohibited without provision of adequate mechanical support.
  - b. Adding water or weight to the top of the slope, or along the length of the slope, is prohibited.
  - c. Vegetation shall not be removed from the slope unless the integrity of the slope can be adequately maintained.
4. Development on talus slopes. Development shall be permitted to occur on a talus slope only if the applicant demonstrates that the development cannot avoid such areas, and the development complies with the following minimum requirements and standards, as certified by a professional engineer or a professional geologist:
  - a. The development shall be designed to withstand down slope movement.
  - b. The design shall include buried foundations and utilities below the active talus slope surface.
  - c. Site disturbance shall be minimized to avoid inducing slope instability.
  - d. The toe of a talus slope shall not be removed unless adequate mechanical support is provided.
- J. Development on corrosive or expansive soils and rock. Development in areas with corrosive or expansive soils and rock shall be designed based upon an evaluation of the development's effect on slope stability and shrink-swell characteristics. Development shall be permitted only if the applicant demonstrates that the development cannot avoid such areas and the development complies with design, construction stabilization, and maintenance measures certified by a professional engineer, or professional geologist.
  1. Surface drainage shall be directed away from foundations.
  2. Runoff from impervious surfaces shall be directed into natural drainages or otherwise on-site in a manner that does not create or increase adverse impacts to the development site or other property.

- K. Development in mudflow or debris flow areas. Development shall be permitted in a mudflow or debris flow area only if the applicant demonstrates that the development cannot avoid such areas, and the development adequately employs construction stabilization and mitigation and maintenance measures as designed by a professional engineer.

**VIII. Wildfire protection.** All applicants for new subdivisions or PUDs located in areas identified as high to very high wildfire burn probability based upon the Colorado State Forest Service – Colorado Wildfire Risk Assessment mapping should incorporate and explain wildfire mitigation efforts in the project.

- A. Wildfire standards. To the maximum extent feasible, all applicants for new subdivisions or PUDs located in areas having high to very high wildfire burn probability based upon the Colorado State Forest Service – Colorado Wildfire Risk Assessment mapping shall submit an assessment identifying the level of risk of wildfire and incorporate wildfire mitigation efforts in the project on the parcel(s) subject to development. The assessment and mitigation shall be provided to Colorado State Forest Service for comments. The requirements may include, but not be limited to:
  - 1. Incorporating open space, if required by this code, in a way that also assists in providing larger defensible spaces or fire breaks between the development and adjacent sources of wildfire;
  - 2. Incorporate ongoing maintenance requirements for defensible space and other fire mitigation efforts in organization documents for the governing body, such as a homeowner's association or as a plat note, when applicable;
  - 3. Where deemed advantageous by the applicable fire district for wildland fire fighting purposes, dedicate access and fire-fighting easements in a form acceptable to the county attorney.
- B. Defensible space guidelines. All development is encouraged to follow the guidelines in the Colorado State Forest Service Quick Guide Series Fire 2012-1 Protecting Your Home from Wildfire – Creating Wildfire Defensible Zones, providing for defensible space and hardening of homes.

**IX. Wildlife protection.** All applicants should incorporate and explain mitigation efforts in the project designed to protect wildlife and wildlife habitat. The applicant shall submit an assessment identifying affected wildlife habitat and corridors, and any potential conflicts created by new development. Such an assessment shall be shared with Colorado Parks and Wildlife for comments. Any fencing proposed in the affected area is encouraged to follow the fencing design plans of the Colorado Parks and Wildlife.

**X. Permitted uses and activities on steep slope areas (thirty (30) percent or greater).**

Development, including but not limited to tree removal, clearing, excavation, grading, construction, and reconstruction shall be prohibited on steep slope areas, except for:

- A. Passive recreation uses, including construction according to county specifications of unpaved public trails for non-motorized use only;
- B. Open space and other conservation uses;
- C. ~~Minor~~ Utilities, roads, and driveways, subject to the development standards in subsection ~~(XI)~~ below;
- D. Silvicultural operations as required for wildfire mitigation or forest health;
- E. Single family homes subject to the development standards in subsection XII below.

**XI. Utilities, driveways, and road standards.** The following standards apply to the installation and construction of utilities, driveways, and roads in all steep slope areas. Installation and construction of such facilities in other geohazard areas are addressed in subsection 70-8.VII:

- A. Utilities, driveways, and roads shall not cross steep slopes greater than fifty (50) percent;
- B. Roads and driveways shall be allowed to cross steep slopes of thirty (30) percent or greater, if no other alternative exists. Roads and driveways on steep slopes shall meet the following conditions:
  - 1. No alternate location for access is feasible or available;
  - 2. The cumulative length of individual segments or increments that will cross steep slope areas does not exceed twenty (20) percent of the total length of the road or driveway. The road system shall not be unnecessarily lengthened to increase the permissible amount of steep slope road sections; and
  - 3. No significant adverse visual, environmental, or safety impacts will result from the crossing, either by virtue of the design and construction of the road or driveway as originally proposed or as a result of incorporation of remedial improvements provided by the developer to mitigate such impacts.
- C. The applicant shall demonstrate that the slope's ground surface and subsurface, and the proposed development, will not cause instability or increase the potential for slope failure;
- D. Where applicable, shared driveways shall be required to the extent reasonably feasible; and
- E. On steep slope areas, all utilities, driveways and roads shall follow natural contour lines to the maximum extent feasible.

**XII. Single family residences and accessory structures.** New single-family subdivisions shall not establish new building areas/envelopes on steep slopes. Notwithstanding the foregoing, for existing legal lots of record, the following standards apply to the installation and construction of single-family homes and accessory structures in all steep slope areas, as allowed by this subsection:

- A. A geologist or professional engineer shall review and certify that the overall site geology is safe and appropriate for the proposed development; and
- B. A geotechnical evaluation of the structures' site-specific character to allow the proposed structure shall be required.

#### **Sec. 70-9 Grading, drainage, and erosion control**

##### **I. Purpose and applicability.**

- A. Purpose. The purpose of this section is to minimize the potential adverse impacts of development on stormwater quality and quantity for both construction and post-construction runoff. These standards protect the community's water resources, streams, creeks, rivers, and their availability for existing and future use.
- B. Applicability. These provisions apply to all development except for:
  - 1. Development not requiring a land-use permit;
  - 2. Wildland fire remediation;
  - 3. Plat adjustments and modifications.
  - 4. Lot consolidations and boundary adjustments;
  - 5. Special events and temporary uses;
  - 6. Additional dwelling units that do not require a major land use permit pursuant to section 73-3;



7. Development governed by chapter 90.

**II. Standards.** The applicant shall demonstrate the project will not adversely impact surface waters and minimize the potential adverse impacts of development on stormwater quality and quantity for both construction and post-construction runoff by meeting the standards found in the Chapter 70 - Technical Appendix, Drainage Criteria Standards.

**III. Submittals and procedures.**

- A. Construction plans, grading plans, erosions control plans, and drainage report. The applicant shall submit construction plans, grading plans, erosion control plans, and drainage report for all improvements required.
- B. The planning engineer may waive requirements for construction plans, grading plans, erosion control plans, or drainage report based on, but not limited to: minor site improvements, minimal changes in existing drainage patterns or grade, minimal changes in quantity or quality of stormwater, the lack of need for drainage infrastructure, or a determination is made that stormwater detention is not required.
- C. Preparation requirements. All construction plans, grading plans, erosions control plans, and drainage reports shall be:
  - 1. Prepared under the direction of, and signed and sealed by, a professional engineer unless waived by the planning engineer;
  - 2. Completed with sufficient detail to facilitate review and clearly describe the existing conditions and proposed construction of the development in its entirety and detail all equipment, infrastructure, and access. The required detail of construction plans and specifications will depend upon the size, nature, and complexity of the project.
  - 3. Materials submitted to the CDD shall meet the minimum formatting and content requirements outlined in this section and in guidance documents provided by the CDD, which guidance documents may be amended from time to time by the planning engineer and public works director to comport to current industry standards.
- D. Timing of submittals.
  - 1. Preliminary submittals. The applicant shall submit preliminary construction plans, grading plans, erosion control plans, and the drainage report (in an acceptable electronic format) at the time of the project submittal for review. These documents shall be revised and resubmitted until approved by the county.
  - 2. Final submittal. Prior to construction ~~or final plat~~, the applicant shall submit final submittal items, construction plans, grading plans, erosion control plans, and drainage report that are approved by the county and signed and with appropriate documents signed and sealed by a professional engineer for county approval.
  - 3. Revisions or updates to the approved documents. Revisions to the approved documents and any supporting information shall be submitted to the CDD for administrative approval before project completion. The revised construction plans shall show the clouded revisions and be signed and sealed by a professional engineer. If the public works director or planning engineer do not approve the changes, the applicant shall comply with the approved construction plans.
- E. Project Completion.
  - 1. The applicant must complete improvements, revegetation measures, and soil stabilization prior to plat recording or land use permit. Additionally, a professional engineer shall submit a certification that the improvements have been constructed in accordance with the approved plans.



2. For projects that are required to provide stormwater detention, the letter from the professional engineer shall also verify the constructed pond volume and include supporting calculations and information including as-built top of bank and water surface elevations, outlet structure elevations, and installation and size of the orifice in the outlet structure.

**IV. Submittal contents.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. Construction drawings. Provide construction information for all road, drainage, or other significant improvements. Minimum requirements for construction drawings include:
  1. Provide cross-sections of drainage channels including easement boundaries;
  2. Culvert information, including locations, diameters, material, inverts, lengths, etc. Identify any maintenance needed for any existing culverts to be in full functioning condition;
  3. All drainage improvements called for in the drainage report;
  4. The location of any on-site and off-site drainage easements needed to support the drainage plan;
  5. All elevations used for construction and grading improvements shall be from a topographic or aerial survey performed by a registered surveyor. Contour data from a Geographic Information System (GIS) is not acceptable. The source and date of the survey shall be noted and a minimum of one (1) vertical and horizontal survey benchmark shall be shown.
- B. Drainage report. The applicant shall conduct a drainage study of the area to be developed and adjacent areas that affect, or are affected by, the development. The study shall use the methodologies found in subsection 70-9.IV., below, and the results of the study shall be presented in the drainage report and reflected in the erosion control plans and construction plans for drainage facilities necessary for the development. The drainage report shall include the following:
  1. Drainage area maps. Provide drainage area maps for the pre-development and post-development conditions. Maps shall show elevation contours, flow arrows, drainage basin boundaries, basin labels, and basin areas.
  2. Off-site flows. Describe the effect of off-site flows on the development and how they are affected by the development. Off-site flows shall be routed over the detention facility spillway or routed around the site.
  3. On-site flows. Quantify the pre-development and post-development flows. Define the system that conveys the developed on-site flows throughout the development and how they are dispersed off-site.
  4. On-site detention. The applicant shall provide on-site detention to limit the rate of runoff from the site unless exempt based on criteria in subsection 70-9.V.
  5. Water quality. If required, describe water quality measures to control water quality after construction is complete.
  6. Storm drain system. The design of the interior storm drain system shall accommodate the ten (10) year storm; however, the design shall direct all drainage from the newly created impervious area to the detention facility during the one hundred (100) year storm.
  7. Methodologies and documentation. List methods used and document all sources of data. The use of computer programs must also state the method or basis of calculations.
  8. Erosion control. Implementation of the erosion control plan during construction activities.

9. For the redevelopment of a site or projects that result in minimal changes in drainage, the planning engineer may require less information. Early consultation with the planning engineer is encouraged for these types of projects.
- C. Erosion control plan. The applicant shall submit an erosion control plan for the areas affected by the development. The erosion control plan shall be sufficiently detailed to evaluate soil erosion and the transport of sediments during construction. The erosion control plan shall be the same scale as the site plan and include:
1. Erosion control measures to be implemented during construction of the project;
  2. Scheduling and implementation of these measures;
  3. Revegetation specifications including seed mix, mulch, and application method;
  4. Extent of proposed disturbance and revegetation;
  5. Provide detailed drawings of best management practices or reference industry-standard details such as the CDOT M Standard Plans.
- D. Grading plan. The grading plan shall be sufficiently detailed for construction, showing the drainage flow directions, and show that drainage is flowing away from buildings and structures. The grading plan shall include the following:
1. Existing and proposed contours. Minimum contour interval shall be two (2) feet for up to twenty (20) percent slopes and ten (10) feet for terrain slopes greater than twenty (20) percent slopes;
  2. Spot elevations at changes in proposed grade;
  3. Finished floor elevations of all buildings;
  4. Invert elevations of all culverts.

V. **Stormwater drainage criteria standards.** Refer to the Chapter 70 – Technical Appendix.

**Sec. 70-10 Access to public lands**

- I. **Existing easements to public lands.** Development upon land on which there are existing easements to public land, rivers, or streams shall maintain those easements or substitute comparable easements acceptable to the county and other affected entities.
- II. **Potential access to public lands.** If potential public access points exist on land to be developed, a public access needs analysis shall be conducted by the appropriate governmental agencies. If the needs analysis indicates that public access is desired, the agencies and the landowner shall work together to provide a mutually acceptable public access arrangement which shall also provide for maintenance of the access easement.

**Sec. 70-11 Road access and driveway permits**

- I. **Access.** Legal access to public roads shall be provided to all lots and parcels via public or private right-of-way or perpetual access easements. Access onto state highways is under the jurisdiction of the state division of highways. An access permit may be required by the state for any new accesses, change of existing access, or change of use of a property. Access shall be according to state requirements and specifications. Unless exempt, all driveways shall require a county driveway permit and shall meet road and bridge standards within chapter 74.
- II. **Road improvements and service levels.** New developments shall be required to construct improvements to existing roads on-site and off-site in accordance with their projected impact on those roads. This may include adding travel lanes, turn lanes, larger bridges or improvements to the road surface in order to mitigate the impacts of a development in both the construction and completed stages. Development is prohibited unless the road providing access meets, or will be improved to meet, the applicable standards as detailed in chapter 74.

**III. Pedestrian circulation.** Developments are required to provide internal pedestrian circulation facilities. Where improved sidewalks or walkways exist adjacent to a project, and along the right-of-way, the project shall connect with sidewalks or walkways of equal or greater quality. Such facilities shall extend along property frontage for the entire distance of a lot or parcel which is the site of the project.

**Sec. 70-12 Noxious weed control plan**

Noxious weeds represent a threat to the continued economic and environmental value of lands in the county. The purpose of this section is to establish standards designed to ensure that development does not contribute to the establishment of invasive, non-native weeds on lands within the county and to control the production and spread of noxious weeds on developing properties within the county, in conformance with C.R.S. § 35-5.5-101 *et seq.*: “The Colorado Noxious Weed Act.”

- I. Applicability.** While all properties are subject to Colorado laws pertaining to noxious weeds, the standards in this section apply to all projects that involve land disturbance, including subdivisions, major land use permits; and any development activity that requires a grading permit. All agricultural activities including but not limited to cleaning and maintaining ditches and canals, installations and repair of irrigation pipelines and construction of ponds shall be exempt.
- II. Weed control standards.** Development subject to this section shall submit a Site Revegetation and Weed Control Plan (WCP). The WCP shall describe the combination of methods that will be employed on the property to prevent the establishment of noxious weeds and to control the spread of noxious weeds. For properties involving extensive land disturbance (more than twenty (20) acres of land disturbed), the county may also require that the WCP provide for the long-term monitoring of the spread of weeds on the property, with periodic reporting by the applicant to the county on the effectiveness of the noxious weed prevention and control measures being employed.
  - A. Targeted weed species. The targeted species of noxious weeds that shall be addressed in the WCP are those species listed on the La Plata County Noxious Weed List, which is available from the county.
  - B. Prevention techniques. The WCP shall specify the combination of techniques the applicant will employ to prevent the further spread of noxious weeds that are already present on the property, and to prevent the establishment of new noxious species that do not currently occur on the site. Prevention can be accomplished by minimizing the amount of bare soil that is created as a result of land development; re-vegetating disturbed areas as soon after disturbance as possible; ensuring that weeds are not introduced through topsoil, gravel, equipment and irrigation water; and periodic inspection of the property after development, followed by eradication of small new infestations of weeds.
  - C. Minimum revegetation standards. At a minimum, the WCP shall specify how revegetation and reclamation of disturbed areas will be accomplished. In all cases revegetation shall be completed within no more than one (1) calendar year after the date of substantial completion of soil disturbance, using appropriate native plant species as approved by the county. For phased projects, revegetation shall be completed within no more than one (1) calendar year after the date of substantial completion of soil disturbance related to each phase.
  - D. Control techniques. Where targeted noxious weeds are present on a development site, the WCP shall also specify the combination of techniques the applicant will employ to control the spread of (and where possible, to eradicate) those weeds. These techniques include biological and chemical controls and mechanical or management practices. The most effective combination of such techniques available, as recommended annually by the Colorado State Weed Science Program, shall be employed on the property. The WCP shall specify the frequency with which such techniques will be applied, and the level of performance expected from the control program (that is, by how much the weed cover is planned to be reduced).

1. Biological and chemical controls that may be employed to disrupt the growth of noxious weeds include the use of insects or grazing animals (such as goats) and the treatment of weeds with herbicides.
2. Mechanical practices that may be employed to disrupt the growth of noxious weeds include tilling, mowing, hand-pulling, shoveling and chopping. Mechanical practices shall be employed prior to seed production and dispersal.
3. Management practices that may be employed are those that support the growth of desired native plants over invasive species. Such practices include proper use of moisture, fertilization, re-seeding and crop rotation.
4. Any new subdivision covenants shall include strategies to insure consistent application, enforcement and evaluation of the WCP.

**Sec. 70-13 Right to farm and ranch policy**

- I. **Purpose.** Agriculture as a way of life benefits all residents within the La Plata County. It is an important part of the economy and adds intrinsic value to life in the county. Agriculture brings with it noise, odors, dust, mud, smoke and other perceived inconveniences, such as ditch and field burning, machinery and livestock on public roads, odors from manure and feeds, odors from chemical applications, lights and noises at all hours of the day and night, and on-farm processing and marketing of crops and livestock. Those with urban sensitivities may perceive such activities, sights, sounds and smells as inconveniences. However, state law and county policy protect most agricultural practices from unnecessary, intrusive litigation.
- II. **Authority.** State law and county policy provides that no inconvenience shall be considered a nuisance so long as it occurs as part of non-negligent and legal agricultural practices as stated in C.R.S. § 35-3.5-101 ~~to 103~~ *et seq.*
- III. **Performance standards.** The county may impose conditions upon the approval of any development to ensure that it does not adversely affect adjacent or near-by agricultural operations, and to ensure that such development does not limit the viability of the agricultural operations. Conditions may address and mitigate, among other things, potential nuisance or liability issues, predation of stock by domestic dogs, traffic conflicts, interference with irrigation, proliferation of undesirable plants and rodents, erosion, and wildlife intrusion.
- IV. **Plat notes.** In appropriate projects, the decision-making body may require a plat note providing notice that Colorado is a right to farm State
- V. **Fence law.** Colorado is a fence out law state. Owners of real property shall fence livestock out prior to recovery of damages for trespassing livestock, pursuant to C.R.S. § 35-46-101 *et seq.* In appropriate projects, the decision-making body may require a plat notice that Colorado is a fence law State.

**Sec. 70-14 Irrigation facilities**

- I. **Purpose.** Irrigation is necessary for agricultural operations in the county. Development has the potential to disrupt the delivery of irrigation water. Ditch companies and associations exist to acquire water rights, develop storage and deliver surface water to their members for irrigation and other purposes. Ditch companies generally own and maintain ditches from their head-gates to an established point where individual property owners or lateral associations manage smaller ditch systems. ~~Except in instances where there is unappropriated water, o~~ Only those who own water rights or have leased a right to the water may use the water flows through a ~~ditch property~~.
- A. Those who hold water rights in ditches have certain responsibilities associated with these rights. Irrigators have a legal duty to maintain canals or ditches used for irrigation purposes, ditch embankments and head-gates. Therefore, a ditch owner has the right to enter the property of another to perform “reasonably necessary” ~~monitoring, inspection,~~ maintenance and operations on the ditch and associated structures, even if it means disturbing land within the easement area.

B. Similarly, those who own property through which these ditches run have the responsibility of keeping the ditch easement free of obstacles (such as fences, landscaping, or bridges) and to observe a right of way of access for the ditch owner or irrigator to enter with equipment to maintain or repair the ditch or adjust flows. Notwithstanding any provision contained in this code, these ditch easements are as wide as reasonably necessary for ditch maintenance and operations and this code is not intended to annul or abridge the ditch company's historic rights. Owners of property subject to ditch easements should ~~also recognize the property owner may not have a right to~~ cut or alter a ditch unless the property owner has the permission of the ditch owner or a court order ~~merely because it flows through the property~~. Site development shall account for easements and should also recognize the reality of events such as cleanouts, normal seepage and spills of storm waters in unpredictable locations and times.

**II. Applicability.** The provisions of this section apply to all development located on parcels that include irrigation facilities.

**III. Easements.** Ditch easements may be written or unwritten and may be expressly created or may arise by implication, prescription, condemnation, or parole license/estoppel. Easements for existing irrigation facilities, including adequate easements for maintenance access, shall be dedicated and accurately located by appropriate survey data on all final plats. Sketch plans and preliminary plats shall show the top of ditch banks relative to the limits of the easement. Applications for development will be referred to the appropriate ditch companies for review and comment as provided in section 66-11.

**IV. Review criteria.**

- A. Written approval of the ditch owner or its representatives and, where applicable, the Colorado Division of Water Resources, shall be obtained for any proposed modifications of any irrigation facilities, including but not limited to realignments, changes to configurations or crossings.
- B. Road crossings over a ditch shall be bridged or culverted in a manner consistent with the county's crossing requirements and consistent with the hydraulic requirements of the ditch company. The ditch company shall be consulted regarding all proposed ditch crossings and written consent of the ditch company and payment of applicable crossing fees may be required.
- C. The schedule for any proposed modifications approved under this section or other activities that may disrupt the flow of water must be referred to the ditch owner for review and comment. The decision-making body may require, by condition of approval, that such modifications be made, or such activities be conducted when the disruption of water flow will be minimized.
- D. Ditch easements will extend the length of the ditch through the development parcel. The minimum width of the easement will be the area between the ditch banks plus the following:
  - 1. For ditches having an average bottom width of less than eight (8) feet, the easement will be twenty-five feet (25) measured from the top of the ditch on one side of the ditch.
  - 2. For ditches having an average bottom width of eight feet (8), the easement will be thirty feet (30) measured from the top of the ditch on both sides of the ditch.
  - 3. The ditch owner shall be entitled to additional easement width where the ditch owner demonstrates:
    - a. Terrain or other circumstances (such as existing maintenance roads on both sides of a ditch) necessitate a wider easement or additional easements to operate, repair and maintain the ditch;
    - b. An entitlement to a wider easement by law or based on historical use or an agreement between the property owner and the ditch owner.
- E. If the decision-making body determines the existence of a ditch through a proposed development may result in improper use of that ditch for recreational purposes by residents of

the development, or pose a safety risk to residents (such as childhood drownings) then the applicant may be required to take protective measures such as fencing or piping.

- F. When the decision-making body determines that unreasonable, unnecessary or extraordinary requirements are proposed by a ditch owner, the decision-making body may approve only those requirements deemed appropriate to protect irrigation facilities.

**Sec. 70-15 Consumer notifications**

Appropriate warnings for consumers may be placed on permits and final plats, as deemed appropriate by the decision-making body. Such warnings may pertain to, among other things, the presence of natural hazards, wildlife habitat, historical lands, gas pipelines, airport noise, severed mineral interests, irrigation facilities, limitations on the provision of services such as water, sewer, road maintenance, fire-fighting capacity, broadband and cable.

**Sec. 70-16 Reserved**

**Sec. 70-17 Landscaping and buffering**

- I. **Purpose.** Landscaping and buffers are used to reduce the external impacts a land use might have on adjacent properties, especially when neighboring land uses are of a different type or intensity than the subject use. Where used, landscaping and buffers provide visual barriers between different land uses, enhance the streetscape and public views, provide privacy, and protect uses from wind, dust, noise, traffic, glare, visual impact and harmful or noxious effects.
- II. **Applicability.** The following types of development shall install and maintain landscaping and buffers in accordance with the standards in this section:
  - A. Any development that requires a minor land use permit or major land use permit;
  - B. Any development that includes a parking lot or a parking area adjacent to a public or private road; and
  - C. Any other development required to use landscaping or other buffers as a condition of approval to satisfy compatibility or otherwise mitigate adverse effects.
- III. **Buffer materials and specifications.** Where required, buffers shall consist of landscaping, rocks, boulders, mounds, fences or walls, berms, or a combination of these techniques. In the case of commercial, multi-family or industrial development, fences are only acceptable where space does not allow a more natural buffer.
  - A. Xeriscaping or low water usage is recommended for all development subject to this section. Developments that have access to raw water rights are encouraged to utilize raw water systems to accommodate landscape irrigation needs.
  - B. If irrigation water is to be made available in a development, it shall be the responsibility of the applicant to install an acceptable delivery system. The irrigation system shall be constructed and subject to the terms and conditions of other public improvements in the development.
  - C. Landscaped berms or integrated rock walls shall be at least two (2) feet high and appear natural. Berms shall have a gentle transition to surrounding grade and shall not exceed a 3:1 side slope.
  - D. Landscaped berms shall install plant species that are currently known to survive in the county. Existing native vegetation and trees may be used to comply with the buffer plant material specifications, provided the existing vegetation and trees are located where they can achieve the same intent and purpose of the buffer. Plant materials as listed on the most current noxious plant material list adopted by the board shall not be allowed. A list of recommended and prohibited plant materials may be obtained from the County Weed Control Technician.



1. Tree plantings shall consist of at least fifty (50) percent coniferous species in order to provide year-round buffering.
  2. Coniferous trees shall be at minimum six (6) feet in height. Deciduous trees shall have a minimum two (2) inch caliper. All trees shall include protective fencing.
  3. At minimum, one-gallon (#5) container shrubs shall be installed along landscaped berms.
- E. For every fifty (50) linear feet of required buffering along each property line, the following plants shall be used at a minimum:
1. One (1) deciduous or coniferous tree;
  2. One (1) understory tree; and
  3. One (1) shrub.
- F. A waiver to the above paragraph III.D may be requested from the director to provide an alternative type of buffering where circumstances warrant site specific considerations.
- G. All proposed landscaping or buffers must allow for compliance with snow removal and traffic-related sight-distance requirements, as reviewed and confirmed by the planning engineer.

**IV. Guarantees and maintenance.** Maintenance of landscaping, buffering and irrigation shall be the responsibility of the developer or landowner, and shall be performed regularly so that the intent and integrity of the approved landscaping is preserved, and noxious weeds are kept under control. Trees shall be staked and protected from damage upon planting and provision made by the developer or landowner for regular watering and maintenance until they are established. The developer or landowner shall replace dead and dying plants or trees no later than the following planting season and ensure continuous compliance with an approved weed control plan.

- A. Landscaping areas that cannot naturally be provided with adequate moisture for the types of plants to be installed shall be equipped with an irrigation system or other approved method.
- B. Applicants will warrant all buffers and other landscaping for one (1) year from the time of installation to guarantee the establishment of plant materials in the buffer. In addition, applicants shall provide a performance guarantee in an amount sufficient to cover the replacement cost of the plant materials and in a form acceptable to the county. The director may waive the performance guarantee if a permanent irrigation system is in place or installed. The guarantee shall, upon written request to the director, be released after inspection satisfactory to the director, but no sooner than one (1) year from the date of installation. Landscaping that does not survive within the initial year shall be replaced within three (3) months after it perishes, unless the date is not during a planting season, in which case it shall be replaced during the first month of the planting season. The replacement vegetation shall be similar in size, type and amount of the vegetation that perished. If landscaping perishes within the first year, the applicant may be required to warranty the replacement landscaping for one (1) year from the time of replacement installation to again guarantee the establishment of plant materials. The replacement process and associated warranty make continue for successive period as necessary to ensure survival of the plant material.

**Sec. 70-18 Off-street parking and loading standards**

- I. Purpose.** This section is intended to lessen congestion on roads and streets, and to ensure an adequate supply of parking spaces are provided for certain land uses. The off-street parking and loading standards of this section shall apply to the development of all new buildings and uses except for agricultural uses not requiring a land use permit and the construction of a single-family residence.
- II. Applicability.** The standards in this section shall apply to the following expansion of use and change in use. Unless the expansion pertains to a nonconformity exempt from the requirement for a land use permit as described in section 79-3, the off-street parking and loading standards of this



section shall apply to the expansion or enlargement of an existing building or use. Additional off-street parking or loading spaces shall be required only to serve the expanded or enlarged area, and not to make up any deficiency that may exist for the current building or use. Unless the change in use pertains to a nonconformity exempt from the requirement for a land use permit as described in section 79-3, any change in the use or manner of operation of a building or a parcel of land that increases the applicable off-street parking requirements shall require the applicant to provide the increased number of parking spaces prior to beginning to operate in the changed manner.

**III. Minimum required off-street parking.** The following table establishes the minimum number of off-street parking spaces to be provided for residential and non-residential uses. For any proposed use not listed below, the director may determine, in writing, the applicable minimum number of spaces or other forms of parking required based upon commonality with one or more uses listed below. If there is no similar use, the applicant may be required to submit a study to establish the off-street parking standard for the use. The parking study shall set forth the standards of the Institute of Transportation Engineers (ITE) for comparable uses and may also describe the standards found in other recognized professional publications or those applied by communities similar to the county.

<b>Table 70-18 A Minimum required off-street parking</b>		
<b>Use Type</b>	<b>Minimum Number of Off-Street Parking Spaces Required</b>	<b>Other Forms of Parking Required</b>
<b>ACCOMMODATIONS USES</b>		
Bed and Breakfast Inn	1 space per unit plus 2 spaces for resident manager	None except that temporary parking may be required if special events are allowed.
Hotel, Motels, Lodge, Resort, Agritourism <u>Enterprise</u> or Hostel	1 space per unit; spaces may also be required for associated uses such as bar or restaurant	Off-street loading space may be required
<b>AGRICULTURAL SUPPORT USES</b>		
Farm Implement Supplies, Sales, and Repair	1 space per 400 sq. ft.	Off-street loading space may be required
Equine or Llama Boarding Facility	1 space per 4 horse stalls plus 1 space per employee	None
Veterinary Office or Hospital	1 space per 400 sq. ft.	None
<b>COMMERCIAL USES</b>		
Bank/Financial Institution	1 space per 300 sq. ft.	Stacking spaces required for vehicle drive-thru
Bar/Restaurant	1 space per 3 seats	Off-street loading space may be required
Club/Fraternal Lodge	1 space per 3 seats	Off-street loading space may be required
Funeral Home	1 space per 4 seats	None
Nursery or Greenhouse	1 space per 500 sq. ft. plus 1 space per 4,000 sq. ft. of outdoor display area	None

<b>Table 70-18 A Minimum required off-street parking</b>		
<b>Use Type</b>	<b>Minimum Number of Off-Street Parking Spaces Required</b>	<b>Other Forms of Parking Required</b>
Office Buildings, General or Professional	1 space per 300 sq. ft.	None
Retail Store (freestanding)	1 space per 200 sq. ft.	Off-street loading space may be required; stacking spaces required if use includes vehicle drive-thru
Shopping Center: Less than 15,000 sq. ft. 15,000 to 400,000 sq. ft. More than 400,000 sq. ft.	1 space per 200 sq. ft. 1 space per 250 sq. ft. 1 space per 225 sq. ft.	Off-street loading space(s) required
Vehicle, Equipment, or Large Appliance Sales	1 space per 400 sq. ft.	Off-street loading space may be required
Vehicle Repair	4 spaces per service bay	None
Wholesale Sales	1 space per 500 sq. ft.	Off-street loading space may be required
<b>INDUSTRIAL USES</b>		
Manufacturing, Assembly, or Processing	1 space per 500 sq. ft.	Off-street loading space(s) required
Self-Storage	1 space per 10 storage units plus 1 per employee	None
Warehouse and Freight Shipping	1 space per 500 sq. ft.	Off-street loading space(s) required
<b>INSTITUTIONAL/PUBLIC USES</b>		
Auditorium or Theatre	1 space per 4 seats	None
Churches	1 space per 4 seats	None
Community Center	1 space per 250 sq. ft.	None
Daycare and Preschools	1 space per employee, plus 1 space per 10 children	Drop-off/pick-up area for children is required
Governmental Office	1 space per 300 sq. ft.	None
Hospitals	1 space per 4 beds plus 1 space per employee	None
Library or Museum	1 space per 300 sq. ft.	None
Nursing Home	1 space per 4 beds, plus 1 space per 3 employees	None

<b>Table 70-18 A Minimum required off-street parking</b>		
<b>Use Type</b>	<b>Minimum Number of Off-Street Parking Spaces Required</b>	<b>Other Forms of Parking Required</b>
Public Park	4 spaces per golf hole; 20 spaces per athletic or ball field; 3 spaces per tennis court	None
Recreation Facilities: Indoor Uses	1 space per 200 sq. ft.	None
School: Elementary or Middle School	2 spaces per classroom	None
School: High School	1 space per 4 students of capacity	None
<b>RESIDENTIAL USES</b>		
Single-Family Dwelling, Duplex Dwelling, Mobile or Manufactured Home	2.0 spaces per dwelling unit including garage space. Garage opening must have a 20-foot separation from public right-of-way.	None
Multi-Family Dwelling or Townhome Dwelling	2.0 spaces per dwelling unit if unit contains 2 or more bedrooms; 1.5 spaces per dwelling unit if unit contains 1 bedroom or less. If space located in a garage, garage opening must have a 20-foot separation from public right-of-way.	None
Boarding or Rooming House	1 space per boarding or rooming unit	None
Group Home	1 space per 4 beds	None

**IV. Calculating off-street parking requirements.** The following rules apply when calculating the off-street parking requirement applicable to a building or use:

- A. When the calculation of the number of required spaces results in a fractional number, any fraction of less than one-half ( $\frac{1}{2}$ ) ( $\leq 0.49$ ) shall be rounded down to the next lower whole number, while any fraction of one-half ( $\frac{1}{2}$ ) ( $\geq 0.50$ ) or more shall be rounded up to the next higher whole number.
- B. Unless otherwise specified, all square footage-based parking standards shall be calculated based on net leasable floor area, which includes only those areas within a building that are designed to be occupied for industrial, commercial or office purposes, and excludes common or public areas such as bathrooms, stairways, circulation corridors, and mechanical areas.
- C. Calculations of employee-based parking standards shall be based on the largest number of persons working on any single shift at the business.
- D. Parking areas serving more than a single principal use shall provide parking in an amount equal to the total requirement of all the principal uses being served, unless the applicant obtains

approval of a shared parking arrangement for use of the parking area. The director may approve a shared parking arrangement and may reduce the number of off-street parking spaces by up to twenty (20) percent of the total required for all uses if the applicant demonstrates that the uses have different operating hours or business periods whose demand for parking will not overlap with one another.

**V. Minimum dimensions for parking spaces and parking areas.** The following shall apply to all parking areas:

- A. The standard parking space shall be nine (9) feet in width and eighteen (18) feet in length.
- B. In parking lots containing twenty-five (25) or more spaces, up to twenty (20) percent of the spaces may be compact car spaces, with minimum dimensions of eight (8) feet in width and sixteen (16) feet in length. Compact car spaces shall be designated for use with a sign.
- C. Parking spaces shall have a vertical clearance of at least seven (7) feet.
- D. The following table establishes the minimum dimensions for parking to be provided for development where applicable:

<b>Table 70-18 B Minimum dimensions for parking</b>					
	<b>One Way Parallel</b>	<b>Parking Space Angle (in degrees)</b>			
		30	45	60	90
Single row of parking	9'	18'	21'	22'	20'
Driving aisle	12'	12'	13'	18'	24'
Minimum width of row plus aisle	21'	30'	34'	40'	44'
Two rows of parking	18'	36'	42'	44'	40'
Driving aisle	12'	12'	13'	18'	24'
Minimum width of row plus aisle	30'	48'	55'	62'	64'

**Figure 70-18 Parking Dimensions.**

**VI. Design standards for parking and loading areas.** All internal driving surfaces and parking areas accommodating ten (10) or more vehicles shall be surfaced with all-weather material, such as concrete, asphalt, or other similar surface approved by the director. However, the director may grant a written request to allow alternative surface material for parking areas, provided a professional engineer can demonstrate the surface adequately serves the intended use of the parking area without adversely impacting the subject site or adjacent properties. Gravel surfaces, including surfaces treated with dust retardants, may only be permitted when air and water quality mitigation measures are sufficiently demonstrated.

- A. Paved surfaces shall be striped to demarcate the parking spaces, and directional arrows shall be provided to designate when there is one-way traffic.
- B. The minimum amount of parcel area devoted to off-street parking, where the parking area will not be paved with asphalt, concrete, or similar hard-surface materials, may be increased up to ten (10) percent to accommodate additional parking and maneuvering space needed in the absence of striped and demarcated parking spaces and drive aisles.
- C. Gravel surfaces shall be regularly treated with appropriate dust suppression measures as determined by a professional engineer.

- D. A turn-around area shall be provided for parking areas with twenty-five (25) or more parking spaces.
- E. All parking areas shall be located and designed in conjunction with a driveway, such that vehicles exiting from a parking space shall not be required to back onto a public right of way. Provided, however that vehicles exiting from a parking space for a residential property may back onto a residential street.
- F. Adequate space shall be provided for storage of snow removed from vehicular ways and parking and loading spaces. Storage of snow in required parking spaces is prohibited. Adequate drainage shall be provided for the snow storage area to accommodate snow melt and to ensure it does not drain onto adjacent property.

**VII. Parking spaces for persons with disabilities.** In no event shall there be fewer parking spaces designated for use only by persons with disabilities than what is required by section 1106.1 of the building code or otherwise required by applicable law. Such spaces shall also meet the following standards:

- A. Parking spaces for persons with disabilities shall be in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the building on an unobstructed path.
- B. All parking spaces for persons with disabilities shall be at least thirteen (13) feet in width, measured perpendicular to the angle of parking. The minimum width shall be reduced to nine feet (9) for any space located parallel to a pedestrian walk that is a minimum of four (4) feet in width. Accessible parking dimensions and design shall be provided in accordance with Americans with Disabilities Act, 43 U.S.C. 12101 *et seq.*, and the Fair Housing Act, 43 U.S.C. 12101 *et seq.*
- C. Required spaces for persons with disabilities shall be identified with appropriate signs and pavement markings. Signs shall be posted directly in front of the parking space, at a height of no less than forty-two (42) nor more than seventy-two (72) inches.

**VIII. Bicycle parking facilities.** Bicycle parking facilities (e.g., racks, boxes, etc.) are required for all mixed-use and commercial uses likely to generate significant short-term bicycle demand (e.g., shoppers or visitors) and/or long-term bicycle demand (e.g. employees), as determined by the director.

- A. When bicycle parking facilities are provided, the following standards shall apply:
  - 1. A minimum of two (2) bicycle parking spaces shall be provided.
  - 2. The facilities shall be of sound construction and properly anchored to the ground.
  - 3. The facilities shall not impede vehicular or pedestrian access.
  - 4. The facilities shall be located within fifty (50) feet of the building's primary entrance.
- B. Four (4) bicycle parking spaces may be used to substitute for one (1) required standard vehicular parking space. Substitute bicycle parking spaces may account for no more than ten (10) percent of the minimum parking spaces required by this section.

**IX. Prohibited uses of required spaces.** Required parking spaces shall be available only for the parking of operable passenger automobiles of residents, guests, customers, patrons, deliveries and employees of the use for which the parking is required. Prohibited uses of required parking spaces shall be as follows:

- A. Inoperable vehicles or materials. Inoperable vehicles or materials shall not be stored in required parking spaces. Repair work shall not be conducted in any parking area required for a nonresidential use if the repairs render a vehicle inoperable for periods of more than twenty-four (24) hours.

B. Unobstructed access. Each required parking and loading space shall have unobstructed access from a road or alley, or from an aisle or drive connecting with a road or alley.

**X. When off-street loading required.** Buildings or structures that are designed to receive and distribute materials and merchandise by truck shall provide and maintain off-street loading spaces in sufficient number to meet the use's needs. Where the property or the use is served or designed to be served by tractor-trailer delivery vehicles, the following standards shall be used in establishing the minimum number of off-street loading spaces required, which are in addition to any required parking spaces:

**Table 70-18 C Minimum Loading Spaces**

Gross Floor Area of the Building	Number of Required Loading Spaces
≤ 9,999 sq. ft.	1
≥ 10,000 sq. ft.	2

**XI. Continuing obligation.** Provision and maintenance of off-street parking and loading spaces shall be a continuing obligation of the property owner.

**Sec. 70-19 Fences and walls**

**I. Applicability.** All fences and walls required by the county for new development or buffering or screening shall comply with the following minimum requirements, unless otherwise specified in this code.

**II. Fence and wall standards.** Installation of fences may be required as a condition of development approval in areas where it is determined to be necessary for compatibility to provide protection to the occupants, provide for safe use of the parcel or adjacent parcel(s), or to buffer between differing land uses.

- A. Fences for buffering purposes shall be opaque, non-reflective, and at least six (6) feet, but not more than eight (8) feet high. For the purposes of this section, the height of a fence shall be the distance from the top of the fence or wall to the finished grade of the lot directly under the fence.
- B. Fences for buffering purposes shall be made of traditional fencing materials, including but not limited to wood pickets, wrought iron, wire, chain link, and block. Chain-link fencing adjacent to residential development with or without slats shall not be used as a fencing material for buffering purposes.
- C. Fences for industrial uses and commercial uses shall be constructed to orient any exposed structural framework to the interior of the property being developed.
- D. For instances where fencing exceeds one hundred (100) feet along collector or arterial roads, features shall be used to avoid creating a "tunneling" effect which may be accomplished by integrating architectural elements such as brick or stone columns, varying alignment or setback of the fence, or softening the appearance of the fence lines with plantings of shrubs or trees.
- E. No fence or wall shall obstruct visibility at access points.
- F. To the maximum extent feasible, all fences or walls shall be constructed to be wildlife friendly and to not ensnare or otherwise cause injury to wildlife. All fences or walls enclosing an area of one (1) acre or greater shall allow for the safe passage of wildlife.
- G. All retaining walls in excess of four (4) feet in total height, whether in a single line or in steps, shall be designed by a professional engineer.

- H. Landscaping shall be provided on any steps in the retaining wall and at the base to soften the appearance of the retaining wall.
- I. To the maximum extent feasible, attention shall be given to the visual impact of retaining walls as viewed from off-site. Color and type of materials shall be chosen to minimize negative visual impacts.
- J. All retaining walls shall have adequate subsurface drainage.

**Sec. 70-20 Signs**

- I. **Purpose.** This section's purpose is to provide reasonable, consistent, content-neutral, and non-discriminatory standards for signs, whether on or off premise, which regulate signs' construction, size, type location, and maintenance in the county's unincorporated territory. Specifically, these standards are intended to:
  - A. Enable easy and efficient identification of residences and businesses, and facilitate communication necessary for the conduct of business; and
  - B. Promote signs' compatibility with their natural and constructed surroundings; and
  - C. Minimize conflicts between the principal uses of sites where signs are located, adjacent uses, and visibility for the traveling public; and
  - D. Limit the size and number of signs and sign messages to the minimum reasonably necessary to accomplish the signs' intended purpose; and
  - E. Lessen the hazards, confusion, and visual clutter which may be caused by signs' proliferation, improper placement or installation; illumination; and excessive height, area, or bulk; and
  - F. Protect the public from those dangers that may arise from unsafe; unmaintained; or misleading signs.

**II. Applicability.**

- A. Generally. Except as specifically exempted in paragraph II.B., or prohibited in paragraph II.C., all signs within the unincorporated areas of the county shall be in conformance with the standards set forth in this section. A proposed sign independent of a development application shall be in conformance with these standards, however no submittals or sign permit are required.
- B. Exempt signs. The following types of signs are exempt from these standards. Except as specifically provided below, the exempt signs listed in this section shall be illuminated only by indirect lighting.
  - 1. Signs less than six (6) square feet in area, provided that there is not more than one (1) such sign per individual business, parcel, lot, or group of contiguous lots under single ownership;
  - 2. Temporary signs, including temporary decorations, that are non-permanent and displayed on private property for not more than thirty (30) consecutive days; and up to no more than twice per calendar year for a total of no more than sixty (60) days during a calendar year;
  - 3. Traffic Signs erected within public rights-of-way by a local, state, or federal government or agency for the purpose of controlling or directing traffic;
  - 4. Official notices posted by federal, state, or local governments or agencies to provide warnings of emergencies or hazards;
  - 5. Information signs on public property, provided they are erected and maintained by the government or agency responsible for maintaining the public property;



6. Signs required or specifically authorized for a public purpose by federal, state, or local law, regulation, or ordinance. Such signs may be illuminated or animated to the extent required or authorized by the law, regulation, or ordinance under which they are erected or displayed;
  7. Signs displayed by public utility agencies or their contractors serving as directional or safety aids, temporary street signs, or notifications of roadwork and associated detours or delays;
- C. Prohibited Signs. The following types of signs are expressly prohibited in the county's unincorporated areas:
1. Signs that are structurally unsafe or constitute a hazard to health or safety by reason of inadequate maintenance or dilapidation.
  2. Signs that, as installed or maintained, prevent free ingress or egress from any door, window, or fire escape.
  3. Signs that obstruct or interfere with traffic signs or signals, or with the visibility of the traveling public.
  4. Signs with metallic surfaces that have not been treated to reduce reflection from natural or artificial illumination.
  5. Signs containing operational sound-making devices.
  6. Signs containing any blinking, flashing, fluttering, or intermittent lights, or other devices that create a change in color, brightness, or intensity of lighting.
  7. Obsolete signs. A sign that has become obsolete by location on property that is vacant and unoccupied for twelve (12) months or more, or by its nature as an exempted temporary sign under sub-paragraph II.B.2 above that has remained longer than allowed for exempt temporary signs shall be removed by the owner at the owner's expense.

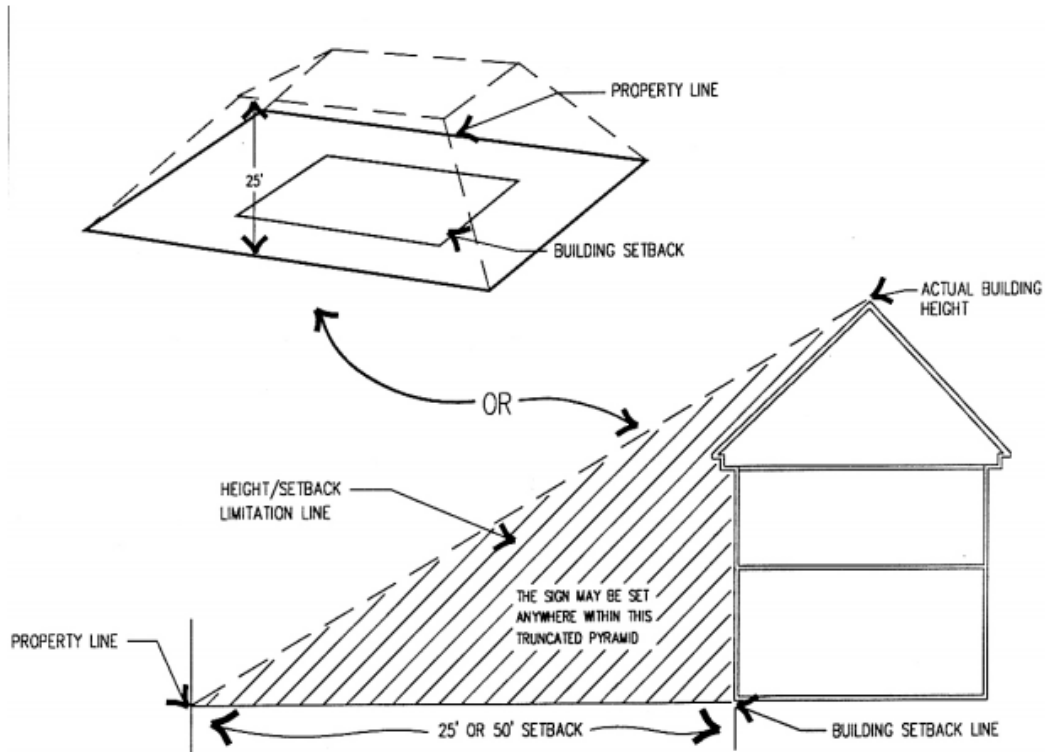
### III. Standards.

- A. When reviewed as part of a proposed development application subject to this code, all signage shall be compatible pursuant to the applicable terms, conditions and compatibility criteria set forth in section 70-5.
- B. Measurement. Signs shall be measured, for the purpose of determining compliance with this code, as follows:
  1. Area.
    - a. A sign's area measurement shall include its entire surface, including any non-structural trim, but shall not include its supports or any structures on which it is mounted.
    - b. If a sign consists of a symbol or statutory, the entire surface area of the symbol or statutory which can be enclosed within a rectangle shall be measured as the sign's area.
    - c. If a sign has two (2) or more faces, its area shall be calculated as the sum of the areas of each face.
  2. Height shall be measured from the ground level of any support, building, or structure on which the sign is located to the highest point of the sign.
- C. Maximum sign area. The maximum area of a single sign shall be determined as follows:
  1. Wall signs and freestanding signs shall not exceed one hundred fifty (150) square feet.
  2. Projecting signs shall not exceed an area greater than one-half (0.5) square foot per linear foot of the front or street façade of the building or structure on which they are mounted.

3. On residential lots no sign of any type shall exceed twenty-four (24) square feet.
- D. Aggregate area. Except as otherwise specifically provided in this section, the aggregate area of all signs on a single lot or parcel shall not exceed the lesser of:
1. Two hundred (200) square feet;
  2. Two (2) square feet per linear foot of frontage along any public right-of-way.
- E. Clearance and height.
1. All signs shall have at least ten (10) feet of clearance from power lines.
  2. Wall signs and projecting signs shall not exceed the height of the building or structure on which they are painted, affixed, or mounted.
  3. Signs that project over public or private pedestrian walkways shall maintain a minimum clearance of eight and one half (8.5) feet.
  4. On residential lots no freestanding sign shall exceed five (5) feet in height.
  5. On non-residential or mixed-use lots, no freestanding sign shall exceed twenty-five (25) feet in height.
- F. Sign setbacks. Signs shall be setback from property lines and public rights-of-way to the extent necessary to prevent the sign from extending above a plane formed by the intersection of an imaginary line reaching from the property line of the parcel on which the sign is located to a point twenty-five (25) feet above the setback line applicable to the subject parcel, or to the top of the tallest building on the parcel, whichever is greater, according to the formula and as illustrated in Figure 70-20 below:

[Figure 70-20 Height/Sign Setback Calculation](#)

## HEIGHT/SIGN SETBACK CALCULATION



The formula for calculating sign height and/or setback is:

$$\frac{\text{sign setback}}{\text{bldg. setback}} = \frac{\text{sign height}}{\text{bldg. height}}$$

Example: Setback requirement for an 8' high sign on a vacant lot with a 50' setback is:

$$\frac{?}{50} = \frac{8}{25} = 16' \text{ from the property line.}$$

- G. Reflecting paint or other materials is prohibited on signs located on residential lots.
- H. Lighting. These standards apply to both internally illuminated signs and signs illuminated by direct, exterior lighting.
1. All illuminated signs shall comply with the standards set forth at section 70-7.
  2. All parts of any electric or otherwise illuminated sign shall be of metal or other non-combustible material.
  3. Colored lights shall not be used in any location or manner that could create confusion with any traffic-control devices.
  4. Neon lighting.
    - a. No single sign may have more than fifteen (15) square feet of neon illumination.
    - b. Not more than fifty (50) percent or forty (40) square feet of any aggregate sign area on a parcel, whichever lesser, may be illuminated through neon.

- c. All secondary wiring of neon signs shall be of neoprene insulation, or equivalent, and when used in conjunction with wood, shall have a minimum of one and one-half (1.5) inches of air space and shall be placed on glass or porcelain insulators.
- I. Multiple signs per lot/parcel. Multiple signs are allowed on a single parcel provided the cumulative sign area complies with the maximum contained in this section.
- J. Support.
  - 1. Freestanding signs shall be anchored in concrete or a substance which provides equivalent anchoring.
  - 2. For hanging signs, the beam from which the sign is hung shall be attached to the frame of the supporting building or structure.
  - 3. Wall signs or projecting signs shall be affixed directly to a supporting building or structure with metal anchors, bolts, supports, stranded cable, or braces. Staples shall not be used for securing projecting signs.
  - 4. Guying.
    - a. For hanging signs, a minimum of three (3) guy wires shall be used.
    - b. For all other signs, a minimum of four (4) guy wires shall be used.
    - c. All guy wires shall be stranded, and a minimum of three-sixteenths (3/16) guy cable.
    - d. All turnbacks or loops of the guy cable shall be served or wrapped to a minimum of four (4) inches.
    - e. The use of cable clamps is prohibited.
    - f. Any guy wire extending over a fire wall shall be fastened to a roof ember and shall pass over a roof jack at least two (2) inches higher than the fire wall, so that no pressure will be exerted on the fire wall.
- K. Wind load. Signs over ten (10) feet in height or forty (40) square feet in surface area shall be engineered to withstand a minimum wind loading of thirty (30) pounds per square foot of sign area, without failure of face retention system or sign structure.
- L. Electrical wiring. All electrical wiring for energizing an electrical sign shall be in conformance with the building code, and the Colorado State Electric Board, and may require an electrical permit.
- M. Compliance with other codes and requirements. All signs and appurtenant structures shall otherwise be designed and constructed in conformance with the building code and fire code, including but not limited to specifications for wind loads, seismic loads, allowable stresses materials, and anchorage requirements. Signs shall obtain any other inspections, permits, or other authorizations required by the county's code.

**IV. Submittal Requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. Plans or specifications detailing each proposed sign's:
  - 1. area, height and materials;
  - 2. an accurate, color depiction of the matter to be displayed;
  - 3. support structure and materials;
  - 4. electrical specifications;

- 5. documentation that the proposed sign’s construction meets this section’s applicable criteria for wind loads.
- B. A depiction of the lot or parcel on which the sign is proposed to be erected, which identifies applicable setbacks; the location, footprints and heights of existing or proposed buildings or structures; and the area, height, and location of any other existing or proposed signs.
- C. Any other permits, e.g., building or electrical permits, required by the La Plata County Code or any other governmental entity or agency having regulatory authority over the proposed sign.

**Sec. 70-21 Noise and vibration**

- I. **Purpose.** This section is intended to lessen the off-site impacts of noise disturbance that may be created by new development. Standards set forth in this subsection do not apply any agricultural use or construction of a single-family home.
- II. **Applicability.** Noise as measured at the property boundary shall not exceed state noise standards as set forth in C.R.S. § 25-12-103, as amended. Development subject to this section shall adhere to these standards during the hours of 7:00 p.m. – 7:00 a.m. In the hours between 7:00 a.m. and the next 7:00 p.m., the noise levels permitted in this section may be increased by ten (10) db(A) for a period of not to exceed fifteen (15) minutes in any one (1) hour period. ~~The reference to Table 20-21 provided below~~ identifies the maximum noise limits:  
Table 70-21 Noise Standards

Land Use Type	7:00 a.m. to 7:00 p.m. Decibel db(A) Level	7:00 p.m. to 7:00 a.m. Decibel db(A) Level
Residential	55 db(A)	50 db(A)
Commercial	60 db(A)	55 db(A)
Light Industrial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)

- III. **Exceptions.** The noise standards in this section shall not apply to the following land uses:
  - A. Noises of agricultural vehicles, farm operations, oil and gas extraction operations regulated under chapter 90, motor vehicles as preempted by state law, home appliances, and chain saws in private use, occasionally used safety signals, warning signals, emergency pressure relief valves, discharge of firearms and temporary construction operations.
  - B. Noises from any other land use, activity, or vehicle where state law preempts local control of noise levels, including without limitation qualifying sport shooting range exempted under C.R.S. § 25-12-109.
  - C. This article is not intended to apply to the operation of aircraft or to other activities which are subject to federal law with respect to noise control.
  - D. Vibration. Every use shall be operated so it does not inherently and recurrently generate a ground vibration that is perceptible, without instruments, at any point along any boundary line of the property on which the use is located. Where more than one (1) use is located on a property, then this standard shall be measured along any wall of any other building on the property.

**Sec. 70-22 Design criteria for common open space**

- I. **Applicability.** ~~Except for Clusters Rural Development,~~ this section shall apply to common open space required to be provided within the boundaries of a proposed development to achieve

compatibility or provide an amenity that directly benefits the residents, users or employees of the new development.

**II. Standards.** If common open space is contemplated in a development, it shall comply with the following standards:

- A. Structures permitted in common open space. Structures requiring a building permit are prohibited, unless authorized through the development review process.
- B. Prohibited uses. Building envelopes, parking areas, cut or fill slopes or other permanently disturbed areas that are part of the development are prohibited, except for outdoor recreational uses and underground utilities. Any commercial, industrial or development activity not related to agricultural uses, outdoor recreational uses, utility, and wildlife habitat improvement projects are prohibited.
- C. Dedication. Required common open space shall be dedicated by recorded instrument such as a deed, plat or separate instrument. Open space can be either a separate tract, or an easement or designated area on one or more platted lots.
- D. Continuing use and maintenance. All common open space shall continue to conform to its intended use, as specified in the land use permit. To ensure that all the common open space identified for the project will be used as common open space, restrictions and/or covenants shall be placed in each deed, plat or separate instrument to ensure their maintenance and to prohibit the division of any common open space. If common open space is proposed to be maintained through an association, district or nonprofit corporation, such organization shall manage all common open space and recreational facilities and shall provide for access and responsibility for the maintenance, administration and operation of the common open space.

**Sec. 70-23 Design criteria for open space, trails and parks**

**I. Applicability.** This section shall apply to public open space, trails and parks required to be created in conjunction with a proposed development to achieve compatibility or provide an amenity.

**II. Standards.** If open space, trails or parks are contemplated in a development, land reserved or dedicated for such public open space, trail systems or parks shall comply with the following standards:

- A. Connectivity. To the extent practicable, open space and trails shall be organized to create integrated systems of open space that connect with the following types of lands located within or adjacent to a development:
  - 1. Portions of local, regional, state or national trail and open space systems;
  - 2. Dedicated public parks or open lands;
  - 3. Dedicated school sites;
  - 4. Other dedicated common open space or trails.
- B. Accessibility. To the extent practicable, dedicated open space and trails shall be reasonably accessible to the public.
- C. Easement. All trails shall be platted as public easements, unless located and approved in the public right of way. Development on land on which there is an existing trail easement to public land, shall maintain such easement or substitute comparable easements acceptable to the county and other affected entities.
- D. Public improvements. All trails and parks shall be considered public improvements and shall be constructed subject to terms and conditions of other public improvements in the development.

**III. Additional design standards.** To the extent practicable, open space, trails and parks shall comply with the following design standards:

- A. Dedications for public access shall be at minimum twenty (20) feet in width. Land required for rights-of-way shall be platted as an easement or reflected on a site plan with an easement dedicated separately.
- B. Land used shall be compact and contiguous unless the land is used as a continuation of an existing trail or other linear parks, or unless specific topographic features require a different configuration.
- C. Land shall be left in its natural or existing condition and utilize natural landscaping features wherever possible.
- D. The trail or access easement may overlap and include property previously included in other easements such as utility or conservation easements, and public or private open space easements. However, open space, trail and park easements and dedications shall not compromise the function of any other easement or dedication.
- E. Continuing use and maintenance. All public open space, trails or parks subject to this section shall continue to conform to their intended use, as specified in the land use permit. To ensure that all the public open space, trails or parks identified for the project will be used as intended, restrictions and covenants shall be placed in each deed, plat or separate instrument to ensure their maintenance and to prohibit the division of any public open space, trails or parks. If public open space, trails or parks are proposed to be maintained through an association, district or nonprofit corporation, such organization shall manage all public open space, trails or parks and recreational facilities and shall provide for access and responsibility for the maintenance, administration and operation of the public open space, trails or parks.



## Chapter 72: Overlay Areas and Supplemental Overlay Standards

### **Sec. 72-1 Purpose and applicability**

This code establishes and provides for certain overlay areas. Overlay areas are designated to protect areas with special needs and characteristics, such as airports or may, among other things, be used to encourage newer forms of development around the perimeter of municipal boundaries. These overlay areas may have either independent or supplemental standards on land use and development within the area designated. Unless otherwise specified, the standards set forth in this chapter 72 shall apply to all land use development located within certain geographical areas identified by the applicable overlay area. The standards in this chapter 72 shall apply in addition to the basic standards set forth in chapter 70 and, depending upon the nature of the use, the standards set forth in chapter 73. Chapter 74 shall not apply to the joint planning area described in section 72-2 but shall apply to other overlay areas addressed in this chapter.

### **Sec. 72-2 Joint planning area overlay standards**

- I. Purpose.** The purpose of cooperative planning areas is to protect the health, safety or welfare of the community by coordinating with other jurisdictions through the application of mutually agreed-upon and appropriate design and development standards within areas in the county, which are either transitioning or likely to transition from a rural character to a more urbanized character. The standards are intended to better address the higher intensity uses in these transition areas.
- II. Applicability.** The board adopted an intergovernmental agreement between La Plata County and the City of Durango regarding joint land use planning on April 1, 2014. The joint planning area is designated in the IGA. For the purposes of the IGA between the county and city, new development that was previously defined as a “Class II Land Use Permit” shall include any development within the joint planning area that is now defined as a minor or major land use permit under this code, and minor exempt subdivisions are now defined as agricultural exemption subdivisions in this code. The standards identified in this section shall apply in addition to all other applicable standards in this code. If the standards identified in this section conflict with any other standards and cannot be read harmoniously with such standards, the standards in this section shall control and apply.

### **III. Streets, drainage, access, surface material, and dedications.**

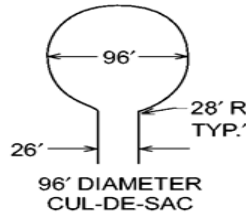
- A. Street classification and design criteria.
  1. Street classification and cross-sections shall comply with the standards outlined in Table 72-2 A.

**Table 72-2 A Street Cross-Section Design Criteria**

Classification	Max. ADTS	Travel Lanes (2)	Left-Turn Lane (1)	Paved Shoulders (2)	Curb & Gutter Required	Surface Width	Sidewalk Required	Landscape Buffer (2)	Minimum ROW	Max Grade
Arterial	N/A	12'	11'	5'	Yes	45'	Yes	5'	80'	8%
Collector	2,499	12'	11'	4'	Yes	43'	Yes	5'	70'	8 %
Major Local	999	11'	NA	4'	No	30'	No	NA	60'	8 %
Minor Local	399	11'	NA	2'	No	26'	No	NA	60'	10 %
Low ADT	48	10'	NA	NA	No	20'	No	NA	60'	10 %
Alleys, <u>emergency access</u>	NA	NA	NA	NA	No	20'	No	NA	20'	10%

2. The public works director may issue a director determination letter granting a waiver to the standards identified in Table 72-2 A for streets within the La Posta Road Area District boundaries, so long as the proposed design is consistent with the street design criteria identified in the La Posta Road Area District Plan and does not present potential health, safety, or welfare risks to the public.

3. Grass swales shall have a maximum 4:1 side slope.
4. Curbs shall have intermittent cuts to relieve drainage to the grass swales.
5. Horizontal and vertical alignment shall ~~be substantially conform to the latest addition of AASHTO's A Policy on Geometric Design of Highways and Streets. in accordance with this code.~~
6. Streets shall be designed with a cross slope of two (2) percent from the crown to the edge of the surface with a maximum superelevation of two (2) percent.
7. Turnouts shall be required at fire hydrants for all streets with a surface width of less than twenty-six (26) feet. Turnouts shall be required every eight hundred (800) feet for all streets with a surface width of less than twenty-six (26) feet; however, after receipt of comment from the applicable fire district, the public works director may reduce the number of required turnouts. Required turnouts shall have a surface designed to support sixty thousand (60,000) pound vehicles, be sixty (60) feet in length, and provide twenty-six (26) feet in surface width with reasonable tapering.
8. Major local, minor local, and low ADT streets may include grades of up to two (2) percent greater than those noted in Table 72-2 A if warranted based on alignment, length of segment, terrain or sun exposure and approved in writing by the public works director. The public works director shall seek comment from the applicable fire district prior to allowing a greater grade and such grade shall not exceed the maximum standard identified in Table 72-2 A for a consecutive length of ~~no~~ greater than two hundred (200) feet.
9. Streets and alleys shall be constructed and surfaced with an all-weather material, paved surface, such as concrete, asphalt, or other similar surface as outlined in the design and construction standards adopted by the City of Durango.
10. Alleys shall have a minimum paved width of twenty (20) feet and be graded to drain.
11. Streets, alleys, non-vehicular traffic improvements, required drainage facilities, and traffic signs shall be maintained by the property owner, or other legal entity responsible for such facilities and improvements, in good condition, free of weeds, trash, and debris.
12. The gradient within one hundred (100) feet of any street intersection shall not exceed five (5) percent. Every effort shall be made to keep grades at street intersections as flat as possible. The required sight distances as outlined by this code shall be provided in all cases.
13. The public works director may require more stringent widths and grades upon a determination that such grades or widths are warranted considering safety, topography, cross-section, drainage, snow storage, maintenance, or other site-specific conditions.
14. An appropriate transitional roadway plan shall be provided where a street is proposed to connect to a facility under the jurisdiction of an adjoining municipality and there is variation between the municipality's cross-section and the cross-section outlined herein. The proposed transitional roadway plan shall be reviewed by the adjoining municipality and a determination on the adequacy of the transitional plan shall be made by the public works director. The transitional plan shall be deemed adequate if the transitional cross-section meets the minimum standards provided for herein and allows for a safe and appropriate transition to the municipal facility.
15. Dead-end streets shall contain a turnaround that complies with the following design standards depicted in this Figure 72-2:



The public works director may approve an alternative design if it accommodates the safe turnaround of a vehicle that is thirty (30) feet in length. A professional engineer shall certify the design and construction of the turnaround area. The applicable fire district and adjacent municipality, if applicable, shall provide comment on the adequacy of the design of the turnaround prior to the public works director's approval.

B. Drainage.

1. Drainage for arterials, collectors and major local streets shall be designed with curb and gutter and intermittent curb cuts to spill street flow into grass swales. Drainage for minor local streets, low ADT, and cul-de-sac, alley, and emergency streets may be designed solely utilizing grass swales.
2. Grass swales shall be designed based on the current version of Urban Drainage and Flood Control District Criteria Manual Volume 3 for design of grass swales.
3. The drainage system (curb and gutter and grass swales, or grass swales alone) shall be designed such that the ten-year storm design event is contained below the top of the curb with all travel lanes remaining open.
4. The drainage system (curb and gutter and grass swales, or grass swales alone) shall be designed such that the one hundred (100) year storm design event can pass with a minimum of one (1) travel lane remaining open.
5. Grass swales shall be designed with a surface that will remain stable in the one hundred (100) year storm event.
6. When the combined flow from intersecting streets causes the allowable cross-street flows to be exceeded, flows shall be intercepted upstream of the intersection and routed appropriately.
7. Streets and grass swales shall be designed with continual fall and nominal ponding.
8. A storm drain system may be developed in lieu of swales. In such cases, an adjoining municipality or special district must provide written comment that the storm drain plans comply with their respective standards. Connection to the storm drain system shall occur prior to plat recording or permit issuance.

C. Street connectivity and access.

1. New streets or street alignments, including street stubs/stub outs, shall connect to adjacent public roadways or public rights-of-way, when such public streets or public rights-of-way exist, or are included in an approved plan.
2. New development shall have a secondary access or an emergency access from a public street as outlined in the Table 72-2 B Emergency Access. ~~The primary access to a development shall meet the applicable chapter 74 standards, including any off-site portions of the street until it intersects the nearest county roadway or state highway. The emergency access shall meet the minimum standards in subsection 74-4.XIII.B.~~

**Table 72-2 B Emergency Access**

Number of ADT	Access Required
Less than 200	None
200—800	20' wide emergency access road
Greater than 800	Secondary access road

3. Upon consideration of written recommendations from the public works director and applicable fire district, the director may issue a director determination letter with respect to the applicable requirements in Table 72-2 B. A waiver may be granted upon a finding that: (i) topography challenges or other site-specific constraints prevent compliance with the requirements; (ii) adequate fire mitigation measures exist, such as defensible space, on-site water supply for fire-fighting purposes, internal sprinklers, additional street width, or fire resistant construction materials; and (iii) the granting of the waiver would not be detrimental to the health, safety or welfare of the public. The director may limit the extent of the waiver to the degree necessary to ensure protection of the public health, safety and welfare.
4. Maximum length of dead-end streets shall not exceed five hundred (500) feet when serving one hundred sixty (160) or more ADT or one thousand (1,000) feet when serving fewer than one hundred sixty (160) ADT.
5. Gated subdivision roadways and accesses may be considered within a project when both the applicable fire district and public works director approve their design, specifically considering public safety for pull-outs along travel lanes and effective accessibility for emergency vehicles (via use of Knox Box or other commonly accepted industry standard).

5-6. The primary access to a development shall meet the applicable county road standards, including any off-site portions of the road until it intersects the nearest county road or state highway

D. Parking, roadway, and driveway surface material.

1. Except as provided in subparagraph 72-III.D.2, all driving surfaces shall be graded for adequate drainage and surfaced with a paved surface, such as concrete, asphalt, or other similar surface approved by the public works director. Permeable pavement is allowed on internal surfaces, subject to written approval by the public works director.
2. Gravel or alternative surfaces, including surfaces treated with dust retardants, are not permitted unless (i) used as an acceptable alternative for emergency access streets and a waiver is obtained from the public works director; or (ii) the proposed land use includes, but is not limited to, gravel excavation and sales, soil and rock excavation and sales, or similar industrial uses with minimal structures and a waiver of the paving requirement is obtained from the director. Waivers under sub-subparagraph 72-2\_III.D.2(ii) may be allowed as to any required paved surface, in whole or in part, but only to the extent reasonably necessary to avoid conflict with the proposed land use or economic waste of a paved surface. A waiver shall not create unmitigated adverse impacts upon neighboring properties.
3. Paving requirements also may be waived by the public works director for emergency access, when the emergency access street is constructed with an all-weather surface material designed to support sixty thousand (60,000) pound vehicles, have a minimum surface width of twenty (20) feet, and include reasonable edge tapering.

E. Dedications.

1. Public street dedication. All streets and rights-of-way shall be dedicated for public use and shall authorize the use of the rights-of-way for all public uses, including but not limited to vehicular, pedestrian, bicycle, and utility use.
2. Right-of-way width dedication. When required, the applicant shall dedicate rights-of-way for the entire length of the existing rights-of-way frontage or future rights-of-way within the property lines of the parcel(s) subject to the development. ~~The minimum rights-of-way are identified in Table 72-2 A but the amount of right-of-way dedication shall be adequate to address the impacts attributable to the subject development. The minimum rights-of-way are identified in Table 72-2 A and the amount of rights-of-way dedicated shall be adequate to address future growth as contemplated in the applicable district plan.~~ The determination of the amount of required dedication shall take into consideration existing topography constraints and street design and may not unequally burden adjacent parcels due to such factors. If a governmental entity is responsible for maintenance of the rights-of-way, such rights-of-way shall be deeded in fee to the governmental entity at the time of the project approval or at such time the governmental entity assumes maintenance responsibility.

#### IV. Outside storage.

- A. Movable storage structures, including but not limited to portable storage containers and trailers, shall be allowed if ~~they are determined~~deemed compatible through an approved land use permit. Temporary movable storage structures that are not included in an approved land use permit shall be allowed on a site for up to thirty (30) days without county approval.
- B. Outside storage of items such as merchandise, building materials, tools of trade, or inoperable items (e.g., household appliances, vehicles, refuse) shall be allowed for a period of no more than thirty (30) days without county approval. The storage of building materials for on-site construction that is in compliance with the county building code shall be allowed for more than thirty (30) days without county approval.

#### V. Outdoor lighting.

- ~~1.—~~Exceptions. ~~Lighting otherwise required by law is~~The following shall be exempted from the outdoor lighting regulations in this section:
- ~~2.—~~Lighting for holidays;
- ~~3.1. —~~Lighting required by law.
- B. Light trespass. Exterior lighting shall not be the cause of light trespass, as provided below:
  1. Light that trespasses onto public rights-of-way shall not exceed one and one-half (1.5) foot-candles as measured from the property line;
  2. Light that trespasses onto an adjacent property shall not exceed eight-tenths (0.8) foot-candles as measured from the property line;
  3. Light trespass is measured by vertical readings in foot-candles at the brightest point on the property line.
- C. Shield against uplight. Unless otherwise stated in this section, uplighting from all lights (including street lighting) shall be avoided by using shields. Full cutoff shields may be used unless a particular shield is specified for a particular use as stated within this section.
- D. Glare. To reduce glare, the point source of light shall not be visible beyond any property line on which the light is located.
- E. Reduced lighting with reduced commercial activity. Outdoor lighting, except security lighting and lights illuminating commercial signs, shall be extinguished at the close of business

operations, or by 9:00 p.m., whichever is later and shall remain extinguished until two (2) hours prior to resuming business operations.

- F. Replacement of fixtures. If an existing light fixture is removed, it shall be replaced with a conforming light fixture.
- G. Maintenance of fixtures. Lighting shall be maintained by the property owner or other legal entity responsible for such facilities and improvements in functioning condition, as initially approved and intended.

**VI. Landscaping.** A scaled landscape plan shall be submitted, and shall include the following minimum requirements:

- A. A five (5) percent minimum area of the total subject parcel(s) associated with a project shall be landscaped. The director may issue a waiver allowing indigenous vegetation in undisturbed areas to contribute to the five (5) percent minimum area for proposed land uses including, but not limited to, gravel excavation and sales, soil and rock excavation and sales, or similar industrial uses with minimal structures. Adjacent, unimproved portions of public rights-of-way may not contribute to this minimum area.
- B. When located adjacent to an arterial, collector, major local or minor local street, trees must be planted along all frontages a minimum of two (2) feet from any street curb or pavement edge.
- C. Planning of any landscaping shall be designed with consideration toward existing or proposed underground utilities.
- D. No fence, wall, entrance fixture, landscaping, tree or other sight obstruction to motorists or pedestrians shall be allowed to encroach upon the required sight distance at intersections
- E. All unimproved, open areas not already populated with indigenous vegetation shall either be planted, or otherwise protected from erosion and dust.
- F. Plant materials required for landscaping shall meet the following standards:
  - 1. Plant quality. Plants shall be nursery-grown and adapted to the regional climate, preferably native and drought-tolerant. Grass seed, sod, and other ground cover material must be clean and reasonably free of weeds and noxious pests and insects. Artificial plants or vegetation are prohibited and may not be used to meet any standards of this section.
  - 2. Tree size. Trees planted to satisfy the standards of this paragraph must contain a two (2) inch minimum caliper, measured twelve (12) inches from the base of trunk or top of planting root ball.
  - 3. Shrub size. When used for screening purposes, shrubs must have a minimum container size of five (5) gallons.
  - 4. Individual groundcover plants. Groundcover plants intended to satisfy the standards of this paragraph must have a minimum container size of one (1) gallon. Ground cover plants used in lieu of grasses, in whole and in part, shall be planted in such a manner as to present a finished appearance and reasonably provide coverage of the entire planted area within one (1) year from initial planting.
  - 5. Xeriscape. As an alternative to the plant material standards required in this paragraph, xeriscaping may be used to fulfill those requirements. When xeriscaping seventy-five (75) percent or more of the landscaped area of a project, landscape irrigation requirements may be reduced. Plant materials, as identified by the Colorado State University Extension Office Xeriscaping Fact Sheet, in conjunction with best practices of xeriscape principles, shall be accepted for purposes of this paragraph.



G. Ongoing maintenance shall occur for all required landscaping, including the replacement of dead or unhealthy plants. Landscaping shall be maintained by the property owner or other legal entity responsible for such plant materials as required or approved.

**VII. Water supply.** All water facilities shall be installed in accordance with the standard drawings and construction specifications on file with the service provider.

**VIII. Sanitary sewer.** All wastewater facilities shall be installed in accordance with the standard drawings and construction specifications on file with the service provider.

**Sec. 72-3 Airport influence overlay designation and standards**

**I. Purpose.** Airports can present unique safety, nuisance and regulatory concerns. The purpose of this section is to enact an airport influence overlay and associated regulations, providing for certain land development standards on the area surrounding the airport which may be affected by aircraft noise, vibrations, fumes, dust, fuel particles and other annoyances and influences from airport operation. Further, the use of land within the airport influence overlay area affects the safe and efficient operation of the airport and aircraft using the airport. This section is intended to minimize risks to public safety and hazards to aircraft users and to protect the capacity of the airport to serve the community's air transportation needs.

**II. Applicability.** The standards contained in this section apply to the development of all uses within the airport influence overlay established pursuant to this section. The standards identified in this section shall apply in addition to all other applicable standards in this code.

**III. Establishment of overlay.** An airport safety overlay is hereby established for those areas of the unincorporated county lying within or under any zones of the navigational airspace around an airport as regulated by the FAA pursuant to the development and height standards of 14 C.F.R. Part 77, which may be more precisely shown in the most recent version of an airport's Airport Layout Plan on file with the FAA.

**IV. Agency referral.** All applications for land use permits related to real property within an airport safety overlay area shall be referred to the airport and the Federal Aviation Administration pursuant to subsection 66-11.II.

**V. Supplemental standards.** In addition to other standards set forth in this code, the following shall apply:

- A. Height. Development shall conform to height and navigable airspace standards and guidelines set forth in any applicable state or federal law or regulation, including without limitation the standards in 14 C.F.R. Part 77;
- B. Lighting. Development shall not include lighting that imitates airport lighting or is otherwise likely to impede the ability of pilots to distinguish between the development and the airport;
- C. Glare. Reflective materials utilized for development shall not produce brightness to cause annoyance, discomfort, or loss in visual performance as seen from the airport or that is likely to impede the ability of pilots to safely navigate into or out of the airport;
- D. Interference with airport operations. Development shall not:
  - 1. Cause or create interference with navigational signals or other communications sent to or received from the airport;
  - 2. Attract or otherwise contribute, by and not limited to its landscaping, to an increased presence of wildlife that may have an adverse impact on aeronautical activity;
  - 3. Violate the terms and conditions of any grant document between the airport and any federal or state governmental agency.



- E. Noise level attenuation. In order to protect the owners, lessees, occupants and other users of property within an airport safety overlay area, all buildings shall be constructed to reduce interior noise levels as follows:
1. Residential uses and mixed uses. The owner of any building constructed primarily for residential use, or any portion of a mixed use building primarily intended for residential use, shall demonstrate in a form satisfactory to the director (whether by noise ~~level~~ study or certification by an appropriate professional engineer or architect or otherwise) that the noise levels attributable to airport operations do not exceed fifty (50) db(A) inside such building or portion of a building.
  2. Commercial uses. The owner of any building constructed primarily for commercial use, or any portion of a mixed use building primarily intended for commercial use, shall demonstrate in a form satisfactory to the director (whether by noise ~~level~~ study or certification by an appropriate professional engineer or architect or otherwise) that the noise levels attributable to airport operations do not exceed fifty-five (55) db(A) inside such building or portion of a building.

In administering these standards, the director may rely upon the most recent noise study or other analysis, if any, conducted with respect to the airport in order to establish presumptive noise levels based on the study or any related noise contour maps.

**VI. Fair disclosure requirements.** No person shall sell, lease or offer for sale or lease any real property located within an airport safety overlay area without notifying a prospective buyer or lessee that the property is within an airport safety overlay area and identifying the distance between the property and the airport. No plat shall be recorded for real property located within an airport safety overlay area without a note that the property is within an airport safety overlay area.

**VII. Avigation easement requirement.** Prior to issuance of any building, land use, or other development permit for property within an airport safety overlay area, the owner shall provide an avigation easement for the benefit of the City of Durango and La Plata County in a form acceptable to the county attorney. The avigation easement shall be for all real property owned by said owner within an airport safety overlay area and shall release the City of Durango and the county from liability, and hold the City of Durango, the county and the public harmless, for any and all claims for damages originating from dust, noise, vibration, fumes, fuel, lubricant, fuel and lubricant particles or any other effects that may be caused by aircraft landing, departing or operating at or near the airport.

Sec. 72-4      **Mineral conservation overlay standards – Reserved**

Sec. 72-5      **State/County proposed highway/road overlay standards – Reserved**

Sec. 72-6      **Wildland-Urban Interface overlay standards - Reserved**

## Chapter 73: Standards and Additional Submittal Requirements for Specific Uses

### Overview

The specific uses addressed in this chapter require particular attention for a variety of reasons. Although many uses have the potential to impact neighbors by generating noise, dust, odor, light, traffic or other potential nuisances, some uses require evaluation and mitigation efforts beyond those established more generally elsewhere in the code. By way of example, some uses present additional concerns to the health, safety and welfare of the community at large that justify special attention in this chapter. Other uses addressed in this chapter warrant special attention in order to accommodate unique technical considerations or to coordinate the county's interests with regulations and standards set at the state and federal levels. Some uses addressed in this chapter present opportunities to promote the county's interest in the use by allowing different standards than those generally applicable.

### Sec. 73-1      **Applicability**

The standards and submittal requirements set forth in this chapter are in addition to all other applicable standards and submittal requirements set forth in this code. However, the director may waive or modify one (1) or more of the submittal requirements of this chapter or chapter 66 when the submitted information would be duplicative or not relevant to a determination whether the project complies with all applicable criteria for approval.

### Sec. 73-2      **Accessory uses**

- I. Standards specific to accessory uses.** All accessory uses shall:
  - A. Directly serve the principal use or structure and ~~be~~ reasonably incidental to the principal use;
  - B. Be located on the same lot as the principal use;
  - C. Be owned and operated by the same person(s) or entity as the principal use;
  - D. Be owned and operated by a resident of the dwelling unit;
  - E. Not produce unmitigated adverse impacts detectable at the accessory uses' property line as set forth in paragraph 70-5.III.B;
  - F. No accessory use, except for ~~an additional dwelling unit subject to section 73-3 or accessory dwelling units or caretaker units,~~ or sheds or garages intended for personal use; or construction related to storage during construction of the primary residence, shall be constructed or established prior to the principal use.
- II. Land use permit not required.** An accessory use shall not require a land use permit if it meets the following additional standards:
  - A. The accessory use shall be limited to no more than four hundred (400) square feet, and shall only be located within the dwelling unit or attached garage.
  - B. The accessory use shall not include any outside storage.
  - C. The accessory use shall not include employees, agents, assistants, or other individuals related to the normal operations of the accessory use that are not residents of the dwelling unit.
  - D. The accessory use shall not include any on-site sales to customers, classes, demonstrations, or any other visits by members of the public.
  - E. The accessory use shall not include any exterior signs, or interior signs visible from the exterior, which identify the accessory use.
  - F. The accessory use shall not increase traffic more than four (4) average daily trips above the levels normally attributable to the use of the lot for residential purposes.

**III. Administrative land use permit.** An accessory use is subject to the administrative land use permit requirements if meeting the following additional standards:

- A. The accessory use shall be limited to no more than eight hundred (800) square feet, and shall be located within the dwelling unit, an attached garage, a detached garage, and/or a single out-building.
- B. The accessory use shall be limited to no more than five hundred (500) square feet of additional exterior storage, and such storage shall be screened.
- C. The accessory use shall be limited to no more than one employee, agent, assistant, or other individual related to the normal operations of the accessory use that is not a resident of the dwelling unit.
- D. The accessory use shall not include any on-site sales to customers, classes, demonstrations, or any other visits by members of the public.
- E. The accessory use shall not include any exterior signs, or interior signs visible from the exterior, which identify the accessory use.
- F. The accessory use shall not increase traffic more than eight (8) average daily trips above the levels normally attributable to the use of the lot for residential purposes.

**IV. Minor land use permit.** An accessory use shall be permitted pursuant to a minor land use permit if meeting the following additional standards:

- A. The accessory use ~~shall be limited to no more than one thousand two hundred (1,200) square feet, and~~ shall be located within the dwelling unit, an attached garage, a detached garage, and/or a single out-building. When located within the dwelling unit, the accessory use shall be less than fifty (50%) percent of the dwelling units' gross floor area.
- B. The accessory use shall be limited to no more than one thousand (1,000) square feet of additional exterior storage, and such storage shall be screened.
- C. The accessory use shall be limited to no more than two (2) employees, agents, assistants, or other individuals related to the normal operations of the accessory use that are not residents of the dwelling unit.
- D. The accessory use shall be limited to incidental on-site sales to customers, classes, demonstrations, or other visits by members of the public, so long as such activities do not increase the average daily trip limit beyond the limits in paragraph F below.
- E. The accessory use shall be limited to no more than one (1) sign subject to all other limitations of section 70-20 and such sign shall be no more than four (4) square feet on each side.
- F. The accessory use shall not increase traffic more than twenty-four (24) average daily trips above the levels normally attributable to the use of the lot for residential purposes.
- G. The accessory use shall be limited to no more than two (2) business vehicles regularly parked on the lot, including heavy equipment.

**Sec. 73-3 Additional dwelling units**

- I. Applicability.** Additional dwelling units are allowed in conjunction with a principal single family residential dwelling unit~~se~~ provided the additional dwelling unit complies with the standards of this section.
- II. No land use permit required.** A second dwelling unit on one (1) parcel does not require a land use permit if the parcel is at least seventy (70) acres. A third dwelling unit on one (1) parcel does not require a land use permit if the parcel is at least one hundred and five (105) acres.
- III. Director determination.**

- A. Agricultural second or third dwelling unit. Applications for a director determination for a second or third dwelling unit on one (1) agricultural parcel may be approved pursuant to this subsection and shall follow the process established in section 66-4 if sufficient written documentation is submitted and supports the following requirements:
1. The parcel is at least thirty (30) acres for a second dwelling unit and forty-five (45) acres for a third dwelling unit.
  2. The parcel was assessed as agricultural in the most recent county assessment.
  3. Each additional dwelling unit shall meet water quantity and quality standards pursuant to section 70-4.
  4. Each additional dwelling unit shall meet the on-site wastewater treatment system standards pursuant to section 70-3.
  5. Each additional dwelling unit shall meet driveway standards pursuant to chapter 74.
  6. If a central water or sewer system is proposed, written documentation from the water or sewer provider that the system has capacity to adequately handle the additional dwelling unit's increased usage.
- B. General second dwelling unit. One (1) second dwelling unit on one (1) residential parcel may be approved pursuant to ~~an administrative land use permit~~ director determination if sufficient written documentation is submitted and supports the following requirements:
1. The second dwelling unit will share the same electrical meter, water source, on-site wastewater treatment system, and access as the primary dwelling unit.
  2. The livable floor area of the second dwelling unit does not exceed the size of the primary dwelling unit or two thousand (2,000) square feet, whichever is less.
  3. The second dwelling unit shall meet water quantity and quality standards pursuant to section 70-4.
  4. The second dwelling unit shall meet the on-site wastewater treatment system standards pursuant to section 70-3.
  5. The second dwelling unit shall meet driveway standards pursuant to chapter 74.
  6. If a central water or sewer system is proposed, written documentation from the water or sewer provider that the system has capacity to adequately handle the second dwelling unit's increased usage.
- C. Other standards do not apply. Although the general approval criteria set forth in section 66-16 shall apply, applications for director determinations for second and third dwelling units submitted pursuant to this subsection III shall not be required to meet additional standards in this code generally applicable to other developments requiring an administrative land use permit.

**IV. Administrative land use permit.** One (1) second dwelling unit on one (1) parcel may be approved pursuant to ~~an administrative minor~~ land use permit if not eligible for a director determination and the parcel is at least six (6) acres or more. Applications for an administrative land use permit for second dwelling units submitted pursuant to this subsection shall meet all standards applicable to other developments requiring ~~an administrative minor~~ land use permit.

**V. Minor land use permit.** A second or third dwelling unit on one (1) parcel may be approved pursuant to a minor land use permit if not eligible for a director determination or an administrative land use permit. Applications for a minor land use permit for second or third dwelling units submitted pursuant to this subsection shall meet all standards applicable to other developments requiring a minor land use permit.

**VI. Major land use permit.** Adding a fourth or more dwelling units on one (1) parcel shall require a major land use permit. An application for a major land use permit for additional dwelling units pursuant to this subsection shall comply with the standards and submittal requirements applicable to other developments requiring major land use permit as set forth in section 66-7 and shall follow the applicable process established in section 66-21.

**Sec. 73-4 Bed and breakfast inns**

**I. Standards specific to bed and breakfast inns.**

- A. Owner on premises. The owner or manager shall live on the premises when and where the bed and breakfast inn is in operation.
- B. Provides at least one (1) meal per day at no charge.
- C. There are at least two (2), but not more than thirteen (13), guest bedrooms available for transient guests.
- D. Maintain Residential Appearance. Structures associated with the bed and breakfast inn shall have and maintain a general residential appearance.
- E. On-Site Parking. A minimum of one (1) parking space shall be provided for each guest bedroom, plus spaces required for the principal residence in accordance with section 70-18. If four (4) or more off-street parking spaces are provided, visual screening (fence, wall, landscaping, or combination thereof) from adjacent residential uses shall be required.
- F. Signage. One (1) on-premises sign shall be allowed, with a size limit of ~~five (5) three (3)~~ square feet on roads with a speed limit of thirty (30) miles per hour or less, and ~~six (6) square eight (8)~~ feet on roads with a speed limit greater than thirty (30) miles per hour. Internally illuminated signs are not allowed. Externally illuminated signs shall meet the standards of section 70-20, as applicable.

**Sec. 73-5 Campgrounds and recreational vehicle parks**

- I. Purpose.** This section is enacted to establish, maintain and enforce minimum standards for the development of organized campgrounds, including recreational vehicle parks, and to ensure proper utilities, physical facilities and other conditions required to make campgrounds and recreational vehicle parks safe, sanitary and fit for human habitation.
- II. Applicability.** These standards and submittal requirements apply to any land use permit application proposing a primitive, semi-primitive, semi-developed, developed or modern campground (as those uses are defined in this code and state law), including recreational vehicle parks. Tiny homes on wheels are allowed in campgrounds and recreational vehicle parks subject to the same standards and requirements in this section for recreational vehicles.
- III. Standards specific to campgrounds and recreational vehicle parks.**
  - A. Ownership. A campground or recreational vehicle park may only be established on a single parcel.
  - B. Site location. The site shall be well drained, free from topographical hazards, natural hazards or other conditions unfavorable to proper enjoyment by users.
  - C. Property line setbacks. Each campground and recreational vehicle park shall provide the following setbacks along the property line of the subject parcel with respect to all facilities, including individual campsites and spaces, on the site:
    - 1. From a property line adjacent to any public highway or right-of-way: twenty-five (25) feet;
    - 2. Recreational vehicle campsites shall be located at least twenty-five (25) feet from the property line.

- D. Internal setbacks. The location of each campsite, space, or other facility on the site shall be situated to allow for compliance with the following internal setbacks:
1. All recreational vehicles, including awning and other attachments, motor vehicles and temporary accessory structures must be placed at least three (3) feet from the boundaries of the recreational vehicle campsite.
  2. All recreational vehicles shall be located at least ten (10) feet from buildings and other recreational vehicles on adjacent recreational vehicle campsites.
- E. Water supply, sewage disposal and sewage collection. Except for a residential dwelling unit for a caretaker of a recreational vehicle park located on the site, campgrounds and recreational vehicle parks shall conform to the state regulations for campgrounds and recreation areas relating to water supply, sewage disposal and sewage collection rather than the standards set forth in chapter 70.
- F. Access. Each campground, except primitive and semi-primitive sites, and each recreational vehicle park shall have access to a county road, state highway or road on federal lands. Accessibility to such roads must be established to accommodate large recreational vehicles with limited turning movements, reduced visibility and slower acceleration speeds.
1. Entrance roads. All entrance roads that do not front campsites shall conform with chapter 74.
  2. Interior roads. Each campsite, except walk-in sites, and recreational vehicle campsite shall front upon an interior road which conforms to the state regulations for campgrounds rather than chapter 74, and each campsite not fronting directly upon a conforming road shall have a clear and unobstructed access of not less than ten (10) feet in width to a conforming road.
- G. Parking. Parking areas and spaces shall be provided in semi-developed campgrounds, developed campgrounds and recreational vehicle parks for automobiles, camping or recreational vehicles, boats, trailers and other appurtenant equipment at the rate of at least one (1) space per campsite or recreational vehicle campsite. No recreational vehicle shall be parked outside a designated recreational vehicle campsite. Each recreational vehicle stand shall be surfaced with a minimum of four (4) inches of compacted gravel with a maximum aggregate size of two (2) inches. In recreational areas accessible to motor vehicles, all vehicular traffic shall be restricted to roadways and parking areas. Parking space shall be provided for the estimated maximum number of users at the rate of one (1) space for four (4) persons and shall not exceed one hundred (100) spaces per acre. Should additional uses be contemplated as part of the development proposal, adequate parking shall be provided pursuant to section 70-18.
- H. Limitation on use. Camping parties and users shall be limited to that number for which the physical facilities were designed. Use of primitive and semi-primitive campgrounds shall be limited to membrane structures. Use of semi-developed, developed and modern campgrounds may, depending upon the level of improvements include membrane structures, self-propelled vehicles, towed camping units and recreational vehicles. The maximum length of stay for a camping party shall be sixty (60) days. Movement from one space within the campground or recreational vehicle park to another shall not waive this limitation. Recreational vehicle parks are not intended for the temporary or long-term storage of recreational vehicles. Use of a recreational vehicle park as temporary or long-term storage may require a land use permit under section 73-7, Commercial outdoor storage.
- I. Identification of campsites. Campsites and recreational vehicle campsites shall be clearly marked and identified.



- J. Size of campsites and recreational vehicle campsites. Each campsite or recreational vehicle campsite shall provide at least nine hundred (900) square feet of space. No more than one (1) recreational vehicle may be parked in a single space.
- K. Density. The density of campsites and recreational vehicle campsites shall not be more than twenty-five (25) per acre excluding roads, buildings and other common use areas.
- L. Structures. No permanent or semi-permanent structures, such as cabins, lean-tos, sheds or habitable buildings shall be erected in the campground except by the owner of the real property and shall be erected in accordance with the building code. Temporary structures such as awnings, screened enclosures, and other similar equipment, which are normal camping equipment, may be erected but must be removed when the campsite is vacated.
- M. Vegetation. Natural vegetation and ground cover shall be maintained or provided to facilitate drainage, reduce dust, prevent erosion and reduce fire hazards.
- N. Wildlife impacts. Applicant shall assess and, to the maximum extent feasible, prevent adverse impacts to wildlife in compliance with approved mitigation measures set forth in the applicant's wildlife analysis.
- O. Community service buildings or open space. All community service buildings shall conform to the requirements of the state regulations for campgrounds and the building code. At least two hundred (200) square feet for each space within a campground or recreational vehicle park shall be reserved for recreational and community use by the occupants of the campground or park.
- P. Operators and caretakers. The operator of the campground or caretaker of a recreational vehicle park shall maintain the grounds and common use sanitary facilities, equipment and utilities in a clean, safe, and sanitary condition and shall insure that solid waste is collected at least once per week or more frequently if necessary to prevent nuisance conditions or wildlife encounters. A recreational vehicle park may include one (1) residential dwelling unit for the purpose of providing housing or shelter for the caretaker or supervisor of the park.
- Q. Fires. Fires will be permitted only in facilities which have been provided for such purposes or where open fires are allowed. Fire pits or other cooking facilities shall be located, constructed, maintained, and used to minimize fire hazard and smoke nuisance in the campground, recreational vehicle park and the neighboring properties.
- R. Fire protection. Development subject to this section shall comply with the fire code as prescribed by the chief of the fire district.

**IV. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. Operatingion plan. A plan for the method of operations, including without limitation:
  1. Statement of the proposed operational periods;
  2. Plan to minimize adverse impacts on wildlife and minimize nuisances;
  3. Refuse disposal plan, including management of container;
  4. A statement of the number of permanent and temporary employees anticipated on site during operation;
  5. A statement addressing preparedness and protocol for responding to a wildfire beginning on or in the vicinity of the campground or recreational vehicle park;
  6. Plan for general caretaking.



- B. A copy of the proposed rules for the campground or recreational vehicle park addressing, at a minimum, fire safety, practices to prevent adverse impacts on wildlife, control of domestic animals such as dogs and a mechanism for enforcement of such rules.
- C. A copy of the wildlife analysis.
- D. Evidence of all necessary CDPHE permits for sanitation and sanitary disposal stations and a statement addressing how the construction, layout, and operation of the campground or recreational vehicle park is in general conformance with all state requirements.
- E. Site plan. A site plan containing these additional requirements, whether existing or proposed:
  1. The area and dimensions of the entire parcel and the site proposed for use;
  2. Land use and activity proposed within the site;
  3. Topography of the parcel with contour lines of sufficient detail to portray the direction and rate of slope of the parcel;
  4. The number, size, location and surfacing materials of the proposed campsites or recreational vehicle campsites and other parking areas;
  5. Location, roadway and right-of-way widths and surfacing materials of public roadways providing access to the site;
  6. The interior vehicular circulation pattern, including widths, surfacing materials and proposed design speed and pedestrian circulation pattern;
  7. Location and proposed use of structures;
  8. Location of solid waste collection receptacles which shall be designed to be in accordance with CPW to prevent wildlife conflicts;
  9. Location of a potable water distribution system, including proof of the water's source, quality and quantity, if proposed;
  10. Location of sanitary sewer collection and treatment system, including capacity, if proposed;
  11. Location of lighting, gas and electric systems, if proposed;
  12. Location of fences, buffering and landscaping areas.
- F. Plan for the removal and abatement of noxious weeds.

**Sec. 73-6 Reserved**

**Sec. 73-7 Commercial outdoor storage and sales areas**

**I. Applicability.** These standards apply to any ~~commercial or industrial~~ land use permit applications proposing outside storage or sales areas that are generally open to members of the public except for those uses set forth in section 66-5.II. Commercial outdoor storage includes but is not limited to uses where merchandise or equipment is stored outdoors, and areas accessory to commercial uses where seasonal sales, services, or other commercial activities are conducted outdoors. Standards in this section do not apply to residential and agricultural properties unless requesting establishment of a commercial facility.

**II. Standards specific to commercial outdoor storage and sales areas.**

- A. Buffering. Commercial outdoor storage and sales areas shall provide buffering to residential uses which may be accomplished through walls, fencing, berming, screening or landscaping as set forth in section 70-17. Screening shall be a minimum of six (6) feet high, or more if necessary to adequately screen the equipment or function.
  1. Where a fence or wall is used to buffer these areas, the materials shall be ~~approved~~-opaque, non-reflective and of similar quality to those used on the principal building.

2. Where landscaping is used to screen these areas, plant materials shall include evergreens, to create a year-round screen, and shall be planted and maintained to provide an effective screen within three (3) years.
- B. Setbacks. The following minimum setbacks shall apply to all facilities associated with a commercial outdoor storage or sales areas subject to this section:
1. Permanent facilities shall be no closer than one hundred (100) feet from an existing residential dwelling unit.
  2. No commercial outdoor storage or sales area shall be placed or maintained within a public right-of-way.
- C. Surfacing requirements. Commercial outdoor storage and sales areas shall be surfaced with gravel, asphalt, or concrete.
- D. Storage of hazardous materials. Flammable or explosive materials shall be stored in accordance with federal, state and local fire codes and warning signs shall be posted.

**III. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit a site plan containing these additional requirements, whether existing or proposed:

- A. Locations for the storage and sale of merchandise outdoors;
- B. Locations for the storage of hazardous materials.

**Sec. 73-8 Commercial outdoor shooting range**

**I. Applicability.** These standards and submittal requirements apply to any land use permit application proposing a shooting range that is generally open to use by members of the public, whether operating for profit or not for profit, and not entirely enclosed within a ~~fully or entirely enclosed~~ building. Nothing in this section shall be construed as a designation under C.R.S. § 30-15-302(1) prohibiting the discharge of firearms in the unincorporated county, nor shall this section be construed to restrict or otherwise affect a person's constitutional rights to bear arms and defend person, family or property.

**II. Standards specific to commercial outdoor shooting ranges.**

- A. Setbacks. The following minimum setbacks shall apply to all facilities associated with a shooting range subject to this section:
- ~~1.~~ ~~From the property lines of the proposed subject parcel, each shooting position, target impact area, bullet stop, and any portion of the lane between a shooting position and a bullet stop shall be setback at least three hundred (300) feet;~~
  - ~~2.1.~~ From the property lines of a lot or parcel containing an oil and gas development or an oil and gas facility: five hundred (500) feet;
  - ~~3.2.~~ From the outermost limits of any portion of an oil and gas facility located on the proposed subject parcel: ~~two hundred fifty (250)~~ five hundred (500) feet;
  - ~~4.3.~~ From the property lines of residential uses: five hundred (500) feet;
  - ~~5.4.~~ From the property lines of non-residential uses: five hundred (500) feet;
  - ~~6.5.~~ From the legally described boundary line of a public rights-of-way: five hundred (500) feet;
  - ~~7.6.~~ From the wellhead of a well supplying water for human consumption: five hundred (500) feet;
  - ~~8.7.~~ From the outermost limits of any body of surface water or wetlands: five hundred (500) feet;

~~9.8.~~ From the outermost limits of a dry streambed: fifty (50) feet;

~~10.9.~~ From the outmost bank of irrigation canals and ditches: seventy (70) feet.

- B. A shooting position shall not be situated more than one thousand (1,000) feet from its intended target impact area.
- C. A shooting position shall not be situated in a way that the resulting line of fire to its intended target impact area is above horizontal. The director may waive this criterion upon a showing that the size and other topographical features of the subject parcel, including without limitation natural terrain features, sufficiently mitigate the risk of projectiles traveling beyond the property lines of the subject parcel.
- D. The perimeter of the shooting range or the parcel containing the shooting range shall be fenced and warning signs shall be posted at least every one hundred (100) feet along such fence line.
- E. Noise. Noise from the operation of the shooting range shall not exceed state noise standards set forth in section 70-21 and C.R.S. § 25-12-103.
- F. Hours of operation. Firing of weapons and other activities that will generate noise beyond the property lines of the subject parcel shall be conducted between the hours of 9:00 a.m. to 7:00 p.m., or as approved by the decision-making body.
- G. Wildlife impacts. Applicant shall conduct a wildlife assessment to identify any adverse impacts to wildlife. The applicant shall implement mitigation measures set forth in the applicant's wildlife analysis to the maximum extent feasible.

**III. Submittal Requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. A site plan containing these additional requirements, whether existing or proposed:
  - 1. Topography of the parcel with contour lines of sufficient detail to portray the direction and rate of slope of the subject parcel;
  - 2. A vicinity map identifying all property owners and uses within one thousand five hundred (1,500) feet as measured from the property line of the parcel;
  - 3. Locations of all shooting positions, target impact areas, and bullet stops, including an explanation of any excavation or other dirt work necessary for the creation of the same;
  - 4. Location and proposed use of structures, including schematics of all structures proposed to be constructed associated with the shooting range;
  - 5. Dimensioning of all existing landscaping as well as landscaping proposed and required by this section and section 70-17.
- B. ~~Operat~~ing on plan. A plan for the method of operations, including without limitation:
  - 1. A statement of the number of permanent and temporary employees anticipated on site during operation of the shooting range;
  - 2. ~~-~~A statement of the number of patrons who may be on site during the operation of the shooting range;
  - 3. A statement addressing the applicant's preparedness and protocol for responding to a wildfire beginning on or near the subject parcel as a result of the operation of the shooting range;
  - 4. Specifications of any explosive or concussion producing ordinance kept on the site, temporarily or permanently, that may be associated with the shooting range;

5. Anticipated traffic distributions relative to the shooting range's shooting positions, impact areas, and bullet stops;
  6. A statement addressing how the construction, layout, and operation of the shooting range is in general conformance with industry best practices for shooting ranges as supported by references to such standards (e.g., the National Rifle Association's "The Range Source Book" or similar generally accepted standards);
  7. A statement of whether firing on the shooting range will ever be allowed more than thirty (30) minutes after sunset. If such firing will be allowed, specifications of the type and location of proposed lighting and an explanation of how such lighting will provide for the safety of range users and comply with section 70-7.
- C. A noise study that demonstrates the proposed shooting range (whether due to the natural size, shape or other topographical features of the subject parcel or due to mitigation such as use of landscaping) can meet the requirements of C.R.S. § 25-12-103 *et seq.*, except as excluded for construction activities, based on measuring the sound levels of noise radiating from the property line at a distance of twenty-five (25) or more feet beyond the subject parcel.
- D. A description of wildlife occurrences on and within five hundred (500) feet of the perimeter of the parcel, including:
1. Significant seasonal occurrences of species;
  2. Occurrences of threatened or endangered species, as listed by the USFWS, NMFS or by the CDNR;
  3. Assessment of the proposed construction's and operation's impacts on the identified species, particularly regarding:
    - a. Potential displacement of wildlife;
    - b. Disruption of wildlife corridors or wildlife habitat;
    - c. The extent to which suitable wildlife habitat may be replaced upon cessation of all construction or shooting range operations and implementation of the plan for reclamation.
- E. A reclamation plan that, at a minimum, follows the general guidelines of the Environmental Protection Agency's Best Management Practices for Lead at Outdoor Shootings Ranges, as amended, which includes but is not limited to the following:
1. Mitigation of impacts to ground and surface water;
  2. Mitigation of soil erosion and surface runoff to limit lead migration off-site;
  3. Reclamation and removal of contaminants;
  4. Decommissioning of structures associated with the shooting range.

**Sec. 73-9      Event venues**

- I. Purpose.** Land uses subject to this section shall generally align with uses which include but are not limited to fairs, festivals, concerts, car/motorcycle rallies, and permanent wedding venues which reasonably may be expected to attract more than one hundred (100) people, except as exempted below. Establishment of event venues shall be subject to section 66-21 review with applicable standards.
- II. Exempt activities.** The following events or activities are exempt from the requirements of this section. Such activities, however, shall remain subject to all other applicable provisions of this code, including, but not limited to, those governing noise control.

- A. Special events, temporary uses or activities such as weddings occurring within, or upon the grounds of, a private residence or upon the common areas of a multifamily residential development for which no admission or rental fee or other charge is assessed;
- B. Any event sponsored in whole or in part by the county;
- C. Organized activities conducted at permanent facilities typically intended and used for such activities, and/or on a site for which a land use permit has been granted specifically allowing the special event activity, and the operation of the event complies with all permit conditions. Examples of such exempt activities include, but are not necessarily limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted ~~at a religious institution. places of worship.~~

**III. Standards specific to event venues.**

- A. Noise. Noise shall not exceed commercial noise standards set forth in section 70-21.
- B. On-Site Parking. A minimum of one (1) parking space shall be provided for every four (4) seats. If five (5) or more off-street parking spaces are provided, visual screening (fence, wall, landscaping, or combination thereof) from adjacent residential uses shall be required.
- C. Signage. ~~One (1)~~ Two (2) on-premises signs shall meet the standards of section 70-20, as applicable.
- D. Hours of operation. Any activity associated with the event venue shall be conducted between the hours of 8:00 a.m. to 12:00 a.m., or as approved by the decision-making body.
- E. Lighting. In instances where security or event lighting is proposed, lighting sources shall be directed inward and away from adjacent properties and be in conformance with standards set forth in section 70-7.

**Sec. 73-10 Gravel, sand, topsoil and mineral extraction**

- I. Purpose.** This section is enacted to facilitate the extraction and processing of gravel, sand, topsoil and minerals, while mitigating potential conflicts between such activities and existing or future land uses, and while protecting the health, safety, and welfare of the people of La Plata County. Upon the county’s adoption of a master plan for the extraction of commercial mineral deposits pursuant to C.R.S. § 34-1-304, this section shall have the additional purpose of protecting and administering commercial mineral deposits to facilitate their exploration and the extraction of minerals therefrom, while allowing other development that will not interfere with the commercial mineral deposits’ exploration and extraction.
- II. Applicability.** These standards and submittal requirements shall apply to land use permit applications proposing the extraction or processing activity related to gravel, sand, topsoil or minerals, excluding oil and natural gas, the extraction of which shall be administered pursuant to chapter 90.
- III. Standards specific to gravel, sand, topsoil and mineral extraction.**
  - A. Right to extract. Applicants must have the legal right to extract gravel, sand, topsoil or minerals on the site proposed. Where the site in question is a divided estate in which the ownership of mineral rights is separate from ownership of surface rights, the owner of the mineral rights must have the legal right to enter the site and engage in extraction thereon.
  - B. Transportation plan. Applicants shall establish a plan for the transportation of extracted gravel, sand, topsoil and minerals off the site of extraction or, if a proposal is for a processing site, a

plan for the transportation of processed gravel, sand, topsoil and minerals to and from the site of the processing activity.

- C. Setbacks. The following minimum setbacks shall apply to all facilities located upon or above the surface of land associated with extraction or processing activity related to gravel, sand, topsoil or minerals:
  - 1. From the property lines of residential uses: five hundred (500) feet;
  - 2. From the property lines of non-residential uses: two hundred fifty (250) feet;
  - 3. From the legally described boundary line of a public rights-of-way: one hundred (100) feet.
- D. Access roads and routing.
  - 1. Public roads. All public roadways used to access the site of a mine, extraction or processing activity shall comply with the standards set forth in chapter 74. Any required improvements shall either be in place prior to or shall be constructed in conjunction with the proposed use and the applicant shall be financially responsible for the full costs of such improvements, including all costs associated with the acquisition of additional rights-of-way adjacent to the public road, if any.
  - 2. Private roads. All private roads used for access to the site of a mine, extraction or processing activity shall comply with the following standards:
    - a. Roads shall comply with the standards set forth in chapter 74.
    - b. Grading shall provide drainage from the roadway surface and cross drainage for waterways (e.g., roadside swales, gulches, rivers, and creeks) by means of an adequate culvert pipe, as determined by the planning engineer.
    - c. Maintenance of the private roads shall always ensure a passable roadway reasonably free of ruts.
  - 3. Secondary or emergency access. For a mine, extraction or processing activity shall comply with the applicable fire district requirements.
  - 4. Cost of public road improvements. As a condition of approval, the county may impose limits on the number of trucks that may access the site to avoid damage to roads caused by heavy vehicle use, weather conditions, water saturation or to mitigate impacts on the surrounding neighborhood.
  - 5. Routing. Designated construction and haul routes shall comply with the following standards:
    - a. Truck haul and traffic routes shall be designed, to the maximum extent feasible, to avoid residential areas, commercial areas, schools, civic buildings and already congested areas. Alternative routes shall be identified.
    - b. Timing of truck traffic or the maximum number of daily truck trips may be controlled to prevent congestion, adverse noise impacts or safety risks.
    - c. The applicant shall prevent loss of loads and fugitive dust emissions during transit and shall ensure that haul routes are maintained in accordance with dust suppressant methods required by local, state or federal agencies.
- E. Water quantity. Water demand shall be estimated using a site-specific water demand study, which meets the requirements set forth in section 70-4.
- F. Visual impacts.
  - 1. Facilities should be sensitive to the natural color, form and texture of the surrounding area.

2. The excavated portion of the site, structures, machinery, permanent equipment storage and repair areas and mined material stockpiles, including without limitation the intended extraction material as well as any extracted waste or processing waste, shall be screened from view or camouflaged by methods to include, but not limited to, existing or replanted vegetation of existing landforms or artificially created landforms.
  3. To the maximum extent feasible, structures, machinery and equipment storage and repair areas and mined material stockpiles, including without limitation the intended extraction material as well as any extracted waste or processing waste, shall avoid visually sensitive areas such as ridges, hilltops and scenic areas.
  4. Excavation in visually sensitive areas such as ridges, hilltops and scenic areas shall be minimized.
  5. Facilities related to or used in connection with a mine, extraction or processing activity shall otherwise comply with all approved mitigation measures set forth in the applicant's visual analysis.
- G. Wildlife impacts. Applicant shall assess and, to the maximum extent feasible, prevent adverse impacts to wildlife in compliance with approved mitigation measures set forth in the applicant's wildlife analysis.
- H. Fugitive dust, roads and parking. Fugitive dust abatement and preventive measures for unpaved roads and unpaved parking may include but shall not be limited to:
1. Frequent watering;
  2. Addition of dust palliatives to the water;
  3. Paving;
  4. Speed control;
  5. Surface treatment with prevention chemicals;
  6. Other methods of equal or greater effectiveness in reducing the air pollution produced.
- I. Fugitive dust, extraction and processing activities. Fugitive dust abatement and preventive measures for fugitive dust at or above the surface of ground related to a mine, excavation, extraction or processing activities may include but shall not be limited to:
1. Wetting down, including pre-watering;
  2. Landscaping and replanting vegetation;
  3. Covering, shielding or enclosing the area;
  4. The use of dust palliatives and chemical stabilization;
  5. Preventing the deposit of dust and mud on improved roads;
  6. Disturbing less topsoil and reclaiming as soon as possible;
  7. Revegetation, delay of surface opening until demand, or surface compaction and sealing.
- J. Noise. Excavation, extraction and processing activity shall be conducted in a manner to minimize noise due to intensity, intermittence, beat, frequency or shrillness. Noise shall not exceed state noise standards set forth in C.R.S. § 25-12-103.
- K. Hours of operation. Any activity that will generate noise, odors or glare beyond the property line of the subject parcel shall be conducted between the hours of 6:00 a.m. to 7:00 p.m. Monday through Saturday, or as approved by the decision-making body.



- L. Ground vibration. Operations shall occur so that the ground vibration inherently and recurrently generated is not perceptible without instruments at any point of any property line of the parcel.
- M. Reclamation plan. To the extent permitted by law, unless all disturbance created by the operation is covered by a reclamation bond under jurisdiction of CDRMS, or by the federal government on federally-owned lands, a performance bond or other financial guarantee acceptable to the county shall be submitted in favor of the county in an amount of at least one hundred fifty (150) percent of the cost of restoration of the site and access roads.

**IV. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials at preliminary and final plan:

- A. Documentation of the ownership of the substance to be extracted.
- B. Documentation of the applicant's legal right to enter and conduct the proposed operation on the property affected, including any documents that may affect or limit the applicant's exercise of such rights.
- C. A site plan containing these additional requirements, whether existing or proposed:
  1. Topography of the parcel with contour lines of sufficient detail to portray the direction and rate of slope of the parcel;
  2. Water wells, oil or gas wells, water and gas lines, roads, railroads, buildings, irrigation ditches, and utility lines or other infrastructure within two hundred (200) feet of the subject parcel's property lines;
  3. Location of access roads and rights of-way, together with the locations of any easements for access, irrigation, or utilities;
  4. Location and proposed use of structures;
  5. Parking and landscaping features;
  6. Mineral lease boundaries, if applicable;
  7. General type, thickness, and distribution of soil over the site;
  8. Type, character, and density of present vegetation on the parcel;
  9. Depth and thickness of the resource to be extracted;
  10. Thickness and type of the overburden to be removed;
  11. Cross sections showing the topography of any known aquifers, any part of which lies beneath the parcel.
- D. Plan for the method of extraction, including:
  1. A timetable for the duration of extraction, including depictions of planned phases;
  2. A statement of the number of permanent and temporary employees anticipated at the site;
  3. Specification of the equipment to be kept on site, temporarily or permanently, and required storage facilities;
  4. Specification of any materials, including without limitation the intended extraction material as well as any extracted waste or processing waste, to be kept on site, temporarily or permanently, and required storage facilities or other proposed visual mitigation methods for such materials;

5. Identification of all potential sources of noise, vibration, odor, dust and adverse visual impacts associated with the equipment identified and other activities incidental to the extraction.
- E. Traffic impact study acceptable to the planning engineer, including but not limited to:
1. Anticipated traffic volumes and directional distributions;
  2. Itemization of traffic volume associated with transportation of extracted material;
  3. Specification of the types of motor vehicles and other equipment contributing to the traffic volumes;
  4. Identification of circumstances or times when permits for extra-legal vehicles or loads shall be required pursuant to chapter 74.
- F. Identification of water resources on and within five hundred (500) feet of the perimeter of the parcel, including:
1. Surface and known subsurface water resources;
  2. A description of the operations' anticipated impacts on the quality and quantity of water resources;
  3. Proposed measures for mitigation of the anticipated impacts described.
- G. A description of wildlife occurrences on and within five hundred (500) feet of the perimeter of the parcel, including:
1. Significant seasonal occurrences of species;
  2. Occurrences of threatened or endangered species, as listed by the USFWS, NMFS or by the CDNR.
  3. Assessment of the proposed extraction's and processing activity's impacts on the identified species, particularly with regard to:
    - a. Potential displacement of wildlife;
    - b. Disruption of wildlife corridors;
    - c. The extent to which suitable wildlife habitat may be replaced upon cessation of all extractive operations or processing activity and implementation of the plan for reclamation.
- H. A noise study that demonstrates the proposed extraction and processing activities can meet the requirements of section 70-21, except as excluded for construction activities, based on measuring the sound levels of noise radiating from the property line at a distance of twenty-five (25) or more feet beyond the subject parcel.
- I. Evidence that the uses have current CDPHE or SUII air pollution permits and shall meet current CDPHE or SUII emission standards for air and water.
- J. A plan for reclamation of the area impacted by the mine, excavation, extraction, processing activity or associated operations upon their cessation, including:
1. A reclamation plan that complies with the standards of CDRMS.
  2. A map of the land anticipated to be affected by all phases of the proposed operations, including depiction of the expected physical appearance of the affected land, at all phases of the proposed operations and reclamation;
  3. A timetable for implementation of the reclamation plan;
  4. A description of the reclamation plan's specific proposals for rehabilitation of:

- a. Surface and groundwater;
  - b. Soil;
  - c. Vegetation;
  - d. Wildlife habitat;
  - e. Final mitigation of visual impacts.
- K. A list of all permits or approvals required from any local, state, tribal or federal agency having jurisdiction over the proposed mine, excavation, extraction, processing activity and associated operations, and documentation regarding the process, timing and status of each required permit or approval.

**V. Permitted and prohibited uses on parcels containing commercial mineral deposits -Reserved**

**Sec. 73-11 Group homes**

**I. Standards specific to group homes.**

- A. The number of residents occupying a group home at any one time, including staff and family of staff, shall not exceed one person per two hundred (200) square feet of living space.
- B. All group homes shall be licensed by the State of Colorado.
- C. Buildings housing group homes shall have and maintain a residential character compatible with surrounding residential properties, including without limitation in terms of building mass and scale, off-street parking, setbacks, location and building design features.
- D. Setbacks. All facilities associated with a group home shall comply with the minimum setbacks established in C.R.S. § 30-28-115(2), as such provision may be amended from time to time.

**Sec. 73-12 Hemp - Reserved**

**Sec. 73-13 Land applied septage**

**I. Purpose.** Land application of domestic septage is intended to use domestic septage as a soil augmentation medium while preventing negative impacts to ground and surface water and nuisance situations.

**II. Applicability.** A land use permit shall be required for the land application of domestic septage in the unincorporated areas of the county. Dried sludge that has been stabilized or composted, as determined by state sewage sludge regulations, are exempt from these standards.

**III. Standards specific to land applied septage.**

- A. Setbacks. The following minimum setbacks shall apply to all facilities associated with the application of domestic septage:
  - 1. From the property lines of nearby residential and commercial uses: five hundred (500) feet;
  - 2. From the property lines of the parcel or contiguous parcels containing the application site: fifty (50) feet;
  - 3. From the wellhead of a well supplying water for human consumption: five hundred (500) feet;
  - 4. From the outermost limits of any body of surface water or wetlands: five hundred (500) feet;
  - 5. From the outermost limits of a dry streambed: fifty (50) feet;
  - 6. From the outermost bank of irrigation canals and ditches: fifty (50) feet;
  - 7. From the center line of a public roadway: sixty (60) feet.

- B. Other limitations. No domestic septage shall be applied:
  1. On land located upgradient and within one-half (1/2) mile of any point of diversion at which surface waters are diverted for use in a micro water system or central water supply system;
  2. Within the boundaries of a one hundred (100) year floodplain;
  3. On land of greater than fifteen (15) percent slope;
  4. At a rate that exceeds the agronomic rate of the proposed crops. The determination of the agronomic rate shall be based upon the annual application rate as determined by the EPA in 40 C.F.R. Part 503 for domestic septage. In no case shall the application rate exceed twenty-five thousand (25,000) gallons per acre per year.
  5. On frozen soils;
  6. When the application site soils are saturated due to heavy precipitation or the site is flooded or ponded with water;
  7. Unless CDPHE or SJBPH has approved, whether through variance or otherwise, the proposed application and the proposed application complies with all requirements and conditions imposed by CDPHE and SJBPH
- C. Posting. Signs shall be posted at every road access point on the site that include the message “No Trespassing – Domestic Septage Land Application Site.”
- D. Spillage and migration. Applicant shall demonstrate the ability to prevent, control and abate spillage and septage migration to other parcels.
- E. Fugitive dust abatement and preventive measures. Fugitive dust, blowing debris, odor and other potential nuisance conditions shall be controlled at the site. When application of domestic septage is employed for agricultural operations, an applicant may satisfy these requirements by demonstrating that septage will be applied employing methods and practices commonly or reasonably associated with agricultural production.

**IV. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials at preliminary and final plan:

- A. The name and contact information of the domestic septage transporter and applicator.
- B. The total acreage of the property to be used for the application and the number of gallons of septage to be applied per acre.
- C. The name and contact information of any reservoir, ditch, irrigation or other water district or company with reservoirs, irrigation canals or ditches or flumes on the site.
- D. Hydrologic data pertaining to the site, including:
  1. The location and depth of all wells within one-half (1/2) mile, depth to water, water use, yield and evaluation of the impact of the proposed application on the groundwater.
  2. The location of all surface water, springs and wetlands within one-half (1/2) mile of the site.
  3. The location of any mapped one hundred (100) year floodplain.
  4. The location of any water distribution system for any micro water system or central water supply system, including but not limited to intake or diversion facilities located within one-half (1/2) mile down gradient of the outer boundary of the site.
  5. Topographic information concerning the direction of drainage at the application site.

6. The proposed application rate of the domestic septage at the site.
  7. Evidence demonstrating the domestic septage application will be conducted at the agronomic rate of the proposed crops.
- E. ~~Operating~~ plan. A plan for the method of operations, including without limitation:
1. Any provisions for temporary storage of domestic septage at the site, including type of storage and spill containment and cleanup procedures.
  2. Methods of domestic septage application and incorporation, demonstrating how the applicant will handle, store and apply domestic septage in a manner that controls fugitive dust, blowing debris, odor and other potential nuisance conditions.
- F. Irrigation methods and schedule for the site.
- G. A written statement demonstrating that at no time shall the application site have an odor reading of greater than the standards established and measured by CDPHE set forth in Regulation Number 2 Odor Emission of the Colorado Air Quality Controls regulations.
- H. A written statement demonstrating how the proposed application will comply with all requirements and conditions imposed by SJBPH as a result of their approving, whether through variance or otherwise, the proposed application. The written statement shall include a copy of such approval or variance and any attachments associated with the terms and conditions imposed by SJBPH.

#### Sec. 73-14      **Marijuana**

- I. Personal marijuana cultivation.** Personal marijuana cultivation is permitted only as either accessory uses subject to the standards and permitting requirements established in section 73-2 or a major land uses subject to all applicable standards of this code.
- II. Marijuana facilities general standards.** In addition to all applicable standards of this code, all marijuana facilities and personal marijuana cultivation shall meet the following general standards.
- A. Odor. No marijuana facility shall produce adverse or noxious odors detectable beyond the marijuana facility's property line.
  - B. Visual. Marijuana plants, products, and associated equipment identifying the use as a marijuana facility including, but not limited to all processing, packaging, and business transactions shall be kept from public view and shall not occur on any sidewalk, public street or right-of-way, or any other public place.
  - C. Lighting. All grow lights shall be screened to prevent nighttime leakage. Exterior lighting, when required, shall be placed in a manner to minimize off-site glare and visual impacts. Marijuana facilities do not have to comply with any exterior lighting standard that contradicts with industry standards required by the Marijuana Enforcement Division of the Colorado Department of Revenue or the Colorado Code of Regulations.
  - D. Dwelling units. No marijuana facility may be located within a dwelling unit or within a building that has any portion of it classified as residential under the building code.
  - E. Setbacks. The following minimum setbacks shall apply to all facilities associated with a marijuana facility or personal marijuana cultivation subject to this section:
    1. From the property lines of any public or private- ~~preschool, kindergarten or~~ elementary, middle, junior high, or high school, including any preschool or kindergarten program operated by such schools: one thousand (1,000) feet;
    2. From the property lines of the campus of any college, university, or seminary, or childcare facility other than a kindergarten or preschool: five hundred (500) feet;

3. From the property lines of a drug or alcohol rehabilitation treatment center: five hundred (500) feet.
- F. Measurement of setback. The setback applies regardless whether the protected uses are inside or outside the unincorporated boundaries of the county. For purposes of this provision, the distance between the marijuana facility and neighboring land use shall be measured in a direct line between the closest point of the physical marijuana facility and the closest point of the property line upon which any of the above referenced uses are located. A marijuana testing facility shall be exempt from the proximity restriction.
  - G. Encroachment by other uses. In the instance where the proximity restriction of a marijuana facility is encroached upon by one of the above protected land uses, the marijuana facility may expand or be modified, pursuant to the applicable process, provided it was a legally established land use that preceded the encroaching land use.
  - H. Relationship to certain municipalities. The proposed location of a marijuana facility shall not be within three (3) miles of the nearest incorporated portions of the towns of Bayfield or Ignacio. For purposes of this provision, the distance between the marijuana facility and towns of Bayfield or Ignacio shall be measured in a direct line between the closest point of the project boundary and the closest point on the closest lot or parcel incorporated in the towns of Ignacio or Bayfield.

**III. Marijuana facilities additional standards.** In addition to all applicable standards of this code and the general standards established in subsection 73-14.II, marijuana facilities shall meet the following additional standards.

- A. Marijuana products manufacturer. A marijuana products manufacturer shall receive the appropriate retail food establishment license from SJBPH, if required by applicable law or regulation.
- B. Marijuana store. A marijuana store shall meet the following additional standards:
  1. Hours of operation. A marijuana store shall only be open to the public between the hours of 8:00 a.m. and 8:00 p.m.
  2. Marijuana cultivation facility - Reserved.
  3. Marijuana testing facility - Reserved.
  4. Off-premises storage facility - Reserved.

**Sec. 73-15 Manufactured home parks, tiny home communities or manufactured home subdivisions.**

- I. **Purpose.** This section is enacted to facilitate the development and use of land for permanent dwelling units which are not site-built structures to promote more affordable residential development.
- II. **Applicability.** These standards and submittal requirements shall apply to land use permit applications proposing the development of land for use by manufactured home parks, tiny home communities and manufactured home subdivisions.
- III. **Standards specific to manufactured home parks, tiny home communities and manufactured home subdivisions.**
  - A. Manufactured home parks.
    1. Uses. In addition to manufactured homes, tiny homes may be located within a manufactured home park. Recreational vehicles and tiny homes on wheels ~~(THOWS)~~ intended for use as a permanent dwelling may be located within a manufactured home park provided such vehicle has been converted to permanent use and meets all applicable

building code requirements. Tiny homes and recreational vehicles located within a manufactured home park shall comply with all the requirements of this code applicable to manufactured homes, unless otherwise specified herein. Manufactured home parks are not intended for the temporary or long-term storage of manufactured homes. Any temporary or long-term storage within manufactured home parks may require a land use permit under section 73-7.

2. Common ownership not required. The site on which a manufactured home park is situated shall be a single parcel. The owner of the manufactured home park need not own the manufactured homes located within each manufactured home space. No more than one (1) manufactured home shall be permitted on each manufactured home space.
3. Accessory buildings. Accessory buildings and structures to manufactured homes in a manufactured home park are limited to garages, cabanas, storage structures, and carports. All accessory buildings and structures shall conform to the building code. Accessory buildings or structures not adequately covered by either the building code or this code shall be subject to the provisions of the National Fire Protection Association's Standard for Manufactured Housing, "Manufactured Homes Accessory Buildings and Structures," NFPA No. 501A. Arrangement of manufactured homes and accessory buildings or structures on the site shall not restrict reasonable access to the site by emergency personnel.
4. Towing apparatus. All structures that are occupied or intended to be occupied in a manufactured home park shall have their wheels, axles and removable towing apparatus removed and be secured to a permanent or other permissible form of foundation. Methods of securing and foundation designs shall be approved by the building official. Wheels and axles of recreational vehicles do not have to be removed.
5. Skirting. All structures that are occupied or intended to be occupied, including non-removable towing apparatus, shall be skirted in conformity with the building code. Skirting must occur within sixty (60) days of placement of the manufactured home in the park.
6. Roadways.
  - a. Entrance roads. All entrance roads that do not front manufactured home spaces shall conform with chapter 74.
  - b. Access to spaces. Access to every manufactured home space shall be from internal streets and roads. The manufactured home park shall be designed so that all manufactured home spaces and community buildings face onto an interior roadway.
  - c. Internal roads. Internal roadways within a manufactured home park shall meet low ADT road standards in chapter 74.
7. Space requirements. No manufactured home spaces shall contain less than four thousand (4,000) square feet. The dimensions of the space shall be such that the width is at least one-third (1/3) the depth. Space requirements exclude parking.
8. Property line setbacks. Each manufactured home park shall provide the following setbacks along the property line with respect to all facilities within the park:
  - a. From a state or federally designated highway or county designated rural arterial: fifty (50) feet;
  - b. From any public right-of-way not described in subsection (a) above: fifty (50) feet.
9. Internal setbacks. The placement of any manufactured home within a space shall meet the following setbacks:
  - a. From the front boundary adjacent to the interior roadway: ten (10) feet;



- b. From the side boundaries of the space: five (5) feet;
    - c. From the rear boundary of the space: five (5) feet.
  - 10. Common open space requirements. A minimum of ten (10) percent of the total park shall be set aside for recreational purposes. Adequate pedestrian access shall be provided to the recreational or common open space area or facility. The common open space and any facilities shall be maintained by the owner.
  - 11. Landscaping. The landscaping and screening required by section 70-17 shall be maintained by the owner of the manufactured home park.
  - 12. Addressing. Each manufactured home space shall have a number posted on the front portion of the space and visible from the adjacent roadway.
  - 13. Off-Street Parking. Each manufactured home space shall have two (2) parking spaces located within that space.
  - 14. Fire Protection. Development subject to this section shall comply with the fire code as prescribed by the chief of the fire district.
  - 15. Wildlife impacts. Applicant shall assess and, to the maximum extent feasible, prevent adverse impacts to wildlife in compliance with approved mitigation measures set forth in the applicant's wildlife analysis.
- B. Manufactured home subdivisions. In addition to the standards for subdivisions, manufactured home subdivisions shall meet the following standards:
- 1. Uses. In addition to manufactured homes, tiny homes may be located within a manufactured home subdivision. ~~No THOWs are permitted within a manufactured home subdivision.~~ Recreational vehicles intended for use as a permanent dwelling may be located within a manufactured home subdivision provided such vehicle has been converted to permanent use and meets all applicable building code requirements. Tiny homes and recreational vehicles located within a manufactured home subdivision shall comply with all the requirements applicable to manufactured homes. Manufactured home subdivisions are not intended for the temporary or long-term storage of manufactured homes.
  - 2. Common ownership of lot and structure. Each lot within a manufactured home subdivision is intended for separate ownership. The manufactured home and any accessory building or structure on a lot shall have the same owner as the lot. No more than one (1) manufactured home shall be permitted on each platted lot.
  - 3. Accessory buildings. Accessory buildings and structures to manufactured homes in a manufactured home subdivision are limited to garages, storage structures, and carports. All accessory buildings and structures shall conform to the building code and appropriate sections of this code. Accessory buildings or structures not adequately covered by either the building code or this code shall be subject to the provisions of the National Fire Protection Association's Standard for Manufactured Housing, "Manufactured Homes Accessory Buildings and Structures," NFPA No. 501A. Arrangement of manufactured homes and accessory buildings or structures on the site shall not restrict reasonable access to the site by emergency personnel.
  - 4. Towing apparatus. All structures that are occupied or intended to be occupied in a manufactured home subdivision shall have their wheels, axles and removable towing apparatus removed and be secured to a permanent foundation. Methods of securing and foundation designs shall be approved by the building official.
  - 5. Skirting. All structures that are occupied or intended to be occupied, including non-removable towing apparatus, shall be skirted in conformity with the building code.

6. Access and Interior Roadways. All roadways within a manufactured home subdivision shall meet all the requirements for subdivision roads in chapter 74. Adequate pedestrian access shall provide safe access to the interior of the subdivision.
  7. Setbacks. The placement of any manufactured home on a lot shall meet the following setbacks:
    - a. From the front lot line: ten (10) feet;
    - b. From the side lot line: five (5) feet;
    - c. From the rear lot line: five (5) feet.
  8. Common open space requirements. A minimum of ten (10) percent of the total land within the subdivision shall be set aside for recreational purposes. Adequate pedestrian access shall be provided to the recreational or open space area and facility. The open space and any facilities shall be maintained by a home-owners' association.
  9. Off-street parking. Each manufactured home lot shall have two (2) parking spaces located within that lot.
- C. Tiny home communities.
1. Uses. Only tiny homes, THOWs and related accessory structures may be permitted within a tiny home community.
  2. Ownership. A tiny home community may only be established on a single parcel.
  3. Site location. Sites for a tiny home community shall be level and well drained, free from topographical hazards, natural hazards or other conditions unfavorable to proper enjoyment by users.
  4. Roadways. Interior roadways are not required for tiny home communities. Tiny home communities with no interior roadways should contain pedestrian walkways for access to each tiny home. For tiny home communities that will contain roadways, the following standards shall apply:
    - a. Entrance roads. All entrance roads that do not front spaces shall conform to chapter 74.
    - b. Internal road standards. For tiny home communities that will contain internal roadways, internal roadways shall meet low ADT road standards in chapter 74.
  5. Parking. Motor vehicle parking shall be provided for in parking areas on the site. Two (2) parking spaces shall be provided for each tiny home space.
  6. Property line setbacks. Each tiny home community shall provide the following setbacks along the property line:
    - a. From a state or federally designated highway or county designated rural arterial: fifty (50) feet.
    - b. From any public right-of-way not described in sub-subparagraph (a) above: fifty (50) -feet.
  7. Internal Setbacks. The placement of any tiny home within a space shall meet the following setbacks:
    - a. If applicable, from the front boundary adjacent to the interior roadway: ten (10) feet.
    - b. From all other space boundaries not included in sub-subparagraph (a) above: five (5) feet.

- c. From another tiny home: ten (10) feet.
- 8. Use of tiny homes and THOWs.
  - a. Tiny homes and THOWs within a tiny home community are intended to be used as a permanent dwelling and shall meet all applicable building code requirements. All tiny homes and THOWs must be connected to water, sewer and power before they are occupied.
  - b. No more than one (1) tiny home or THOW may be placed in a single space.
- 9. Density. A tiny home community may ~~only~~ contain up to sixteen (16) tiny homes or THOWs per acre.
- 10. Accessory structures. Accessory structures to tiny homes as contained within the established space are limited to garages, storage structures and carports. All accessory buildings and structures shall conform to the building code and appropriate sections of this code.
- 11. Landscaping. The landscaping and screening required by section 70-17 shall be maintained by the owner of the tiny home community.
- 12. Addressing. Each tiny home shall have a number posted on the front portion of the space and visible from the adjacent roadway or, if there is no internal roadway, from the adjacent pedestrian walkway.
- 13. Wildlife impacts. Applicant shall assess and, to the maximum extent feasible, prevent adverse impacts to wildlife in compliance with approved mitigation measures set forth in the applicant's wildlife analysis.

**IV. Submittal requirements.**

- A. Manufactured home parks. In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  - 1. Site plan. A site plan containing these additional requirements, whether existing or proposed:
    - a. The area and dimensions of the entire parcel and the site proposed for use;
    - b. Topography of the parcel with contour lines of sufficient detail to portray the direction and rate of slope of the parcel;
    - c. The number, size, location and surfacing materials of the proposed manufactured home spaces and other parking areas;
    - d. Location, roadway and right-of-way widths and surfacing materials of public roadways providing access to the site;
    - e. Location of access roads and rights-of-way, together with the locations of any easements for access, irrigation, or utilities;
    - f. The proposed interior vehicular circulation pattern, including widths, surfacing materials and proposed design speed and pedestrian circulation pattern;
    - g. Location and proposed use of structures;
    - h. Location of solid waste collection receptacles;
    - i. Location of lighting, gas and electric systems;
    - j. Location of fences, buffering and landscaping areas;
    - k. Location of common areas and recreational facilities;

- l. Topographic information concerning any significant site features including floodplains, water bodies, and drainage patterns.
2. Operating plan. A plan for the method of operations, including without limitation:
  - a. Plan to minimize nuisances;
  - b. Plan for solid waste disposal;
  - c. Plan for the removal and abatement of noxious weeds;
  - d. Landscaping plan;
  - e. Fire prevention and protection plan, including hydrants and water storage and accessibility.
- B. Manufactured home subdivisions. Applicants proposing the development of a manufactured home subdivision shall meet all the submittal requirements for land use permit for a subdivision.
- C. Tiny home communities. In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  1. A site plan containing these additional requirements, whether existing or proposed:
    - a. The area and dimensions of the entire parcel and the site proposed for use;
    - b. Topography of the parcel with contour lines of sufficient detail to portray the direction and rate of slope of the parcel;
    - c. The number, size, location and surfacing materials of the proposed tiny home spaces and parking areas;
    - d. Location, roadway and right-of-way widths and surfacing materials of public roadways providing access to the site;
    - e. Location of access roads and rights-of-way, together with the locations of any easements for access, irrigation, or utilities;
    - f. If the community is to have interior roads, the proposed interior vehicular circulation pattern, including widths, surfacing materials and proposed design speed and pedestrian circulation pattern;
    - g. Location and proposed use of structures;
    - h. Location of solid waste collection receptacles;
    - i. Location of lighting, gas and electric systems;
    - j. Location of fences, buffering and landscaping areas;
    - k. Location of common areas and recreational facilities;
    - l. Topographic information concerning any significant site features including floodplains, water bodies, and drainage patterns.
  2. Plan for the removal and abatement of noxious weeds.

**Sec. 73-16 Recycling processing facility, salvage yard and junk yard.**

- I. **Standards specific to unenclosed facilities.** Unless they are entirely enclosed within a building, a recycling processing facility, salvage yard and junk yard shall comply with the following standards:
  - A. Setbacks. The following minimum setbacks shall apply to all facilities of a recycling processing facility, salvage yard or junk yard subject to this section:
    1. From the property lines of residential uses: five hundred (500) feet;

2. From the property lines of nonresidential uses: one hundred (100) feet;
  3. From the legally described boundary line of a public right-of-way: one hundred (100) feet.
- B. Visual impacts.
1. Unless the natural terrain or vegetation will adequately screen the use, all portions of the facility shall be screened with an approved one hundred (100) percent opaque wall or fence with a minimum height of eight (8) feet. The entire length of the fence or wall, when required, shall be landscaped in compliance with the requirements set forth in section 70-17.
  2. Stockpiled, stored and processed items shall not project above the fence or wall used to screen the material. Such items shall not be visible from adjacent residential properties or public roadways.
  3. All automotive waste, petroleum waste, solid waste or hazardous waste shall be controlled to not permeate the soil and be disposed of adequately.
- C. Noise. Sorting and processing shall be conducted in a manner to minimize noise due to intensity, intermittence, beat, frequency or shrillness. Noise shall not exceed noise standards set forth in section 70-21.
- D. Hours of operation. Any activity that will generate noise or glare beyond the property lines of the subject parcel shall be conducted between the hours of 8:00 a.m. to ~~5:00~~7:00 p.m., or as approved by the decision-making body. Monday through Saturday, or as approved by the decision-making body.
- E. Fugitive dust. Fugitive dust abatement and preventive measures for unpaved roads, unpaved parking and other unpaved areas of the facility may include but shall not be limited to:
1. Frequent watering;
  2. Addition of dust palliatives to the water;
  3. Paving;
  4. Speed control;
  5. Surface treatment with dust suppression chemicals;
  6. Other methods of equal or greater effectiveness in reducing the air pollution produced.

**II. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. A site plan containing these additional requirements, whether existing or proposed:
1. Topography of the parcel with contour lines of sufficient detail to portray the direction and rate of slope of the parcel;
  2. Location of access roads and rights-of-way, together with the locations of any easements for access, irrigation, or utilities;
  3. Location and proposed use of structures;
  4. The number, size, location and surfacing materials of parking areas and landscaping features;
  5. Types of recyclable material, organic material or salvage to be processed and proposed processing methods (i.e. sorting, shredding, crushing, baling, etc.);
  6. Layout of site for purposes of processing, stockpiling and storage.
- B. Plan for the method of processing, including:

1. A statement of the number of permanent and temporary employees anticipated at the site;
  2. Specification of the equipment to be kept on site, temporarily or permanently, and required storage facilities;
  3. Specification of any materials to be kept on the site, temporarily or permanently, and required storage facilities or other proposed visual mitigation methods for such materials;
  4. Identification of all potential sources of noise, vibration, odor, dust and adverse impacts, including without limitation visual impacts, associated with the equipment identified and other activities incidental to the processing.
- C. Traffic impact study acceptable to the planning engineer, including but not limited to:
1. Anticipated traffic volumes and directional distributions;
  2. Itemization of traffic volume associated with transportation of raw and processed material;
  3. Specification of the types of motor vehicles and other equipment contributing to the traffic volumes;
  4. Identification of circumstances or times when permits for extra-legal vehicles or loads shall be required pursuant to chapter 74.
- D. Identification of water resources on and within five hundred (500) feet of the perimeter of the site, including:
1. Surface and known subsurface water resources;
  2. A description of the operations' anticipated impacts on the quality and quantity of water resources;
  3. Proposed measures for mitigation of the anticipated impacts described.

**Sec. 73-17 Sexually oriented businesses**

- I. Purpose.** The purpose of this section is to serve the substantial government interest of protecting and preserving the quality of life and vitality of the county as a tourist destination, place of business, and home to its residents by establishing reasonable time, place and manner restrictions on the location and operation of sexually oriented businesses without prohibiting sexually oriented businesses or constitutionally protected speech.
- II. Applicability.** These standards shall apply to land use permit applications proposing a new sexually oriented business or the modification of an existing sexually oriented business.
- III. Standards specific to sexually oriented businesses.**
- A. Setbacks. The following minimum setbacks shall apply to all facilities associated with a sexually oriented business:
1. From the property lines of a lot or parcel containing another sexually oriented business: one thousand (1000) feet;
  2. From the property lines of a lot or parcel containing one or more dwelling units or otherwise designated for residential use: one thousand (1000) feet;
  3. From the property lines of a lot or parcel containing any school, childcare center, religious institution, public park or playground, or building owned or operated by a governmental entity providing services to the general public: one thousand (1000) feet.
- B. Visibility.
1. Advertisements, signs, displays, live displays, or other promotional materials showing or depicting a specified sexual activity; or a specified anatomical area shall not be shown or exhibited to be visible or audible outside of the building.

2. Each building entry, window, and doorway shall be located, covered, or screened in such a manner as to prevent the interior of such premises from being viewed from outside of the building.

**Sec. 73-18 Short term rentals – Reserved**

**Sec. 73-19 Small and large scale solar**

**I. Purpose.** The purpose of this section is to allow for a reasonable permitting process for solar electric energy development and to encourage the use of various scales of renewable energy development.

**II. Applicability.** This section shall apply to small and large scale solar facilities.

Table 73-19: Solar energy generation

<u>Type</u>	<u>Generation</u>	<u>Acreage</u>	<u>Decision making body</u>
<u>Micro solar</u>	<u>≤150 kw</u>	<u>≤5,000 s.f.</u>	<u>No permit required 66-3</u>
<u>Small scale solar</u>	<u>150 kw to 1 MW</u>	<u>&gt;5,000 s.f. to 5 acres</u>	<u>Administrative land use permit</u>
<u>Large scale solar</u>	<u>&gt;1 MW up to 2 MW</u>	<u>&gt;5 to 10 acres</u>	<u>Minor Land Use permit</u>

**H.III. Standards specific to small and large scale solar.**

- A. Structure mounted ~~small-scale~~ solar.
  1. The solar energy system components must be mounted as flush to a roof or structure as practicable.
  2. The solar energy system may increase the height of the structure by a maximum of five (5) feet.
- B. Ground-mounted ~~small-scale~~ solar.
  1. Setbacks. The following minimum setbacks shall apply:
    - a. From the property lines of residential uses: fifty (50) feet;
    - b. From the property lines of nonresidential uses: twenty (20) feet;
    - c. From the legally described boundary line of a public right-of-way: fifty (50) feet.
  2. Screening. To the maximum extent feasible, ancillary solar equipment shall be screened from view when the adjacent property is residential.
  3. Glare. The height, location, setback or base elevation of a facility shall minimize the potential glare and other adverse impacts of the facility on adjacent properties and roadways.
  4. Height. Under no circumstances shall a facility be more than ~~fifteen (15)~~ twenty (20) feet in height.
  5. Sensitive areas. To the maximum extent feasible, a facility shall avoid visually sensitive areas such as ridges, hilltops and scenic areas.
  6. Location on lot. On residential properties, a facility shall not be located within the front yard of the lot or within the side or rear setbacks.
  7. Underground utilities. Power lines must be underground except where the electrical collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network. Proposed transmission and distribution facilities must be identified and included as part of the project application.



8. Site disturbance. A facility must be designed to minimize site disturbances. Reestablishment of all disturbed areas, including the construction access, shall maintain the historic drainage patterns and permeable ground cover and must be done to minimize environmental impacts. Temporary and permanent erosion control measures shall be used as necessary to minimize erosion of the site.
9. Decommissioning. Procedures to address decommissioning and abandonment of the facility must be addressed by written agreement with the county. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense. A facility shall be considered abandoned if the use is discontinued (no energy production) for a period of more than twelve (12) consecutive months unless a plan has been submitted and approved by the director outlining steps and a schedule for returning the system to service.

**III.IV. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:

- A. If the applicant is not the surface owner, the name and address of the owner of the property; documentation of surface ownership and copies of documentation showing proof of right of entry by applicant for ingress and egress and installation of all necessary facilities and infrastructure, and other provisions relating to the use of the surface estate as may be appropriate.
- B. For ~~small-scale~~ solar proposed to be mounted to an existing building, a site plan and supporting materials containing these additional requirements, whether existing or proposed:
  1. A map of all new transmission and distribution infrastructure that will be necessitated by the facility, or a statement indicating that no new transmission or distribution infrastructure will be required;
  2. Location and proposed use of structures;
  3. ~~Operation~~ plan. A plan for the method of operations, including without limitation:
    - a. Projected start and completion dates for construction, estimated duration of facility operation, description of equipment used, including horsepower; transportation, generation, and post-operation activities;
    - b. A buffering plan, if applicable;
    - c. Site reclamation plan;
    - d. A plan for the management and prevention of noxious weeds on the site that complies with all county and state requirements;
  4. Elevation drawings of at least two (2) sides of all facilities, which shall include the building to which the ~~small-scale~~ solar will be mounted;
  5. An agreement, in a form acceptable to or supplied by the county, to address the decommissioning and abandonment of the ~~small-scale~~ solar energy facility.
- C. For ground-mounted ~~small-scale~~ solar or for building-mounted ~~small-scale~~ solar for which the host building does not already exist, a site plan and supporting materials containing these additional requirements, whether existing or proposed:
  1. Map of transmission and distribution infrastructure that will be used by the facility and all new transmission and/or distribution infrastructure that will be necessitated by the facility;
  2. Location of access roads and rights-of-way, together with the locations of any easements for access, irrigation, or utilities;

3. Any significant site features including floodplains, water bodies, and drainage patterns;
4. Location and proposed use of structures;
5. Topographic information concerning the direction of drainage at the application site;
6. Operating plan. A plan for the method of operations, including without limitation:
  - a. Projected start and completion dates for construction, estimated duration of facility operation, description of equipment used, including horsepower; transportation, generation, and post-operation activities;
  - b. A screening plan, if applicable;
  - c. Site reclamation plan;
  - d. A plan for the management and prevention of noxious weeds on the site that complies with all county and state requirements;
7. Elevation drawings of at least two (2) sides of the facility. Drawings of building-mounted facilities shall include the building that is proposed to be built;
8. An agreement, in a form acceptable to or supplied by the county, to address the decommissioning and abandonment of the facility.

**Sec. 73-20 Special events**

- I. Purpose.** This section applies to special events that do not occur at a special event venue and identifies standards for conducting special events. The purpose of these regulations is to manage the conduct of special events to protect the public health and safety, and to preserve the value and enjoyment of surrounding areas and neighbors.
- II. Exceptions.** A special event shall require an administrative land use permit pursuant to section 66-18 unless one of the following applies:
  - A. The special event is a private function not exceeding forty-eight (48) hours occurring at a private residence or upon grounds of a multifamily residential development for which no admission or rental fees or other charges are assessed. Examples of such private events include but are not limited to weddings, funerals, estate sales/auctions and family gatherings.
  - B. The special event is reasonably expected to attract less than fifty (50) vehicles or one hundred (100) people including hosts, guests, staff employees, and/or independent contractors.
  - C. The special event occurs at a permanent facility for which a land use permit has been granted specifically allowing such activities, and the special event complies with all permit conditions of approval. Examples of such events include but are not limited to sporting events and equestrian competitions in facilities intended and permitted for such activities.
- III. Standards specific to special events.** An applicant for an administrative land use permit for a special event shall follow the process established in section 66-18. Application requirements for an administrative land use permit for a special event shall not be limited as set forth in section 66-18 but rather shall be determined by the director based on the specific proposed special event and the following standards:
  - A. Water. Sufficient potable water shall be provided unless the director determines that no potable water is necessary.
  - B. Sewer. Adequate sewage disposal shall be provided. The director may require that applicant receive written confirmation of adequacy from ~~SJBPH~~ [the San Juan Basin Public Health](#).
  - C. Access. Legal access shall be demonstrated and the applicant shall comply with sections 42-31 through 42-34, including but not limited to the provision of proof of insurance, liability

coverage, operational and traffic control plan and an emergency management and communication plan.

- D. Parking. Adequate parking facilities shall be required. The director may consider proposed use of buses and traffic control personnel to determine adequacy. Parking shall be contained on the property and shall not be within public right-of-way.
- E. Noise. Noise associated with the special event shall not exceed the commercial maximum permissible levels pursuant to section 70-21.
- F. Odor. Odor generated onsite from the special event shall not produce adverse or noxious odors as perceived at the special event's property line.
- G. Dust. Dust generated onsite shall not impact surrounding properties. Where non-paved roads are used by the special event, the special event shall provide adequate dust suppression.
- ~~F.H.~~ Lighting. In instances where security or special event lighting is proposed, lighting sources shall be directed inward and away from adjacent properties and be in conformance with standards set forth in section 70-7.
- ~~G.I.~~ Setbacks. All temporary structures shall meet commercial setback requirements pursuant to section 70-6.
- ~~H.J.~~ Daily duration. The daily duration and time of the special event activities shall be limited to the hours between 8:00 a.m. and 12:00 a.m.
- ~~I.K.~~ Set up for event. Set up for the special event shall occur up to no more than forty-eight (48) hours prior to the start of the special event.
- ~~J.L.~~ Length of event. A special event shall not exceed seventy-two (72) hours.
- ~~K.M.~~ Clean up and removal of temporary structures. All trash and refuse, as well as temporary structures shall be removed from the property within seventy-two (72) hours of the conclusion of the approved special event.
- N. Calendar year limitations. A property shall not have more than three (3) administrative land use permits issued for special events per calendar year and no more than one (1) administrative land use issued on a property concurrently.
- L.O. Safety plan. Adequate health and safety measures and services, which include but are not limited to coordination with emergency medical services, law enforcement and fire protection shall be demonstrated. The safety plan shall address the nature of any hazard proposed health or safety risk presented by or at the event and proposed preventative, pre-cautionary or mitigation measures. The applicant shall work with the local fire district and other entity as appropriate -to develop the plan, as applicable.

**IV. Notice.** ~~The applicant shall provide notice to all surrounding land owners within five hundred (500) feet of the property lines, (one thousand (1,000) feet of the property lines within the Animas Valley), and post a notice on the property.~~ Notice to surrounding landowners shall contain a description of the special event, a site plan identifying activity locations, the date(s) and duration of the event, contact information for the CDD, and a date by which the comments must be submitted. Posted notice shall contain date(s) and duration of event, and a brief description of the event. The applicant shall provide proof of compliance with the noticing requirements no more than five (5) business days after the application submission. The director may require the applicant to send additional notices to landowners or agencies.

#### **Sec. 73-21 Telecommunication facilities**

- I. Purpose.** The purpose of this section is to regulate the deployment of telecommunications facilities in a manner that safeguards the public health, safety, and welfare, to promote public access to

sufficient and competitive personal wireless services in the unincorporated county, while mitigating any potential adverse effects of such deployment.

**II. Applicability.** Any deployment of a telecommunications facility shall require a land use permit, except for the following:

- A. Repairs that will not alter the physical appearance of a telecommunications facility;
- B. Removal of a telecommunications facility;
- C. Removal of antenna facilities from a telecommunications facility;
- D. Deployment which does not amount to a substantial change, upon confirmation by director determination.

**III. Deployment that does not amount to a substantial change.** Deployment of telecommunications facilities may be authorized without a land use permit upon a director determination that the deployment does not amount to a substantial change.

- A. Submittal requirements. To confirm that the deployment does not amount to a substantial change, the provider requesting the director determination shall submit:
  - 1. A narrative setting forth the deployment's proposed location, purpose, and specifications;
  - 2. Documentation that the provider lawfully may occupy and develop the proposed facility in the proposed location;
  - 3. Scaled plan and elevation drawings of at least two (2) sides of the proposed facility or facilities;
  - 4. A professional engineer's certification that the proposed facility is structurally sound;
  - 5. A written statement that the proposed deployment shall comply with the FCC's limitations on human exposure to radiofrequency radiation;
  - 6. A written statement from the provider acknowledging that, because the provider's request for a director determination is not an application for a land use permit, the provisions of 47 C.F.R. § 1.6003 shall not apply.
- B. Limitation on tower height. No proposed increase to an existing telecommunications tower's height shall result in a tower's height exceeding the restrictions set forth in subsection IV.
- C. Time for review. Following submittal of all required items, the director shall issue a determination, within sixty (60) days, confirming the proposed deployment amounts to a substantial change, and thus does not require a land use permit, or advising that the provider must apply for a land use permit.

**IV. Standards specific to telecommunication facilities.**

- A. Radiofrequency radiation. All facilities shall demonstrate compliance with FCC standards regarding radiofrequency radiation.
- B. No facility shall be larger than necessary to efficiently provide personal wireless service, and space for collocation as required by paragraph IV.C.
- C. New telecommunications towers or other structures intended to support an antenna facility shall be capable of supporting at least two (2) additional antenna facilities.
- D. Collocation of new telecommunications facilities shall be required, unless the provider provides evidence that there are no existing structures capable of supporting the antenna facilities required to provide the proposed personal wireless service, or evidence of the provider's good faith, but unsuccessful, efforts to collocate on existing structures.

- E. Structure mounted facilities shall be designed and constructed to blend with the architectural characteristics of the structures on which they are proposed to be mounted.
  - F. Antenna facilities associated with structure mounted facilities shall be either inside the structure, inside an existing cabinet, or in a new cabinet adjacent to and similar in material and color to existing cabinets and the structure itself.
  - G. Speculative towers shall not be permitted.
  - H. Lattice towers shall not be permitted unless the provider demonstrates, in writing, that:
    - 1. Any other structure will not meet the standards of this section.
    - 2. Aesthetic considerations favor the construction of a lattice tower at the proposed location.
    - 3. A monopole tower would not be technically feasible for the proposed deployment (as documented in writing by a professional engineer).
  - I. No telecommunications tower shall exceed one hundred ninety-nine (199) feet in height.
  - J. The setback from a telecommunications tower to any property line shall be at least 1.3 times the tower's height.
  - K. Antenna equipment associated with telecommunications towers shall meet the following requirements:
    - 1. Antenna equipment at ground level shall be in an enclosed structure that is architecturally compatible with the surrounding environment, or screened completely by vegetation, berms, landscaping boulders, or an architecturally compatible wall or fence.
    - 2. Security fencing shall enclose the minimum space necessary for safety and shall be designed to blend with the character of the existing environment.
    - 3. Antenna equipment shall be grouped as closely as possible to other antenna equipment and the tower.
    - 4. Antenna equipment at ground level shall not exceed a surface area of four hundred fifty (450) square feet per provider.
  - L. Architectural integration with existing buildings, structures and landscaping, including height, color, style, massing, placement, design and shape is required. Concealment or stealth methods, such as camouflaging transmission towers to look like poles or trees may be required.
  - M. Roof-mounted antennas shall be located as far away as feasible from the edge of the building. Antennas attached to a building should be painted or otherwise treated to match the exterior building.
- V. Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
- A. Applicants seeking a land use permit for deployment of telecommunications facilities using existing structures shall submit:
    - 1. A narrative setting forth the deployment's proposed location, purpose, and specifications, including but not limited to:
      - a. The type of service to be provided;
      - b. The frequency or bandwidths to be used;
      - c. The size, type, and output of any proposed lighting;
      - d. Security;
      - e. Signage;

- f. Documentation that the proposed facility's design complies with the standards set forth at subsection IV.
  2. Documentation that the applicant lawfully may occupy and conduct deployment of the proposed facility in the proposed location.
  3. A propagation study demonstrating that the proposed deployment is no larger, or more densely deployed, than necessary to efficiently provide personal wireless service, and space for collocation where applicable.
    - a. The propagation study shall include a graphic depiction and estimated size of the area in which personal wireless service will be provided and/or enhanced.
    - b. The director, at the director's discretion, may retain a qualified consultant to review the study, and the applicant shall be financially responsible for the reasonable costs of such review.
  4. Elevation drawings of at least two (2) sides of the facility. Drawings of structure mounted facilities shall include the structure.
  5. Photo-simulations, or photographs of an existing facility proposed for modification in its current state, showing at least two (2) sides of the proposed and existing facility.
  6. A professional engineer's certification that the proposed facility, or the proposed modification to an existing facility, is structurally sound.
  7. A written statement that the proposed deployment shall comply with the FCC's limitations on human exposure to radiofrequency radiation.
  8. A written statement setting forth the applicant's position as to the applicable shot clock period for the proposed facility, as set forth at 47 C.F.R. § 1.6003.
- B. Applicants seeking a land use permit for deployment of telecommunications facilities using new structures shall submit:
  1. A narrative setting forth the deployment's proposed location, purpose, and specifications, including but not limited to:
    - a. The type of service to be provided;
    - b. The frequency or bandwidths to be used;
    - c. The size, type, and output of any proposed lighting;
    - d. Security;
    - e. Signage;
  2. Documentation that the applicant lawfully may occupy and conduct deployment of the proposed facility in the proposed location;
  3. A propagation study demonstrating that the proposed deployment is no larger, or more densely deployed, than necessary to efficiently provide personal wireless service, and space for collocation where applicable. The propagation study shall include, at a minimum:
    - a. A graphic depiction and estimated size of the area in which personal wireless service will be provided and/or enhanced;
    - b. A demonstration that there are no existing structures capable of supporting antenna facilities that will provide the proposed personal wireless service; or
    - c. Certification that the applicant has made good faith, but unsuccessful, efforts to collocate on an existing structure;

- d. Graphic depictions and estimated sizes of the geographic areas for which the proposed deployment shall provide new or improved personal wireless service;
  - e. The director, at his or her discretion, may retain a qualified consultant to review the study, and the applicant shall be financially responsible for the reasonable costs of such review;
4. If construction of a telecommunications tower is proposed, a written narrative describing the potential for future collocation on the tower;
  5. If construction of a stealth tower is proposed, a written narrative describing the camouflaging scheme;
  6. If construction of a lattice tower is proposed, documentation that:
    - a. Deployment of a monopole tower would not meet the standards of this section; or
    - b. Aesthetic considerations favor the construction of a lattice tower at the proposed location; or
    - c. A monopole tower would not be technically feasible for the proposed deployment (as documented in writing by a professional engineer);
  7. Elevation drawings of at least two (2) sides of the facility, including, for proposed telecommunications towers, a depiction of the proposed tower's potential for future collocation;
  8. Photo-simulations, or photographs of an existing facility proposed for modification in its current state, showing at least two (2) sides of the proposed and existing facility;
  9. A landscaping plan;
  10. A professional engineer's certification that the proposed facility, or the proposed modification to an existing facility, is structurally sound;
  11. A written statement that the proposed deployment shall comply with the FCC's limitations on human exposure to radiofrequency radiation;
  12. A written statement setting forth the applicant's position as to the applicable shot clock period for the proposed facility, as set forth at 47 C.F.R. § 1.6003.
- C. Because the FCC, by its declaratory ruling and third report and order adopted September 26, 2018 (FCC 18-133), requires that the time limits for review and disposition of any application for deployment of a telecommunications facility set forth at 47 C.F.R. § 1.6003(c) apply to all required authorizations, an applicant shall submit applications for all required authorizations (e.g., building and/or access permits) together with its application for land use permits.

**VI. Abandonment, removal, and reclamation.**

- A. Abandonment prohibited. Telecommunications facilities shall not be disused unless they are also removed pursuant to this subsection.
- B. Abandonment determination. The director may request the board hold a hearing on the abandonment of a telecommunications facility. Notice of the hearing shall be provided to all providers holding permits to operate the facility, and the owner(s) of the parcel containing the facility, by certified mail at least ten (10) days prior to the hearing. The board shall declare a telecommunications facility abandoned, and require its removal, if:
  1. The facility is unused by any provider for a period of one hundred eighty (180) days or more; or
  2. The facility presents an imminent danger to the health, safety, or welfare of the public.



- C. Removal. Upon a determination by the board that the telecommunications facility is abandoned, the permitted provider(s) shall have ninety (90) days to either resume use of the facility or remove it. Removal shall proceed according to the applicable provisions of the county building code and under the supervision of the building division.
- D. Reclamation. When a telecommunications facility is removed, the owner of the lot or parcel on which it was sited shall, at their own expense, restore the lot, parcel, and structure that had contained the facility to a condition substantially similar to that existing before the facility's deployment, except such restoration shall not include the removal of any landscaping unless approved by the director.

**Sec. 73-22 Temporary Uses**

- I. **Applicability.** This section shall apply to any temporary use that does not qualify for a special event permit under section 73-20.
- II. **Standards specific to temporary uses.** The following additional standards shall apply to all temporary uses within the unincorporated areas of the county:
  - A. Length of temporary uses. A land use permit for a temporary use shall be valid for no more than thirty (30) non-consecutive days within a calendar year or one hundred and twenty (120) consecutive days. A minor land use permit for a temporary use shall expire at the end of each calendar year unless the approved one hundred and twenty (120) consecutive day period is permitted to extend into the subsequent year.
  - B. Calendar year limitation. A property shall not have more than one (1) minor land use permit issued for a temporary use per calendar year and no more than one (1) minor land use permit for a temporary use issued on a property concurrently.
  - C. Existing structures, infrastructure. All existing permanent structures and infrastructure shall be in compliance with applicable local, state, and federal statutes and regulations.
  - D. New structures, facilities. New permanent structures and infrastructure necessary solely for the temporary use are prohibited.
- III. **Measures to protect health and safety.** The temporary use shall not be detrimental to the property or infrastructure improvements in the surrounding area or to the public health, safety, or general welfare. There shall be no unduly burdensome police, fire, trash removal, or other public service demands caused by the special event.
- IV. **Submittal requirements.** In addition to the general land use permit application submittal requirements set forth in section 66-11, applicant shall submit the following documents and materials:
  - A. Representation of the number of temporary use permits that have been issued for the subject property in the preceding year;
  - B. Representation of the maximum number of tickets to be sold or the maximum number of visitors to be allowed entrance to the property for the temporary use, including hosts, guests, staff employees and independent contractors;
  - C. Proposed days and hours of the temporary use;
  - D. ~~Operating~~ **operation** plan. A plan for the method of operations, including without limitation timing for the cleanup of the site and removal of all trash;
  - E. If the proposed maximum number of people in paragraph B above is more than five hundred (500), a traffic impact study acceptable to the planning engineer, including but not limited to:
    - 1. Anticipated traffic volumes and directional distributions; and

2. Identification of circumstances or times when permits for extra-legal vehicles or loads shall be required pursuant to chapter 74.

## Chapter 74: Road and Bridge Standards and Permits

### Sec. 74-1 General provisions

- I. **Purpose.** The purpose of this chapter is to ensure uniform, safe and adequate access to public roads and to ensure the development and use of real property does not create demand for public improvements and services that cannot be met with existing public resources. Safe and adequate access exists when traffic volumes do not exceed the capacity of the road; when operating conditions on the road and at intersections do not fall below the specified level of service; and when pavement sections and structures can accommodate projected traffic.
- II. **Applicability.** In addition to establishing requirements for the planning, design, construction and improvement of transportation facilities by land use permit applicants, the requirements contained in this chapter apply to all proposed uses and development within unincorporated areas of the county and to new transportation facilities planned, designed and constructed by the county; except:
  - A. Development where no land use permit is required pursuant to section 66-3; provided, however, that all driveways shall comply with standards as noted in section 74-8 and subdivisions in which all lots are greater than thirty-five (35) acres shall comply with standards as noted in section 74-6.
  - B. Additional dwelling units pursuant to section 73-3 that require a director determination; provided, however, that additional dwelling units may be subject to the applicability of driveway standards in 74-8.
  - C. The following types of administrative land use permits:
    1. Lot consolidations, boundary adjustments and plat amendments unless the changes to the plat creates an adverse impact to new or existing roads;
    2. Temporary uses;
    3. Accessory uses.
  - D. Development in the joint planning area which are addressed in section 72-2.
  - E. Special events which are addressed in chapter 42 of the La Plata County Code.
  - F. Asphalt overlays, resurfacing of existing roads and related maintenance activities.
  - G. Reconstruction of existing county roads and bridges by the county.
  - H. AgPlus uses, however, all driveways shall comply with standards as noted in section 74-8.
  - I. Telecommunication facilities.
- III. **Road design publications.** In addressing the requirements of this chapter, horizontal and vertical alignment and other design data ~~shall~~ should substantially conform to the latest addition of AASHTO's A Policy on Geometric Design of Highways and Streets and, for minor local roads and low ADT roads, AASHTO's Guidelines for Geometric Design. Designers are also expected to reference CDOT's design manuals, this chapter and other documents, such as the comprehensive plan, the La Plata County Fire Code, International Fire Code and guidance documents published by the applicable local fire district.
- IV. **Construction quality and materials.** All materials and construction required by this chapter shall comply with CDOT's Standard Specifications for Road and Bridge Construction.
- V. **Traffic control plans and devices.** All traffic control devices, road striping, signs, markers, delineators and signalization shall be in accordance with the latest version of the U.S. Department of Transportation, Federal Highways Administration Manual on Uniform Traffic Control Devices (~~MUTCD~~) or as shown in the latest version of CDOT's M&S Standard Plans. A traffic control plan is required for all work on or within a county right-of-way. The plan shall conform to the standards

set forth in the MUTCD. Traffic control plans shall be submitted to the public works director for approval no less than twenty-four (24) hours prior to the performance of any work.

**VI. Professional qualifications and judgment.** All road, right-of-way and drainage designs required by this chapter shall be prepared under the supervision of a professional engineer. Unless waived by the planning engineer or public works director, traffic analyses and construction plans shall be prepared, signed and sealed by a professional engineer. Because these standards cannot provide for all situations, the standards set forth in this chapter assist, but do not substitute for, competent work by design professionals. Design professionals shall consider all available information and use professional judgment to propose a final design. The public works director or planning engineer will evaluate proposed designs that depart from the requirements outlined in this chapter on the likelihood that such deviation will produce compensating or comparable results, adequate for the road uses and the welfare of the general public. The public works director or planning engineer will be the final authority resolving questions of fact in connection with standards for road construction not directly covered by this chapter.

**Sec. 74-2 Road classification standards and level of service standards**

**I. Road classifications and standards for all private roads, public roads that are not county roads, county roads maintained by others, and new county roads.** All existing and new private roads, public roads that are not county roads and new county roads shall meet the minimum standards in 74-1 IV, Table 74-2-A below and section 74-4. The classifications and standards in this section account for current ADT in addition to the ADT expected to be generated by the proposed development or use. If the classifications and standards in Table 74-2 are not met, the development may shall make the improvements necessary to meet the standard or wait until the needed improvements are constructed by others. In addition to the classifications and standards in Table 74-2, the public works director may require additional improvements to based on specific safety concerns including, but not limited to, road alignment, site distance and vehicle type generated by development. The road classifications and corresponding standards are:

**Table 74-2-~~A~~ Road Classifications and Standards**

Road Classification and Standards							
Road Class	ADT	Design Speed (miles per hour)	Minimum Right-of-Way Width (feet)	Travel Way Width (feet)	Shoulder Width (feet)	Surface Type	Maximum Grade (percent)
Arterial	2500+	45-55	80	24	4	Paved	6
Collector	1,000 - 2,499	30-45	70	24	3	Paved	8
Major local	400 – 999	25-40	60	22	2	Paved	8
Minor local	49 – 399	15-30	50	20	2	Gravel	10
Low ADT	25 - 48	N/A	30	20	N/A	Gravel	10

**II. Level of service standards for existing county roads.**

A. Level of service standards apply to any existing county road that experiences an increase in traffic due to a development, from the project entrance to the nearest state highway, city or town road. If the LOS is not met, the development may shall make the improvements

necessary to meet the LOS standard or wait until the needed improvements are constructed by others.

- B. Exemptions for level of service standards. The following projects are exempt from LOS standards:
  - 1. Development regulated by chapter 90.
  - 2. Subdivisions in which all lots are greater than thirty-five (35) acres.
- C. In addition to the level of service standards, the public works director may require additional improvements to county roads based on specific safety concerns including, but not limited to, road alignment, site distance and vehicle type generated by development.
- D. Paved county roads. The county has established specified levels of service for all paved county roads. The established level of service ensures that the operating conditions a driver experiences while traveling on a paved county road are maintained within the acceptable ranges established by the board. The capacity of a paved county road is defined as the maximum traffic volume that can be accommodated at the adopted level of service and depends on road characteristics, such as number of lanes, lane widths, intersection geometry and signalization, as determined by the Transportation Research Board, Highway Capacity Manual. Except as noted in paragraph 74-2.II.B, all paved county roads that experience an increase in traffic due to a proposed development must:
  - 1. Function at LOS D in the joint planning area, or future growth boundaries of a town or city;
  - 2. Function at LOS C in all other areas;
  - 3. Have a minimum of a twenty (20) foot width.
- E. Exemptions for portions of paved county roads. The following roads are exempt from level of service standards:
  - 1. County Road 240 (Florida Road) from Whippoorwill Drive to County Road 250 (East Animas);
  - 2. County Road 251, also known as 32nd Street, from Holly Ave. to County Road 250 (East Animas);
  - 3. County Road 250 (East Animas) between County Road 251 and County Road 240;
  - 4. Other urbanized county roads, as determined by the public works director or planning engineer, that no longer meet the criteria for uninterrupted flow shall be evaluated for level of service as interrupted flow.
- F. Unpaved county roads. The established level of service for unpaved roads ensures the road can accommodate emergency vehicles and not negatively impact maintenance or air quality. All unpaved county roads that experience an increase in traffic due to a proposed development must:
  - 1. Have a total surface width of twenty (20) feet.
  - 2. Carry no more than four hundred (400) ADT after completion of the project. Asphalt paving or double pin chip seal, if structurally adequate, with adequate sub-base and base course material, is required when cumulative traffic volumes exceed these capacities for unpaved roads. Double pin chip seal may be allowed only to improve a road that, with the new development, meets the thresholds of a major local road with less than nine hundred ninety-nine (999) ADT.
  - 3. Be adequately surfaced with all-weather material to carry the weight of a sixty thousand (60,000) pound vehicle, minimum front single axle = 24,000 pounds; minimum rear single

~~axle = 32,000 pounds, under all weather conditions.~~

### Sec. 74-3 Review of development subject to this code

- I. Improvements required.** Applicants and owners are responsible for addressing and mitigating the road system impacts associated with their proposal as necessary to provide safe, efficient access to the development or use. This may include providing reasonable improvement to off-site transportation facilities made necessary by the development or use consistent with C.R.S. § 29-20-203.
- A. Auxiliary lanes. Where a development or use proposes to use an intersection that meets warrants for auxiliary turn lanes, improvements for the auxiliary turn lanes shall be constructed by the owner.
  - B. Existing roads. Whenever a proposed use or development impacts an existing road, including a county road, and the ability to maintain the functional classification, standards or safety of the road is impacted, the owner shall make on-site and off-site improvements to the existing road to address and mitigate the impacts associated with the use or development. The design and required improvements shall address all components and standards set forth in this chapter and shall be at the cost of the owner; provided, however, an applicant may seek reimbursement from subsequent development that utilizes the improvements when the conditions set forth in section 66-31 are satisfied. If the owner believes an existing private road, public road that is not a county road, or county road that is maintained by others conforms to these standards, the owner shall submit documentation illustrating such conformance and certification by a professional engineer that the road meets standards. The planning engineer may also require drawings of record to document conformance with the standards.
  - C. New roads. When a development or use requires the design and construction of new public or private roadways, the design and required improvements shall address all components and standards set forth in this chapter and shall be at the cost of the owner.
  - D. Extent of impacts. In satisfying the standards in this chapter for private roads, public roads that are not county roads, or county roads that are maintained by others, the development or use shall account for impacts and improvement from the farthest possible access point of the development or use to the connection with a county road, state highway or city or town road. In satisfying the standards in this chapter for county roads, developments or uses shall account for impacts from the proposed development or use to the nearest state highway or city or town road.
  - E. Emergency or secondary access. If required by subsection 74-4.XIII, the owner shall construct emergency or secondary access.
  - F. Improvements to state highways, if any, shall be determined by CDOT.
- II. Right-of-way management.**
- A. Both legal and physical access is required for purposes of developing a parcel. Legal access is the legal right vested in an owner to enter or return from a parcel to a public roadway without obstruction. Adjacency to a public road or private access with the legal right to cross constitutes adequate legal access. Physical improvements to a parcel by a road or driveway that meets the standards in this chapter constitute physical access. The review of and requirements for access depends upon the road classifications and level of service for the road to which the parcel connects.
  - B. Right-of-way dedication. ~~Development that necessitates the provision of transportation facilities, shall have the following access requirements:~~
    - 1. All roadways and streets located within the subject property, the benefit of which is to the current or future residents of the property, shall be dedicated as public rights-of-way unless

specifically approved as private rights-of-way and so designated on the plat or exemption documents.

2. In addition to any other dedication requirements, in some instances it may be necessary for a property owner to dedicate land to the county to maintain safe and efficient operation of transportation facilities. For the purpose of establishing appropriate dedication requirements related to county roads, Table 74-2 shall be deemed to establish the minimum right-of-way width.
  - a. Adjacent to subject property. Prior to issuance of a land use permit or recordation of a plat, an owner shall convey to the county right-of-way adjacent to any county road, along the full length of the subject property, in accordance with the following:
    - (i) Width. The owner shall dedicate the minimum width of the right-of-way necessary to meet the standards set forth in Table 74-2 as if the county road were subject to the classifications and standards of Table 74-2 this chapter. For properties that front the county road on one (1) side, half the minimum width is required to be dedicated. When the property fronts the county road on both sides, the full width is required to be dedicated.
    - (ii) Conveyance. The owner shall transfer fee simple title to the on-site right-of-way to the county by general warranty deed, unless the county attorney determines less than fee simple title or other form of deed is appropriate under the circumstances.
    - (iii) When dedication is required by this section and the resultant lot or parcel area becomes less than that required by law for a proposed development, that area of land so dedicated may be included in the calculation of the land area needed for the purpose of complying with the applicable law.
  - b. Off-site dedications or conveyances for existing county roads. Whenever a proposed use or development impacts an existing county road, including a county road, and the ability to maintain the functional classification, standards or safety of the road is affected due to insufficient right-of-way width as depicted in Table 74-2-A and the standards in 74-43, the owner is required to obtain and transfer to the county additional right-of-way to offset the impacts of the development as follows:
    - (i) Width. The owner shall dedicate the minimum width of right-of-way for the ~~new or~~ improved road as set forth in Table 74-2-A, unless the public works director determines that, along with adequate drainage and maintenance, a roadway meeting the standards may be constructed in a lesser width. Under no circumstances shall the public works director accept a right-of-way of less than thirty (30) feet.
    - (ii) Conveyance. The owner shall obtain the necessary right-of-way, at the owner's cost, and transfer fee simple title to the off-site right-of-way to the county by general warranty deed, unless the county attorney determines less than fee simple title or other form of deed is appropriate under the circumstances.
  - c. New and existing off-site private roads, public roads that are not county roads, and county roads maintained by others. Right-of-way widths for ~~new private roads and existing private roads off-site private roads, public roads that are not county roads and county roads maintained by others~~ impacted by the development shall meet the standards set forth in section 74-2 and the applicant shall obtain any additional rights-of-way necessary to comply with the standards of this chapter. Except for county roads maintained by others, Right-of-way for these private roads shall not be dedicated to or accepted by the county.



3. When, due to topography, hazards or other design constraints, additional road width is necessary to provide for public safety and maintenance to contain all cut and fill areas, auxiliary lanes, drainage or other road appurtenances along roadways, then dedication of right-of-way in excess of the minimum standards shall be required. If only cut and fill slopes extend outside the minimum right-of-way, the public works director or planning engineer may allow permanent slope easements in lieu of additional right-of-way.
  4. In addition to dedication requirements, in some instances it may be preferable or necessary for a property owner to pay an in-lieu sum to the county for the right-of-way acquisition required for the physical improvements necessary to offset the impacts of the development.
- C. Roadway acceptance. All offers of dedication of public road right-of-way contained on or within any plat, plan, permit or other legal document setting forth a valid offer of dedication to the public are hereby accepted on behalf of the public. However, this acceptance on behalf of the public shall not be construed as accepting any obligation on the part of the county to maintain the accepted right-of-way nor shall the acceptance be construed as designating such public roads as county roads. County roads are as depicted on the official county road map. Rights-of-way for purposes of this section shall include, but not be limited to, utility, path, road and railroad rights-of-way, easements, deeds or valid offers of conveyance of any kind.
- This provision shall not be construed to alter, modify or rescind prior legal action taken by recorded resolution of the board accepting, rejecting or vacating any rights-of-way contained on or within any subdivision or land use plat, plan, permit or other legal document containing a valid offer of dedication.
- D. Acquisition. The board is authorized by state statute to layout, widen, alter or change any county road and to acquire land for county programs, projects or public purposes. The county may coordinate such acquisitions with owners when the acquisitions are for a valid public purpose. Acquisition of right-of-way shall substantially follow the Real Estate Acquisition Guide for Local Public Agencies published by the FHWA, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Ch. 61, and Title 38 of the Colorado Revised Statutes.

### III. Process outline, submittals and completion.

- A. Process outline. Except for subdivisions where all lots are greater than thirty-five (35) acres and subject to the process set forth in section 74-6, the submittal requirements set forth in this section and review process shall follow the common review procedures described in sections 66-10 through 66-14. In those instances, the public works department is a referral agency under subsection 66-11.II in the development review process.
- B. Submittal requirements. The applicant or owner of the proposed use or development shall submit the following:
  1. A survey depicting all utilities, underground and above ground, and all significant topographical features. Surveys used to generate construction plans shall be based on a ground or aerial survey. GIS generated data shall not be used;
  2. A traffic analysis as described in subsection 74-3.IV;
  3. A description of how any safety concerns will be resolved, including access for emergency vehicles or other concerns expressed by the applicable fire district, if appropriate;
  4. Technical reports evaluating drainage, geotechnical, hydrological, structural and pavement design and other pertinent engineering issues deemed necessary by the public works director or planning engineer given the context;
  5. A description of any impact on ditches or ditch crossings;

6. A description of the proposed mitigation for all adverse impacts to environmental and natural resources. For example, mitigation through an erosion control plan or a stormwater management plan;
7. Identification of the party responsible for maintaining the road, including any existing or proposed agreements to manage maintenance of the facilities through a perpetual association, corporation or other suitable means;
8. For all required improvements and facilities, construction plans meeting the minimum formatting and content requirements set forth in the construction plan guidance documents provided by the public works director or planning engineer and comporting with current industry standards. All construction plans shall be completed with enough detail to facilitate review and clearly describe the existing conditions and proposed construction of the development in its entirety and detail all existing equipment, infrastructure, and access. The required detail of construction plans, as determined by the planning engineer or public works director, shall depend upon the size, nature, and complexity of the use or development.
9. If the public works director or planning engineer determine a proposed development or use may exceed the thresholds identified in section 74-2, the public works director may require, as a preliminary submittal, an opinion letter prepared and signed by a professional engineer addressing trip generation and potential impacts to determine if a traffic impact study under paragraph 74-3.IV.C is required.
10. Snow storage calculations if the property is located over seven thousand five hundred (7,500) feet in elevation.

C. Submittal process.

1. Preliminary submittals. One (1) set of preliminary submittal items, in an electronic format ~~acceptable to the planning engineer~~, is required at project submittal. It may be necessary for the applicant to revise and resubmit these submittals based upon review and approval by the county.
2. Final submittals. Prior to construction, the applicant shall submit final submittals items, with appropriate documents signed and sealed by a professional engineer for county approval.
3. Revisions or updates to the approved documents. Revisions to the approved documents and supporting information shall be submitted to the CDD for approval prior to project completion. Revised construction plans shall show the clouded revisions and be signed and sealed by a professional engineer. If the public works director or planning engineer do not approve the changes, the applicant shall comply with the previously approved documents.

D. Project completion. Except when a development improvements agreement is used, the applicant shall complete the improvements prior to plat recording or issuance of the land use permit. An inspection by the county shall be performed to verify that all improvements have been constructed, revegetation measures have been installed, and conditions of approval have been met. The owner shall also submit the following prior to inspection:

1. Certification by a professional engineer that the improvements have been constructed in accordance with the approved construction plans;
2. Certification by the owner that all improvements have been constructed in accordance with the approved construction plans;
3. If deemed necessary or applicable by the planning engineer, approval of the improvements by applicable commenting agencies, fire departments or metropolitan districts.

**IV. Traffic analysis.** Because development and uses are responsible for addressing and mitigating their road system impacts, all proposed development and uses shall submit either a traffic evaluation under paragraph 74-3.IV.B or a traffic impact study under paragraph 74-3.IV.C, to inform staff and decision-making bodies about the development's or use's impacts on the roadway system as well as potential ways to mitigate those impacts. The public works director or planning engineer shall inform the applicant or owner of the level of analysis required during or subsequent to the pre-application meeting or after reviewing the opinion letter submitted pursuant to subparagraph 74-3.III.B.9. The public works director or planning engineer may ask for elements of a higher level of analysis where circumstances warrant. If the public works director or planning engineer determine there are no auxiliary lane warrants for access improvements, the requirement for a traffic analysis may be waived.

- A. Projected traffic volumes. Both the traffic evaluation and the traffic impact study shall describe projected traffic volumes as follows:
1. Trip generation values used for calculating ADT shall be primarily based on the type of occupancy for which the development is designed and secondarily based on the occupancy rate and activities generated. Subject to subparagraph 2 below, all uses shall use trip generation values as shown in the most current edition of the Trip Generation Manual, by the Institute of Transportation Engineers, or as verified by other data sources as determined by the public works director or planning engineer. When determining ADT under this subparagraph 1, primary consideration shall be given to the square footage of the proposed development and secondary consideration shall be given to other factors such as occupancy rate and the anticipated number of employees.
  2. For single-family use, multi-family use, and any nonresidential use not subject to subparagraph 1 above, trip generation values used for calculating ADT shall be as follows:

**Table 74-3 A-B Trip Generation Values**

Type of Use	Unit
Single-family	8 ADT/unit
Multifamily	5 ADT/unit
Non-residential (only if use is not covered in ITE manual)	4 ADT/employee

- B. Traffic evaluation. A traffic evaluation is required for projects that do not meet thresholds for a traffic impact study. The traffic evaluation shall:
1. Quantify volume generated by the development or use;
  2. If applicable, quantify off-site traffic volumes on a private road that provides access to a county road, state highway, city, or town road. Calculations shall account for future traffic from undeveloped lots at the single-family occupancy rate;
  3. Include entering sight distances for all intersections and accesses serving the project.
  4. Evaluate turn lane warrant based on CDOT Access Code and accounting for proposed and existing traffic volumes. For purposes of determining auxiliary lane warrants according to the current version of the Colorado State Highway Access Code, Volume 2, all county roads shall be considered category R-B unless the public works director determines other categories should be considered due to the densities of access points or because the proposed development or use is adjacent to an incorporated area.
- C. Traffic impact study.

1. Applicability. A traffic impact study involves a detailed analysis of road conditions, impacts and mitigation. Safety, access, level of service, and off-site impact mitigation are emphasized. A traffic impact study is required when the public works director or planning engineer determines the proposed development or use is anticipated to generate one (1) of the following:
  - a. One hundred (100) or more ADT;
  - b. A fifty (50) percent or more equivalent single axle load (~~ESAL~~) increase on the nearest county road caused by trucks classified by the United States Department of Transportation as Class 6 or higher;
  - c. Additional traffic to an existing county road that currently operates, or with the increased traffic due to the development or use will operate, at a level of service less than that described in section 74-2;
  - d. Additional traffic to any intersection with an existing peak hour traffic volume that is within ten (10) percent of meeting warrants for auxiliary lanes as determined by the current version of the Colorado State Highway Access Code, Volume 2;
  - e. Any increased traffic volume at an intersection or on a roadway with a documented accident history or other known existing safety hazards, as determined by the public works director or planning engineer.
2. Content requirements. All traffic studies shall:
  - a. Quantify traffic volume generated by the project at build out;
  - b. Include a vicinity map;
  - c. Meet the requirements of the current version of the Colorado State Highway Access Code, Volume 2;
  - d. Study turning movements and level of service at peak hour for intersections adjacent to the proposed development or use;
  - e. Study traffic within the traffic impact area, including turning movements and level of service at peak hour at intersections adjacent to the proposed development or use. The public works director may determine that other factors such as traffic noise, hours of operation, and neighborhood short-cuts require a larger traffic impact area;
  - f. If applicable, quantify off-site traffic volumes on private roadways that provide access to a county road, state highway, city, or town road. Calculations shall account for future traffic from undeveloped lots at the single-family occupancy rate;
  - g. Include modal split assumptions with analytical support;
  - h. Include level of service calculations;
  - i. Include entering sight distances for all intersections and accesses serving the project;
  - j. Include warrants and design criteria for acceleration and deceleration lanes as required by the current versions of the Colorado State Highway Access Code, Volume 2 and the American Association of State Highway and Transportation Officials Geometric Design of Highways and Streets. For purposes of determining auxiliary lane warrants pursuant to the Colorado State Highway Access Code, Volume 2, all county roads shall be considered category R-B unless the public works director determines other categories should be considered due to the density of access points or because the proposed development is adjacent to an incorporated area;
  - k. Include a safety analysis of potential conflict points, turning movements, road alignment, and five (5) years of accident history;

- l. Identify required roadway improvements, including without limitation road width and shoulders, geometry, acceleration and deceleration lanes, and turn lanes, drainage improvements, guardrail, signs, and striping;
- m. Include pavement structural capacity analysis based on a geotechnical study, unless the public works director determines the proposed development’s anticipated traffic represents less than a twenty-five (25) percent increase in ESAL loads;
- n. Identify road maintenance needs and schedule, including without limitation culverts and dust control;
- o. Collect existing traffic counts at the morning and afternoon peak hour traffic times over a minimum of two (2) weekdays, unless the public works director determines that such traffic counts are not needed based on the availability of existing data; traffic counts taken between October and April shall include a seasonal adjustment factor as calculated by CDOT for the region and time of year;
- p. Evaluate current daily peak and peak hour traffic data and twenty (20) year projections including without limitation turning movements at all intersections and key year midpoints assuming a build out of the traffic impact area based on land use, comprehensive plans, and growth estimates;
- q. Include data collection sheets, calculation sheets and, software outputs;
- r. Include a section for conclusions, mitigation and recommendations. This section should describe safety impacts resulting from the development or use, needed actions to mitigate the impacts (both immediately adjacent to the site as well as off-site mitigation measures needed as a direct result of the development or use), and the applicant’s proposed methods and schedule for phased projects to implement the mitigation measures. This section should detail the anticipated site access configuration (driveways, private roadways, paths, sidewalks, etc.) consistent with the requirements these standards.

D. Update to existing traffic analysis.

The following table identifies the scenarios in which an existing traffic analysis shall be updated by an amendment letter or replaced by a new traffic analysis:

**Table 74-3 ~~B-C~~ Traffic ~~A~~analysis**

Original report is:	<del>Submittal required Access and trip generation unchanged</del>	<del>Access location changed and trip generation unchanged <u>Delete this column</u></del>	<del>Access location unchanged and trip generation changed by more than 10% <u>Delete this column</u></del>
≤ 2 years old	Existing analysis can be used	<del>Amendment letter or new analysis as determined by public works director</del>	<del>Amendment letter or new analysis as determined by public works director</del>
>2 and ≤ 5 years old	Amendment letter updating traffic for additional approved development since original report	<del>Amendment letter or new analysis as determined by public works director. Update traffic for additional approved development since original report.</del>	<del>Amendment letter or new analysis as determined by public works director. Update traffic for additional approved development since original report.</del>

>5 years old	New analysis	<del>New analysis</del>	<del>New analysis</del>
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For projects that change trip generation or access location from the original report, and the original report is less than five (5) years old, the public works director shall determine if the project requires an amendment letter to the original analysis or a new traffic analysis.

**V. Design exceptions.** Aside from LOS standards for existing county roads, in certain limited exceptions, it is recognized that a proposed design may deviate from the standards prescribed by the road design publications described in section 74-1 or elsewhere in this chapter. In such instances, the applicant's or owner's professional engineer shall document, in writing and with sufficient detail, the cause for such deviation. The rationale for the deviation shall demonstrate that the deviation satisfies all of the following:

- A. Is not likely to compromise public safety;
- B. Is not contrary to best engineering practices as reflected in the road design publications described in section 74-1 or elsewhere in this chapter;
- C. Is not contrary to the intent and general purposes of the code;
- D. Does not result in a significant impact to the public due to maintenance of the improvements;
- E. Is the minimum exception or deviation necessary to afford relief, given the context;
- F. Is reasonably necessary for the health, safety and welfare of the public.

Upon receipt of the written request, the public works director or planning engineer shall evaluate the rationale according to the criteria in this section and advise the applicant's or owner's professional engineer whether the deviation, in whole or in part, is acceptable.

If the applicant or owner do not agree with the determination of the public works director or planning engineer or the county attorney determines the request relates to special conditions or exceptional characteristics of the proposal, not created by the applicant, that may justify or require a variance from the strict and literal interpretation of this code's standards to avoid undue hardship, the applicant or owner shall follow the variance process described in section 66-27.

**VI. Evaluation of development and use proposals.**

- A. The following factors shall be considered when evaluating development or use proposals:
  - 1. Whether the proposal, design, proposed mitigation and construction plans meet the standards set forth in this chapter;
  - 2. Conformance with the road design publications described in subsection 74-1.III; provided, however, road widths for minor local roads shall be as set forth in this section 74-2;
  - 3. Whether the proposal will increase ESAL loads by fifty (50) percent or more, and whether the projected traffic loads from the development or use can be accommodated without damaging the roadway or increasing the county's costs for maintenance;
  - 4. Whether there have been known safety issues including, but not limited to, road geometry, sight distance, number of accidents or need for emergency access;
  - 5. Whether the proposal adequately and appropriately mitigates the impacts (both immediately adjacent to the project as well as off-site mitigation measures needed as a direct result of the project), and whether the applicant's or owner's proposed methods and schedule for phasing is adequate to implement the mitigation measures.
- B. If the proposal does not meet the standards set forth in this chapter and no design modification would remedy the problems with the proposal, the planning engineer or public works director shall inform the director of such in the referral comments and articulate the specific standards



that are not met.

- C. If the development proposal meets the requirements of this chapter but only by including recommended conditions of approval or specific plat notes, the planning engineer or public works director shall provide the necessary conditions of approval or plat notes to the director.
- D. Once submitted to the director, the referral agency comments shall become part of the permanent record and incorporated into the project file. The referral comments shall inform the CDD's recommendation for project approval or denial to the decision-making body.

#### Sec. 74-4      **Roadway and sign design and construction standards**

- I. **Design speed.** C.R.S. § 42-4-1102 requires that speed limits not be higher or lower than the those prescribed by state statute unless the investigation or considerations required by the statute justify the change. The public works director or planning engineer may reduce a design speed and may require more stringent widths and grades from those set forth in Table 74-2-A if such changes are warranted by topography, cross-section, drainage, snow storage, maintenance or other site-specific conditions.
- II. **Turnouts.** Turnouts shall be provided at fire hydrants for all low ADT and minor local roads. Required turnouts shall be sixty (60) feet (including tapers) in length and provide twenty-six (26) feet in total surface width of cross-section with reasonable tapering.
- III. **Physical or geological constraints.** Where physical or geological constraints limit road improvements, the surface width of arterial and collector roads may be reduced by the public works director to twenty-two (22) feet if the specified shoulder width is met, and the posted speed limit is forty-five (45) miles per hour or less. If the arterial or collector road is an urban road with urban improvements, including curb, gutter, and sidewalks, and has a posted speed of thirty-five (35) miles per hour or less, the surface width may be reduced by the public works director to twenty-one (21) feet if the paved shoulders will be five (5) feet in width or greater.
- IV. **Shoulder width.** The shoulder widths in Table 74-2-A shall be required on both sides of the travel way width sections of the roadway and shall be at the same grade as the road surface.
- V. **Cut and fill slope.**
  - A. Cut and fill slopes shall be completely contained within the right-of-way. If insufficient right-of-way exists, additional width shall be obtained as prescribed by subsection 74-3.II.
  - B. The preferred design for cut slopes shall be four (4) foot horizontal to one (1) foot vertical. Cut slopes shall not be greater (steeper) than two (2) foot horizontal to one (1) foot vertical and ten (10) feet high except for cuts in stable bedrock verified by a professional engineer. The preferred design for fill slopes shall be four (4) foot horizontal to one (1) foot vertical. Fill slopes shall not be greater (steeper) than two (2) feet horizontal to one (1) foot vertical and four (4) feet high. A slope that exceeds the minimum cut or fill requirements shall either be certified as stable in its current finished state by a professional engineer or shall be designed by a professional engineer.
- VI. **Superelevation.** Maximum superelevation rate shall be six hundredths (.06) feet/foot. The public works director or planning engineer may require a lower superelevation rate based on safety considerations. Factors informing the need for superelevation include climate conditions, terrain conditions, classification of the road and the frequency of slow-moving vehicles on the roadway.
- VII. **Parking areas.** For projects that have a defined parking area, these standards shall apply from the road to the beginning of the surface widening for the parking area. These standards shall not apply within designated parking areas.

#### VIII. **Intersections.**



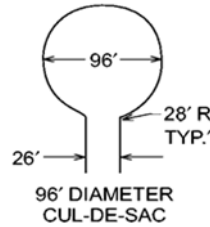
- A. Intersections should be designed to intersect as nearly as possible at right angles, except where topography or other site conditions justify variations. A minimum angle of intersection of roads shall be sixty (60) degrees.
- B. Sight distances at intersections shall meet the Colorado State Highway Access Code (Volume 2, Code of Colorado Regulations 601-1, latest edition) minimum standards and the applicable road design publications described in subsection 74-1.III. Intersections including median openings shall be designed with adequate corner sight distance and kept free of obstacles.
- C. No fence, wall, entrance fixture, landscaping, tree or other sight obstruction shall be allowed to encroach upon the required sight distance at intersections.
- D. Roads entering the opposite sides of a road shall either be directly across from one another or offset by at least one hundred twenty-five (125) feet from centerline to centerline.
- E. The gradient for roads less than four hundred (400) ADT shall not exceed five (5) percent for the portion of the road within sixty (60) feet of an intersection, measured from the travel way. The gradient for all other roads shall not exceed five (5) percent for the portion of the road within one hundred (100) feet of an intersection, measured from the travel way.
- F. Corner radii at all intersections shall be a minimum twenty (20) feet in residential areas and forty (40) feet in industrial or commercial areas, as determined by the public works director.
- G. Design of auxiliary lanes shall conform to the current version of the Colorado State Highway Access Code. Designs also shall address right-of-way, guardrail, signing, and striping. The public works director ~~or planning engineer~~ may require additional construction requirements such as sawcutting, milling, and overlay of the asphalt to be incorporated into the design to ensure the long term integrity of the pavement.

**IX. Surfacing requirements.**

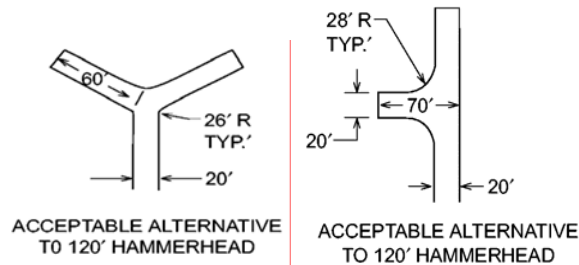
- A. All roads in a subdivision having a net density greater than three (3) units per acre shall be paved or double pin chip seal surfaced in accordance with the design standards set forth in the current CDOT Pavement Design Manual.
- B. The travel way width of major local, collector, and arterial classified roads shall be paved in accordance with the design standards set forth in the current CDOT Pavement Design Manual.
- C. Shoulders for arterials and collectors shall be paved.
- D. All roadways that are not paved that provide access onto a paved public road shall have paved aprons approved by the public works director.
- E. The surface width of low ADT and minor local classified roads shall have a minimum surfacing of eight (8) inches of class 2 ABC with three (3) inches of class 6 ABC finish material over suitable compacted subgrade material.

**X. Dead ends.** All roadways (excluding driveways) in excess of one hundred fifty (150) feet in length that do not connect with another road shall contain a turnaround that does not exceed five (5) percent grade.

- A. Cul-de-sac turnarounds shall be provided on dead-end streets serving four (4) or more lots as depicted in this Figure 74-4 A— ~~Cul de Sac Design~~:



- B. Dead-end roadways serving three (3) or fewer lots may also construct hammerheads consistent with one (1) of the following designs in Figure 74-4 B:



- C. A professional engineer shall certify that the design and construction of the turnaround area can accommodate the safe turnaround of an AASHTO design vehicle WB-40, and a minimum of fifty (50) feet ~~vehicle that is fifty (50) feet~~ in length.

**XI. Gates.** Gated subdivision roads and accesses may be considered within a project when both the applicable fire district and public works director approve the gate's design. Gate design shall account for public safety for pull-outs along travel lanes and effective accessibility for emergency vehicles through use of a Knox Box or other uniform devices or method.

**XII. Road structure design and testing standards.**

- A. The following standards apply to major local, collector, and arterial classified roads and may apply to minor local and low ADT classified roads as determined by the public works director or planning engineer. The costs of structure design and testing shall be at the sole cost of the owner.
1. Soils testing and pavement design shall be accomplished by a certified testing firm under the supervision of a professional engineer. Frequency of testing shall be as determined by the public works director or planning engineer.
  2. Road structure design shall be in accordance with the criteria and procedures outlined in the current CDOT Pavement Design Manual and must be based on a twenty (20) year design life.
  3. Subgrade materials shall be tested by a professional engineer or certified testing firm at intervals no greater than one thousand (1,000) feet or as otherwise determined by the public works director. Subgrade design shall provide R values or CBR values necessary to support selected subbase, base course and surfacing requirements as outlined in the current CDOT Pavement Design Manual, or as required by the public works director. R values or CBR values shall be determined by testing subgrade soils or by comparable design soils conditions as determined by the professional engineer.
  4. The results of the testing and the road structure design shall be submitted to the public works director as part of the final plans.

5. At the discretion of the planning engineer or public works director, construction testing of the road structure may be required.

**XIII. Emergency access.** Developments or uses intended for single family residential units shall have a second primary access or an emergency access from a county road or state highway as described in the Table 74-4-~~D~~. Additional intermediate turnarounds may also be required by the fire protection district.

**Table 74-4-~~D~~ Minimum Emergency Access**

Number of single-family residential units to be served by road	Minimum width and type of emergency/ second primary access
≤30	None required
31-99	20-foot-wide emergency only
> 99	24-foot (minimum) second primary

- A. Emergency or secondary ~~primary~~ access requirements for multifamily, nonresidential or mixed-use developments shall be as set forth in chapter 34: Fire Prevention and Protection.
- B. Emergency access roads shall:
  1. Be surfaced with all-weather material to carry the weight of a sixty thousand (60,000) pound vehicle, minimum front single axle = 24,000 pounds; -minimum rear single axle = 32,000 pounds under all-weather condition;
  2. Have road grades less than ten (10) percent and meet all other county requirements related to horizontal and vertical alignment;
  3. Have minimum surfacing of six (6) inches of Class 6 (¾" minus) aggregate on a compacted subgrade material.
- ~~C.~~ Permanent easements are required for emergency access roads that cross other properties and the applicant or owner is responsible for procuring such easements. The easement width shall be that required to accommodate the road and cut and fill slopes. In no event shall the minimum width of the easement be less than thirty (30) feet, ~~unless the public works director issues a waiver pursuant to the director determination process set forth in 66-17.~~
- ~~C.D.~~ The planning director may issue a director determination letter granting a waiver to the emergency access standards based upon the written recommendation of the planning engineer, and appropriate fire protection district. Prior to issuing such a waiver, the public works director shall obtain a recommendation from the applicable fire district. The waiver may be The waiver may be based on practical or engineering considerations including, but not limited to, topography, grades, vegetative cover, aspect and density but primary consideration shall be given to the general health, safety, and welfare of the public. A waiver may be justified by the applicant or owner providing additional mitigation, including but not limited to installation of hydrants, ponds, building sprinkler systems or the use of fire-resistant building materials. Where circumstances require, more stringent requirements may be applied.
- ~~D.E.~~ Emergency access may be gated or fenced to prevent use by nonemergency or non-authorized vehicles. The gate or fence construction shall be approved by the local fire protection district, and the emergency road shall be maintained by the owner, a homeowner's association, property owner's association or other appropriate authority. Emergency and second primary access roads shall be located to achieve the greatest practical separation from the primary access road.

**XIV. Sign standards.**

- A. All signs required by this chapter shall be shown in the construction plans.
- B. Street name signs are required at all intersections in subdivisions. Such signs shall be approved by the public works director.
- C. All required street name signs, speed limit signs, stop signs and other traffic control devices shall be installed to the satisfaction of the public works director or planning engineer and paid for by the owner.
- D. Nonstandard signs or other traffic control devices installed within county right-of-way are subject to the control and approval of the public works director. Requests to install nonstandard signs or other devices must be submitted to the public works director along with data required to support the request.

**XV. Guardrail standards.**

- A. Guardrails may be required when the roadside clear zone and cut and fill slopes warrant protection as determined by the public works director or planning engineer. The basic references for information on all types of barriers is the current AASHTO Roadside Design Guide. Guardrails shall be installed in accordance with the Colorado Department of Transportation M Standards.
- B. The public works director or planning engineer may require a guardrail in certain locations due to safety concerns related to grade, road alignment, speed or other site characteristics.

**XVI. Snow storage standards.**

- A. All public and private roads shall be designed and constructed to permit a minimum of three (3) feet of horizontal distance that is unobstructed space for snow storage adjacent to the travel way. This space may include shoulders and borrow ditches.
- B. Sight distance at intersections shall not be impaired by snow cleared from roadways.
- C. All developments above seven thousand five hundred (7,500) feet mean sea level shall provide adequate snow storage areas equivalent to twenty-five (25) percent of the paved or gravel surface adjacent to the traveled way, which may include shoulders and borrow ditches. Uphill grades of five (5) to ten (10) percent shall count at seventy-five (75) percent of the areas to satisfy this requirement. Uphill grades of eleven (11) to twenty (20) percent shall count at fifty (50) percent of the area to satisfy this requirement. Steep uphill grades greater than twenty (20) percent are not appropriate for snow stacking and shall not be **counted** to satisfy this requirement. More intense developments may incorporate snow melt systems or haul snow to suitable snow storage areas. Snow storage areas shall be analyzed to ensure that facilities are in place to protect wetlands, streams and rivers from runoff. Any additional areas needed outside the right-of-way must be included in a snow storage easement. Calculations prepared by a professional engineer shall be submitted and snow storage for areas shall be shown on the construction plans.

**XVII. Access road culverts.**

- A. Installation of culverts along county roads. When the installation of a culvert is made necessary by the creation or expansion of access from private property to a county road, by any alteration of the natural flow of water across private property, or any other reason necessitated by the actions of an owner of property adjacent to a county road, the owner shall pay for materials and the cost of installation for the new culverts. A permit shall be obtained for any work in the right-of-way and approval by the public works director as to specifications, size and location in the county right-of-way is required prior to installation. The culvert size shall be determined in accordance with standard engineering practices. The minimum culvert size is fifteen (15) **inchesfeet** in diameter and acceptable materials include corrugated metal, concrete and polyethylene.

- B. Maintenance. After installation, the property owner shall maintain and repair the road access, culvert and associated borrow ditch to the extent necessary to accommodate proper drainage. If the county notifies the owner of the need for maintenance or repair of the culvert, the owner shall have fifteen (15) days to make such repair or perform the needed maintenance. If the owner fails to perform the maintenance or performs the repair or maintenance inadequately, the county may perform the repair or maintenance as necessary to protect the county road and related appurtenances within the right-of-way. The county may charge the owner for the costs incurred. In an emergency or hazardous situation, the owner shall be notified and requested to provide an immediate remedy to the situation. If the property owner fails to react promptly, the county may correct the hazardous situation and charge the property owner for all costs incurred by the county.

**XVIII. Revegetation and soil stabilization.** All soil disturbed by construction activities shall be mulched and seeded according to the submitted erosion control plan. Slopes steeper than three (3) feet horizontal to one (1) foot vertical shall require additional erosion control measures to prevent erosion and promote vegetation.

**Sec. 74-5 Additional road design and construction standards applicable to certain land use permits.**

In addition to the other standards set forth in this chapter, unless otherwise exempt, subdivisions with a lot less than thirty-five (35) acres and, depending upon the nature and layout of the project, some minor and major land use permits, ~~as determined at by the director's discretion~~, shall comply with the following:

**I. Connectivity and circulation standards.**

- A. All lots and parcels shall have access to a public right-of-way or, through a recorded perpetual easement or deed, a private right-of-way.
- B. A central, private road rather than a driveway, is required for all subdivisions with four (4) or more lots accessing directly from a county road. This requirement may be waived by the public works director based on practical or engineering considerations including, but not limited to, topography, parcel shape, grades, vegetative cover, aspect or density.
- C. The arrangement of streets shall, to the maximum extent feasible, provide for the future continuation of streets in nearby subdivisions and adjacent properties.
- D. An applicant may be required to convert a cul-de-sac which is dedicated as a public road to a through street to ensure through circulation for the proposed development.
- E. The decision-making body may require the rearrangement, deletion or addition of streets, lots and entrances if significant safety or other hazards exist in the proposed development.

**II. Sidewalks or pedestrian walkways.**

- A. Sidewalks or pedestrian walkways shall be required to extend along property frontage for the entire distance of a lot or project where any of the following apply:
  - 1. Where improved sidewalks or walkways exist adjacent to a project, and along the right-of-way. In such instances, the project shall connect with and construct sidewalks or walkways of equal or greater quality;
  - 2. The proposed project is contiguous to a municipality that requires sidewalks for the type of project proposed;
  - 3. It is determined ~~by the director~~ that the proposed project will generate pedestrian use such as to a school or bus stop.
- B. Sidewalk and pedestrian walkway specifications. Sidewalk and walkways shall conform to the following:

1. Sidewalks shall be constructed in conformance with CDOT M&S Standard Plan M-609-1. Minimum sidewalk thickness shall be four (4) inches.
2. All sidewalks shall provide for curb ramps in accordance with state and federal law.
3. Detectable warning patterns shall be cast iron and shall be on the CDOT Approved Products List.

**III. Phased development.** Phased or serial development shall not be used to circumvent compliance with this chapter. For any initial phases or potential serial development, the director may recommend to the decision-making body conditions of approval that document baseline conditions and require applicants for subsequent phases or serial development to analyze and construct road improvements based on the projected cumulative impacts of all phases of the development. For subsequent phases or serial developments, the public works director may recommend to the decision-making body that the cumulative impacts of the entire phased project or serial development be analyzed to determine the appropriate road improvements and phasing of the same.

**Sec. 74-6 Subdivisions where all lots are greater than thirty-five (35) acres**

**I. Applicability.** Subdivisions where all lots are greater than thirty-five (35) acres and platted after the effective date of this code are subject to the standards in this chapter except subsection 74-2.II for LOS standards on existing county roads, section 74-5 and subsection 74-3.III process outline, submittals and completion.

**II. Submittals and completion.** The process, submittal requirements and requirements for completion for subdivisions where all lots are greater than thirty-five (35) acres is as follows:

A. Process outline. The owner shall provide the required submittals to the CDD and the submittal shall be referred to the public works department for review and approval. The public works director or the planning engineer shall perform a preliminary and final review of the submittal materials. It may be necessary for the owner to revise and resubmit materials based upon the review.

Prior to construction, the owner shall submit final submittals items with appropriate documents signed and sealed by a professional engineer for county approval.

Any proposed revisions to the approved documents and supporting information shall be submitted to the CDD for approval prior to project completion. Revised construction plans shall show the clouded revisions and be signed and sealed by a professional engineer. If the public works director or planning engineer do not approve the changes, the applicant shall comply with the previously approved documents.

B. Submittal requirements. The owner of the land shall submit the following:

1. At project submittal, one (1) set of preliminary submittal items in an electronic format acceptable to the planning engineer.
2. A preliminary plat prepared by a professional land surveyor, which shall comply with the following at a minimum:
  - a. All information shall be presented accurately and legibly. If all the information cannot be contained accurately and legibly on a single sheet, additional sheets shall be drafted.
  - b. Title block. The title block should be in the lower right-hand corner of the sheets. The title block shall contain the following:
    - (i) Name of the development;
    - (ii) Names of the owners, applicants, surveyors, architects, engineer and builders, when applicable;
    - (iii) Date of preparation;



- (iv) Section, township and range of the project.
- c. Land use table. Subdivision plats shall have a table containing the following:
  - (i) Total number of lots;
  - (ii) Total acreage of the subdivision;
  - (iii) Range of lot sizes.
- d. Vicinity map of project location. Plats shall include a vicinity map with a minimum scale one (1) inch equals one thousand (1,000) feet depicting the following:
  - (i) Major roads, adjoining subdivisions, town boundaries;
  - (ii) Section, township and range;
  - (iii) Rivers and streams;
  - (iv) Location of project.
- e. Roads, access, as applicable, shall be indicated and shall include the following:
  - (i) The road right of way layout, right of way width, pedestrian and equestrian ways shall be indicated.
  - (ii) The access points to the subdivision, including connections to the adjoining subdivision, shall be shown as well as the county and state roads.
  - (iii) The proposed ownership of roads shall be clearly labeled and the method of maintenance of the roads shall be indicated.
- f. Include subdivision, municipal, school district, fire district and other jurisdictional boundaries.
- g. Location, and identification of all roads, railroads, utilities and other easements of any kind.
- h. Include the location of all critical lands required by subparagraph 67-15.VI.C.1~~2~~.
- i. Include the survey data required by paragraph 67-15.VI.F, except for subparagraph 2.
- 3. For all required improvements and facilities, construction plans meeting the minimum formatting and content requirements set forth in the construction plan guidance documents provided by the public works director or planning engineer and comporting with current industry standards. All construction plans shall be completed with enough detail to facilitate review and clearly describe the existing conditions and proposed construction of the development in its entirety and detail all existing and proposed equipment, infrastructure, and access. The required detail of construction plans, as determined by the planning engineer or public works director, shall depend upon the size, nature, and complexity of the use or development.
- 4. If applicable, access permits demonstrating legal access from any municipal streets that are not county roads, including city streets and state highways.
- 5. Technical reports evaluating drainage, geotechnical, hydrological, structural and pavement design and other pertinent engineering information deemed necessary by the public works director or planning engineer given the context.
- 6. Traffic evaluation per paragraph 74-3.IV.B.
- C. Completion. For project completion, the owner shall complete improvements prior to issuance of a building permit. An inspection by the county shall be performed to verify all improvements have been constructed, revegetation measures have been installed, and conditions of approval have been met. The owner shall also submit the following:



1. Certification by a professional engineer that the improvements have been constructed in accordance with the approved construction plans.
2. Certification by the owner that all improvements have been constructed in accordance with the approved construction plans.

**Sec. 74-7 Bridge standards**

- I. Minimum bridge width and load.** Minimum bridge width and load capacity shall be designed and constructed in conformance with Table 74-7-A.

**Table 74-7-A Minimum Bridge Width and Load Capacity:**

Minimum Bridge Width and Load Capacity		
Type	Clear Surface Width (feet)	Minimum Load Capacity (lbs.)
Arterial	32	AASHTO HL-93
Collector	30	AASHTO HL-93
Major Local	26	AASHTO HL-93
Minor Local	24	AASHTO HL-93
Low ADT Roads	16	70,000*
Driveways	14	70,000*

\*The minimum load capacity (working or live load) shall be seventy thousand (70,000) pounds, ~~to~~ minimum front single axle = 24,000 pounds; minimum rear single axle = 32,000 pounds, to accommodate emergency response vehicles. The owner's professional engineer shall ensure the bridge will safely accommodate the ultimate load anticipated throughout the life of the structure.

- A. HL-93 design shall be in accordance with the current version of the AASHTO LRFD Bridge Design Specification.
- B. All developments, uses and applicants for a driveway permit that includes a bridge shall submit plans certified by a professional engineer.
- C. Bridge structures shall be designed to convey no less than a twenty-five (25) year flood event with a minimum of ~~one-two~~ (+2) foot of freeboard and should, to the maximum extent feasible, be designed for a one hundred (100) year flood. The public works director or planning engineer may require the bridge to convey a larger storm event if it provides access to a critical facility. If a bridge is to be constructed in the one hundred (100) year floodplain, all applicable floodplain regulations and codes apply, including the need to submit a Letter of Map Revision to FEMA for review and acceptance and the need to obtain a Floodplain Hazard Permit from the county.
- D. If a bridge is not designed for the AASHTO HL-93 load capacity, the load capacity shall be posted at both entrances to the bridge and shall be based on a certification by a professional engineer.
- E. Culverts over forty-eight (48) inches in diameter or equivalent shall be designed by a professional engineer to convey a twenty-five (25) year flood event or designated irrigation flow.
- F. Bridge structures and large culverts crossing irrigation ditches shall be consistent with the hydraulic requirements of the ditch company. The ditch company shall be consulted regarding all proposed designs and written consent of the ditch company and payment of applicable crossing fees may be required. The schedule for any proposed modifications that may disrupt the flow of water must be referred to the ditch owner for review and comment.

- II. Vehicular bridges.** Vehicular bridges shall be constructed according to CDOT's Standard

Specifications for Road and Bridge Specifications.

- III. Railings.** Bridge rails, pedestrian walkways, and railings shall meet CDOT M-standards for bridge rails and shall include adequate end anchorages for the applicable speed and traffic volumes. Alternate bridge rail designs, designed by a professional engineer, may be approved by the public works director or planning engineer.

**Sec. 74-8 Driveway standards and permits**

- I. Purpose.** The intent of this section is to provide safe ingress and egress for driveways and adequate access for emergency responders to protect the health, safety and welfare of the community, while recognizing the need for flexibility in driveway development.

- II. Applicability.** A driveway permit shall be obtained from the department of public works prior to issuance of a final building permit or certificate of occupancy for a residential use except:

A. A driveway permit is not required for:

1. Development of ADU's classified as director determinations;
2. Redevelopment or reconstruction of an existing dwelling unit;
3. Development of a dwelling unit that is performed pursuant to the terms and conditions of a valid building permit issued prior to April 1, 2015;
4. Development of a primary dwelling unit on a parcel that obtained a driveway permit from the county and constructed the driveway prior to April 1, 2015;
5. Development of a dwelling unit that utilizes a driveway that is less than one hundred twenty-five (125) feet in length and intersects with a private road or public non-county road;
6. Development of a primary dwelling unit on a parcel that intersects with County Road 124 at a point north of where the county's winter maintenance terminates shall not be required to obtain a driveway permit; however, such driveway shall be required to obtain a permit prior to commencing work within the right-of-way.

B. The development of a public road that connects with a county road shall obtain a driveway permit to establish legal access but shall otherwise be exempt from the driveway standards of this section.

C. If the use of an existing driveway changes or there is a change in use of the property which the driveway serves, a new driveway permit may be required. Such changes include, but are not limited to, changes in the use or type of business, expansion of an existing use, change in property division or the creation of new parcels.

- III. Maintenance.** Where appropriate, a corporation, perpetual association or other suitable means must be established for maintenance of a private driveway.

- IV. Driveway standards.** Driveways that require permits and nonresidential driveways shall meet the following standards:

A. Surface width. For horizontal tangent (straight) sections of driveway, the surface width shall be twelve (12) feet, with two (2) foot clear zones on each side that are free from unmovable obstructions. For curved sections with a centerline radius of one hundred fifty (150) feet or less, the surface width shall be sixteen (16) feet with two (2) foot clear zones that are free from unmovable obstructions with appropriate tapering from tangent sections. Curved sections that are less than one hundred (100) feet in length, as measured along the centerline, and that do not exceed a ninety (90) degree change in direction, shall be permitted to maintain a surface width of twelve (12) feet.

- B. Surface. To ensure that a driveway can support a sixty thousand (60,000) pound vehicle, minimum front single axle = 24,000 pounds; minimum rear single axle = 32,000 pounds, the driveway surface, including turnouts and turnarounds, shall be constructed of a minimum four (4) inch of three-quarter ( $\frac{3}{4}$ ) inch minus aggregate surface placed on a compacted subgrade material, from the intersection of the roadway to the primary structure(s). The subgrade shall be scarified and compacted to a minimum depth of twelve (12) inches below finished grade and shall be free of roots, sod, weeds, wood, construction debris, ice, snow, other frozen materials and deleterious matter. The clear zones are not required to meet a surfacing requirement but shall not exceed a four (4) foot horizontal to one (1) foot vertical slope. The surfacing requirements are minimum standards and an applicant may choose to exceed these standards.
- C. Cut and fill slopes. Cut slopes shall not be greater (steeper) than one (1) foot horizontal to one (1) foot vertical and four (4) feet high. Fill slopes shall not be greater (steeper) than two (2) feet horizontal to one (1) foot vertical and four (4) feet high. A slope that exceeds these minimum cut or fill requirements shall either be certified as stable in its current finished state by a professional engineer or shall be designed by a professional engineer.
- D. Maximum grade. The maximum grade shall not exceed twelve (12) percent for horizontal tangent (straight) sections. For curved sections with a centerline radius of one hundred fifty (150) feet or less, the grade shall not exceed ten (10) percent. Curved sections that are less than one hundred (100) feet in length, as measured along the centerline, and that do not exceed a ninety (90) degree change in direction, shall be permitted to maintain a maximum grade of twelve (12) percent.
- E. Overhead clearance. The minimum overhead clearance shall be thirteen (13) feet, six (6) inches for the width of the entire surface and clear zone. All overhead impediments, including but not limited to wires, trees and gates, shall remain clear from the intersection of the access road to the termination of the driveway.
- F. Access to a legal property. No driveway shall be permitted or otherwise approved unless it provides access to a lot that was legally created and has obtained all required land use permits.
- G. Legal access. Evidence of legal access across other properties shall be provided through an express grant or a written description of the prescriptive use.
- H. Interior curves. Minimum thirty (30) foot radius inside curves shall be provided.
- I. Turnarounds. Driveways that are longer than four hundred (400) feet shall provide a turnaround within one hundred fifty (150) feet of the nearest point of the primary dwelling unit. The turnaround shall be designed and constructed to allow a thirty-five (35) foot long emergency vehicle, single rear axle commercial chassis pumper, to turn around. Where topography or the length of the driveway influences the location of the turnaround, the public works director is encouraged to contact the applicable fire district for comment on the proposed location. After receipt of comment from the applicable fire district, the public works director may waive or reduce the requirement for a turnaround.
- J. Turnouts. Driveways that are longer than eight hundred (800) feet shall provide a turnout every four hundred (400) feet as measured from the access road. Turnouts shall meet the surface requirements of this section, shall be sixty (60) feet in length and shall provide a total of twenty (20) feet in surface width (including driveway) with reasonable tapering and two (2) foot clear zones on each side. Driveways that are one thousand (1,000) feet or less in length and allow an unobstructed line of sight from the adjacent road to the structure shall not be required to construct turnouts. Where topography or the length of the driveway influences the location(s) of the turnout, the public works director is encouraged to contact the applicable fire district for comment on the proposed location(s). After receipt of comment from the applicable fire district, the public works director may reduce the number of required turnouts or vary the locations of the turnouts.

- K. Drainage. Driveway design and construction shall not adversely affect the drainage on a roadway or any adjacent properties.
- L. Flood prone areas. Driveways within flood prone areas shall comply with the requirements in chapter 78.
- M. Bridges. Driveways that utilize bridges shall comply with the standards for driveways as identified in subsection 74-8 and the flood hazard area requirements as identified in chapter 78.
- N. Costs. The cost of all driveway construction, reconstruction and maintenance, including any portion in a public or private right-of-way, including but not limited to culvert design, installation and replacement, shall be the responsibility of the owner, unless provided otherwise in a separate written agreement.
- O. Intersection of a driveway and roadway.
  - 1. Driveways that intersect with a county road shall slope away from the shoulder of the road surface at a minimum grade of at least two (2) percent for the first ten (10) feet. All ~~other~~ driveways shall not exceed five (5) percent for the first fifteen (15) feet from the intersection with the shoulder of the road.
  - 2. The axis of the driveway at the intersection with the roadway shall be no less than a sixty (60) degree angle to the centerline.
  - 3. The intersection of the driveway and the roadway shall be at least fifty (50) feet from any other intersection of any roadways. The public works director may allow a driveway within fifty (50) feet of an intersection if the driveway is located on a local or low ADT road and there is a determination that the location would not adversely impact the safety of the traveling public.
  - 4. The public works director shall determine if a culvert is required at the intersection of a driveway or road and a county road. If a culvert is required, the minimum culvert size shall be fifteen (15) inches along a county road and twelve (12) inches along all other roads and the minimum culvert cover shall be eight (8) inches. Culverts along county roads shall be constructed of metal or concrete and shall maintain a slope consistent with the roadside drainage. The public works director may require that a larger culvert and culvert cover is required based on the location of the proposed driveway.
  - 5. Sight distance along a county or state access road at the intersection of the driveway shall meet the Colorado State Highway Access Code minimum standards. Sight distance along all other roads at the intersection of the driveway shall provide adequate sight distance in both directions along the roadway in order to maneuver safely and without interfering with roadway traffic. The public works director may require a professional engineer to certify that there is adequate sight distance in both directions along the roadway.
  - 6. House addressing signs shall be visible from the intersection of the roadway and driveway. Such signs shall be made of a non-combustible and reflective material that contrasts in color with the background. Numbers shall be a minimum of four (4) inches high and shall have a minimum stroke width of half (1/2) an inch.
  - 7. A maximum of one (1) driveway shall be permitted for a lot with less than one hundred (100) feet of frontage. The public works director may allow for more than one (1) driveway for lots with one hundred (100) or more feet of frontage after deciding that an additional driveway does not adversely impact the safety of the traveling public.
- P. If existing structures such as pavement, drainage structures and ditches are to be modified, such modifications shall be incorporated into the driveway design.

**V. Procedure and evaluation.**

- A. Application and inspection. An application for a driveway permit shall be obtained from the public works department. After review of the driveway design and determination for compliance with section 74-8, the public works director may issue conditional approval of a driveway permit. A conditional approval shall be valid for one (1) year from the date of approval. Upon completion of driveway construction, the owner shall contact the public works department for a final inspection. The public works director shall issue a final approval of the driveway permit if the inspection demonstrates compliance with the applicable standards. A final building permit or certificate of occupancy may be issued prior to final approval of a driveway permit if the public works director determines that seasonal conditions prevent the immediate surfacing or completion of the driveway. In such case, a final approval shall be obtained when the seasonal conditions allow the surfacing to be completed, which shall not be more than six (6) months after the issuance of a final building permit or land use permit, whichever is issued first.
- B. Waivers.
- a. Request for waiver. If an applicant desires a waiver of any driveway standard, the applicant shall submit a written request to the public works director. Upon receipt, the public works director shall contact the applicable fire district for comment and the fire district shall have ten (10) business days from the date of receipt of the request to provide the public works director comments. The applicable fire district shall be the fire district that provides emergency response to the property served by the proposed driveway. Comments received from the fire district shall be reviewed and placed in the file. The public works director may grant a waiver from the standard no earlier than twenty-one (21) days after submittal of the request to the fire district. The public works director shall consider all timely comments received from the fire district prior to reaching a final decision. Any waiver granted by the public works director shall be made in writing and provided to the applicant and the fire district.
  - b. Criteria for public works director determination. The public works director may grant a request for a waiver if the public works director determines each of the following have been satisfied:
    - (i) Topography challenges or other site-specific constraints make it extremely difficult to comply with the standards;
    - (ii) The granting of a waiver will not be detrimental to the health, safety, and welfare of the public, including the occupants of the structure(s) served by the driveway.
  - c. Mitigating factors to consider. If the fire district comments that granting the waiver request would present health, safety or welfare concerns, the public works director may consider, but is not limited to, the following factors when determining whether to grant the waiver request:
    - (i) Plans for and implementation of substantial defensible space measures, as identified in the State of Colorado Forest Service, Creating Wildfire-Defensible Zones Guide;
    - (ii) Provision of adequate on-site water supply capable of supplying fire flow for fire protection, as set forth in chapter 34 of the La Plata County Code;
    - (iii) Design and construction of internal automatic fire sprinkler systems designed and installed in compliance with chapter 34 of the La Plata County Code for all developments served;
    - (iv) Paving of the driveway;

- (v) Use of a substantial amount of fire-resistant building construction types and designs recognized for fire adapted communities for all developments served.
- d. Limitation of extent of waiver and conditions. The public works director may limit the extent of a waiver to the degree necessary to comply with 74-8.V.B. In addition, the public works director may condition the waiver on the implementation of measures that mitigate health, safety, or welfare concerns.

**Sec. 74-9 Permitting within county right-of-way and road improvement agreements.**

The public works department issues permits that regulate activities in the right-of-way to ensure that the integrity of the right-of-way system is maintained and to protect the health, safety and welfare of the traveling public and citizens of the county. This includes permits for third parties to perform work in the county right-of-way, driveway access, or utility construction. Chapter 42 addresses special event permits.

**I. County right-of-way permit.**

- A. Permit required. No person shall construct or improve any road, drainage, utility or other infrastructure or facilities within a county right-of-way without first obtaining a permit from the public works department. A permit shall pertain only to the work authorized and the permittee shall not enter onto private property or alter or disturb any private facilities or installations within the right-of-way.
- B. Term of permit. County right-of-way permits are valid for ~~six one (16) months-year~~ but may be renewed for one additional ~~six (6) one (1) year-month~~ period, provided the renewal is obtained prior to the date of expiration. The failure to obtain a timely renewal shall result in an expiration of the existing permit and a new permit and application fee shall be required.
- C. Bonds.
  - 1. Bond required. A non-cancelable permit bond shall be required prior to the issuance of the permit. Such bond shall be payable to the county, in the name of the permittee, and issued by an approved corporate surety licensed to do business in the ~~S~~state in the amount of five thousand dollars (\$5,000.00), or one hundred fifteen (115) percent of the amount necessary to restore the right-of-way, as determined by the public works director, whichever is greater. The bond shall ensure that the permittee complies with all county standards and specifications and recovery by the county of any expenses incurred within three-hundred and sixty-five (365) days following the expiration of the permit due to the permittee's failure to comply with the provisions of this code or due to the permittee otherwise having caused expenses to the county as a result of the work performed.
  - 2. Exceptions. At the discretion of the public works director, municipalities, quasi-municipal agencies, ditch companies, electric, gas and communications utilities may provide a letter of responsibility in lieu of posting the required bond. The letter of responsibility, which shall be filed with the public works department, shall be in a form acceptable to the public works director.
- D. Specifications.
  - 1. Return to prior condition. An applicant receiving a county road right-of-way permit shall ensure, to the satisfaction of the public works director, that the county road is returned to a condition equal to or better than the original condition, within the limits of careful, diligent workmanship, good planning and quality materials. Such work shall be accomplished in the least possible time and with the least disturbance to the normal functioning of the county road or other property.
  - 2. Road cuts. Road cuts shall not be allowed unless the public works director determines that subsurface conditions preclude boring.



3. Backfill. Unless otherwise specified in the permit. All backfill within the structural section of the roadway shall be flowable fill up to within six (6) inches of the roadway surface or, engineered backfill with compaction testing by a certified testing firm at intervals specified by the public works director. unless otherwise specified in the permit.
  4. Underground utility installations. All underground utility lines installed within any county right-of-way shall be installed a minimum of two (2) feet below the ground surface, or the proposed roadway elevation, whichever is lower. This requirement is applicable through the right-of-way, including ditch lines and borrow pits. Exceptions may be granted by the public works director where warranted and upon prior written request and approval.
  5. Overhead utilities. All overhead utility lines shall have minimum ground clearance of eighteen (18) feet where overhead utility lines cross public streets. The clearance shall be measured at the lowest point where the line crosses the traveled portion of the street.
  6. The public works director may require additional specifications on the permit.
- E. Emergency repairs. A county road right-of-way permit shall be required for emergency repairs; however, applicants may delay application by forty-eight (48) hours, excluding weekends and holidays, following the beginning of such emergency repairs before a penalty under paragraph 74-9.I.I may be assessed. All traffic control conducted as part of an emergency repair shall follow the standards specified in the MUTCD.
- F. Road closing. Normally, only one (1) side of a road may be blocked at any given time. Should operating conditions require closing both sides of a road, advance approval of the closing must be obtained from the public works department. The applicant shall notify the appropriate fire protection district, the county sheriff's office, the state patrol and the appropriate school district of the exact location of street barricades and the dates traffic will be impeded. Barricades shall be maintained by the responsible applicant.
- G. Construction and inspection. At least fourteen (14) calendar days prior to the commencement of construction within a county road right-of-way, an applicant shall notify the public works director of the applicant's intention to obtain a county road right-of-way permit and shall submit a proposed schedule of construction activities. The applicant shall notify the public works director of any subsequent scheduling changes. The public works director shall have the authority but not the obligation to inspect the work throughout the construction period to verify compliance with all applicable county standards and regulations. The inspection performed will be at the discretion of the public works director and will include, but not be limited to, densities, moisture content, resurfacing and cleanup activities. In instances where there is a question as to the acceptability of the materials to be used for backfilling, an advance request for an inspection in these instances shall be made. Inspection requests for road construction during snowy or freezing weather shall be postponed until acceptable weather conditions prevail.
- H. Project completion. Work performed within a county road right-of-way shall be approved for release of security by the public works director after receiving certification from the applicant that the following minimum requirements have been met:
1. Roadways have been constructed according to applicable county regulations and standards.
  2. All drainage criteria as outlined in this article and applicable county regulations and standards have been satisfied.
  3. Adequate easements for drainage requirements and pedestrian movements, both off-site and on-site, have been identified and are shown on the plans.
  4. The included roads are properly connected to existing public and private roads.
  5. All necessary road rights-of-way have been conveyed as required.



6. All combustible or objectionable material is cleared from the roadside, and all required signing is properly installed.
  7. All areas requiring seeding or foliage have been planted as prescribed by the plans.
- I. Penalty fee for working without written authorization. Any person commencing any work within a county road right-of-way without a valid county road right-of-way permit shall be required to pay a penalty fee as set forth in ~~the fee schedule adopted by the county~~ Appendix A of this code.
  - J. Stop work orders. Any person, municipality, quasi-municipal agencies, electric, gas or communication utility corporation, to include cable TV, who, without first having obtained a county road right-of-way permit or who, having made a cut in any county road right-of-way which has settled, has failed, or which has not been repaired in conformance with established county standards, shall be subject to a stop work order issued by the public works department. Once a stop work order is issued, the person, municipality or utility shall, except for emergency repair work, discontinue all work within the county road right-of-way until such time as the required repair has been satisfactorily completed, and no further permits will be issued until the repair has been made or the county reimbursed for its expenses. The county may, on its own initiative, make required repairs and bill the responsible party. The minimum charge shall be an administrative charge listed in appendix A of this code, plus reasonable costs for labor, materials and equipment on a portal to portal basis.
  - K. Priority of utilities.
    1. Due to the limited capacity of county owned right-of-way, the board has prioritized public utilities over private utilities when using county rights-of-way for parallel installation. The following are exempted from the general priority of this paragraph K:
      - a. Crossings by a private utility, as opposed to requests for parallel installation;
      - b. Maintenance, repair or replacement of pre-existing pipelines.
    2. Procedure and evaluation.
      - a. In determining whether a permit shall be issued to a private utility, the public works director shall evaluate the maximum capacity of the right-of-way to accommodate the present and expected installation and operation of lines and facilities intended to distribute utilities and telecommunications products to end-users of such products and to also accommodate such other pipelines, wires, cable and any other facilities that any other private or public entity may install and operate in such right-of-way. Consideration shall also be given to future road improvement projects.
      - b. If the public works director determines approving the permit will adversely affect future road improvement projects or would occupy such capacity in the right-of-way that it would likely prevent the expected reasonable and necessary future expansion of utility distribution lines and facilities in the right-of-way, the public works director may deny the ~~approval of the~~ permit application.
      - c. A permit may be approved by the public works director where the applicant demonstrates there is no practical alternative route or that the alternative route(s) would not be in the best interest of the public, including without limitation consideration of environmental degradation, destruction of wetlands or adverse impacts to cultural resources.
- II. Road improvement agreements.** Significant work, as determined by the public works director, performed in a county road right-of-way, as part of a land use permit or otherwise, shall require a road improvement agreement between the county and the party performing the improvements. The board has approved a standardized road improvements agreement. The public works director, with

the assistance of the county attorney, may negotiate amendments to the standardized road improvement agreement; however, any amended road improvement agreement must be presented to the board for approval.

### III. Cattle guards permits.

- A. Permit required. No person shall install, construct or remove a cattle guard in a county right-of-way without first obtaining a permit from the public works department.
- B. Procedure and evaluation.
  1. Application and inspection. The public works director shall review all applications for installation of a cattle guard on a county road, inspect the site, and may, if necessary, request further relevant information from the applicant. Design of the cattle guard shall be based on CDOT's specifications for cattle guards. The public works director may deny the application if the installation of the cattle guard would be detrimental to the health, safety, or welfare of the public, or would adversely affect the flow of traffic or maintenance of the county road.
  2. Construction. Construction of the cattle guard shall conform to the plans submitted to and approved by the public works director. All construction must comply with the terms and conditions of the revocable license to perform work in the county right-of-way. The permittee shall be responsible for providing temporary means of controlling cattle or other grazing animals during construction.
  3. Cleaning and repair.
    - a. A permittee for installation of a cattle guard, the permittee's successor or assign, or those person(s) who directly benefit from the cattle guard on a county road shall periodically clean the space within the cement box and below the grate of the cattle guard and make necessary repairs to the structure. Cleaning includes the removal of all sand, silt, dirt and other solid debris which may render the cattle guard ineffective. The public works director shall be notified prior to commencement of work and shall approve all plans for cleaning or repair. The person cleaning or repairing the cattle guard shall be responsible for placement of traffic control devices as prescribed by this section.
    - b. A person who directly benefits from a cattle guard on a county road may request that the county clean or repair the cattle guard. The public works director shall use discretion in whether to clean the debris or repair the cattle guard at the county's expense or direct the permittee of the cattle guard to complete such cleaning or repair at such party's expense.
    - c. The county may request in writing that a person, who directly benefits from the cattle guard on a county road, clean or repair the cattle guard. The benefitted party shall clean or repair the cattle guard within the time set forth in the notice and at such party's expense.
  4. Removal.
    - a. A permittee for installation of a cattle guard or a permittee's successors or assigns generally responsible for cleaning and repair pursuant to subparagraph B.3 above, or a person benefitting from a cattle guard on a county road may request removal of the cattle guard. The person requesting removal shall provide notice of the proposed action in writing to all parties benefiting from the cattle guard. Such notice shall be sent by certified U.S. mail and shall state that comments may be provided to the public works director within fifteen (15) days of receipt. If the cattle guard no longer serves a public benefit, as determined in the sole discretion of the public works

director, the public works director may grant removal. If the public works director authorizes the removal, the cattle guard shall be removed at the requesting party's expense.

- b. A permit to construct a cattle guard shall not create a vested property right, and the county, in the public works director's sole discretion, may remove a cattle guard in a county road after mailing written notice of removal to the parties benefitting from the cattle guard. Such notice shall be mailed at least fifteen (15) days prior to commencement of the removal. If such cattle guard is removed by the county, the removal shall be at the county's expense.

**IV. Fees.** The county may adopt application fees for any permit or penalties described in this section. Such fees are set forth in Appendix A of this code~~the adopted fee schedule~~.

**Sec. 74-10 Borrow ditches.**

- I. Use of borrow ditches.** Persons in the county who use borrow ditches along county rights-of-way for irrigation runoff and other uses do so subject to a revocable license by the county and subject to the following conditions:
  - A. The licensee shall prevent irrigation water or other uses from causing silt, other sediment or weeds to accumulate in the borrow ditches that inhibit proper drainage.
  - B. The licensee shall prevent blockage of the borrow ditch and shall not alter the direction or rate of flow in the borrow ditch in any manner.
  - C. The licensee shall prevent irrigation water and other uses from causing damage to county rights-of-way and shall be responsible for the costs of repair if such damage occurs.
  - D. Tail water shall be controlled to prevent erosion and sedimentation of the borrow ditches.
- II. Violations.** If the board determines a licensee has violated the terms of this section, the board may revoke permission to use the borrow ditch.

**Sec. 74-11 Impact Fees – Reserved.**



## **Chapter 79: Nonconformities (Grandfathering)**

### **Sec. 79-1 Purpose and applicability**

- I. **Purpose.** Within the county there are existing uses of real property, structures, lots, facilities and signs that were legally established or created but do not comply with the current requirements of this code. These are referred to as nonconformities. The purpose of this chapter is to establish provisions that recognize the interests of owners in continuing to use and maintain their property but that also reasonably limit expansion of nonconformities, re-establishment of nonconformities that have been discontinued or destroyed, and relocation and change of use of nonconformities. This chapter also addresses the unique circumstances where uses and structures may be destroyed as a result of a disaster.
- II. **Applicability.**
  - A. This chapter applies to nonconformities throughout unincorporated areas of the county. This chapter shall not apply to any nonconformities related to oil and gas development subject to the provisions of chapter 90 of this code.
  - B. Illegally established lots, developments, structures, facilities, signs or uses of real property in unincorporated areas of the county are addressed through other parts of this code such as chapter 80, relating to enforcement and penalties.

### **Sec. 79-2 Authority to continue**

Nonconformities shall be allowed to continue only if complying with the provisions of this chapter. Nothing in this chapter shall be interpreted to require a change in plans, construction or use of any real property, development, structure or sign for which a building permit, land use permit or other development approval was lawfully obtained from the county prior to the effective date or amendment of this code, provided the development, construction or use is commenced and completed according to the applicable permit or approval terms. Changes of ownership, tenancy or management of an existing nonconformity are allowed, and in such case, the nonconforming situation shall continue to be subject to the standards of this chapter. The owner, and not the county, has the burden of establishing that a nonconformity exists.

### **Sec. 79-3 Changes to nonconformities require a land use permit**

Unless specifically exempted below, a land use permit shall be required before any alteration, expansion, recommencement of a use, or relocation are undertaken with respect to a nonconformity and before re-establishment following destruction or discontinuance of a nonconformity.

#### **I. Exemptions from requirement of a land use permit.**

- A. Normal repairs and maintenance. Normal repairs and maintenance necessary to keep a nonconformity in good repair and in a safe condition shall not require a land use permit. The following illustrative activities are considered normal repairs and maintenance:
  1. Installation, replacement, repair, or reconstruction of pipes, drains, windows, doors, electrical wiring or interior or exterior finishes or fixtures, which do not entail any increase to the size of the subject item or any structural alteration to the structure containing them.
  2. Repair or replacement of any appliances or trade fixtures, or parts thereof, so long as the repaired or replaced appliances or fixtures do not cause any expansion or alteration of the utility or plumbing systems necessary for their operation.
  3. Repairs to or replacement of paint, siding, roofs, fences, landscaping features, irrigation systems or other external features of a building, structure or use.
  4. Paving or resurfacing of access to internal roads or pedestrian pathways.
  5. Burying of overhead power lines.

6. Installation, operation and maintenance of emergency recovery measures to relieve imminent hazards to life or property created by a natural disaster administered by NRCS or any other federally approved program.
  7. The creation and maintenance of defensible space to reduce the potential for wildfire consistent with the recommendations of the Colorado State Forest Service.
- B. Permissible alterations or expansion. If the director, pursuant to a director determination, confirms that a proposed alteration, extension or expansion for a structure or use not otherwise addressed in this section is consistent with each of the conditions in this paragraph 79-3.I.B, a nonconformity may be altered, extended or expanded beyond normal repairs and maintenance without the necessity of a land use permit. The director may approve an alteration or expansion only if there has been no approval of a prior request to alter or expand the structure or use and when each of the following are satisfied:
1. The alteration, extension or expansion is consistent with section 81-2, Section Necessary for Immediate Preservation of Public Health and Safety.
  2. The alteration, extension or expansion does not result in a new violation of the code.
  3. The alteration, extension or expansion does not create any new nonconformities, such as setback violations.
  4. The alteration, extension or expansion does not result in a greater than ten (10) percent increase to the following measurable characteristics of the existing use or structure:
    - a. Gross floor area;
    - b. Height;
    - c. Areas of the structure occupied by the use;
    - d. Area of the site or parcel occupied by the use.
  5. The alteration, extension or expansion does not increase the nonconforming use's or structure's:
    - a. Water demand beyond the standards set forth in section 70-4, unless the use or structure satisfies the requirements of subsections 70-4.II-V;
    - b. Sewage disposal demand beyond the standards set forth in section 70-3;
    - c. -Traffic generated beyond the road standards set forth in chapter 74.
    - d. Adverse impacts.
- C. Single-family ~~residential. The dwelling and single-family residential~~ expansion or replacement of a single-family dwelling in the AVLUP or a single-family residential with a new dwelling unit, provided each of the following are satisfied:
1. The conditions set forth in subparagraphs 79-3.I.B.1 to 3 and 5 are met.
  2. The replaced or expanded dwelling unit contains no more than two thousand five hundred (2,500) square feet of gross floor area.
  3. The dwelling unit to be replaced is nonconforming only because there are more single-family dwelling units on the lot or parcel than would be allowed by this code.
- D. Construction, erection, or placement of a fence; retaining wall; irrigation system, landscaping features, open platforms, walks, or decks; swings or playground equipment.
- E. Central water. Connection to a central water system.
- F. Solar energy device. The addition of a solar energy device pursuant to C.R.S. § 30-28-120(1) that is solely for on-site use and is smaller than the small scale solar regulated by chapter 73.

- G. ADA compliance. An alteration or expansion necessary to comply with applicable American's with Disabilities Act accessibility statutes.
- H. Specific exemptions applicable to manufactured home parks and recreational vehicle parks. Except for paragraph 79-3.I.C, the above exemptions are applicable to a legally established nonconforming manufactured home park or recreational vehicle park. Provided the conditions set forth in subparagraphs 79-3.I.B.1 to 5 and state regulations pertaining to recreational vehicle parks are met, a nonconforming manufactured home park or recreational vehicle park may also alter, expand, relocate or reconfigure the nonconforming use to keep the use in a safe condition as follows:
  - 1. Reconfigure the site's access in compliance with chapter 74. Internal vehicle or pedestrian circulation, provided the reconfiguration for manufactured home parks and recreational vehicle parks meet the state regulations;
  - 2. Install security gates or lighting;
  - 3. Reconfigure existing manufactured home spaces or recreational vehicle campsites on the site provided such reconfiguration does not result in the addition of manufactured home spaces or recreational vehicle campsites;
  - 4. In a manufactured home park, replace, on a unit by unit basis, an existing manufactured home with another manufactured home meeting the requirements of the building code.
- I. Permit adjustments as described in section 66-26.

**II. Relocation.** Except as allowed in paragraph 79-3.I.H relating to manufactured home parks or recreational vehicle parks, a nonconforming use shall not be moved in whole or in part to any other portion of the subject site or parcel, or to another site or parcel, unless the relocation is the subject of a land use permit application that proposes a change that lessens the extent of the nonconformity or brings the use into compliance with the requirements of this code.

**III. Change in use.** A change in use of a nonconforming use may occur provided the new use is substantially similar to the existing use. Changes in use could include, for example, a change from one type of commercial use to another type of commercial use. The new use is not substantially similar to the existing use if, among other considerations, the new use:

- A. Is not consistent with section 81-2, Section Necessary for Immediate Preservation of Public Health and Safety;
- B. Would result in a new violation of the code;
- C. Increases the nonconforming use's:
  - 1. Water demand beyond the standards set forth in section 70-4, unless the use or structure satisfies the requirements of subsections 70-4.2.II-V;
  - 2. Sewage disposal demand beyond the standards set forth in section 70-3;
  - 3. Traffic generated beyond the road standards set forth in chapter 74;
  - 4. Adverse impacts.

**IV. Abandonment or discontinuance.**

- A. Time limits. If a nonconforming use ceases to operate or is discontinued for a period of twelve (12) consecutive months, then any further use of the real property shall only be for a use that conforms to this code. If the use is of a seasonal nature, then failure to operate the use at any time during a twelve (12) month period shall be considered an abandonment or discontinuance.
- B. Extension. The director may issue a director determination letter granting a one (1) time twelve (12) month extension of the above time limits if the owner submits a written request for such extension prior to expiration of the initial twelve (12) month period and has clearly



demonstrated due diligence in continuing the use or to re-start the operation of the use. At the end of the twelve (12) month extension, the use must be fully operational, or the nonconformity shall be considered abandoned and further use of the property shall only be for a use that conforms to this code.

#### V. **Damage or destruction.**

- A. **Applicability.** This subsection applies to nonconforming structures and nonconforming uses that have been destroyed or damaged by a calamity other than a disaster subject to the disaster rebuild program described in section 79-6.
- B. **Restoration allowed by building permit.** A nonconformity that is damaged or destroyed by a calamity to the extent of fifty (50) percent or less of its fair market value, may be restored to the same degree of nonconformity as existed prior to the damage or destruction provided the owner obtains a building permit submits an application within twelve (12) months of the damage or destruction and a certificate of occupancy or other final inspection is issued within two (2) years of the issuance of the building permit. The nonconformity may only be replaced in the same location and size as the original use or original structure unless the proposed relocation would bring the use or structure into compliance with the requirements of this code or lessens the extent to which the use or structure does not conform to the code. Any repair or replacement of a damaged or destroyed use or structure must meet the requirements of chapter 78: Floodplain Management.
- C. **Restoration allowed by land use permit.** A nonconformity that is damaged or destroyed by a calamity to an extent greater than fifty (50) percent of its fair market value shall thereafter only be restored or reconstructed pursuant to a valid land use permit in conformance with this code.
- D. For purposes of this section, the fair market value of the use or structure at the time of damage, destruction or demolition may be mutually agreed upon by the owner and the director but, in the event of any dispute, shall be established by a real estate appraiser retained at the owner's expense and the appraisal shall be submitted to the county for review. The fair market value of a structure shall not include the value of the land.

#### **Sec. 79-4 Nonconforming lots**

A lot that is nonconforming as to minimum area or dimensional standards may only be used for one single-family residence and uses that are customarily secondary to a single-family residence, including accessory uses, and other developments that do not require a land use permit as described in section 66-3.

#### **Sec. 79-5 Nonconforming signs**

- I. **Normal repairs and maintenance.** Normal repairs and maintenance necessary to allow for the continuation of a nonconforming sign and to keep it in a safe condition shall be allowed. This shall include activities such as re-painting, electrical repairs and replacement of neon tubing.
- II. **Change of copy.** Change of copy or substitution of panels or faces on a nonconforming sign shall be allowed.
- III. **Discontinuance.** Any nonconforming sign that ceases being used for a continuous period of twelve (12) consecutive months or more shall not be re-used for sign purposes until it is brought into full compliance with the applicable standards of section 70-20 and chapter 98. Any nonconforming sign that pertains to a business or institution that ceases operation for a period of twelve (12) consecutive months or more shall not be re-used for sign purposes until it is brought into full compliance with the applicable standards of section 70-20 and chapter 98.

#### **Sec. 79-6 Disaster re-build program**

- I. **Purpose.** Imposition of current regulations may create additional distress and hardship for existing residents and businesses in the county affected by a disaster. The purpose of a disaster re-build program is to:

- A. Provide a process to minimize the impact of displacement from housing and work;
  - B. Assist disaster survivors in their rebuilding efforts by offering additional flexibility;
  - C. Assist owners of conformities and nonconformities in existence prior to the disaster to rebuild or continue the use in the same manner that such structures and uses have historically existed.
- II. Applicability.** The re-build program applies to conforming and nonconforming structures and/or conforming or nonconforming uses that have been destroyed or damaged in a discrete disaster area as defined or described on a map attached to a resolution, or successive resolutions, adopted by the board following a disaster. Illegally established structures and illegally established uses created prior to the date of the disaster are not eligible to participate in the re-build program. As to eligible structures and uses, in the event of any inconsistency between this section 79-6 and any other section of this code, this section 79-6 shall control. If this section 79-6 is silent as to a standard or requirement, this code shall control.
- III. Duration of the program.** By resolution, the board shall establish the length of time the re-build program will be in effect for a specific disaster. All required application materials for participation in the program must be filed with the CDD prior to the expiration of the re-build program ending date.
- IV. Eligibility and approval process.** The following eligibility criteria and approval processes shall apply.
- A. Re-building and re-establishing conformities. An owner of a previously conforming structure or previously conforming use destroyed by the disaster may re-build the structure(s) and/or re-establish the use(s) without the necessity of a new land use permit provided the re-build and re-establishment are consistent with the existing land use permit and/or this code. However, unless otherwise exempt under the building code, the owner shall obtain all necessary building permits.
  - B. Re-building and re-establishing nonconformities. For the duration of the re-build program, an owner may request a determination from the director that a structure or use is or is not a nonconformity subject to this paragraph. The owner is responsible for providing sufficient evidence to establish the size and date on which the structure was constructed, or the use was commenced.
    - 1. Rebuilding nonconforming structures. Nonconforming structures destroyed by the disaster may be rebuilt provided the re-build is consistent with the standards of this section, section 81-2, Section Necessary for Immediate Preservation of Public Health and Safety and section 70-3, Sewage Disposal. The owner shall submit a complete building permit application prior to the program ending date. The structure may only be rebuilt to the same degree of nonconformity as existed prior to the damage or destruction unless the director determines the existing site conditions make such location, size or character impractical. Any substantially damaged structure located in a floodplain shall meet the requirements of chapter 78.
    - 2. Reestablishing a nonconforming use. The timeframe to reestablish a nonconforming use destroyed or affected by a disaster shall be extended to the program ending date.
    - 3. Setback requirements. Replacement structures shall meet current setback requirements unless the director determines the existing site conditions make such location impractical. The director is authorized to approve a waiver of up to fifty (50) percent of the current setback requirements upon finding all the following conditions have been met or determined to be inapplicable:
      - a. There are special circumstances or conditions, such as exceptional topographic conditions, narrowness, shallowness or the shape of the parcel, or other extraordinary

and exceptional situation or condition on the parcel, that are peculiar to the land or structure for which the waiver is requested.

- b. The strict interpretation and enforcement of the provisions of the code would cause an unnecessary and undue hardship on the owner or adjacent property.
  - c. Granting the waiver will not result in a substantial adverse impact on other property in the vicinity of the subject parcel or structure.
- C. Impact fees. Rebuilding is not anticipated to generate new traffic once construction is complete. Therefore, if county road impact fees are adopted, such fees will not be assessed for established and approved historical structures and uses.

**V. Temporary emergency residential housing and temporary emergency accessory structures.**

- A. Eligibility for temporary construction. For the duration of the re-build program, an owner deemed eligible under this section to participate in the re-build program to repair or replace a permanent structure or re-establish a use may also obtain a permit to construct temporary emergency housing, a temporary emergency accessory structure, or both when one of the following conditions is satisfied:
- 1. A building permit has been issued for repair or replacement of the permanent dwelling unit, a permanent accessory structure, or both.
  - 2. Prior to building permit issuance when the owner has provided an acceptable plan and timetable for rebuilding a permanent dwelling unit, permanent accessory structure, or both. Such plan and timetable shall become an enforceable agreement between the owner and the county. A building permit application for rebuilding a permanent dwelling unit, permanent accessory structure, or both must be submitted prior to the expiration of the re-build program ending date.
- B. Standards applicable to temporary construction.
- 1. Temporary emergency housing and temporary emergency accessory structures may remain on the property so long as a valid building permit is in effect under the re-build program pursuant to an acceptable plan, or longer if the director has granted an extension. Within sixty (60) days after the issuance of a certificate of occupancy for the permanent dwelling unit or permanent accessory structure, the temporary emergency housing or temporary accessory structure shall be removed from the property.
  - 2. Temporary emergency housing shall be occupied only by the property owner(s) or their designee(s).
  - 3. Only one (1) temporary emergency housing unit is allowed per parcel unless the owner demonstrates additional units are necessary and the additional units have been approved by the director.
  - 4. Temporary emergency housing and, where required, temporary emergency structures, shall be connected to an approved OWTS or sewage treatment works.
  - 5. A building permit is required for a temporary emergency housing unit and a temporary emergency accessory structure, except for recreational vehicles or membrane structures, present on the property for one hundred eighty (180) days or less. A building permit is required for recreational vehicles or membrane structures present on the property for more than one hundred eighty (180) days. At the time of permit, the recreational vehicle or membrane structure must comply with all applicable building, fire, electrical, mechanical and related codes.
  - 6. The location of the temporary emergency housing and temporary emergency accessory structures shall provide safety from natural hazards. Temporary emergency housing units

and temporary emergency accessory structures within a floodplain shall meet the requirements of chapter 78.

7. Temporary emergency housing and temporary emergency accessory structures shall not be located within a roadway, driveway, drainage, ditch, irrigation canal or other right-of-way and shall be served by existing access.
8. Temporary emergency housing and temporary emergency accessory structures shall comply with applicable setback requirements unless the director determines that existing site conditions make such location impractical. At a minimum, the setback shall be at least five (5) feet from all property lines.

**Sec. 79-7 Vested rights**

An approved request for an alteration, extension or expansion of a nonconformity pursuant to this chapter shall not create a vested right. Approval of such plans are effective for one (1) year. If the use has not commenced or, if applicable, a building permit has not been issued, within one (1) year of the approval, the approval shall automatically expire.

**Sec. 79-8 Certification of nonconforming status**

- I. **Process.** Owners of nonconformities may request a certificate of nonconforming status by filing an application with the CDD in accordance with this section.
  - A. Documentation provided by owner. The application shall be accompanied by documentation provided by the owner establishing the approximate date that the use, structure, or sign was constructed or established. The type of documentation that may assist in demonstrating an established use, structure or sign include, but is not limited to:
    1. Tax records;
    2. Sworn affidavits;
    3. Maps and advertisements in dated publications;
    4. Dated statements from utilities;
    5. Dated aerial photographs;
    6. Building permits or septic permits;
    7. Telephone directory listings;
    8. Leases;
    9. Insurance policies;
    10. Dated newspaper articles.

The director may require additional information if necessary, to make an accurate determination. The county has no obligation to perform research on behalf of the applicant. If inadequate documentation exists for the director to conclusively determine legal nonconforming status, the director shall not be required to issue the certification.

- B. **Recordation.** Once issued, a certificate shall be recorded with the County Clerk and Recorder clearly identifying the real property by parcel number and/or a legal description of the property. Such certificate shall "run with the land" and its status shall not be affected by changes of tenancy, ownership, or management. However, such certificate and the underlying nonconforming use, structure, or sign shall be subject to all provisions of this chapter 79, including those relating to discontinuance and damage or destruction.
- C. **Fees.** An application fee shall be assessed for the processing and issuance of certificates of legal nonconforming status in accordance with the fee schedule adopted by the board.



## **Chapter 80: Enforcement and Penalties**

### **Sec. 80-1      Applicability**

This code shall be enforced in accordance with the requirements of Colorado law and as provided in this chapter. Any violation of the previous county land use code will continue to be a violation under this code and be subject to penalties and enforcement under this chapter, unless the use, development, construction, or other activity complies with the provisions of this code. Inaction or lack of enforcement on the part of the county shall not constitute a waiver of the right of enforcement. Enforcement action may occur based upon a complaint submitted by a member of the public or by a county official or employee, or on the county's own initiative.

### **Sec. 80-2      Enforcement authority**

The county manager, director, county code enforcement officer, building official, public works director, and such other persons as the board may designate, are charged with and authorized to enforce all requirements of this code.

### **Sec. 80-3      Types of violations**

The following shall be a violation of this code and subject to the remedies and penalties set forth in this chapter and Colorado law:

- I. Activities without permit or approval.** To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure, improvement or other facility or to otherwise establish, maintain or engage in any use, development, subdivision or other activity of any nature upon real property that is subject to this code without all the approvals required by this code.
- II. Activities inconsistent with this code.** To erect, construct, reconstruct, remodel, alter, maintain, move or use any real property, building, structure, improvement or other facility or to otherwise engage or fail to engage in any use, development, subdivision or other activity of any nature upon real property that is subject to this code in contravention of any zoning, subdivision or other regulation of this code.
- III. Activities inconsistent with permit, approval or condition.** To erect, construct, reconstruct, remodel, alter, maintain, move or use any building, structure, improvement or other facility or to otherwise engage or fail to engage in any use, construction, reconstruction, remodeling, development, subdivision or other activity of any nature upon real property that is subject to this code that is inconsistent with the terms, conditions or qualifications of any permit, approval, certificate or other form of authorization required in order to engage in such activity.
- IV. Make setbacks or minimum lot or acreage size for an existing use nonconforming.** To reduce or diminish any area so the applicable setbacks or minimum lot or acreage size are less than the distance or size prescribed by this code.
- V. Increase intensity of use.** To increase the intensity of use of any real property, building, structure, improvement or other facility, except in accordance with the procedural requirements and substantive standards of this code.
- VI. Subdivision violations.** Those violations set forth in section 80-7 related to the subdivision of real property.
- VII. Remove or deface required notice.** To remove, deface, obscure or otherwise interfere with any notice required by this code or a condition of approval.

### **Sec. 80-4      Right of entry and inspection**

When a person charged with enforcement of this code has reasonable cause to believe any project or use is being conducted or any condition exists which is contrary to or in violation of this code or any condition of approval of a project, such person may enter and inspect or cause to be entered or inspected at reasonable

times, any real property, lot, parcel, right-of-way, site, building, structure, improvement or other facility that is, or should be, subject to a land use permit to determine compliance with this code or the applicable land use permit. Such inspections may include the following:

- I. **Observation.** Observations of the real property or use from those portions of the property which are open or accessible to the public, from public property, areas in which the owner or occupant lacks a reasonable expectation of privacy, or from other private property for which permission to enter has been obtained from an owner, agent or occupant.
- II. **Entry pursuant to court order.** Entry onto the real property, lot, parcel, right-of-way, site, building, structure, improvement or other facility pursuant to a court order obtained after submitting a request for an administrative warrant or other order authorizing inspection which included an affidavit detailing the facts to support a reasonable belief that a violation is likely to exist, and further investigation of the property is warranted.
- III. **Emergency.** Entry onto the real property, lot, parcel, right-of-way, site, building, structure, improvement or other facility in emergency situations in which a person authorized under this chapter to enforce the code has reason to believe the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.
- IV. **Permission.** Entry onto the real property, lot, parcel, right-of-way, site, building, structure, improvement or other facility after receiving express permission from the owner, agent, occupant or alleged violator. An applicant's signature on a land use permit application shall constitute permission for entry and inspection of the property subject to the application but only until the application has received final approval, conditional approval or denial by the decision-making body.
- V. **Other applicable law.** Entry upon or into, or inspection of, any real property, lot, parcel, right-of-way, site, building, structure, improvement or other facility otherwise permitted by law.

#### Sec. 80-5 Enforcement options

This chapter generally sets forth the enforcement options available that may be taken by the persons authorized by this chapter to enforce the code to address violations. Nothing in this chapter shall prevent the director, county attorney or board from exercising discretion to pursue one (1) or more option, remedies or any combination thereof, as provided by this code or Colorado law.

##### I. Violation determinations.

- A. Notice to correct violation. If reasonable cause exists to believe a violation has occurred, a notice to correct violation shall be sent certified mail, return receipt requested, to the owner's mailing address as listed in the records of the County Assessor's Office and to the mailing address of the real property in question, if an address exists. The notice to correct violation shall state which requirements of the code or conditions of approval for the project are being violated, shall state the conditions that are to be satisfied for compliance and shall state the violations shall be corrected within thirty (30) days after the date of the notice. The notice to correct violation may require correction within a period less than thirty (30) days if the director determines the violation presents an immediate risk to the public health, safety and welfare. The director may approve additional time to correct the violation if good cause is shown.
- B. Violation determination. If the violation is not corrected within the period established in the notice to correct violation or approved extension of time, the director may issue a violation determination and authorize the county attorney to pursue the remedies described in this chapter or otherwise available by law, subject to appeal as set forth in subsection 80-5.4(IV). The director shall deliver the violation determination to the owner, occupant or alleged violator by certified mail, return receipt requested, and by posting the violation determination in a conspicuous location on the parcel, right-of-way, site, building, structure, improvement or other facility, if reasonably accessible. The director or the county attorney may also record the



violation determination in the property records in the county clerk and recorder's office. The violation determination shall:

1. State the nature of the violation.
2. State the date and manner of service of any previous notice to correct the violation.
3. State that the owner, occupant or alleged violator may appeal the violation determination to the board within ten (10) days after the date of the violation determination and, in the absence of such appeal, the violation determination shall become final and the county attorney may pursue remedies under this chapter and other applicable law.
4. Inform the owner, occupant or alleged violator that the appeal must be submitted to the director in writing.

## **II. Stop order; immediate compliance.**

- A. Issuance of stop order. As an alternative to, or in addition to, the notice to correct violation described in this chapter, the director may, by written notice in the form of a "stop order", order the activity or use stopped immediately. The issuance of a stop order is not a prerequisite to any other enforcement mechanism or remedies available to the county.
- B. Service of the stop order. The stop order shall be served, by certified mail, return receipt requested, to any person engaged in the activity, development or use, or to any person owning, leasing, occupying or controlling all or any portion of the parcel, right-of-way, site, building, structure, improvement or other facility, or by posting the order in a conspicuous location on the parcel, right-of-way, site, building, structure, improvement or other facility. The posted stop order shall not be removed until the violation is corrected.
- C. Compliance with order. All persons shall comply immediately with the stop order upon its service or posting.
- D. Contents of Stop Order. The stop order shall:
  1. State the nature of the violation and activity or use that must immediately cease.
  2. State that the owner, occupant or alleged violator may appeal the stop order to the board within three (3) business days after the date of the stop order and, in the absence of such appeal, the order shall become final and the county attorney may pursue remedies under this chapter and other applicable law if the stop order is violated.
  3. Inform the owner, occupant or alleged violator that the appeal must be submitted to the director in writing.
- E. Stop order lifted only by compliance order. The stop order shall remain in effect until the director determines the activity, development or condition that is the basis for the stop order has been remedied and the director issues a written compliance order or, alternatively the board lifts the stop order after conducting an appeal hearing consistent with the process described in subsection 80-5.(IV), provided, however the timing and notice of the appeal hearing may be modified by the board or director to expedite the process due to the urgent nature of the situation.
- F. Failure to comply. If the stop order is violated, the director may authorize the county attorney to pursue the remedies described in this chapter or otherwise available by law, subject to appeal as described in subsection 80-5.(IV).

**III. Temporary suspension or permanent revocation of permit.** The decision-making body may temporarily suspend or permanently revoke an approved land use permit. A suspension order shall remain in effect until the decision-making body issuing the suspension finds the activity or condition that is the basis for the suspension has been remedied, and the decision-making body issues a written compliance finding. Before making a temporary suspension or permanent revocation, the county

shall give the owner written notice of the violation by certified mail, return receipt requested. The owner may appeal the temporary suspension or permanent revocation to the board within ten (10) days after the date of the suspension or revocation determination and, in the absence of such appeal, the suspension or revocation shall become final. Appeals of the suspension or revocation may be taken as described in subsection 80-5.4(IV). In the event of a permanent revocation, the director shall file a certified statement of revocation with the County Clerk and Recorder.

- IV. Appeal hearing.** If the director receives a timely appeal of the stop order, violation determination or temporary suspension or permanent revocation, the director shall place the matter on the board's next available land use hearing agenda. The appealing party shall be notified of the date, time and place of the hearing by certified mail, return receipt requested, to the appealing party's mailing address as listed in the records of the County Assessor's Office no less than five (5) days prior to the hearing.

At the appeal hearing, the appealing party shall have the opportunity to present evidence and testimony to show cause why further enforcement action should not be taken. The board shall consider all such evidence and testimony, along with any presentation, evidence or testimony presented by the director or staff, in reaching its decision to affirm or overturn the decision to issue the stop order or violation determination.

Within five (5) business days after conclusion of the appeal hearing, the board may decide to overturn the decision or may affirm the decision and instruct the director or county attorney to proceed with one (1) or more of the enforcement mechanisms described in this chapter or otherwise available by law. The appeal hearing shall not be considered a quasi-judicial or legislative action under any circumstances.

#### **Sec. 80-6 Remedies**

The following remedies for enforcement of this code shall be cumulative and shall in no way limit the director's, board's or county attorney's authority to seek any other remedy available at law or equity for violations of this code.

- I. Injunction.** The county attorney may institute an injunction, mandamus, abatement or other appropriate action to prevent, enjoin, abate or remove a violation and subject to otherwise restore the real property to the condition that existed before the violation and subject to applicable penalties, as authorized by law, including but not limited to C.R.S. § 30-28-124. For purposes of sanctions or penalties, this code shall be considered a zoning resolution and sanctions and penalties may be assessed for each day the violation exists.
- II. Statutory remedies.** The county attorney may pursue all civil and criminal remedies authorized by law including C.R.S. §§ 30-28-124 and 30-28-124.5. For purposes of either civil or criminal sanctions or penalties, this code shall be considered a zoning resolution and sanctions and penalties may be assessed for each day the violation exists.

#### **Sec. 80-7 Subdivision violations**

- I. False or inaccurate information provided, and final plat not recorded.** The board may take appropriate action to deny, suspend or withdraw any approval of a plan or plat, or to require that certain corrective measures be taken, following a determination that the information provided by the applicant upon which such approval was based is materially false or inaccurate or that new significant information has been brought to the board's attention. The action may occur at any step in the platting process prior to the recording of the final plat and shall take place at a regular public hearing. The board shall determine at the hearing the nature and extent of the alleged false or inaccurate information, shall consider any new significant information that has been brought to its attention, and shall have the authority, upon good cause being shown, to deny the plan or plat or suspend or withdraw any approval or require corrective measures to be taken. No final action authorized by this

section shall be taken unless the applicant is notified of and, if present at the public hearing, has an opportunity to respond to the proposed denial, suspension, withdrawal, or corrective action.

- II. False or inaccurate information provided, and plat recorded.** If it is determined after a plat approved by the board is filed for recording that the plat approval was based on materially false or inaccurate information, the board may take appropriate action to withdraw or reconsider the approval, to require corrective measures, or to void the plat, after a public hearing where adequate notice and opportunity to be heard are given to the applicant, any successor property owners, and any affected adjacent property owners, review agency, or service providers.
- III. Enforcement of plat restrictions.** Pursuant to C.R.S. § 30-28-137(4), the board or any purchaser of any lot or tract 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 applicant related to the county's approval of the final plat), plat note, plat map, or provision of a development improvements agreement, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, or provision of a development improvements agreement.
- IV. Sale of lots before plat recording.** Pursuant to C.R.S. § 30-28-110(4), it is unlawful to transfer legal or equitable title or sell any subdivided land as defined by this code before a final plat for the real property has been approved by the decision-making body and recorded with the County Clerk and Recorder. Any applicant or agent thereof who violates this provision is guilty of a misdemeanor. The county may also seek to enjoin any violations of this provision. The county shall not be liable for any direct or apparent fiscal losses suffered by any person as a result of denial of any subdivision, or disruption of a transfer or sale, where the applicant has agreed to transfer or sell or offered to transfer or sell any subdivided land in advance of plat approval by the decision-making body.
- V. Authority to withhold land use and building permits.** In addition to any other enforcement action specified in this code, pursuant to C.R.S. § 30-28-110(4)(a), the building official or the director is authorized to withhold or demand the withholding of the issuance of any building permit or related permit under this code sought or requested for real property for which a final plat (or equivalent) has not been approved or recorded or which is in violation of the approved final plat (or equivalent), including any plat note, condition or restriction or any commitment of record in the county's final plat (or equivalent) approval file.

#### **Sec. 80-8      General provisions**

- I. No waiver of statutory authority.** Nothing in this chapter is or shall be a waiver by the county of any statutory or common law authority including without limitation the authority identified in C.R.S. § 24-33.5-709 relating to local disaster emergencies.
- II. Burden of proof.** The burden of proof that an activity, development or a use complies with this code and all applicable conditions of approval or is legally nonconforming lies with the owner of the real property.
- III. Enforcement costs.** If the board affirms the director's decision to issue a violation determination or stop order (or if either becomes final without an appeal), the costs of any county investigation of the violation and the costs of any hearing and board action, including reasonable attorney's fees, shall be the responsibility of the owner of the real property and violator, jointly and severally, subject to court order.
- IV. Mitigation efforts.** Implementation of remedial efforts shall not relieve an owner's, occupant's or alleged violator's responsibility to comply with all county standards and criteria or the project's conditions of approval. Failure to conduct the project in compliance with county standards and criteria or all conditions of approval shall be deemed a land use permit violation.
- V. Land use application and violations.** An application for a land use permit, road access permit or driveway permit shall not be initiated or accepted for submittal if the property subject to the

application is in violation of this code or the building code unless the purpose of the application is to correct the violation. The director may suspend any enforcement action prior to such action being heard by the board if a complete application to correct or resolve the violation has been submitted. A review fee, in addition to the application fee, shall be collected whether a permit is issued based on the application. The review fee shall be equal to three (3) times the amount of the application fee. Neither the payment of the review fee nor the filing of an application shall exempt any person from compliance with all other requirements of this code or relieve any person from any other enforcement remedies available to the county.

## **Chapter 81: General Provisions**

### **Sec. 81-1 Authority**

This code is adopted pursuant to the powers and authorities conferred by the laws of the State of Colorado, including, but not limited to, the following sections of the Colorado Revised Statutes:

- I. Article 13 of Title 16 (Restraint and Abatement of Nuisances);
- II. Article 65.1 of Title 24 (Areas and Activities of State Interest);
- III. Article 67 of Title 24 (Planned Unit Development);
- IV. Article 68 of Title 24 (Vested Rights);
- V. Article 12 of Title 25 (Noise Abatement);
- VI. Article 20 of Title 29 (Local Government and Land Use Control Enabling Act);
- VII. Article 11 of Title 30 (County Powers and Functions);
- VIII. Article 15 of Title 30 (County Regulations Under Its Police Powers);
- IX. Article 28 of Title 30 (County Planning, Zoning, Subdivision);
- X. Article 30 of Title 30 (Control of Stream Flow for Purposes of Flood Control);
- XI. Article 1 of Title 43 (Limitations on Control of Outdoor Advertising Devices);
- XII. Article 2 of Title 43 (State, County, and Municipal County Roads); ~~and~~
- XIII. All other powers authorized by the Constitution of the State of Colorado, the Colorado Revised Statutes, federal law, state or federal regulations, or by common law including those for the regulation of land uses, land use planning and development, subdivision, environmental protection, police powers, and the power to abate nuisances.

### **Sec. 81-2 Sections necessary for immediate preservation of public health and safety**

The board finds that the following specific sections of this code are generally applicable in nature, are necessary for the immediate preservation of public health and safety, and shall be applicable to the maximum extent feasible to all development including development that may be otherwise exempt from this code under Section 81-3:

- I. ~~Subsections~~ **70-2.II-III Utilities and services;**
- II. ~~Subsection~~ **70-2.IV. Fire protection;**
- III. ~~Section~~ **70-3 Sewage disposal;**
- IV. ~~Subsection~~ **70-8.I-VIII Avoidance of natural hazards;**
- V. ~~Section~~ **70-9 Drainage and erosion control;**
- VI. ~~Paragraph~~ **74-3.II.A, section 74-4, section 74-7 and section 74-8;**
- VII. ~~Chapter~~ **78 Floodplain management.**

### **Sec. 81-3 Transitional rules**

- I. **Existing non-conforming uses or structures.** All uses or structures legally established on the effective date that do not comply with this code shall be considered pre-existing nonconforming uses or structures and shall be permitted to continue to the extent provided in the provisions of chapter 79.
- II. **Legal lots of record.** No further land use permit shall be required for the sale or conveyance of any legal lot of record existing on the effective date. However, any new use, change in use or the

extension or alteration of the scope of an existing use on any legal lot of record existing on the effective date shall be in conformance with all provisions of this code, including chapter 79.

- III. Compliance with permit conditions.** Unless subject to the exceptions in C.R.S. § 24-68-105, all development approved and permitted prior to the effective date shall be completed in accordance with the terms and conditions of the land use permit approval, including all terms, conditions, and regulations governing the issuance of the land use permit and according to the land use code provisions in effect at vesting. Terms, conditions and governing regulations of previously approved permits shall be enforced pursuant to chapter 80.
- IV. Outstanding violations.** Any violation of the previous county land use code will continue to be a violation under this code and be subject to penalties and enforcement under chapter 80, unless the use, development, construction, or other activity complies with the provisions of this code.
- V. Projects in process.** Except as expressly provided in this code, the provisions of this code shall not apply to the review and approval of any project which is in process on the effective date but where the decision-making body has not taken final action. A project is considered in process if the application has been deemed complete as of the effective date by the director in accordance with previous code section 82-92.

Applicants that have received conceptual development plan or preliminary subdivision plat approval prior to the effective date shall:

- A. Within one (1) year of the date of preliminary approval, submit a complete application for final approval of at least one phase of the project. The application for final plat approval shall comply with the code in effect at the time preliminary approval was granted.
- B. After approval of a final plat for only one (1) phase or portion of the property subject to the previously approved conceptual development plan or preliminary subdivision plat, submit a complete application for each subsequent phase of the project within one (1) year of the county's approval of the previous final subdivision plat.

If an applicant fails to submit a complete application for final approval according to the time period specified herein, the preliminary approval shall be deemed void and all development on the real property shall be subject to this code.

- VI. Modifications to previously approved plats, plans, and permits.** Proposed modifications to any approved final plat, plan, or land use permit shall be in conformance with this code. An applicant may seek a variance under section 66-27 in the case of exceptional practical difficulties or undue hardship arising from the strict application of the provisions of this code to a specific property in a previously approved project.

#### **Sec. 81-4 Interpretation**

In the interpretation and application of this code, the following criteria shall govern:

- I. Burden of proof.** The burden of proof is upon the applicant to show full compliance with the purposes of these regulations.
- II. Minimum requirements.** The requirements of this code shall be regarded as the minimum requirements necessary for the protection of the public health, safety, general welfare and for the protection of the natural environment. This code shall therefore be regarded as remedial and shall be liberally construed to further its underlying purposes.
- III. Abrogation.** This code is not intended to abrogate or annul any valid subdivision plats, easements, covenants, building permits, legal established lots, or uses established, approved or issued before the effective date of this code.

#### **Sec. 81-5 Construction**

The following are rules regarding construction of language in this code:

**I. Conflicting provisions.**

- A. More versus less restrictive. Where there exists a conflict or overlap between any provisions within this code or between this code and any other regulation adopted by the county, the provision that is the more restrictive or particular shall prevail over that which is less restrictive or general.
- B. Text versus table, illustration, graphic depiction or caption. If a conflict or overlap arises between the provisions of the text of this code and any table, illustration, graphic depiction or the captions for any chapter, section or subsection, the provisions of the text shall prevail.
- C. Private agreements. It is not the intent of this code to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the provisions of this code impose a greater restriction than imposed by a private agreement, the provisions of this code shall control. If the provisions of a private agreement impose a greater restriction than this code, the provisions of the private agreement shall control. The county shall not be responsible for monitoring or enforcing private agreements, such as private subdivision covenants and restrictions.

**II. Exercise of authority.** Whenever a provision appears requiring the director, or the head of any other county department to perform an act or duty, it shall be construed to authorize the director or the head of any other county department to designate, delegate and authorize subordinates to perform the duty or act.

**III. Computation of time.** The time within which an act is to be done shall be computed by excluding the first and including the last day; or if the last day is a Saturday, Sunday or legal holiday observed by the county, the next business day shall be the deadline. References to “days” are calendar days (versus business or workdays), unless otherwise stated.

- A. Day. The end of the day shall be at 5:00 P.M., local time.
- B. Week. The word “week” shall mean seven (7) days.
- C. Month. The word “month” shall mean thirty (30) days.
- D. Year. The word “year” shall mean three hundred and sixty-five (365) days.

**IV. Fractions.** Whenever a fraction is generated in the computation of standards, such as required parking spaces or the number of required trees or shrubs, the fraction shall be rounded to the next highest whole number.

**V. Word usage.**

- A. Tense. Words used in present tense include the future, unless the context clearly indicates the contrary.
- B. Singular and plural. A word importing the singular number may extend and be applied to several persons and things as well as to one (1) person or thing. The use of the plural number shall include any single person or thing, unless the context clearly indicates to the contrary.
- C. Shall/must/may/should. The words “shall” and “must” means mandatory, “may” means permissive and “should” means preferred.
- D. Masculine/Feminine. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- E. Conjunctions. Unless the context clearly suggests otherwise, conjunctions shall be interpreted as follows:
  - “And” means that all connected items, conditions, provisions or events apply; and
  - “Or” means that one or more of the connected items, conditions, provisions or events apply.



- F. Common/technical terms. Unless specifically defined by this code, words and phrases shall be construed according to the common and approved meaning of the term, but technical words and phrases which have acquired a particular meaning shall be understood according to such meaning.
- G. Lists and examples. Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.
- H. References to statutes, regulations, publications and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

**Sec. 81-6 Incorporation of relevant maps and documents**

The county uses the following maps and documents as general sources of information to provide initial guidelines for siting development, and for alerting the county, the applicant, and the public about the physical characteristics of a parcel and the area in which it is located. Site-specific studies shall be required of individual parcels as the director deems necessary to more definitively determine individual characteristics and how they may affect a development proposal.

- I. **Adopted maps, plans, and documents.** The following maps, plans, documents, and studies, as such may be revised, updated, or redrafted from time to time, are hereby adopted by reference and declared a part of this code:
  - A. The special flood hazard areas identified by FEMA in the August 19, 2010, *Flood Insurance Study: La Plata County, Colorado and Incorporated Areas, Volumes 1 and 2* and accompanying flood insurance rate maps and floodway maps and the February 2008 study, prepared by Baker Engineering and Energy, entitled *La Plata County, Colorado Technical Support Data Notebook: Zone A Analysis La Plata, Florida, and Animas Rivers* including all attachments, revisions and supporting documentation (as shown in county GIS BFE floodplain layers, hydraulic models, etc.).
  - B. Animas Valley Zone Districts, Resolution 1993-44 as amended, as shown in county GIS layers.
  - C. Crowbar Creek Planning Area, Resolution 1994-29 as amended, as shown in county GIS layers.
  - D. Gem Village Economic Development Area, Resolution 1995-35 as amended, as shown in county GIS layers.
  - E. Joint Planning Area Intergovernmental Agreement adopted April 1, 2014 as amended, as shown in county GIS layers.
  - ~~B.F.~~ Reserved.
- II. **Reference maps and documents.** The county may use those plans, studies, and maps, as they may be amended and updated from time to time, in appendix section 81-6 as general references.
- III. **City of Durango reference maps and documents.**
  - A. Intergovernmental agreement regarding cooperative land use planning between the City of Durango, Colorado and La Plata County, Colorado.
  - B. City of Durango comprehensive plan and map, including the Durango District and La Posta Area District area plans, and City of Durango zoning maps.
  - C. City of Durango Storm Drainage Criteria Manual
- IV. **Any other plans, studies and maps that are adopted by the county from time to time.**

**Sec. 81-7 Severability**

If any section, subsection, paragraph, clause, phrase, or provision of this code shall be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect the validity of this code, as a whole or any part or provision hereof, other than the part so adjudged to be invalid or unconstitutional. It is the declared legislative intent that the remaining provisions of this code shall continue in full force and effect.

**Sec. 81-8            Repeal**

Except to the extent necessary to enforce compliance with permits issued pursuant thereto or issued prior to the effective date, chapters 62, 66, 70, 74, 82, 86, 102 and 106 of the La Plata County land use code are hereby repealed on the effective date of this code. The repeal of these chapters does not revive any other provisions, resolutions, ordinance, codes or other regulations repealed by this provision.



**Chapter 70 - Technical Appendix**  
**Section 70-9 Drainage Criteria Standards**

All existing documents and amendments made to the referenced versions of documents in this appendix are hereby referenced as applicable and relevant to the county. At any time, the planning engineer may allow deviations from these amendments if the applicant's engineer demonstrates and provides documentation that these deviations meet common drainage engineering practices.

- A. Developments within the ~~Joint Cooperative~~ Planning Area shall conform to the City of Durango's Storm Drainage Criteria Manual. Developments within other cooperative planning areas shall conform to standards identified within the IGA related to such cooperative planning area.
- B. Developments in all other areas shall conform to The Urban Storm Drainage Criteria Manual (USDCM), version 2018, including all revisions (available digitally from the planning engineer) with amendments in (D-H) below.
- C. Amendments to USDCM. These amendments are made to the referenced version of USDCM to make the manual applicable and relevant to the county. At any time, the planning engineer may allow deviations from these amendments if the applicant's engineer demonstrates and provides documentation that these deviations meet common drainage engineering practices.
- D. General Amendments to entire USDCM:
  - 1. The Colorado Urban Hydrograph Procedure (CUHP) is not applicable in La Plata County. The planning Engineer accepts the following methodologies:
    - a. Modified Rational Method. The modified rational method (MRM) is an extension of the rational method to produce simple runoff hydrographs.
    - b. Technical Release 20 (TR-20) Computer Program for Project Formulation Hydrology. A copy of TR-20 is available digitally from the planning engineer.
    - c. Technical Release 55 (TR-55) Urban Hydrology for Small Watersheds as known as the USDA Soil Conservation Service (SCS) Method. A copy of TR-55 is available digitally from the planning engineer.
    - d. The use of the following computer programs are also acceptable:
      - (i) HydroFlow (within AutoCAD Civil 3D program);
      - (ii) HydroCAD;
      - (iii) PondPack;
      - (iv) Other programs may be acceptable but shall first be approved by the planning engineer prior to utilizing it.
- E. Amendments to USDCM Volume 1 – Management, Hydrology and Hydraulics
  - 1. Chapter 1 – Drainage Policy. No Amendments.
  - 2. Chapter 2 – Drainage Law. No Amendments.
  - 3. Chapter 3 – Planning. No Amendments.
  - 4. Chapter 4 – Flood Risk Management. Amend to delete Chapter 4 in its entirety, Floodplain management policy for the county is approved pursuant to Chapter 78: Floodplain Management of the La Plata Land Use Code.
  - 5. Chapter 5 – Rainfall
    - a. Clarification: Utilize NOAA Atlas 14 at <https://hdsc.nws.noaa.gov/hdsc/pfds/> to obtain rainfall depth-duration-frequency values.

- b. Amend to delete Section 3.0 - Design Distribution for CUHP in its entirety.
- 6. Chapter 7 – Streets, Inlets, and Storm Drains Amend to add the following:
  - a. Design Depth Criteria. The primary design objective is to keep the encroachment of stormwater on the street or road below an acceptable limit for a given flood return period. When stormwater collects on a street and flows down a gutter or swale, the stormwater encroaches into the roadway. If left unchecked, the encroachment will hinder traffic flow and may become hazardous. The maximum encroachment depth over the crown is six (6) inches during the ten (10) year storm and eighteen (18) inches during the one hundred (100) year storm. The public works director shall determine county roads and arterial roadways overtopping.
- 7. Chapter 8 – Open Channels. Amend to add the following:
  - a. Freeboard is one (1) foot. Grass-lined open channels conveying less than fifty (50) cubic feet per second (cfs) may reduce the minimum freeboard to convey one and thirty-three hundredths (1.33) times the one hundred (100) year storm event design flow. ~~The reduced freeboard may only occur if a one (1) foot minimum freeboard is not physically possible.~~
  - b. Grass lined channels shall be designed so that flow velocities do not exceed six (6) feet per second during the one hundred (100) year storm. If velocities above six (6) feet per second are unavoidable, provide channel stabilization that meets industry standards and provide calculations showing shear forces generated during the one hundred (100) year storm.
  - c. Side slopes shall not exceed two (2) horizontal to one (1) vertical (2H:1V). If slopes are greater than 2H:1V are unavoidable due to site constraints, provide documentation showing how channels will be safely stabilized and maintained.

F. Amendments to USDCM Volume 2 – Structures, Storage and Recreation

- 1. Chapter 9 – Hydraulic Structures. No Amendments.
- 2. Chapter 10 – Stream Access and Recreational Channels. No Amendments.
- 3. Chapter 11 – Culverts and Bridges Amend to add the following:
  - a. Culverts shall be designed to the following maximum headwater to depth (HW/D) requirements:

Diameter Range (in inches)	Max HW/D Ratio
<36	2.0
>36 – 60	1.7
>60 – 84	1.5
>84 – 120	1.2
>120	1.0

- 4. Chapter 12 – Storage. Amend to add the following:
  - a. 2.0 - Implementation of Regional, Sub-regional, and On-site Detention
    - (i) Exemptions to stormwater detention. Exemptions to stormwater detention shall not jeopardize the public health, safety, and welfare of public and private property. The applicant shall provide documentation at submittal to demonstrate

that project qualifies for an exemption. The following uses are exempt from stormwater detention:

- i. Development of sites where the use does not increase the one hundred (100) year runoff by five (5) percent or totals ~~increase is~~ less than one (1) cubic feet per second, whichever is less.
- ii. An individual parcel with an unobstructed flow path and no other parcel between the Federal Emergency Management Administration (FEMA) regulatory floodplain channel and the project. Water quality measures may still be required.
- iii. Residential lots where all of the following exist: Nine (9) or fewer lots, average lot size greater than or equal to two (2) acres per lot, ~~total post development imperviousness does not exceed ten (10) percent.~~
  - (ii) The county requires detention of runoff through an on-site or regional detention facility. The required volume detains the difference between the one hundred (100) year storm falling on the developed site and the one hundred (100) year storm falling on the undeveloped site.
  - (iii) The detention facility outlet structure shall release the detained water in two (2) stages:
    - i. Ten (10) year storm event pre-development flow during the ten (10) year storm event post-development flow;
    - ii. One hundred (100) year storm event pre-development flow during the one hundred (100) year storm event post-development flow.
  - (iv) Detention volumes shall be calculated by the difference in pre-development and post-development hydrographs or by the modified rational method.
  - (v) The design of the detention facility must provide evidence that the pond will drain in accordance with CRS 37-92-602(8), as amended. A detention facility that can cause injury to water rights or is in violation of State or Federal law will not be accepted.
  - (vi) Amend to delete subsection 2.4 - Detention and UDFCD 100-year Floodplain Management Policy in its entirety. The county's floodplain management policy can be found in Chapter 78: Floodplain Management of the La Plata Land Use Code.
- b. 3.0 - Full Spectrum Detention. Amend to delete this section in its entirety.
- c. 4.0 - Sizing of Full Spectrum Detention Storage Volumes. Amend to delete this section in its entirety.
- d. 5.0 - Design Considerations. Amend to add the following:
  - (i) Each detention facility shall include volume for the water quality capture volume. Water quality capture volume may be included as a portion of the total one hundred (100) year storm event detention facilities' volume. The water quality capture volume is to be drained over forty (40) hours.
  - (ii) Side Slopes. Side slopes of the embankment shall not be steeper than three (3) horizontal to one (1) vertical except where retaining walls are used.
  - (iii) The elevation of the top of the embankment should be a minimum of one (1) foot above the 100-year water surface elevation ~~when the emergency spillway is conveying the maximum design or emergency flow.~~

- (iv) Each detention facility shall contain an emergency spillway capable of conveying the un-detained one hundred (100) year storm discharge draining into the detention facility, both on-site and off-site. The inside crest elevation of the emergency spillway shall be equal to, or above, the one hundred (100) year water surface elevation. The depth of flow out of the emergency spillway shall be six (6) inches or less. The spillway shall have effective erosion protection. In order to protect the emergency spillway from catastrophic erosion failure, buried or grouted riprap shall be placed from the emergency spillway downhill to the embankment toe of slope and covered with six (6) inches of topsoil, if buried. Grouting of the riprap may be required.
      - (v) The outlet pipe bedding material must consist of native earthen soil, not granular bedding material, to at least the first downstream manhole or daylight point.
      - (vi) Irrigation ditches shall not be used as outfall points for stormwater runoff without written permission from the controlling entity. If allowed, the outlet invert shall be above the normal operational water surface elevation to prevent irrigation water from entering the detention facility.
    - e. 6.0 - Additional Configurations of Detention Facilities. Amend to add the following:
      - (i) Retention facilities are only allowed where a detention facility is not practical and where there are no adverse impacts to upstream or downstream properties.
      - (ii) Retention facilities shall be designed to contain two (2) times the additional volume of the runoff due to the development generated by the twenty-four (24) hour, one hundred (100) year storm, plus one (1) foot of freeboard.
      - (iii) The design of the retention facility must include an emergency spillway and must show that a spill will not adversely impact downstream properties or residences. The spillway must be designed in accordance with the detention facility spillway requirements.
      - (iv) The design of the retention facility must provide evidence that the pond will drain through the bottom (sides slopes cannot be used in calculation) in accordance with CRS 37-92-602(8), as amended. Percolation rates for the on-site soil shall be provided. A retention pond that can cause injury to water rights or is in violation of state or federal law will not be accepted.
    - f. 7.0 - Designing for Safety, Operation, and Maintenance. No Amendments.
    - g. 8.0 - Design Examples. No Amendments.
    - h. 9.0 – References. No Amendments.
  - 5. Chapter 13 – Revegetation. Amend to add the following guidance:
    - a. County recommends that the applicant consult an environmental scientist to verify proper seed mix designs.
- G. Amendments to USDCM Volume 3 – Stormwater Quality
- 1. Chapter 1 – Stormwater Management. No Amendments.
  - 2. Chapter 2 – Best Management Practices (BMPs) Selection. No Amendments.
  - 3. Chapter 3 – Calculating WQCV and Volume Reduction. No Amendments.
  - 4. Chapter 4 – Treatment BMPs. No Amendments.
  - 5. Chapter 5 – Source Control BMPs. No Amendments.
  - 6. Chapter 6 – BMP Maintenance. No Amendments.



7. Chapter 7 – Construction BMPs. No Amendments.

H. Additional Stormwater Drainage Criteria.

1. State Dam Safety Requirements. Applicant shall provide documentation in the drainage report that each detention facility either meets or exempt from meeting the State of Colorado Dam Safety Requirements.
2. Other Jurisdictional Criteria. Applicant shall take into consideration other jurisdictional drainage criteria when developing upstream from said jurisdictions.
3. Drainage Easements. Minimum width for drainage easements is fifteen (15) feet.

**Chapter 70 Technical Appendix**  
**Section 70-4 Water Specifications & Standard Water Details**

**SECTION A: WATER SYSTEM PIPING**

I. General. Work required under this section shall include furnishing all materials, labor, equipment and miscellaneous items necessary to install, disinfect, and test water system piping, and appurtenances for water systems.

II. Materials.

A. All materials including pipe, fittings, valves, joints and fire hydrants must conform to applicable standards issued by ASTM, AWWA, and ANSI/NSF that are current at the time of project submittal and must be ANSI/NSF 61 certified. If any of the applicable standards conflict, the more stringent standard shall apply. Specifically, but not by way of limitation, the following standards, as the same may be amended, shall apply to developments subject to the specifications and details set forth in this Appendix.

B. Pipe

1. Polyvinyl Chloride (PVC) Pressure Pipe shall have a minimum DR 21 (200 psi pressure class) and shall meet the criteria of the current publication of AWWA C900; or
2. High-Density Polyethylene (HDPE) Pressure Pipe shall have a minimum DR 21 (200 psi pressure class), meet the criteria of the current publication of ANSI/AWWA C901/906, and shall meet PE4710.
3. Water mains that provide fire protection, serve fire hydrants, or will provide fire protection in the future must have a minimum nominal pipeline diameter of six inches (6"). Water mains that do not provide fire protection must have a minimum nominal pipeline diameter of two inches (2"). Any deviations in minimum pipe diameter must be specifically approved, in writing, by the planning engineer.

C. Tracer wire No. 14 gauge insulated, stranded copper. All splices shall be watertight, underground type.

D. Magnetic tape.

1. Detectable marking tape shall consist of a minimum of five mil (0.0005") overall thickness; five (5) ply composition; ultra-high molecular weight; one hundred percent (100%) virgin polyethylene; acid alkaline and corrosion resistant. Elongation properties shall be in accordance with ASTM D882-80A and shall be less than one hundred fifty percent (150%) at break. The tape shall have a 20 gauge (0.0020") solid aluminum foil core, encapsulated within 2.55 mil (0.00255") polyethylene backing.
2. Tape color and legend combination shall be in accordance with APWA. The color shall be blue. The legend shall read "CAUTION - WATERLINE BELOW".
3. Tape width shall be three-quarters (3/4) of the diameter of the pipeline being protected.

E. Isolation gate valves. Isolation gate valves shall be resilient seat type and shall meet the criteria of the current publication of AWWA C509. Gate valves shall meet the following requirements:

1. Iron body, resilient seat, parallel-seal conforming to AWWA C509 for buried service.

2. Pressure rating - 250 psi.

3. Wrench nut - two-inch (2") square, open by turning to the left (counterclockwise).

4. Stem - non-rising.

5. Epoxy coated.

F. All chemicals introduced into the potable water system must be ANSI/NSF 60 certified.

III. Pipe and appurtenance installation.

A. Installation. Installation of waterlines and all appurtenances shall meet current publications of applicable AWWA/ANSI standards.

B. Bedding. Bedding shall comply with the standards set forth in water detail W01.

C. Pipe cover. The minimum depth of cover of water mains shall be as follows:

<u>Elevation</u>	<u>Minimum Depth of Cover (ft)</u>
<u>7,500'+</u>	<u>Seek County Approval</u>
<u>Below 7,500'</u>	<u>5'</u>

D. Location. All waterlines and appearances shall be installed in road rights-of-way or in a non-exclusive dedicated easement, in accordance with county requirements detailed in standard water detail W03.

E. Tracer wire. Electrical tracing wire is required on all water mains. The wire shall be taped to the top of the pipe at ten (10) foot intervals to prevent dislocation of the wire during backfilling. Wire shall be extended to the ground surface at all valves, fire hydrants, and other above ground water appurtenances, and shall be brought up on the outside of the valve box. When the wire is within four inches (4") of the lid of the valve box, the wire shall be brought back inside the box and securely fastened. Twenty-four inches (24") of slack in the wire outside of the box must be provided to compensate for any future adjustment to the valve box.

F. Magnetic tape. Magnetic tape is required for all pipe and shall be located a minimum of twelve inches (12") below finished grade.

G. Isolation gate valves. All gate valves shall be installed with a two inch (2") operating nut plumb and shall be true with the vertical and centered within the valve box. The operating nut shall be no deeper than six feet (6') of finished grade unless an extension is provided and attached to the nut, as outlined in standard water detail W04.

1. Whenever possible, water main valves shall be located at roadway intersections. Valves must be placed on all runs of a tee or cross. For instance, each cross shall have four (4) valves located at the intersection while tees shall have three (3) valves located at the intersection. Valves shall be located at the intersection within three feet (3') of a tee, cross, or bend and all connections shall have Mega-Lug on the fitting. All mechanical

joint fittings including those with tie rods will have Mega-Lug fittings and concrete thrust blocks. Valves shall be located at the end of all dead-end intersections for future connections.

2. Valves shall be spaced to minimize the number of service laterals out of service at one time due to a break in the water main. At a minimum, valves are to be spaced so that no more than five (5) service laterals are taken out of service at a time.

3. All distribution mains connecting to transmission mains must be valved at the tie-in.

H. Joint restraint. Concrete thrust blocks or mechanical restraint shall be provided for all tees, elbows, plugs, reducers, valves, fire hydrants and crosses if one or more sides of the cross is plugged. Concrete for thrust blocks shall have 3,000 psi compressive strength. Concrete support blocks shall be placed under all valves.

I. Pressure and leakage testing. Installed pipe shall be pressure and leakage tested in accordance with the current publication of AWWA C605 "Underground Installation of Polyvinyl Chloride (PVC) and Molecularly Oriented Polyvinyl Chloride (PVCO) Pressure Pipe and Fittings" or AWWA Manual M55 "PE Pipe – Design and Installation" for HDPE pipe, as applicable.

J. Disinfection. Water pipelines shall be disinfected, flushed, and bacteriologically tested in accordance with the current publication of AWWA C651 "Disinfecting Water Mains".

#### IV. Separation from contamination sources.

A. Parallel installation. Water lines shall be located a minimum of ten feet (10') horizontally from sewer mains, storm sewer, raw surface water pipes, reclaimed water pipes, liquid petroleum pipes, septic tanks, or subsoil treatment systems. The distance must be measured from edge to edge.

B. Crossings. Wherever the sewer mains, storm sewer, raw surface water pipes, reclaimed water pipes, or liquid petroleum pipes crosses above or within eighteen inches (18"), as measured from edge to edge of pipe, beneath the water mains these pipes shall be made impervious by the methods listed below:

1. Concrete encasement for twenty feet (20'), centered over the waterline.

2. In all cases, select granular backfill shall be used to prevent any settling of the higher pipe.

V. Separation from other utilities. Water mains shall be installed to ensure adequate separation from other utilities such as electrical, telecommunications, and natural gas lines. Clearance shall be five feet (5') minimum or as required by utility company, whichever is greater.

VI. Service connections. Customer service connections shall be installed in accordance with standard water detail W02 and section B below.

### **SECTION B: WATER SYSTEM SERVICE LATERALS**

I. General. Work required under this section shall include furnishing all materials, labor, equipment and miscellaneous items necessary to install all water service lines and appurtenances as specified herein. All work completed and materials used from the curb valve to the building shall comply with the standards set forth in the most recently adopted International Plumbing Code.

#### II. Materials.

A. Service pipe. All pipe used for services must conform to the applicable standards issued by ASTM,

AWWA, and ANSI/NSF that that are current at the time of project submittal. If any of the applicable standards conflict, the more stringent standards shall apply. Specifically, but not by way of limitation, the following standards, as the same may be amended, shall apply to developments subject to the specifications and details set forth in this Appendix A:

1. Type K Soft Copper shall meet the current publication of ASTM B88 "Standards Specification for Seamless Copper Water Tube."
2. High-Density polyethylene (HDPE) Pressure Pipe shall have a minimum DR 9 (250 psi pressure class) shall meet standards and requirements set forth in the current publication of ANSI/AWWA C901 and shall meet PE4710.
3. Crosslinked Polyethylene (PEX) Pressure Tubing, shall meet the standards and requirements set forth in the current publication of AWWA C904 "Crosslinked Polyethylene (PEX) Pressure Tubing, 1/2 in. through 3 in., for Water Service."

B. Corporation stops. Unless specifically enumerated herein, the applicant shall meet the standards and specifications set forth in the current publication of AWWA C800 "Underground Service Line Valves and Fittings":

1. Material - brass or bronze.
2. Size - same as service line.
3. Inlet - threaded CC type.
4. Outlet - compression fittings.

C. Service saddles. Service saddles shall be installed on all service connections. Unless specifically enumerated herein, the applicant shall meet the standards and specifications set forth in the current publication of AWWA C800 "Underground Service Line Valves and Fittings."

1. Materials - bronze service clamp, 'O' ring gasket, double strap, brass, CC thread.

D. Curb stops. Unless specifically enumerated herein, the applicant shall meet the standards and specifications set forth in the current publication of AWWA C800 "Underground Service Line Valves and Fittings."

1. Materials - cast bronze body, resilient 'O' ring seals, standard tee head operator, Teflon ball valve type.
2. Riser rods - stainless steel.
3. Inlet -compression fitting.
4. Outlet - compression fitting.

E. Curb boxes.

1. Curb box must be traffic rated when located within traffic areas.
2. Material - cast iron.

F. Couplings.

1. Couplings are not allowed for services less than one hundred feet (100') long from the curb stop to the main and curb stop to house.
2. In the case of a service line exceeding the available length of copper piping, couplings may be

used.

3. If a coupling is used the service line must be tested to one and one-half (1.5) times normal working pressure or 150 psi minimum with the coupling exposed so a water system representative can verify.

G. ANSI/NSF 61 certified. All materials, including pipe, fittings, valves, and joints, used for the potable water system must be ANSI/NSF 61 certified.

H. Chemicals. All chemicals introduced into the potable water system must be ANSI/NSF 60 certified.

I. Tracer wire No. 14 gauge insulated, stranded copper. Tracer wire is required for all pipes, and all splices shall be watertight, underground type.

III. Installation. Installation of water service lines and all appurtenances shall meet current publications of applicable AWWA/ANSI standards.

A. Curb box. The curb box shall be placed on the property line; however, at all times, it will fall on the right-of-way or easement side of the property line.

B. Trenching and bedding. Bedding shall comply with standard water detail W02. Water service lines shall be placed in prepared trenches free of rocks and debris. Pipes will be placed so that they are relaxed and "snaked" loosely in the trench and shall not be bent more than the minimum bend radius for the DR of the service line. Rocks or other hard objects shall not be allowed in the vicinity of the buried water service line.

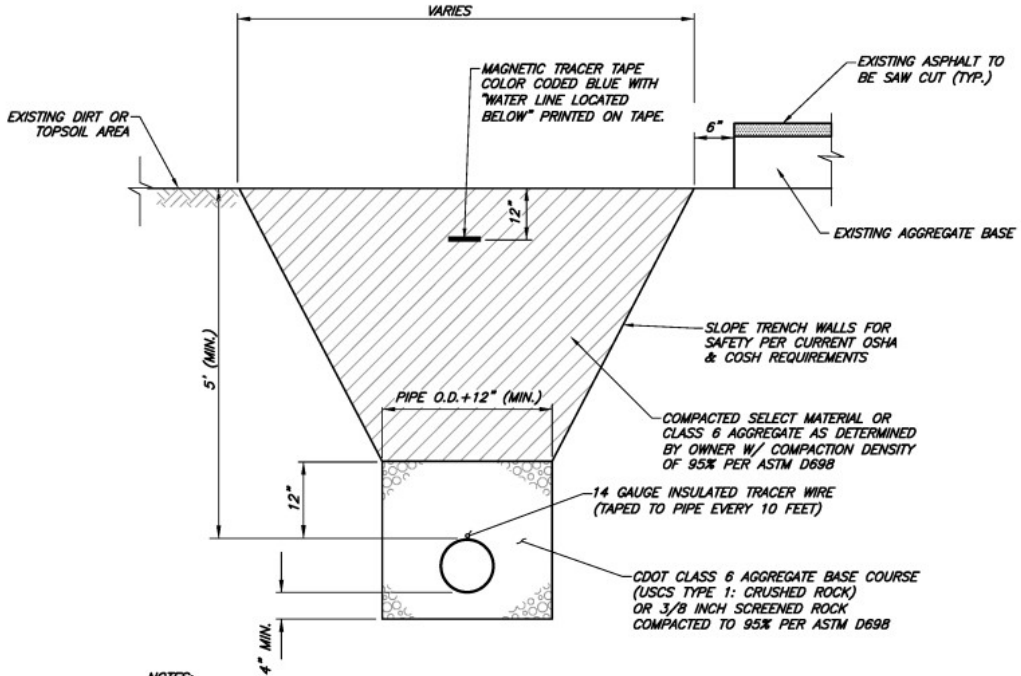
C. Pipe cover. The minimum depth of cover is set forth in standard water detail W02.

D. Tracer wire. Tracer wire is only required for HDPE or PEX pipe. Electrical tracing wire shall be taped to the top of the pipe at ten foot (10') intervals to prevent dislocation of the wire during backfilling. Wire shall be extended to the ground surface at all curb boxes and other above ground water appurtenances, and the tracing wire shall be brought up on the outside of the valve box. When the wire is within four inches (4") of the top of the valve box lid, the wire shall be brought back inside the box and securely fastened. Sufficient slack must be provided in the wire outside of the box to compensate for any future adjustment to the valve box.

E. Pressure and leakage testing. Installed pipe shall be pressure and leakage tested in accordance with the current publication of AWWA C605 "Underground Installation of Polyvinyl Chloride (PVC) and Molecularly Oriented Polyvinyl Chloride (PVCO) Pressure Pipe and Fittings" or AWWA Manual M55 "PE Pipe – Design and Installation" for HDPE or PEX pipe, as applicable.

F. Disinfection. Water pipelines shall be disinfected, flushed, and bacteriologically tested in accordance with the current publication of AWWA C651 "Disinfecting Water Mains".

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**NOTES:**

1. PAVEMENT REPLACEMENT SHALL BE IN ACCORDANCE WITH THE COUNTY'S ROAD AND BRIDGE DEPARTMENT REQUIREMENTS.
2. BELL HOLES SHALL BE DUG DEEP ENOUGH TO PROVIDE A MINIMUM OF 2 INCHES OF CLEARANCE BETWEEN THE BELL AND BEDDING MATERIAL. ALL PIPES SHALL BE INSTALLED IN SUCH A MANNER AS TO ENSURE FULL SUPPORT OF THE PIPE BARREL OVER ITS ENTIRE LENGTH. AFTER THE PIPE IS ADJUSTED FOR LINE AND GRADE, AND THE JOINT IS MADE, THE BEDDING MATERIAL SHALL BE CAREFULLY PLACED AND TAMPED UNDER THE HAUNCHES OF THE PIPE AND IN THE PREVIOUSLY DUG BELL HOLES.
3. DIRT / TOPSOIL PLACEMENT SHALL MEET EXISTING THICKNESS AND KIND WITH THE FOLLOWING MINIMUMS:  
4" TOPSOIL.
4. SELECT MATERIAL AS FOLLOWS:  
6" MAXIMUM SIZE IN TOP 12" OF BACKFILL  
12" MAXIMUM SIZE IN REMAINDER OF BACKFILL

**WATER TRENCH w/TRACER TAPE CROSS-SECTION**  
NTS

Prepared by **SGM**



La Plata County  
Waterline Standard Details

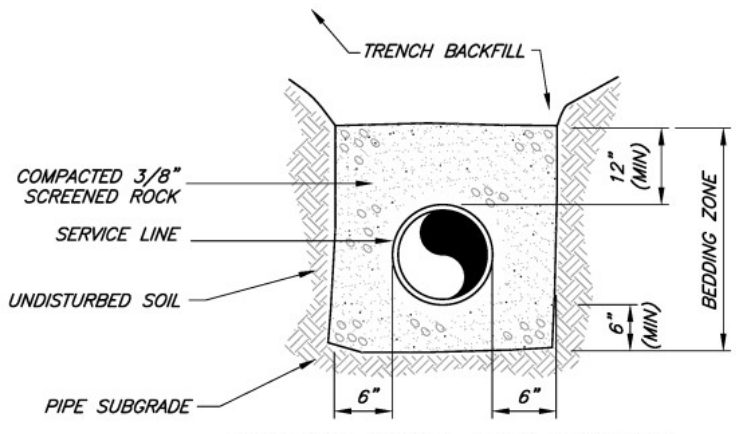
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Typical Trench Detail

W01



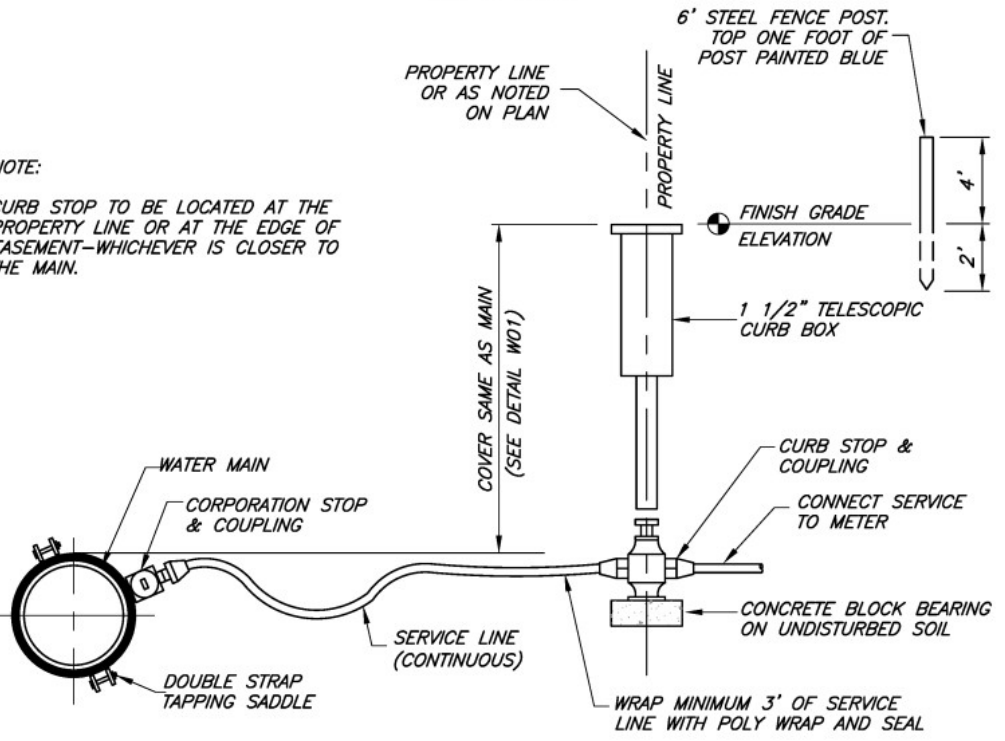
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**SERVICE STUB-OUT BEDDING**  
NOT TO SCALE

**NOTE:**

CURB STOP TO BE LOCATED AT THE PROPERTY LINE OR AT THE EDGE OF EASEMENT—WHICHEVER IS CLOSER TO THE MAIN.



**TYPICAL WATER SERVICE DETAIL**  
NTS

Prepared by **SGM**



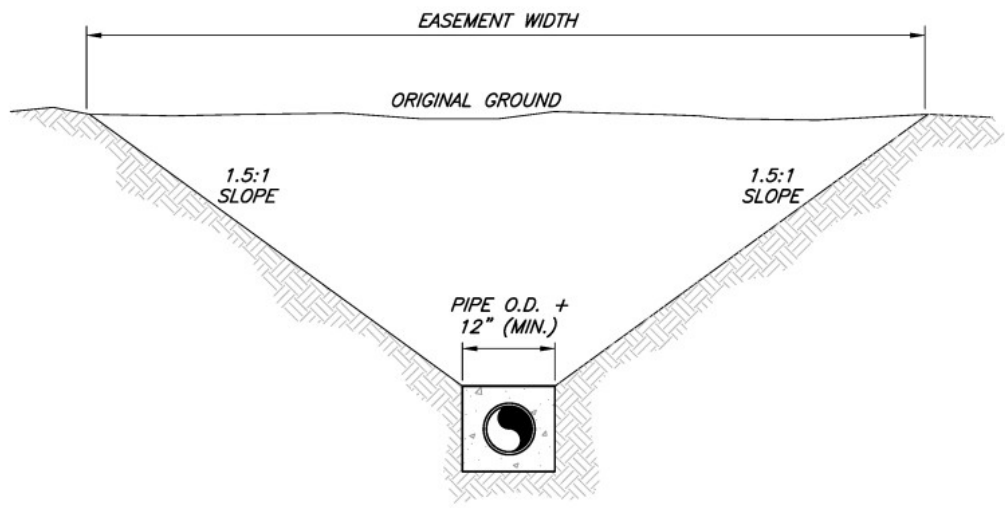
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Waterline Standard Details

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Typical Water Service Detail

W02

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**GENERAL NOTES:**

1. MINIMUM EASEMENT WIDTH OF 20 FEET FOR 1 LINE
2. MINIMUM EASEMENT WIDTH OF 30 FEET FOR 2 LINES
3. NO PERMANENT IMPROVEMENTS SHALL BE INSTALLED WITHIN EASEMENT AREA SUCH AS LANDSCAPING, CONCRETE, ETC.
4. CALCULATE EASEMENT WIDTH AS FOLLOWS: DEPTH TO TOP OF PIPE X 1.5 X 2 + 3' (ROUNDED UP IN 5' INCREMENTS)  
EXAMPLE: 10' DEEP PIPE = 35' WIDE EASEMENT

**MINIMUM EASEMENT WIDTH**  
NTS

Prepared by **ESGM**



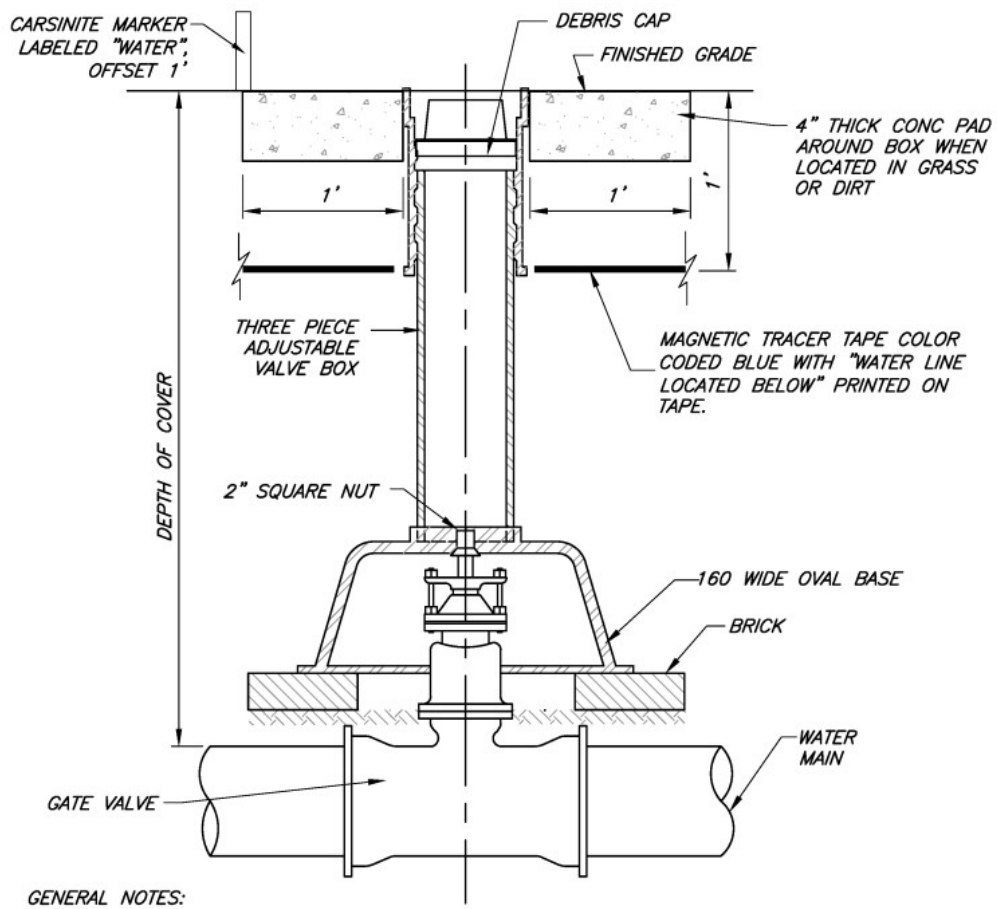
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Waterline Standard Details

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Easement Width Detail

W03

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**GENERAL NOTES:**

1. IN LINE VALVES TO BE MJ x MJ. DESIGN LOCATIONS OF VALVES ARE OUTSIDE OF CONCRETE, CURB/GUTTER AND VALLEY PANS.
2. INSTALLED VALVES WHICH CONFLICT WITH CONCRETE AREAS SHALL BE RELOCATED AT THE CONTRACTOR'S EXPENSE.
3. THIS DETAIL DOES NOT APPLY TO HYDRANT ASSEMBLY VALVES.
4. OPERATING NUT EXTENSION SHALL BE PROVIDED TO THE MICRO WATER SYSTEM OWNER AS PART OF THE VALVE ASSEMBLY.
5. ALL VALVES ADJACENT TO FITTING SHALL BE FLANGE x MJ. FITTING SHALL BE FLANGED NEXT TO VALVE. LINE VALVES TO BE MJ x MJ. DESIGN LOCATIONS OF VALVES ARE OUTSIDE OF CONCRETE.
6. CURB/GUTTER AND VALLEY PANS. INSTALLED VALVES WHICH CONFLICT WITH CONCRETE AREAS SHALL BE RELOCATED AT THE CONTRACTOR'S EXPENSE.

**TYPICAL ISOLATION GATE VALVE**  
NTS

Prepared by **SGM**



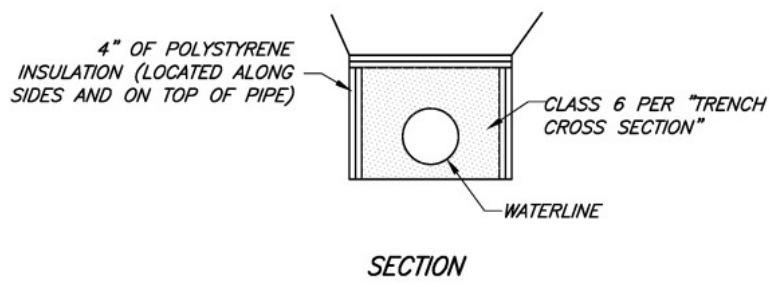
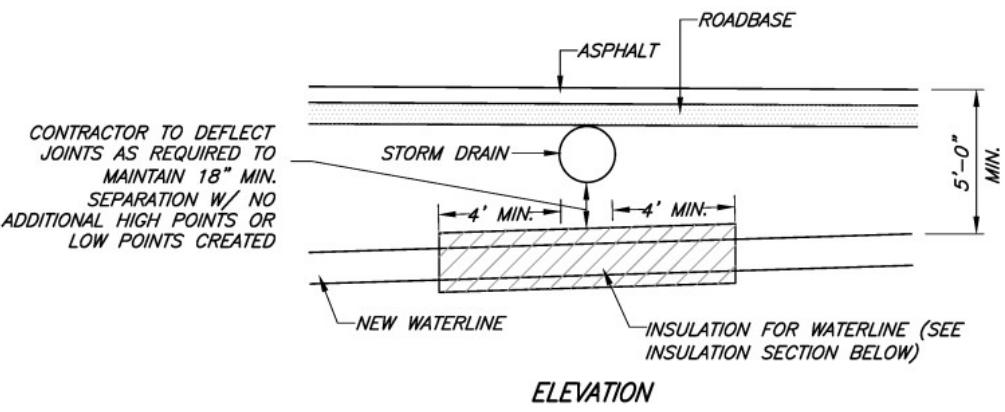
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Waterline Standard Details

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Typical Isolation Gate Valve  
Detail

W04

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**WATERLINE/CULVERT CROSSING**  
NTS

Prepared by **ESGM**



La Plata County  
Waterline Standard Details

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Water Line Insulation Detail **W05**

**Chapter 80 Appendix**  
**Section 81-6 Reference maps and documents**

Reference maps and documents. The county may use the following plans, studies, and maps, as they may be amended and updated from time to time, as general references.

- A. The 2017 comprehensive plan
- B. 2018 Multi-Jurisdictional Hazard Mitigation Plan
- C. La Plata County Community Wildfire Protection Plan (2006)
- D. Wildfire hazard area maps
- E. Burned Area Emergency Response Report – 416 Fire, Columbine Ranger District, San Juan National Forest, 2018
- F. Colorado Water Plan, 2015
- G. The La Plata County Water Critical Map
- H. Geologic hazard maps – June 1976, as prepared for the Animas Regional Planning Commission
- I. USGS maps
- J. U.S. Army Corps of Engineers Wetland delineation Manual
- K. Missionary Ridge Rockfall Study, 2008
- L. FEMA La Plata County Flood Insurance Study, 2010
- M. Level of Service Study, Felsburg, Holt & Ullevig, 2019
- N. La Plata County: Cost of Land Use Fiscal Analysis, TishlerBise, 2017
- O. La Plata County Pavement Condition Index, IMS 2017
- P. The La Plata County Road Map
- Q. La Plata County Annual Road Maintenance Map
- R. 2015 Regional Housing Alliance Housing Demand Forecast
- S. Maps of drilling windows, flowline locations, and directional wellbores as approved by the COGCC
- T. Fruitland Outcrop Hazard Zone Map
- U. Reservation Air Code, Southern Ute Indian Tribe/State of Colorado, 2012
- V. Southern Ute Indian Comprehensive Emissions Inventory
- W. The La Plata County Trails Plan (2000), including component needs and opportunities analysis maps
- X. Permitted sand and gravel operations locations as shown on maps prepared by the CDMRS
- Y. Urban Storm Drainage Criteria Manual as published by the Mile-High Flood District