

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO:** El Paso County Planning Commission  
Brian Risley, Chair

**FROM:** Nina Ruiz, Planning Manager  
Mark Gebhart, Deputy Director  
Craig Dossey, Executive Director

**RE:** LDC-21-001 Land Development Code Amendment -  
Appeals of Administrative Decisions Amendments to Chapters 1, 2,  
5, and 7 of the El Paso County Land Development Code (2021) to  
clarify the requirements and procedures for appeals of  
administrative decisions and determinations by the Planning and  
Community Development Director

**Commissioner District:** All

|  |          |
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| Planning Commission Hearing Date           | 3/4/2021 |
| Board of County Commissioners Hearing Date | 3/9/2021 |

### EXECUTIVE SUMMARY

A request by the El Paso County Planning and Community Development Department to amend Chapters 1, 2, 5, and 7 of the El Paso County Land Development Code (2021) to clarify the requirements and procedures for appeals of administrative decisions and determinations by the Planning and Community Development Director.

The proposed amendments include:

- Adding a definition for "Aggrieved";
- Amending Section 2.2.3.A to clarify that an affirmative vote of at least 4 members is required for approval of an appeal, but not for all applications to the Board of Adjustment;

- Amending Section 2.2.3.B to allow for appeals to the Board of Adjustment of those items specifically under the authority of the Board of Adjustment as outlined in the Code;
- Amending Section 5.2.38.C.2.a to clarify that the appeal of such a decision is to be in accordance with the provisions included within the Code and the Procedures Manual;
- Amending Section 5.2.59.K.8 to clarify that the appeal must be made within 30 days and in accordance with the Code and Procedures Manual;
- Amending Section 5.3.6. to add an “Appeals” subsection;
- Amend Section 5.5.2.B.1 to provide specific procedures and guidance for appeals to the Board of Adjustment;
- Removing Section 5.5.7.G, Nonconforming Lots Subject to Board of Adjustment Review, and moving the “common ownership” section to the “Merger by Contiguity” section found in Chapter 7;
- Amending Section 5.6.7.C.3-4 to combine the two requirements into one to avoid duplication and confusion; and
- Amending Section 5.6.8.B to revise the wording to avoid future confusion.

Staff is also requesting authority to make all other conforming amendments necessary to carry out the intent of the Board of County Commissioners.

#### **A. PLANNING COMMISSION SUMMARY**

**Request Heard:**

**Recommendation:**

**Waiver Recommendation:**

**Vote:**

**Vote Rationale:**

**Summary of Hearing:**

**Legal Notice:**

#### **B. APPLICABLE RESOLUTIONS:**

Approval Page 7

Disapproval Page 8

#### **C. REQUEST**

A request by the El Paso County Planning and Community Development Department to amend the El Paso County Land Development Code (2021) to include:

- Adding a definition for “Aggrieved”;
- Amending Section 2.2.3.A to clarify that an affirmative vote of at least 4 members is required for approval of an appeal, but not for all applications to the Board of Adjustment;
- Amending Section 2.2.3.B to allow for appeals to the Board of Adjustment of those items specifically under the authority of the Board of Adjustment as outlined in the Code;

- Amending Section 5.2.38.C.2.a to clarify that the appeal of such a decision is to be in accordance with the provisions included within the Code and the Procedures Manual;
- Amending Section 5.2.59.K.8 to clarify that the appeal must be made within 30 days and in accordance with the Code and Procedures Manual;
- Amending Section 5.3.6. to add an “Appeals” subsection;
- Amend Section 5.5.2.B.1 to provide specific procedures and guidance for appeals to the Board of Adjustment;
- Removing Section 5.5.7.G, Nonconforming Lots Subject to Board of Adjustment Review, and moving the “common ownership” section to the “Merger by Contiguity” section found in Chapter 7;
- Amending Section 5.6.7.C.3-4 to combine the two requirements into one to avoid duplication and confusion; and
- Amending Section 5.6.8.B to revise the wording to avoid future confusion.

Staff is also requesting authority to make all other conforming amendments necessary to carry out the intent of the Board of County Commissioners.

#### **D. BACKGROUND**

The El Paso County Land Development Code is routinely amended to respond to current land use trends, recurring issues, changes in legislation, and errors/oversights. The Planning and Community Development Department staff maintains a running list of necessary and recommended revisions to the Code as issues arise.

In accordance with its authority in Article 28 of Title 30, Colorado Revised Statutes, on October 12, 2006 the Board of County Commissioners adopted a revised Land Development Code pursuant to Resolution No. 06-365, which became effective upon further Board action on April 25, 2007 (Reception No. 207056053). While the previous Land Development Code had contained various procedures, including appeals procedures, the revised Code did not include such procedures, the intent being to create a separate Procedures Manual. The Resolution stated that the Executive Director of the then Development Services Department (now known as the Planning and Community Development Department) is “authorized to create for development permit review and department administration the procedures . . . department policies, and implementation tools necessary to fully utilize the Land Development Code”.

The Board approved certain Administrative Authorities, including that set forth above, “with the condition that the Authorities approved by this Resolution will thereafter be incorporated into the Procedures Manual, and with the further condition that the Procedures Manual, when finalized, requires DSD Director approval and may be endorsed by the El Paso County Planning Commission and the Board” (Resolution No. 09-164, Reception No. 209057220). The Planning and Community Development Department is preparing, but has not yet completed, the full and complete Procedures Manual. The revised Code provides

rights to appeal certain administrative actions of the Executive Director of the Planning and Community Department but does not set forth the procedures for such appeals. On October 11, 2018 and pursuant to Resolution 18-389, the Board adopted an interim procedure for the appeal of Executive Director applications or interpretations of the use provisions of the revised Code and of Executive Director action on site plans and site development plans.

The Board has identified a need for the adoption of procedures for the appeal of all other administrative actions by the Executive Director for which a right of appeal is granted in the Code in order to ensure the consistent and equitable processing of appeals of administrative decisions in the future. The Board of County Commissioners placed a temporary six-week moratorium on appeals to allow for development and consideration of proposed appeal procedures on January 21, 2021. The moratorium expires March 17, 2021 or when procedures for such appeals have been adopted, whichever occurs first.

The Planning and Community Development Department has prepared the recommended amendments to the Land Development Code as well as certain applicable sections of the Procedures Manual.

#### **E. RECOMMENDED AMENDMENTS**

A request by the El Paso County Planning and Community Development Department to amend the El Paso County Land Development Code (2021) to include:

- Adding a definition for “Aggrieved”;
- Amending Section 2.2.3.A to clarify that an affirmative vote of at least 4 members is required for approval of an appeal, but not for all applications to the Board of Adjustment;
- Amending Section 2.2.3.B to allow for appeals to the Board of Adjustment of those items specifically under the authority of the Board of Adjustment as outlined in the Code;
- Amending Section 5.2.38.C.2.a to clarify that the appeal of such a decision is to be in accordance with the provisions included within the Code and the Procedures Manual;
- Amending Section 5.2.59.K.8 to clarify that the appeal must be made within 30 days and in accordance with the Code and Procedures Manual;
- Amending Section 5.3.6. to add an “Appeals” subsection;
- Amend Section 5.5.2.B.1 to provide specific procedures and guidance for appeals to the Board of Adjustment;
- Removing Section 5.5.7.G, Nonconforming Lots Subject to Board of Adjustment Review, and moving the “common ownership” section to the “Merger by Contiguity” section found in Chapter 7;
- Amending Section 5.6.7.C.3-4 to combine the two requirements into one to avoid duplication and confusion; and
- Amending Section 5.6.8.B to revise the wording to avoid future confusion.



Staff is also requesting authority to make all other conforming amendments necessary to carry out the intent of the Board of County Commissioners.

**F. APPROVAL CRITERIA**

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

***30-28-116. Regulations may be amended.***

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

**G. PUBLIC COMMENT AND NOTICE**

A summary of the proposed Code amendments and the date of the Board of County Commissioner hearing will be published in The Fountain Valley News pursuant to Colorado Revised Statute 30-28-116. A copy of this publication will be included in the backup materials for the Board of County Commissioners hearing. All the stakeholders were noticed electronically through EDARP of proposed amendments to the Land Development Code and the hearing date.

**H. ATTACHMENTS**

Proposed Amendments to the Land Development Code (2021) (redline version)  
Proposed Amendments to the Land Development Code (2021) (clean version)  
All Comments Received

## Chapter 1 - INTRODUCTORY PROVISIONS

### 1.1. - OFFICIAL TITLE

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

### 1.2. - AUTHORITY

This Code is adopted under the powers granted and authority conferred by the laws of the State of Colorado, including, but not limited to, the following sections of the Colorado Revised Statutes (C.R.S.):

- §§ 22-32-124 et seq. (Zoning, Planning and Building Code Duties of School Boards)
- §§ 24-65-101-106 et seq. (Colorado Planning Act) Repealed June 1, 2005
- §§ 24-65.1-101 et seq. (Areas of State Interest)
- §§ 24-67-101 et seq. (Planned Unit Development)
- §§ 24-68-101 et seq. (Vested Rights)
- §§ 29-20-101 et seq. (Local Government and Land Use Control Enabling Act)
- §§ 30-1-101 et seq. (County Powers and Functions)
- §§ 30-15-101 et seq. (County Regulations Under Police Powers)
- §§ 30-20-100.5 et seq. (Solid Wastes Disposal Sites and Facilities)
- §§ 30-28-101 et seq. (County Planning, Zoning, Subdivision)
- §§ 31-12-101 et seq. (Municipal Annexation)
- §§ 32-1-101 et seq. (Special District Act/Provisions)
- §§ 33-1-101 et seq. (Wildlife)
- §§ 33-2-101 et seq. (Endangered Species Conservation)
- §§ 34-1-301 et seq. (Preservation of Commercial Mineral Deposits)
- §§ 38-30.5-101 et seq. (Conservation Easements)
- §§ 41-4-101 et seq. (Airports)
- §§ 43-2-101 et seq. (Highways)

### 1.3. - APPLICABILITY

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

### 1.4. - PURPOSE

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

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

### 1.5. - RIGHT-TO-FARM

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

#### 1.6. - GENERAL RULES FOR INTERPRETATION OF THIS CODE

##### 1.6.1. Language

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

##### 1.6.2. Headings, Illustrations and Text

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

##### 1.6.3. List and Examples

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

##### 1.6.4. Computation of Time

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

##### 1.6.5. Public Officials and Agencies

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

##### 1.6.6. Exclusion of Uses

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

##### 1.6.7. Use Defined by Code

When a use is expressly defined in this Code, or when a use is categorized by an administrative determination, similar uses which are not listed or defined shall fall within the same category of use

by character, descriptor, and intensity as determined by the Planning and Community Development Department (PCD) Director.

(Res. No. 17-374, Exh. A, 12-12-2017)

#### 1.7. - DELEGATION OF AUTHORITY

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

#### 1.8. - ZONING MAP

##### 1.8.1. Adoption

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

(Res. No. 17-374, Exh. A, 12-12-2017)

##### 1.8.2. Zoning District Boundaries

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

##### 1.8.3. Interpretation of Zoning District Boundaries

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

(Res. No. 17-374, Exh. A, 12-12-2017)

##### 1.8.4. Drafting Errors and Changes to the Zoning Map

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

(Res. No. 17-374, Exh. A, 12-12-2017)

#### 1.9. - OTHER REGULATIONS

#### **1.9.1. Compliance Required**

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

#### **1.9.2. References to Other Regulations**

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

#### **1.9.3. Current Versions and Citations**

All references to other city, county, state, or federal regulations in this Code refer to the most current version and citation for those regulations, unless specifically indicated otherwise. Where the referenced regulations have been repealed, this Code's requirements for compliance are no longer in effect.

#### **1.9.4. Conflict with State or Federal Regulations**

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

#### **1.9.5. Conflict with Other County Regulations**

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

#### **1.9.6. Conflict with Private Agreements and Covenants**

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

### **1.10. - TRANSITIONAL PROVISIONS**

#### **1.10.1. Violations Continue**

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

#### **1.10.2. Nonconformities**

Any nonconformity under the County's previous regulations or ordinances will continue to be a nonconformity under this Code or any subsequent amendment to this Code, as long as the situation that resulted in the nonconforming status under the County's previous regulations or ordinances continues to exist. If, however, a nonconforming situation under the County's previous regulations or ordinances becomes conforming because of the adoption of this Code or any subsequent amendment to this Code, then the situation will no longer be considered a nonconformity. A situation that did not constitute a lawful nonconforming situation under the County's previous regulations or ordinances does not achieve lawful nonconforming status under this Code or any subsequent amendment to this Code merely by repeal of the County's previous regulations or ordinances.

#### **1.10.3. Development of Legal Lots**

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

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

Any variance, use subject to special review, or other zoning application approved under the County's previous regulations or ordinances remains valid until the expiration date of said approval, if any. The BoCC may, upon receipt of a written request and payment of the required fee, grant 1 extension not to exceed 1 year to complete the project or action approved under the County's previous regulations or ordinances. Any subsequent project or action shall comply with this Code. Any significant modification to an approved project or action shall comply with this Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.

#### **1.10.5. Applications Submitted Before the Effective Date of this Code**

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

#### **1.10.6. Permits Issued Before the Effective Date of this Code**

Any building, sign or structure for which a building permit was duly issued before the effective date of this Code or any subsequent amendments to the Code may be completed in conformance with the issued permit, even if the building, sign or structure does not fully comply with provisions of this Code or any subsequent amendments to the Code. If construction is not commenced or completed in accordance with the applicable permit terms, the PCD Director may, upon receipt of a written request and payment of the required fee, grant 1 6-month extension for good cause shown. If the building, sign or structure is not commenced or completed within the time allowed under the original permit or any extension granted, then any building, sign or structure shall comply with the requirements of this Code or any subsequent amendments to the Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights. Any expansion in size of an approved existing structure shall comply with this Code for the modification area.

(Res. No. 17-374, Exh. A, 12-12-2017)

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

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

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

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

**Table 1-1, Zoning District Name Changes**

| District Name Before the Effective Date of this Code | Zoning District Name Under this Code |
|--|--------------------------------------|
| <b>Agricultural (A) and Forestry (F) Districts</b>   |                                      |
| A-1, Agricultural                                    | A-5, Agricultural                    |
| A-35, Agricultural                                   | A-35, Agricultural                   |
| F, Forestry and Recreation                           | F-5, Forestry and Recreation         |
| <b>Rural Residential (RR) Districts</b>              |                                      |
| RR-1, Rural Residential                              | RR-0.5, Residential Rural            |
| RR-2, Rural Residential                              | RR-2.5, Residential Rural            |
| RR-3, Rural Residential                              | RR-5, Residential Rural              |
| <b>Residential Suburban (RS) Districts</b>           |                                      |
| R, Residential                                       | RS-20000 Residential Suburban        |
| R-1, Residential                                     | RS-6000 Residential Suburban         |
| R-2, Residential                                     | RS-5000 Residential Suburban         |



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| <b>Residential Multi-Dwelling (RM) Districts</b> |   |
| No existing equivalent                           | RM-12, Residential Multi-Dwelling         |
| R-3, Residential                                 | RM-30, Residential Multi-Dwelling         |
| <b>Commercial (C) Districts</b>                  |   |
| PBP, Planned Business Park                       | CC, Commercial Community                  |
| PBC, Planned Business Center                     | CR, Commercial Regional                   |
| PBD, Planned Business                            | CS, Commercial Service                    |
| <b>Industrial (I) Districts</b>                  |   |
| PID, Planned Industrial                          | I-2, Limited Industrial                   |
| PHID, Planned Heavy Industrial                   | I-3 Heavy Industrial                      |
| <b>Special Purpose Districts</b>                 |   |
| R-T, Residential-Topographic                     | R-T, Residential-Topographic              |
| MHP, Mobile Home Park                            | MHP, Mobile Home Park                     |
| No existing equivalent                           | MHP-R Mobile Home Park, Rural             |
| MHS, Mobile Home Subdivision                     | MHS, Mobile/Manufactured Home Subdivision |
| RVP, Recreational Vehicle Park                   | RVP, Recreational Vehicle Park            |
| PUD, Planned Unit Development                    | PUD, Planned Unit Development             |
| <b>Overlay Districts</b>                         |   |
| OA-CGM, Airport Zone                             | CAD-O Commercial Airport Overlay District |
| OA-G, Airport-General Aviation District          | GA-O, General Aviation Overlay District   |

|  |   |
|--|---|
| O-HR, High Rise Zone                                     | HR-O, High Rise Overlay District                          |
| No Existing Equivalent                                   | RLUP-O, Rural Land Use Plan Overlay District              |
| Zoning District (Added 08/11/2011)                       | WSE-O, Wind/Solar Energy Generation Plan Overlay District |
| <b>Obsolete Districts</b>                                |   |
| C-1, Commercial  | C-1, Commercial   |
| C-2, Commercial  | C-2, Commercial   |
| M, Industrial  | M, Industrial   |
| R-4, Planned Development                                 | R-4, Planned Development                                  |
| <b>Zone Districts Removed from Land Development Code</b> | <b>Resolution 12-008, 15-461</b>                          |
| CN   | Commercial Neighborhood                                   |
| CO   | Commercial Office   |
| I-1  | Research and Development                                  |
| RLUP-O   | Rural Land Use Plan Overlay District                      |

#### 1.11. - SEVERABILITY

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

#### 1.12. - AMENDMENTS

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

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

(Res. No. 17-374, Exh. A, 12-12-2017)

#### 1.13. - BUILDING PERMITS

##### 1.13.1. Building Permits Required

Pursuant to BoCC Resolution 18-422, compliance with the Building Code, as amended is required in all unincorporated areas where the County has land use jurisdiction, with the following exceptions:

- Buildings or structures specifically exempted in the Building Code, as amended, or which are otherwise exempted by State statute or federal law;
- Agricultural buildings or structures with an approved agricultural structure exemption from the Building Code; and
- Accessory buildings or structures in the A-35 Zoning District which are not classified as habitable; are not for residential occupancy; are not intended to be normally or customarily open to public use; or which are not necessary to support and protect a non-exempted building or structure. (Examples of accessory buildings or structures that require a building permit include,

but are not limited to: accessory living quarters; a rural home occupation where the public is invited or allowed within the structure; a retaining wall necessary to protect a residential structure; a wind powered generator supplying power to a residential structure, or to the power grid.)

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

(Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 18-496, Exh. A, 12-20-2018; Res. No. 19-421, Exh. A, 11-12-2019)

#### **1.13.2. Building Permits to Conform to Code**

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

(Res. No. 17-374, Exh. A, 12-12-2017)

#### **1.13.3. Final Plat to be Filed Before Building Permit Issued**

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

### **1.14. - RULES OF CONSTRUCTION**

#### **1.14.1. Definition of Terms**

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

#### **1.14.2. Tenses and Singular/Plural**

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

#### **1.14.3. Mandatory and Permissive Language**

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

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

#### 1.14.4. Terms When Used with Numbers

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

#### 1.14.5. Conjunctions

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

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

#### 1.14.6. Conflicts with State Statute or Building Code

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

#### 1.14.7. Definitions are Not Regulations

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

#### 1.15. - DEFINITIONS OF SPECIFIC TERMS AND PHRASES

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

**Abandon** — To terminate the use of a structure or land by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through no activity or action. Except for agricultural activities, there shall be a presumption that a use has been abandoned if it is not undertaken, utilized, implemented or performed for a period of 1 year.

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

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

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

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

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

**Accessory Living Quarters** — Lodging, which may include a kitchen, that is accessory to the principal dwelling which may be occupied only by occasional, non-paying guests of the family residing in the principal dwelling. Accessory living quarters are not considered dwelling units. The term does not include farm/ranch residence, caretakers quarters, or an additional dwelling.

**Accident Potential Zone I (APZ -1) [Class A Runway Accident]** — An area 3,000 feet wide extending 1,500 feet either side of the centerline of the airport runway and 5,000 feet long located beyond the Clear Zones at each end of the runway.

**Accident Potential Zone II (APZ-2) [Class A Runway]** — An area 3,000 feet wide extending 1,500 feet either side of the centerline of the airport runway and extending 7,000 feet beyond APZ I.

**Adjacent** — Nearby, meeting or touching at some point, or separated from a lot or parcel by 1 of the following: a road, alley, right-of-way, lake, stream or open space.

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

**Adult Arcade** — Any establishment in which the public is permitted or invited where, for any form of consideration, 1 or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by 5 or fewer persons per machine at any 1 time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

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

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

**Adult Store** — An establishment in which 10% or more of the total floor space available for access by the public is utilized for display, sale or rent for any form of consideration, 1 or more of the following: (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (b) Instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

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

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

**Aggrieved** — For any application or request made pursuant to this Code, "aggrieved" refers to the person or party who owns the property that is the subject of the application or request and, if notice of such application or request to adjacent property owners is required, to the adjacent property owners entitled to such notice.

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

**Agricultural Stand** — A structure, booth, or counter for the display and sale of plant and/or animal products in a raw, uncut, or unprocessed state which have been raised or grown on the same lot or parcel on which the agricultural stand is located. Examples of acceptable products include eggs, honey, fruit, vegetables, and other similar unprocessed agricultural products.

**Agricultural Structure** — For the purpose of determining an agricultural structure exemption from the Building Code, a structure used for the sole purpose of providing shelter to livestock (including hen chickens) or for the storage of the feed and equipment relating to the care, training, raising, and/or maintenance of the livestock (including hen chickens) or for the storage of agricultural products associated with horticultural, dairy, livestock, hen chickens, as well as other products customarily produced on a farm or ranch, or for the shelter of agricultural implements and machinery such as tractors, plows, harrows, fertilizer spreaders, seeders, balers, harvesters, and similar agricultural implements and machinery when used as part of a farming or ranching operation, as intended in C.R.S. 30-28-201(1).

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

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

**Air Pollutant** — Any fume, smoke, particulate matter, vapor, gas or combination thereof which otherwise enters the atmosphere including but not limited to any physical, chemical, biological, radioactive (including source material, special nuclear material, and by-product materials) substance or material. This does not include water vapor or steam condensate.

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

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

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

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

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

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

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

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

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

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

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

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

**Apiary** — A place where 1 or more beehives are kept.

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

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

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

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

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



**Aquifer, Alluvial** — An aquifer comprising unconsolidated material deposited by water, typically occurring adjacent to rivers and in buried paleo channels (surface water).

**Aquifer, Confined** — An aquifer below the land surface that is saturated with water. Layers of impermeable material are both above and below the aquifer, causing it to be under pressure so that when the aquifer is penetrated by a well, the water will rise above the top of the aquifer.

**Aquifer, Unconfined** — An aquifer whose upper water surface (water table) is at atmospheric pressure, and thus is able to rise and fall. Water-table aquifers are usually closer to the Earth's surface than confined aquifers are, and as such are impacted by drought conditions sooner than confined aquifers.

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

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

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

**Augmentation Plan** — A detailed program, which may be either temporary or perpetual in duration, to increase the supply of water available for beneficial use in a subdivision or portion thereof by the development of new or alternate means or points of diversion, by a pooling of water resources, by water exchange projects, by providing substitute supplies of water by development of new sources of water, or by any other appropriate means. "Plan for augmentation" does not include the salvage of tributary waters by the eradication of phreatophytes, nor does it include the use of tributary water collected from land surfaces that have been made impermeable, thereby increasing the runoff but not adding to the existing supply of tributary water. Refer to C.R.S. §37-92-103. "Plan for augmentation" refers to the plans approved by a water court. "Replacement Plan" refers to similar plans approved by the Colorado Groundwater Commission. See, Replacement Plan.

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

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

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

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

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

**Average Daily Traffic** — The total 2-directional volume of traffic during a given time period (in whole days), greater than 1 day and less than 1 year, divided by the number of days in that time period.

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

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

**Base Flood** — See Floodplain, 100-year.

**Base Flood Elevation** — The computed elevation to which floodwater is anticipated to rise during the base flood.

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

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

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

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

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

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

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

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

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

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

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

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

**Board of Adjustment** — The Board of Adjustment of El Paso County.

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

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

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

**Buffering** — The installation of plant materials, fencing, or landforms (or a combination of these measures), between 2 or more lots or parcels which inhibits visibility or mitigates the transmission of noise, dust, smoke, lights, and other nuisances from 1 lot or parcel to another, or which provides for future public improvements or additional open space.

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

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

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

**Building Department** — The Pikes Peak Regional Building Department.

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

**Building Official** — The administrator of the Building Department or his designee.

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

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

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

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

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

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

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

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

**Central Sewer System** — A system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than 2,000 gallons of sewage

per day from 1 or more lots or parcels, but not including an onsite wastewater system (OWTS). The term central sewer system includes appurtenances such as interceptors, collection lines, outfall and the outlet sewers, pumping stations, and related equipment.

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

**Certificate of Designation** — A document issued by the BoCC, upon favorable recommendation from the Colorado Department of Public Health and Environment (CDPHE), authorizing the operation of a solid waste disposal site and facility pursuant to the Solid Wastes Disposal Sites and Facilities Act (C.R.S. §§ 30-20-101, et. seq.).

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

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

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

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

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

**Clear Zone** — An area defined by Federal Aviation Administration (FAA) regulations that extends 3,000 feet beyond the end of the runway, where the potential for aircraft accidents is considered measurable enough to warrant additional land use restrictions.

**Clerk and Recorder** — El Paso County Clerk and Recorder.

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

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

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

**Cluster Development** — A design technique which concentrates buildings or lots in specific areas of a site in order to reduce the overall need for infrastructure or to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive or visually significant features.

**CMRS, Base Station** — A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a CMRS as defined herein or any equipment associated with a CMRS including the defined Accessory Equipment. Base Station includes:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks) that, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

**CMRS (Commercial Mobile Radio Service) Facility** — A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; wireless utility monitoring and control services; or an antenna or antennas, including without limitation, direction, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures, and Towers. A CMRS Facility does not include a facility entirely enclosed within a permitted building or attached to a building where the installation does not require a modification of the exterior of the building and is used for serving that parcel only and that is otherwise permitted under other provisions of the Code: the support structure to which the CMRS Facility or its components are attached if the use of such structures for CMRS Facilities is not the primary use; mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

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

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

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

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

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

**CMRS Facility, Small Cell** — A CMRS facility where each antenna is located inside an enclosure of no more than 3 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 3 cubic feet; and primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. This term shall include personal wireless service facilities as defined by the federal "Telecommunications Act of 1996."

**CMRS Facility, Stealth** — A CMRS facility with an alternative design which camouflages or conceals the presence of antennae or towers such that the CMRS facility is consistent with and difficult to distinguish from existing natural and/or manmade features in the vicinity where the proposed CMRS facility is to be located.

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

**Co-Location** — Placement of 2 or more transmitters, antennas, or other forms of telecommunication device on a common support structure.

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

**Colony** — Worker bees, drones, queen, and developing brood living together in 1 hive.

**Combination Agreement** — A voluntary acknowledgement by property owner filed for recording with the Clerk and Recorder whereby a property line is removed between 2 or more contiguous lots or parcels for the purpose of modifying the exterior boundaries of the resulting parcels. The execution and filing of a combination agreement eliminates the lot or parcel line between 2 or more parcels for the purpose of meeting the requirements of this Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Contiguous** — Sharing an edge or a lot, parcel or tract boundary line. The contiguity of land areas shall not be affected by the existence between them of a private road, road easement, driveway or alley; a private right-of-way; a public or private transportation or utility right-of-way; a river, creek, stream, or other natural or artificial waterway; or an intersecting mining claim. The contiguity of land areas shall be

assumed to be disrupted by the existence of established public roads and by lands contained within the legal boundaries of any municipality unless otherwise provided by this Code.

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

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

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

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

**County Assessor** — The El Paso County Assessor.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

any parcel or structure; or (f) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

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

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

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

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

**Development Plan** — A document prepared pursuant to submittal of a PUD application (or in the R4 zoning district) that is intended to establish the overall land use and density parameters for a large development precedent to submittal and approval of 1 or a series of more detailed site specific development plans that are fully compliant with the requirements and standards of the PUD or R4 zoning district regulations.

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

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

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

**Development Standards** — Standards and regulations pertaining to the physical development of a site including requirements pertaining to yards, heights, lot area, fences, walls, landscaping area, access, parking, signs, setbacks, and other physical requirements.

**Deviation** — A modification of the ECM standards approved by the ECM Administrator.

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

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

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

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

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

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

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

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

**Dwelling, Single-Family** — A structure containing 1 dwelling unit designed for or used exclusively as a residence by 1 family.

**Dwelling, Single-Family Attached** — A structure containing more than 1 dwelling unit, each of which has primary ground floor access to the outside and are attached to each other by party walls without openings, where each dwelling unit is generally located on its own lot. The common or abutting wall shall be shared for at least 50% of the length of the side of the dwelling units. A single-family attached dwelling does not share common floor/ceilings with other dwelling units. A single-family attached dwelling is also sometimes called a townhouse or row house.

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

**Dwelling Unit** — 1 or more rooms or structures designed for occupancy by an individual or family for living and sleeping purposes, containing rooms with internal accessibility and no more than 1 kitchen, for use solely by the dwelling unit's occupants. The word "dwelling unit" shall not include tents, recreational vehicles, trailer coaches, hotels, motels, accessory living quarters, or other structures designed or used primarily for transient residents.

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

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

**Educational Institution** — Educational institution shall mean public schools, non-public schools, and schools administered and operated by the State. The following definitions shall apply to the various types of educational institutions: (a) "Public schools" shall mean those schools administered by legally organized school districts; (b) "Non-public schools" shall mean all private, parochial and independent

schools which provide education of compulsory school age pupils comparable to that provided in the public schools of the State.

**El Paso County Health Certified Inspector** — A person certified by the National Association of Wastewater Technicians, or an equivalent program approved by ECPH to perform Transfer of Title Inspections.

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

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

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

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

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

**Emission** — The discharge or release into the atmosphere (ambient air) of 1 or more air pollutants.

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

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

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

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

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

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

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

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

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

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

**Family** — An individual, or 2 or more persons related by blood, marriage, adoption, or as guardian and ward, or a group of not more than 5 persons, excluding servants, who are not so related, living together in a dwelling unit. A family shall not include more than 1 person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., as amended, unless related by blood, marriage or adoption, or in foster care.

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

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

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

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

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

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

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

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

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

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

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

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

**Fire Marshal** — El Paso County Fire Marshal.

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

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

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

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

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

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

**Zone D** — Area of undetermined but possible flood hazards.

**Zone X (shaded)** — Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods.

**Zone X (unshaded)** — Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.

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

**Floodplain Administrator** — The person designated by the Building Code to administer the provisions of the Regional Building Code Floodplain Regulations.

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

**Floodway** — The channel of a river or other watercourse and adjacent land areas that must be reserved and kept free from obstructions in order to discharge the base flood without cumulatively increasing the water surface elevation more than ½ foot (6 inches).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Geologic Constraint** — A geologic condition, including but not limited to potentially unstable slopes, expansive soils/bedrock, high groundwater levels, soils creep, hydrocompaction, shallow bedrock,

erosion, corrosive soils, radon, or drainage way, which may be mitigated or avoided to allow for development.

**Geologic Hazard** — A geologic condition, including but not limited to avalanches, debris flows-fans/mudslides, earthquakes, floodway, floodplain, ground subsidence, landslides, rockfall, ponded water, undermining, faulting, or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development, which may pose a significant threat to persons or property.

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

**Golf Course** — An area of land laid out for the game of golf with a series of 9 or 18 holes each including tee, fairway, and putting green and often 1 or more natural or artificial hazards. It may also include a clubhouse and other accessory structures.

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

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

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

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

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

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

**Groundwater** — Any water not visible on the surface of the ground as defined by C.R.S. § 37-90-103(19). Used interchangeably with "underground water."

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

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

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

**Groundwater, Not Nontributary** — Groundwater in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers located outside the boundaries of any designated groundwater basin withdrawal of which will, within 100 years, deplete the flow of a natural stream at an annual rate of greater than 0.1 of 1 percent of the annual rate of withdrawal, C.R.S. § 37-90-103(10.7).

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

**Group Home** — A home intended to provide a normal residential family setting for certain unrelated groups of people and limited to group homes for persons with mental illness, group homes for



developmentally disabled persons, group homes for the aged, and group homes for handicapped or disabled persons.

**Group Home for the Aged (including Assisted Living Residences)** — A group home for persons who are 60 years of age or older, who do not need nursing facilities or skilled and intermediate care facilities, and who desire to live in normal residential surroundings. The criteria, requirements, and restrictions for group homes for the aged shall be those prescribed by C.R.S. § 30-28-115(2)(b) (except for distance separations) and in this Code. Group homes for the aged include assisted living residences as defined in C.R.S. § 25-27-102 (1.3). "Assisted living residence" means a residential facility that makes available to 3 or more adults not related to the owner of such facility, either directly or indirectly through an agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a 24-hour basis, but not to the extent that regular 24-hour medical or nursing care is required. The term "assisted living residence" does not include any facility licensed in this state as a residential care facility for individuals with developmental disabilities, or any individual residential support services that are excluded from licensure requirements pursuant to rules adopted by the Department of Public Health and Environment.

**Group Home for Developmentally Disabled Persons (including Intellectually and Developmentally Disabled Persons)** — A State-licensed group home for persons with developmental disabilities or intellectual and developmental disabilities, as those terms are defined in C.R.S. §§ 27-10.5-102(11)(a) and 25.5-10-202(26)(a). "Developmental disability" has the same meaning as "intellectual and developmental disability." The criteria, requirements, and restrictions for group homes for developmentally disabled persons shall be those prescribed by C.R.S. §§ 30-28-115(2)(a), § 27-10.5-109, and 25.5-10-214, and any regulations implemented by the Department of Public Health and Environment, the Department of Health Care Policy and Financing, and the Department of Human Services in support of this statutory provision, and elsewhere in this Code. This includes a community residential home as defined in C.R.S. § 25.5-10-202(5).

**Group Home for Handicapped or Disabled Persons** — A group home for persons with mental or physical impairments which substantially limit 1 or more major life activities and including such additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons. "Handicap" and "disability" have the same legal meaning. A person with a disability is any person who has a physical or mental impairment that substantially limits 1 of more major life activities; has a record of such impairment; or is regarded as having such an impairment. A physical or mental impairment includes, but is not limited to, hearing, visual, and mobility impairments, alcoholism, drug addiction, mental illness, mental retardation, learning disability, head injury, chronic fatigue, HIV infection, AIDS, and AIDS Related Complex. The term "major life activity" may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Group homes for handicapped or disabled persons, particularly as they relate to recovering (not currently using) alcoholics and persons with drug addictions, may also be known as sober living arrangements.

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

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

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

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

**Hard-Surfaced** — A concrete or asphalt surface meeting the pavement and concrete design specifications of the ECM including the required base and subbase.

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

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

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

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

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

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

**Heavy Equipment Storage Yard** — A storage yard for heavy equipment.

**Hive** — A box or receptacle with movable frames, used for housing 1 colony of bees, not exceeding 12 cubic feet in size, including attached honey supers.

**Hobby Farm** — A parcel of land where livestock, hen chickens, or roosters are raised or garden crops grown in a manner either incidental to the principal residential use of the property or where the production of livestock or garden crops on the property does not constitute a principal income for the property owner.

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

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

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

**Home Occupation, Rural** — A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended to recognize the unique land use characteristics in low density areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

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

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

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

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

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

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

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

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

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

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

**Improvements, Eligible** — Any road and any facilities related to roads, water distribution systems, sewage collection systems, storm drainage facilities, or any other type of structure of facility the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit 1 or more applicant subdivider. The improvement may be internal as well as adjacent to or outside of the legal description of the requester subdivider's subdivision.

**Impulse Noise** — Noise of short duration (typically less than 1 second), especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition. Impulse noise is characteristically associated with such sources as explosions, impacts, the discharge of firearms, the passage of supersonic aircraft (sonic boom) and many industrial processes.

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

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

**Industry, Light** — Any branch of trade, production or creative endeavor employing labor and capital in an industrial or manufacturing process which is not noxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibrations, whose waste products are not allowed to emerge or accumulate where they will cause discomfort or be unsightly to adjoining property owners or the public

generally, and which operates independent of railroad sidings, extensive loading docks and steam generation as prime power.

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

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

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

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

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

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

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

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

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

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

**Joint Use Well** — A well which is permitted for use by more than 1 dwelling, property, or ownership.

**Kennel, Major** — Any place or premises used in whole or in part for the purpose of keeping, training, boarding, breeding or sale of domesticated dogs or cats in which 9 or more dogs or cats exist, and all of which exceed 4 months in age, to include animal pounds, animal daycare facilities, and shelters. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

**Kennel, Minor** — Any place or premises used in whole or in part for the purpose of keeping, training, boarding, breeding or sale of domesticated dogs or cats in which 5 to 8 dogs or cats exist, and all of which exceed 4 months in age, to include animal pounds, animal daycare facilities, and shelters. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

**Kitchen** — A room, or part of a room, used for the preparation of food inside a dwelling consisting of a refrigerator, a sink with 1 or more basins and 1 or more cooking devices (i.e., stove, range, oven). Multiple kitchen devices located in the same room does not result in consideration as separate kitchens.

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

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

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

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

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

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

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

**Livestock** — Cattle, sheep, llamas, goats, swine, mules, poultry (excluding hen chickens), horses, alpacas, ostriches, emus, camels, yak, reindeer, bison, and other alternative livestock as defined by § 35-1-102 and fox, mink, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit.

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

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

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

**Long-Term Care Facility** — Any of the following: (a) Convalescent center means a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital; (b) Nursing care facility means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients who require regular medical care and 24 hour per day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized

and maintained to provide 24 hour per day nursing services under the direction of a registered professional nurse employed full time; (c) Intermediate health care facility means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and 24 hour per day nursing services are required.

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

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

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

**Lot, Corner**— A lot, parcel, or tract which has roads on 2 or more abutting sides.

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

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

**Lot, Irregularly Shaped**— A lot, parcel, or tract which may exhibit 1 or more of the following characteristics: (a) triangular, wedge, or pie-shaped configuration; (b) More than 4 boundary lines; or (c) varies significantly from a rectangular shape.

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

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

**Lot, Reverse Frontage** — A double frontage lot that is not accessible from 1 of the parallel or non-intersecting roads on which it fronts.

**Lot, Zoning** — A single lot or parcel of land which, at the time of application for a building or use permit, is designated by the owner as a lot or parcel to be used, developed or built on as a unit, under single ownership and control. A zoning lot shall coincide with a lot of record except where an owner merges or combines 1 or more lots or parcels using a merger by contiguity or combination agreement in conformance with Chapters 5 and 7 where the merged or combined lots or parcels shall be considered a zoning lot.

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

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

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

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

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

**Lot Line, Rear** — The boundary line opposite and most distant from the front lot line. A triangular lot has 2 side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all boundary lines that are most nearly opposite the front lot line.

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

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

**Machine Repair, Personal** — Repair of small engine machines. This term may include, but is not limited to, lawn mowers, snow blowers, and customarily incidental to the maintenance or upkeep of a residential property.

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

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



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

**Manufacturing, Light** — Manufacturing and processing in which no operations are carried on which will be likely to create smoke, fumes, noise, odor, vibration, or dust, or which will be detrimental to the health, safety, or general welfare of the community. The following are examples of light manufacturing or processing: beverage manufacturing; book binding; canvas products manufacturing; clothing or cloth manufacturing; computer manufacturing; dry cleaning plant; electronics manufacturing; fish hatchery; furnace installation, repair, and cleaning; hosiery manufacturing; machine shops; machine tool manufacturing; machinery sales; public utility storage, yards, and service installments; sheet metal shops; shoe manufacturing; sign manufacturing, repair, and maintenance.

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

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

**Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, Retail Marijuana Stores** — These uses, as defined in Article XVIII, Section 16 of the Colorado Constitution, are prohibited in unincorporated El Paso County in accordance with Ordinance 13-01.

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

—Medical Marijuana Center

—Medical Marijuana Infused Products Manufacturer

—Optional Premises Cultivation Center

**Marijuana, Personal Cultivation of** — The growing or processing of marijuana plants, including the extraction of THC or other cannabinoids, as a patient or caregiver pursuant to Article XVIII, Section 14 of the Colorado Constitution or for personal use pursuant to Article XVIII, Section 16 of the Colorado Constitution.

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

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

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



**Master Sign Plan** — A coordinated sign plan that establishes standards for the size, location, and design of signs within a development area being constructed or managed as a single development.

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

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

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

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

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

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

**Medical Clinic** — A facility used for the provision of medical, dental, surgical, health or mental health care of the sick or injured, operated by 1 or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination or treatment.

**Merger Agreement** — An agreement executed by the owner and filed for recording with the Clerk and Recorder, whereby 2 or more contiguous nonconforming lots are combined into a zoning lot for the purposes of meeting the requirements of this Code with respect to minimum lot size, or in changing the conformity of the lots or parcels pursuant to the nonconforming lot provisions of this Code.

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

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

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

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

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

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

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

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

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

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

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

**Mobile Home, Post-1976** — A structure, transportable in 1 or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which has been certified under the "National Manufactured Housing Construction and Safety Standards Act" (42 U.S.C. 4501 et seq., as amended) in effect after June 15, 1976 or which has been certified according to the Building Code.

**Mobile Home, Pre-1976** — A structure, transportable in 1 or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which has not been certified under the "National Manufactured Housing Construction and Safety Standards Act" (42 U.S.C. 4501 et seq., as amended).

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

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

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

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

**Monuments** — The actual points set on the ground to locate, delineate or describe lots, parcels or tracts of land or the points set to define a legal description of a lot, parcel or tract of land including the points or corners set by a Colorado Registered Land Surveyor in accordance with the C.R.S..

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

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

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

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

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

**Noise Analysis, Traffic** — An analysis of the potential noise attributed to a development project, which includes the following: (a) identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from the highway; (b) prediction of traffic noise levels; (c) determination of existing noise levels; (d) determination of traffic noise impacts; and (e) examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.

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

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

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

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

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

**Nondiscretionary Review** — An administrative evaluation of a specific land use or application where compliance with the regulations can be determined based on objective standards. Decisions are made administratively and do not require a public hearing, notice or written interpretation. Examples of these reviews include: whether the proposed use is or is not allowed, whether the site area is or is not large

enough for the proposed number of housing units, and whether a proposed building meets all setback, height, and parking requirements.

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

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

**Noxious Weed** — An alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets 1 or more of the following criteria: (a) aggressively invades or is detrimental to economic crops or native plant communities; (b) is poisonous to livestock; (c) is a carrier of detrimental insects, diseases, or parasites; (d) the direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

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

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

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

**Nursing Home** — A facility, or a distinct part of a facility, which meets the State nursing home licensing standards, is maintained primarily for the care and treatment, under the direction of a physician, of inpatients who for reason of illness or physical infirmities are unable to care for themselves, and meets the requirements in federal regulations for certification as a qualified provider of nursing home services. "Nursing home" includes private, nonprofit, or proprietary intermediate nursing facilities for the mentally retarded or developmentally disabled.

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

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

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

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

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

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

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

**On-Site Wastewater Treatment System** — 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. This term may be used interchangeably with the terms "OWTS" or "system" where the context as used within this Code or the EPCPH regulations so indicates.

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

**Open Space** — Publicly or privately owned parcels of land which have been permanently set aside or otherwise preserved to retain land, water, historic and other aesthetic features in a primarily natural state. Open space includes trail corridors and may serve 1 or more of the following functions: (a) identify or separate communities and other developed areas, and to provide expansive visual relief; (b) buffer and provide transitions between different land uses; (c) preserve or protect scenic areas and vistas, prominent landforms, floodplains, riparian areas and critical ecosystems; (d) provide outdoor recreation opportunities such as hiking, biking and equestrian uses; or (e) assist with the preservation of ongoing ranching and agricultural uses.

**Outdoor Sales and Display** — Outdoor display of merchandise for retail sale. This term shall not include sale and display of mobile, modular, or manufactured homes, sale and display of wholesale goods or materials, or sale and display of automobiles.

**Over the Air Reception Devices** — An antenna or mast in support thereof that meets the definition found in 47 CFR § 1.4000.

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

**Ownership** — 1 or more adjoining lots or parcels that are owned by the same person, partnership, association, or corporation. Ownership also includes lots or parcels that are in common ownership but are separated by a right-of-way.

**OWTS Regulations** — The regulations of the EPCPH regarding OWTS.

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

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

**Parent Parcel** — The lot or parcel proposed for division or subdivision.

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

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

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

**Park Board** — El Paso County Parks Advisory Board.

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

**Park Fee Fund, Urban** — A fund established for use in acquiring and developing urban park lands that will be transferred to or developed by some other governmental or quasi-governmental entity for ownership for urban park purposes, within the neighborhood or community planning unit from which the urban park fee was collected. Fees collected in lieu of, or in combination with, the dedication of land for urban park purposes shall be deposited within the urban park fee fund and shall be used solely to acquire and develop urban park lands which will reasonably serve the needs of the intended neighborhood or community planning unit. Interest earned on urban park fees shall remain within the urban park fee fund and shall be used solely for the purposes set forth in this Code; provided, however, that the earned interest may be used by the EPCPLSD to provide for necessary and required minimum levels of annual public health and safety maintenance of the "reserved lands" properties until transfer to another entity is affected.

**Parking, Tandem** — Parking 2 cars in a driveway or parking space so that 1 car is right in front of the other and the front car cannot move until the back car is moved.

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

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

**Parking, Storage, and Repair of Vehicles and Machines, Personal** — Parking, storage, and repair of vehicles and/or machines owned by and for the sole use of persons residing on a lot, tract or parcel.

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

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

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

**Personal Wireless Service** — Commercial mobile services.

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

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

**Planning Commission** — The Planning Commission of El Paso County.

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

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

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

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

**Premise** — 1 or more contiguous lots or parcels of record (exclusive of any right-of-way), owned or managed by the same individual or entity.

**Principally Employed** — The main or primary place of employment.

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

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

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



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

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

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

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

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

**Public Utility** — Public utility as defined by C.R.S. § 40-1-103, 1973. "Public utility" is defined more specifically for applications under Appendix B Guidelines and Regulations For Areas and Activities of State Interest of El Paso County.

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

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

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

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

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

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

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

**Recreation Camp** — A place used as a destination point for visitors, for vacationing or other recreational purposes which may include permanent structures and temporary facilities such as tents or yurts for the use of guests which facilities may contain cooking facilities and are used for temporary occupancy(not to exceed 30 consecutive days or a total of 90 days in 1 calendar year). This term shall not be interpreted to include hotels, motels, restaurants, and theaters but would include land uses commonly considered as campgrounds, dude ranches, resorts or retreats.



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

**Recreational Vehicle Park** — An area within the RVP zoning district planned exclusively for the parking or temporary storage of 2 or more recreational vehicles for temporary or long term occupancy as a housing unit.

**Recreational Vehicle, Park Unit** — A vehicle within the RVP zoning district which may be used for temporary or long term habitation as well as for travel, vacation or recreation purposes. The term shall include travel trailers, campers, motor homes, truck campers, and similar terms. This term shall not apply to temporary housing.

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

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

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

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

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

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

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

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

**Relevant Improvement** — A road or facility related to a road, water distribution system, sewage collection system, storm drainage facilities, or any other type of structure the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit 1 or more applicant subdivider. The improvement may be internal as well as adjacent to or outside of the legal description of the requester subdivider's subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Rezoning** — A zoning map amendment.

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

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

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

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

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

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

**Road, Private** — Privately-owned and privately maintained road provided for by a tract, easement or other legal means, typically serving more than 3 lots, parcels, or tracts that do not have frontage on a public road right-of-way. Access to these facilities by the public is restricted. Like public roads, these facilities shall be built to public road standards, unless otherwise dictated by provisions within this Code.

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

**Roadway Capital Improvement** — The transportation planning of, preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting, and construction of necessary features for a road construction project on an arterial or higher classification of road on the County's major road system, undertaken to accommodate traffic resulting from new traffic-

generating development. Road capital improvements may include but not be limited to: (a) construction of new through lanes; (b) construction of new bridges; (c) construction of new drainage facilities in conjunction with new road construction; (d) purchase and installation of traffic signals, including new and upgraded signalization; (e) construction of curbs, gutters, sidewalks, medians and shoulders; (f) relocating utilities to accommodate new road construction; (g) the construction and reconstruction of intersections; (h) the widening of existing roads; (i) bus turnouts; (j) acceleration and deceleration lanes; (k) interchanges; and (l) traffic control devices.

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

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

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

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

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

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

**Scrap Tire Recycling Facility** — A facility where scrap tires are processed for recycling or for the extraction of useful materials or energy from the tires through thermal, chemical, or physical processing.

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

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

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

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

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

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

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

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

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

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

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

**Shall** — The specified criteria are mandatory.

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

**Shipping Container** — A large metal container, typically made of aluminum or steel, designed and built to store and/or ship materials. The term shall include, but is not necessarily limited to, intermodal containers, Conex boxes, and cargo containers. The term shall not include semi-truck trailers, mobile or manufactured homes, mobile office trailers, or modular office buildings.

**Shipping Container, Temporary** — Shipping containers used for storing or shipping of personal property in association with the act of moving and/or property improvement for a maximum of 30 consecutive days during a 1 year period.

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

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

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

**Sign** — Any object, device, vehicle, trailer, display or structure, or part thereof, situated outdoors or indoors, which is used to identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images having the capacity of being visible from any public area, except any display on a vehicle using the roadway. A vehicle or trailer parked so as to be visible from a road for more than 24 hours and have the effect of directing attention to a business or profession, to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the vehicle or trailer is located or to another location within the County shall be considered an unlawful vehicle sign. Structures or other physical improvement resembling the construction of a sign that are not used to advertise the name of a product, service, or business shall not be considered a sign (e.g. holiday lighting, landscape features).

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

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

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

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

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

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

**Sign, Hanging** — An attached sign located under a permitted awning or canopy at the entrance to the premises. The sign shall be mounted to be perpendicular to the building.

**Sign, Identification** — A sign which states the name of a subdivision or neighborhood.

**Sign, Illumination** — Light fixtures attached to or focused on a sign so that the message is visible in hours of darkness.

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

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

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

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

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

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

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

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

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

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

**Sign, Special Use or Variance of Use** — A sign that advertises a use other than those permitted uses within the forestry, agricultural, or residential zoning districts which has been otherwise approved as a special use or variance of use.

**Sign, Temporary** — A sign which is erected for a limited time.

**Sign, Traffic Control Device** — A sign used to direct traffic in accordance with the MUTCD.

**Sign, Transition Duration** — The time interval it takes the display to change from 1 complete static message or frame to another complete static message or frame.

**Sign, Transition Method** — A visual effect applied to a message to transition from 1 message to the next.

**Sign, Unlawful Vehicle** — A vehicle or trailer parked so as to be visible from a road for more than 24 hours and have the effect of directing attention to a business or profession, to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the vehicle or trailer is located or to another location within the County.

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

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

**Sign Area** — The total area of the face, plate, and frame, as well as the display surfaces but not including the structure or bracing of the sign. When the sign consists only of letters, logos, designs, or figures engraved, painted, or projected or fixed on a wall or freestanding, or when a sign is of an irregular shape, the total area of the sign shall be the smallest area enclosed by a single right angle figure surrounding all of the fixed lettering, designs and irregular shape. On double-faced signs where the sign faces are placed back to back, only 1 face is counted in computing the sign area; for signs with more than 2 faces, the area of all faces shall be counted.

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

**Site** — The site is an ownership except as follows: (a) If a proposed development includes more than 1 ownership, then all the ownerships are included as the site; (b) If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development; and (c) If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

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

**Site Development Plan** — The development plan for 1 or more lots showing the existing and proposed conditions of the lot and any improvements existing or to be constructed on the lot. This includes topography; vegetation; drainage; floodplains; wetlands and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers and screening devices; surrounding development; and other information that may



be reasonably required for the PCD Director to determine compliance with the requirements of this Code, and subsequently authorize issuance of a building or development permit.

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

**Site-Related Improvements** — Road capital improvements and right-of-way dedications, which provide direct access to the development including, but not limited to the following: (a) driveways and streets leading to and from the development; (b) right and left lanes leading to those driveways and roads; (c) 1 through lane; (d) curb, gutter, and sidewalks where applicable; (e) acceleration and deceleration lanes; (f) traffic control measures for those driveways; and (g) internal streets. Credit is not provided for site-related improvements under an off-site road study or transportation improvement study (TIS).

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

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

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

**Soil Profile Test Pit Excavation** — A trench or other excavation used for access to evaluate the soil horizons for properties influencing effluent movement, bedrock, evidence of seasonal high ground water, and other information to be used in locating and designing an On-site Wastewater Treatment System.

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

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

- Any solid or dissolved materials in domestic sewage;
- Agricultural wastes;
- Solid or dissolved materials in irrigation return flows;



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

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

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

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

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

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

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

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

**Special Flood Hazard Area (SFHA)** — Land in the floodplain subject to a 1 percent chance of flooding in a given year. Also called Area of Special Flood Hazard.

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

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

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

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

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

**Stable, Private** — Any stable where livestock are not boarded or kept for remuneration or hire.

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

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

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

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

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

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

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

**Structure** — Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment of something having a permanent location on the ground. The term shall include "building" as defined herein, but not include fences or walls 7 feet in height or less, retaining walls less than 4 feet in height, or poles, lines, cables or other transmission or distribution facilities of public utilities.

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

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

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

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

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

**Subdivision** — Any parcel of land in unincorporated El Paso County which is divided into 2 or more parcels, separate interests, or interests in common, including land to be used for condominium,

apartments or any multiple dwelling units, unless the land when previously subdivided was accompanied by a filing which complied with the provisions of this Code with substantially the same density. The term "subdivision" shall not apply to any division of land which creates parcels of land each of which comprises 35 or more acres of land and none of which is intended for use by multiple owners, C.R.S. § 30-28-101(10)(b). Unless the method of disposition is adopted for the purpose of evading C.R.S. §§ 30-28-101, et. seq., the term "subdivision", as defined above, shall not apply to (1) any division of land the BoCC determines is not within the purposes of C.R.S. §§ 30-28-101, et. seq.; or (2) any division of land which (a) creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any parcel, results in 35 or more acres per interest; (b) is created by a lien, mortgage, deed of trust or any other security instrument; (c) could be created by any court in this State pursuant to the law of eminent domain, or by operation of law, or by order of any court in this State if the BoCC is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of provisions of this Code prior to entry of the court order; and, if the Board does not file an appropriate pleading within 20 days after receipt of such notice by the court, then such action may proceed before the court; (d) is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in any investment entity; (e) creates cemetery lots; (f) creates an interest or interests in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership of real property; (f) is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common and any such interest shall be deemed for the purposes of this Section as only 1 interest; (g) is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Code and any applicable County regulations, the land which is to be acquired pursuant to the contract; (h) is created by the combination of contiguous parcels of land into 1 larger parcel. Easements and rights-of-way shall not be considered interests for purposes of this definition.

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

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

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

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

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

**Surveyor** — A Professional Land Surveyor licensed by the State of Colorado.

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

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

**Temporary Occupancy** — A time period not to exceed 30 consecutive days or a total of 90 days in any 1 calendar year.

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

**Threatened or Endangered Species** — Plants and animals identified by the federal government as threatened or endangered or proposed for threatened or endangered status, plants and animals identified

as rare or sensitive by the CDW, and plants or animals identified as ranking G1 or G2 by the Colorado Natural Heritage Program.

**Tiny House**— A unit built on a permanent chassis, with no attached motor as the means of propulsion, constructed to ANSI RVIA standards or certified by a licensed professional structural engineer, to be used as a dwelling unit with the exterior appearance of a single-family dwelling unit. This definition also applies to tiny houses on a single lot and within a recreational vehicle park.

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

**Tower, Commercial (Non-CMRS)**— The structure on which transmitting or receiving antennas are located and not considered a CMRS Facility. This term shall include the following: VHF and UHF television and AM and FM radio. Private towers and citizens band radios shall not be included within this definition.

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

**Townhouse**— A single-family attached dwelling situated on its own lot but attached to 1 or more similar dwelling units by a common wall and each unit has its own front and rear access to the outside and no unit is located over another unit.

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

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

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

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

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

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

**Treatment Plant**— A facility for the collection, treatment, and disposal of sanitary sewage that complies with the minimum standards specified in the Design Criteria Considered in the Review of Wastewater Treatment Facilities, Colorado Department of Health and Environment, Water Quality Control Commission, and generally has a design capacity to receive more than 2,000 gallons of sewage per day; or a facility for the treatment, purifying, supplying, and holding of raw water designed to meet the water quality requirements contained in the Colorado Primary Drinking Water Regulations.

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

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

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

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

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

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

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

**Unified Control** — Control of 2 or more lots, parcels or tracts of land by 1 or more landowners through a joint operating agreement, right to purchase, or similar agreement, but developed and implemented under a unified plan to which the owners, successors, heirs, or assigns shall be bound by the approved development plan, including any amendments thereto approved by the County.

**Urban Density Development** — Land development of higher density and intensity which is characteristically provided with services of an urban nature (i.e. central water and sewer, fire hydrants, paved roads often with curb and gutter, and shorter emergency service response times). This category of development ordinarily includes most commercial, office and industrial uses and residential uses with densities of more than 1 dwelling unit per 2.5 acres.

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

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

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

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

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

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

**Use, Special** — A use that, owing to some special characteristics attendant to its operation or installation (e.g. potential danger, traffic, smoke or noise impact), is allowed in a zoning district, subject to approval and special requirements, different from those usual requirements for the zoning district in which the special use may be located.

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

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

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

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

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

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

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

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

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

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

**Vineyard** — A plantation of grapevines, typically producing grapes used in winemaking. Accessory uses may include a tasting room and winery where wine is made using some of the grapes cultivated onsite.

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

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

**Warehouse** — A building or portion thereof used by the occupant for the inside storage, safekeeping, distribution or selling at wholesale of goods and materials in the regular course of commercial dealing and trade. This generally includes land and buildings used as a relay station for the transfer of goods from 1 vehicle or party to another, and the parking and storage of tractor and other trailer units, and may include

incidental retail sales. Bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions is considered flammable material storage or hazardous material storage.

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

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

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

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

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

**Waters of the State** — All surface and underground water in or tributary to all natural streams within the State of Colorado, except designated groundwater as referred to in C.R.S. § 37-90-103(6) pursuant to C.R.S. § 37-92-103(13).

**Well** — Any structure or device used for the purpose or with the effect of obtaining groundwater for beneficial use from an aquifer. Well does not include a natural flowing spring or spring where the natural spring discharge is captured or concentrated by installation of a near-surface structure or device less than 10 feet in depth located at or within 50 feet of the spring or springs' natural discharge point and the water is conveyed directly by gravity flow or into a separate sump or storage. C.R.S. § 37-90-103(21)(a) and (b); § 37-92-103(14)(a) and (b).

**Well Permit, Domestic Use** — Permitted water use for up to 1 acre foot per year which may include household use, irrigation and watering of domestic animals.

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

**Wet Bar** — An area in a dwelling used for the preparation of refreshments and cocktails. A wet bar shall be limited to a 1-basin sink with no garbage disposal, a small refrigerator, and counter and storage areas. The installation of any cooking device (other than a portable microwave or similar device) shall constitute a kitchen.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Yard, Front** — A yard extending across the width of the lot, parcel, or tract and measured from the front boundary line of the lot, parcel or tract on which the lot, parcel, or tract fronts or is addressed by to the nearest building. A lot, parcel, or tract bordered by roads on both sides shall have 2 front yards for setback purposes.

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



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

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

**Yard Waste Recycling Facility** — See Composting Facility.

**Zero Lot Line** — The location of a structure on a lot, parcel or tract in such a manner that 1 or more of the structure's sides rest directly on a lot, parcel or tract boundary line with no easement or setback requirement, including 2 adjoining structures on separate lots, parcels or tracts sharing a common wall.

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

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

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

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

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

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

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

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

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

**Zoning District, Special Purpose** — Zoning districts designed to accommodate unique uses or development types or to address special development conditions. Special purpose zoning districts are base zoning districts.

**Zoning Map** — The official zoning map of El Paso County as originally adopted May 11, 1942 and subsequently amended by various resolutions to apply zoning or to change the previous zoning of a property.

**Zoning Resolution** — The provisions of this Code including all amendments to this Code that regulate the use of land within any zone district and any resolution of approval adopted by the BoCC that applies zoning or changes the zoning of land within unincorporated El Paso County. The zoning resolution includes the Zoning Map.

(Res. No. 14-243, Exh. 1, 7-1-2014; Res. No. 15-351, Exh. A, 8-25-2015; Res. No. 15-503, Exh. A, 12-15-2015; Res. No. 16-164, 5-17-2016; Res. No. 16-165, Exh. A, 5-17-2016; Res. No. 17-227, Exh. A, 8-8-2017; Res. No. 17-372, Exh. A, 12-12-2017; Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 18-010, Exh. A, 1-9-2018; Res. No. 18-334, Exh. A, 8-14-2018; Res. No. 18-496, Exh. A, 12-20-2018; Res. No. 19-62, Exh. A, 2-26-2019; Res. No. 19-329, Exh. A, 8-27-2019; Res. No. 19-330, Exh. A, 8-27-2019; Res. No. 19-421, Exh. A, 11-12-2019; Res. No. 19-449, Exh. A, 12-10-2019)

#### 1.16. - ABBREVIATIONS OF TERMS AND PHRASES

The following represent the abbreviations used in this Code. The abbreviations are in alphabetical order.

**AASHTO** — American Association of State Highway and Transportation Officials

**ADA** — Americans with Disabilities Act of 1990

**ADT** — Average Daily Traffic

**ANSI RVIA** — American National Standards Institute Recreational Vehicle Industry Association

**BESQCP** — Builder's Erosion and Stormwater Quality Control Permit

**BMP** — Best Management Practice

**BoCC** — Board of County Commissioners

**CD** — Certificate of Designation

**CRS** — Colorado Revised Statute

**CC&Rs** — Covenants, conditions and restrictions

**CDOT** — Colorado Department of Transportation

**CDPHE** — The Colorado Department of Public Health and Environment

**CGS** — Colorado Geologic Survey

**CMRS** — Commercial Mobile Radio Service Facility

**CO** — Certificate of Occupancy

**CSFS** — Colorado State Forest Service

**CLOMR** — Conditional Letter of Map Revision

**CSU** — Colorado State University

**dba** — Sound Level, A-Weighted

**DBPS** — Drainage Basin Planning Study

**DNL** — Day-Night Average Sound Level

**DOW** — Colorado Division of Wildlife

**PCD** — Planning and Community Development Department

**PCD Director** — Planning and Community Development Department Director or delegated representative

**ECM** — The El Paso County Engineering Criteria Manual

**ECM Administrator** — The County Engineer or delegated representative

**EPCBOH** — El Paso County Board of Health

**EPCCSD** — El Paso County Community Services Department

**EPCPH** — El Paso County Public Health (formerly El Paso County Department of Health and Environment)

**EPCDPW** — El Paso County Department of Public Works (formerly Department of Transportation)

**ESD** — El Paso County Environmental Services Department

**ESQCP** — Erosion and Stormwater Quality Control Permit

**FAA** — The United States Department of Transportation Federal Aviation Administration

**FAR** — Federal Aviation Regulations

**FAR** — Floor Area Ratio

**FCC** — Federal Communications Commission

**FCWFCGD** — Fountain Creek Watershed Flood Control and Greenway District

**FEMA** — Federal Emergency Management Agency

**FIRM** — Flood Insurance Rate Map

**GPD** — Gallons Per Day

**HOA** — Homeowners' Association

**IESNA** — Illuminating Engineers Society of North America

**LDC** — The Land Development Code of El Paso County

**Ldn** — Day-Night Equivalent Sound Level

**Leq** — Equivalent Sound Level

**LOMR** — Letter of Map Revision

**MDDP** — Master Development Drainage Plan

**MLRB** — Colorado Mined Land Reclamation Board

**MTCP** — Major Transportation Corridor Plan

**MUTCD** — Manual of Uniform Traffic Control Devices.

**NFPA** — National Fire Protection Association

**NLR** — Noise Level Reduction

**NRCS** — Natural Resource Conservation Service

**OCA** — Office of the El Paso County Attorney

**OWTS** — Onsite Wastewater Treatment System

**PPACG** — Pikes Peak Area Council of Governments

**RLUP** — Rural Land Use Plan

**SD/LID Committee** — Special District/Local Improvement District Committee

**SFHA** — Special Flood Hazard Area

**SIA** — Subdivision Improvements Agreement

**TIS** — Transportation Impact Study

**USACOE** — United State Army Corps of Engineers

**USFS** — United States Forest Service

(Res. No. 17-372, Exh. A, 12-12-2017; Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-329, Exh. A, 8-27-2019)

## Chapter 2 - ADMINISTRATION

### 2.1. - GENERAL

#### 2.1.1. Purpose

This Chapter sets forth the general authorities used in the administration of LDC including the types of review processes established to facilitate fair and effective decision-making and to encourage public participation.

(Res. No. 16-233, Exh. A, 6-28-2016)

#### 2.1.2. Procedures Manual

The PCD Director shall establish processes, standards, and procedures to support the efficient review of development applications for conformance with this Code and State statute. The processes, standards, and procedures established by the PCD Director shall be published in a Procedures Manual, and may include detailed submittal requirements, application forms, review procedures including public notice requirements, review policies and guidelines to support the implementation and administration of the LDC. The public notice requirements the Procedures Manual, including the nature, extent, time period, and methods of delivery, shall, at a minimum, conform to the requirements of State Statute. The public notice requirements established by the PCD Director may exceed the minimum requirements of State Statute where determined necessary by the PCD Director to achieve the purposes of this Code.

The Procedures Manual and any amendments thereto shall become effective when approved by the PCD Director; however the Procedures Manual and any amendments thereto shall be submitted to the Planning Commission and BoCC for review and comment within 30 days of approval by the PCD Director. The Planning Commission and BoCC shall provide comments to the PCD Director within 30 days of receipt of the Procedures Manual or any amendment thereto. The PCD Director shall

consider any comments provided by the Planning Commission and BoCC, and may amend the Procedures Manual based on the comments received from the Planning Commission and BoCC. The Planning Commission and BoCC may, but are not required to, endorse the Procedures Manual and any amendments thereto.

The Procedures Manual is a management and administration tool for the PCD. As a result, it is the duty of the PCD Director to develop and maintain the Procedures Manual in a manner that ensures the achievement of organizational and administrative efficiencies, timely processing of development applications, and effective and fair public involvement in the processing and review of development applications and administration of this Code.

A copy of the Procedures Manual shall be on file in the PCD. The Procedures Manual shall control the processing and review of all development applications.

(Res. No. 16-233, Exh. A, 6-28-2016; Res. No. 17-374, Exh. A, 12-12-2017)

#### **2.1.3. Master Plan Advisory**

Simply by stating in this Code a requirement or preference for Master Plan consistency, the Board of County Commissioners has not by such statement rendered the Master Plan a binding requirement or regulation for either zoning or subdivision matters. The Board of County Commissioners' intent as expressed in its various Master Plan elements and in Appendix A, § A.1.6(B) to this Code is that the Master Plan be advisory only, and that the Board of County Commissioners retains its considerable discretion in deciding how to apply the Master Plan in making land use decisions.

(Res. No. 16-233, Exh. A, 6-28-2016)

#### **2.1.4. Resubmittal of Denied Application**

No development application which has been denied by the final decision-making authority for such application may be resubmitted unless evidence is presented showing that there has been a substantial change in conditions or circumstances. A substantial change has occurred when the development application is substantially different in a material way from the one previously denied, or the conditions or circumstances surrounding the development application and material to the approval criteria for such application have substantially changed.

(Res. No. 17-374, Exh. A, 12-12-2017)

### **2.2. - AUTHORITIES**

#### **2.2.1. BoCC (Board of County Commissioners)**

The authority of the BoCC to conduct its activities is established by State Statute. The manner in which those activities are conducted is established by BoCC Resolution Number 05-106, as may be amended from time to time. In addition to any authorities identified in BoCC Resolution Number 05-106, the BoCC is empowered to do the following with respect to administration of this Code:

- (A) **Adopt Regulations.** The BoCC may adopt and amend the LDC including, but not limited to, zoning and subdivision regulations and any associated maps.
- (B) **Approve Permits and Applications.** The BoCC may approve, approve with conditions, or deny map amendments, code amendments, special use permits, variance of use applications, preliminary plans, final plats, development plans, Development Agreements, and all other actions as identified by this Code, the Procedures Manual, or as established by State Statute.

- (C) **Revoke Prior Approvals.** The BoCC may void plats, SIAs or other official documents, or agreements if it is found there has been a material misrepresentation of fact, a failure to abide by conditions of approval, or violation of time limits established in this Code that impacts the design, or legal or physical status of a subdivision or development proposal after holding a hearing, following the proper notice procedure, in order for the parties in interest to have the opportunity to address any misrepresentation of fact or non-compliance issue.
- (D) **Appoint Members.** The BoCC shall appoint members of the Board of Adjustment and Planning Commission.
- (E) **Retain Experts.** The BoCC may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.
- (F) **Delegate Powers.** The BoCC may delegate powers, duties, and responsibilities to the Planning Commission, Board of Adjustment, other boards and commissions or committees, and County staff to the extent permitted by law and provided that the delegation is made subject to specific instruction, criteria, and standards to guide the exercise of any delegated discretion.
- (G) **Impose Reasonable Conditions.** The BoCC may impose reasonable conditions upon approval of any application.
- (H) **Interpret this Code and Hear Appeals.** The BoCC is the ultimate interpreter of the meaning and application of this Code as to the type, nature and rights of uses, conforming and nonconforming, as allowed under this Code. Except for those procedures expressly prescribed for appealing of certain administrative decisions, all interpretations or applications by the PCD Director as they relate to uses under this Code and believed to be erroneous or inapplicable may be appealed to the BoCC.
- (I) **Grant Waivers.** The BoCC, at a public hearing on a specific application, may hear the request for a waiver from the subdivision design standards of Chapters 6, 7 and 8 and decide to accept or reject the request, or make modifications to the waiver request.

(Res. No. 17-374, Exh. A, 12-12-2017)

## 2.2.2. Planning Commission

- (A) **Establishment, Membership, and Rules of Procedure.** The BoCC shall appoint a Planning Commission. The Planning Commission shall consist of 9 commission members. Each member shall be a resident of El Paso County. The Planning Commission shall meet once a month or as often as deemed necessary for the transaction of business. The authority of the Planning Commission to conduct its activities, the process for appointment, and the terms of its members are provided in the bylaws of the Planning Commission and by State Statute. The Planning Commission may adopt policies and procedures as it may consider necessary or advisable to discharge its statutory functions, and it shall keep a record of its proceedings.
- (B) **Authority.** All decisions of the Planning Commission constitute a recommendation to the BoCC, except those relating to the Master Plan, approval of location, and site approval applications. The Planning Commission, through the authority granted to it by the BoCC and State Statute, is empowered to do the following with respect to administration of this Code.
  - (1) **Develop and Adopt a Master Plan.** The Planning Commission may develop and adopt a Master Plan for the physical development of the unincorporated area of the County in accordance with the provisions of C.R.S. § 30-28-106.
  - (2) **Review and Act Upon Applications for Amendment to the Master Plan.** The Planning Commission may review and approve any amendment to the Master Plan, whether initiated by the County or any citizen or group.
  - (3) **Develop and Adopt a Zoning Plan.** The Planning Commission may develop and make a zoning plan or plans for zoning all or part of the unincorporated territory within the County

including potential amendments to this Code including text and maps representing those applicable policies identified in the Master Plan. Any regulation or amendment shall be subject to the review and formal adoption by the BoCC.

- (4) **Develop Subdivision Regulations.** The Planning Commission may develop, propose, and recommend subdivision regulations and amendments to subdivision regulations.
- (5) **Review and Act Upon Applications for Approval of Location of Public Facilities.** The Planning Commission may review and act upon applications for the approval of location for a public building, way, place, or space in accordance with the provisions of CRS § 30-28-110
- (6) **Retain Experts.** The Planning Commission may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.
- (7) **Make Recommendations on Applications.** The Planning Commission may review and make recommendations concerning applications for zoning text and map amendments, special use permits, variance of use applications and subdivisions of land and any other applications as identified in this Code, State Statute and the Procedures Manual.
- (8) **Recommend or Impose Reasonable Conditions Upon Approvals.** The Planning Commission may recommend reasonable conditions for approval of any application where the Planning Commission acts as a recommender and may impose reasonable conditions on approval of any application where the Planning Commission acts as a decision maker.

### 2.2.3. Board of Adjustment

- (A) **Establishment, Membership, and Rules of Procedure.** The BoCC shall appoint a Board of Adjustment. The Board of Adjustment is established by resolution of the BoCC pursuant to State Statutes. The Board of Adjustment shall consist of 5 members. Each member shall be a legal resident of El Paso County. The Board of Adjustment shall meet once a month or as often as necessary for the transaction of its business. The meetings shall be noticed and open to the public. ~~The affirmative vote of at least 4 members is required to approve any appeal or application to the Board of Adjustment. The affirmative vote of at least 4 members is required for any action by the Board of Adjustment regarding an appeal or application.~~
- (B) **Authority.** ~~The Board of Adjustment shall hear and determine those appeals and applications for variances specifically identified in this Code and in accordance with this Code, the Procedures Manual, and Colorado law. The Board of Adjustment shall hear and determine appeals of general relief decisions and dimensional variances in accordance with this Code the Procedures Manual, or as established by Colorado law.~~ Decisions of the Board of Adjustment may not be appealed to the BoCC, but shall be appealed pursuant to State Statute and State Rules of Civil Procedure. The Board of Adjustment, through the authority granted to it by C.R.S. § 30-28-117 and C.R.S. § 30-28-118 and this Code, is empowered to do the following with respect to administration of this Code.
  - (1) **Grant Variances.** The Board of Adjustment may grant or deny a variance pursuant to the requirements and procedures of this Code relating to special physical requirements, but not to use, of the property.
  - (2) **Hear and Decide Appeals of Administrative Determinations.** The Board of Adjustment may hear and decide appeals brought by any aggrieved person regarding allegations of error by an administrative official in the application or enforcement of this Code.
  - (3) **Impose Reasonable Conditions.** The Board of Adjustment may impose reasonable conditions on approval of any application.

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#### 2.2.4. PCD Director

- (A) **Designation.** The PCD Director is designated as the official charged with the administration of the LDC.
- (B) **Powers and Duties.** The PCD Director, through the authority granted by this Code, the County Administrator and the BoCC, is empowered to do the following with respect to administration of this Code.
  - (1) **Render Interpretations.** The PCD Director may render interpretations of all provisions of this Code. Interpretations applicable to 2 or more properties (general interpretation) shall be collected and retained by the PCD and made available to the public for inspection. Each general interpretation shall be provided to the Planning Commission, Board of Adjustment and BoCC.
  - (2) **Establish Application Requirements.** The PCD Director may establish application and submittal requirements and schedules for review of applications and appeals pursuant to this Code.
  - (3) **Provide Advice.** The PCD Director may provide expert technical assistance to the BoCC, the Planning Commission, and the Board of Adjustment and determine when outside, technical expertise is needed to assist in the review of any development application submitted pursuant to this Code.
  - (4) **Review Applications.** The PCD Director may review development applications and make recommendations to the BoCC, the Planning Commission, and the Board of Adjustment concerning compliance with this Code.
  - (5) **Maintain Master Plan.** The PCD Director may maintain the Master Plan including, but not limited to, land use, transportation, and open space elements.
  - (6) **Administer Standards and Regulations.** The PCD Director may administer the provisions of this Code as they relate to the review and permitting of development.
  - (7) **Promulgate Administrative Forms.** The PCD Director may promulgate and require the use of application forms and other standardized documentation deemed necessary or helpful to administer the provisions of this Code.
  - (8) **Make Administrative Decisions.** The PCD Director may issue written administrative decisions and determinations concerning the application of this Code to specific property or development applications and permit renewals, including any grant of relief allowed by this LDC.
  - (9) **Issue Administrative Permits.** The PCD Director may review and issue administrative permits pursuant to the requirements and procedures of this Code.
  - (10) **Sign Plats and Other Administrative Documents.** The PCD Director may sign plats and other documents relating to the application of this Code to specific property or development applications.
  - (11) **Approve Final Plats.** The PCD Director may administratively approve final plats, vacations, replats, and final plat amendments pursuant to the requirements and procedures of this Code.
  - (12) **Approve Certain Minor Agreements.** The PCD Director may review and approve certain minor agreements, including the subsequent release of collateral associated with such agreements. These agreements include Subdivision Improvement Agreements (SIA) associated with administratively approved final plats, Sidewalk Completion Agreements, Landscape Completion Agreements, Private Detention Basin and Best Management Practices (BMP) Agreements, Parking Lot Paving Agreements, and all other agreements necessary to carry out the intent of this Code.



- (13) **Interpret Maps and Regulatory Documents.** The PCD Director may interpret maps and regulatory documents for their applicability to a development application, and consult with any other agencies in that interpretation.
- (14) **Delegate Decision Making Authority.** The PCD Director may delegate decision making authority to staff on development applications, maps, or other matters in accordance with the decision-making procedures of the LDC.
- (15) **Other Administrative Authorities.** The PCD Director has the authority to complete all other actions as necessary to carry out the intent of this Code.

(Res. No. 16-233, Exh. A, 6-28-2016; Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-329, Exh. A, 8-27-2019)

## Chapter 5 - USE AND DIMENSIONAL STANDARDS

### 5.1. - USE TABLES

#### 5.1.1. Purpose

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

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

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

#### 5.1.3. Principal Use Table Described

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

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

of this Code, (including site plan or site development plan approval, if a building or other development permit is required).

- If the symbol "T" appears in the box at the intersection of the column and the row, the use is allowed subject to the Temporary Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required). If no symbol appears in the box at the intersection of the column and the row, the use may be allowed under the Temporary Use provisions of Chapter 5.

If no symbol appears in the box at the intersection of the column and the row, the use is not allowed as a principal use in that zoning district, unless otherwise authorized as a Temporary Use meeting the Temporary Use provisions of Chapter 5. The table also identifies whether or not specific use standards are provided for the use in this Code and whether a site plan review or site development plan review shall be approved prior to establishing the use.

(Res. No. 19-421, Exh. A, 11-12-2019)

#### **5.1.4. Accessory Use Table Described**

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

- If the symbol "A" appears in the box at the intersection of the column and row, the use is allowed subject to the Accessory Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If the symbol "S" appears in the box at the intersection of the column and the row, the use is allowed subject to the Special Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If the symbol "T" appears in the box at the intersection of the column and the row, the use is allowed subject to the Temporary Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required). If no symbol appears in the box at the intersection of the column and the row, the use may be allowed under the Temporary Use provisions of Chapter 5.

If no symbol appears in the box at the intersection of the column and the row, the use is not allowed as an accessory use in that zoning district, unless otherwise authorized as a Temporary Use meeting the Temporary Use provisions of Chapter 5.

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

(Res. No. 19-421, Exh. A, 11-12-2019)

#### 5.1.5. Applicability of Multiple Use Types

The specific use shall control the general use.

#### 5.1.6. Unlisted Uses

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

(Res. No. 17-374, Exh. A, 12-12-2017)

#### Table 5-1. Principal Uses

See separate placement at the end of Chapter 5.

#### Table 5-2. Accessory Uses

See separate placement at the end of Chapter 5.

### 5.2. - USE-SPECIFIC DEVELOPMENT STANDARDS<sup>11</sup>

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

#### 5.2.1. Accessory Living Quarters

- (A) **Number of Accessory Living Quarters.** Only one accessory living quarters is allowed per lot, parcel, or tract.
- (B) **Type of Structure.** Accessory living quarters may be attached to or detached from the principal structure, in a garage, or in an accessory structure, or as a tiny house meeting the use specific standards found in this Chapter.
- (C) **Affidavit Required.** In conjunction with an approval of the accessory living quarters, an affidavit signed by the owner is filed for recording with the Clerk and Recorder acknowledging that the accessory living quarters may not be leased or rented.
- (D) **Size.** The accessory living quarters shall be no larger than the total square footage of the primary residence, up to a maximum of 1500 square feet of finished habitable floor area, as measured to the outside of the walls. The Board of County Commissioners may modify the maximum size allowance by up to 20 percent as part of a special use approval. Any request to establish accessory living quarters with the total square footage exceeding 20 percent of the maximum size allowed shall constitute a second dwelling on the property, which would require variance of use approval unless otherwise allowed within the applicable zoning district.

(E) **No Separate Meter for Utilities.** All electric, gas, central or municipal sewer and water services to the accessory living quarters shall be interconnected to and indistinguishable from that of the principal dwelling and shall not have separate meters, service lines or billings.

(F) **Occupancy Limited.** Accessory living quarters shall only be utilized for temporary occupancy, non-paying guests or visitors, and may not be leased or rented, including short-term rental. A temporary occupant may not receive mail, enroll in K-12 school, or establish permanent residency at the accessory living quarters unless otherwise modified by the Sections below. This provision does not prohibit:

- An immediate family member or an employee who permanently occupies an attached accessory living quarters as set forth below.

- An immediate family member who permanently occupies the detached accessory living quarters, provided the appropriate special use approval is obtained as set forth below.

(G) **Special Provisions for Attached Accessory Living Quarters for Permanent Occupancy.** Attached accessory living quarters may be utilized for permanent occupancy provided it conforms to all standards for accessory living quarters listed above and the following requirements:

- **Exterior Appearance Single-Family in Character.** The exterior appearance of the structure shall be that of an architecturally integrated single-family dwelling unit.

- **Interior Connection Required.** The living quarters shall include the ability to access the main dwelling unit through interior connections, which may include access through a garage attached to the principle dwelling.

- **Use Limited to Family Members or Employees.** The attached living quarters shall be used exclusively by family members of a person residing in the main dwelling unit, or by an employee employed onsite by a person residing in the main dwelling unit and shall not be otherwise rented or leased. A family member shall be related by blood, half blood or at law, and which term "at law" includes in-law relationships arising from a deceased or former spouse.

(H) **Special Provisions for a Detached Accessory Living Quarters for Permanent Occupancy.** Detached accessory living quarters may be utilized for permanent occupancy by special use approval. The special use may be approved if the accessory living quarters requirements listed above are met as well as the following requirements:

(1) **Use Limited to Family Members.** A special use may be applied for and approved to:

- Provide for temporary living arrangements to house immediate family members whom are elderly, disabled, or exhibit a family need; or,

- Provide for temporary living arrangements to house immediate family providing for the needs of the residents of the primary residence on the property.

A family member shall be related by blood, half blood or at law, and which term "at law" includes in-law relationships arising from a deceased or former spouse.

- (2) **Review Criteria.** Approval of the special use permit shall be based upon a finding that the following standards and conditions have been met:
- There is a family hardship or need that justifies the request for the extended family housing.
  - The special use standards of Chapter 5 of the Land Development Code are complied with.
- (3) **Expiration of Approval.** The detached accessory living quarters for permanent occupancy shall be removed within 3 months after the need no longer exists or 3 months after the date of the expiration of the special use approval, if one is specified, unless an application to legalize the use is submitted or an application to subdivide the property is submitted.
- (l) **Other Applicable Standards.** Accessory living quarters shall meet all other applicable standards in this Code unless specifically modified by this Section. Any request for approval of accessory living quarters that does not comply with the provisions of this Section shall require special use approval by the Board of County Commissioners, except with regard to any request to exceed the size limitations identified above which shall require approval of a variance of use application by the Board of County Commissioners. A habitable structure which is leased or rented shall not be considered an accessory living quarters and shall constitute a second dwelling requiring variance of use approval unless otherwise allowed within the applicable zoning district.

#### 5.2.2. Accessory Use and Structure Standards, General

- (A) **Accessory Use to Conform to Zoning District Standards.** Unless otherwise indicated within this Code, accessory structures or uses shall conform to the development standards specified in the zoning district in which the building or use is located. The area of the accessory structure shall be included in the lot coverage calculation.
- (B) **Accessory Uses Do Not Include Allowed or Special Uses.** Allowed uses or special use listed in any zoning district in Table 5-1 shall not be considered accessory uses, unless otherwise provided by this Code.
- (C) **Secondary Uses Now Considered Accessory Uses.** For purposes of administration of this Code, after the effective date of adoption, those uses previously classified as Secondary Uses are now classified as Accessory Uses.
- (D) **Accessory Use to Be Located on Same Lot, Parcel or Tract as Principal Use.** An accessory use or structure shall be located on the same lot, parcel or tract as the principal structure or use. The accessory use or structure may be located on a contiguous lot or parcel under the same ownership, upon the recording of a use or combination agreement that binds the use or structure to the lots, parcels, or tracts in common ownership.
- (E) **Building Permit Required.** Any accessory structure exceeding 200 square feet shall obtain a building permit and comply with the Building Code, unless an agricultural structure exemption from the Building Code is granted, or when the accessory structure is to be located within the A-35 zoning district.
- (F) **Principal Structure Required.** No building permit for construction of an accessory structure, where a building permit is required, shall be authorized prior to construction of the principal structure except in the A-35 zoning district.
- (G) **Accessory Uses and Structures to Meet Setbacks.** Accessory uses and structures shall meet the setbacks shown in Table 5-4 and Table 5-5, and shall not be located within any easement unless specifically allowed in accordance with this Code.
- (H) **Accessory Uses to Meet Development Standards.** Accessory uses shall meet all applicable development standards in Chapter 5 and Chapter 6.

- (I) **Storage Buildings as Accessory Uses.** Semi-trailers with attached running gear (i.e. axles, wheels) and mobile homes shall not be used as storage buildings after the effective date of this Code, except in the A-35 Zoning District. Existing semi-trailers and mobile homes being used as storage buildings in conformance with County rules and regulations on the effective date of this Code shall be considered nonconforming uses.
- (J) **Structures or Uses Not Considered Accessory Uses a Violation.** Any building, structure or use that does not qualify as an accessory structure or use and that is not identified as an allowed use, approved as a special use, or granted a use variance is a violation of this Code and subject to zoning enforcement.
- (K) **Square Footage of Residential Accessory Structure Limited.** The building footprint of residential accessory structures shall not exceed the building footprint of the principal use to which they are subordinate, with the following exceptions:

- When the lot or parcel is 2.5 acres or greater, the accessory structure may be up to two (2) times the size of the building footprint of the principal use.
- Accessory structures in the A-35 zoning district with a minimum of 35 acres are exempt from the square footage limitation.

- (L) **Accessory Structures In Multi-Dwelling, Mobile Home Park, and Recreational Vehicle Park Zoning Districts.** There is no size limitation for accessory structures located within the Multi-Dwelling, Mobile Home Park, and Recreational Vehicle zoning districts when the accessory structure is proposed for common or communal use, such as a clubhouse, laundromat, caretaker's quarters, or restroom facility.

### 5.2.3. Agricultural Accessory Uses

The following uses as further detailed in Table 5-2 are considered agricultural accessory uses:

- Agricultural, farming, ranching, and dairies, etc.
- Domesticated livestock and pets, subject to the requirements of this Code;
- Any residential accessory structure, or use;
- Outside storage incidental to and necessary for uses allowed on the property (but not junk yards);
- Fuel storage for the farming, ranching, or dairy vehicles and equipment, subject to any Fire District or Fire Marshal Requirements;

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

Pursuant to BoCC Resolution 18-078, compliance with the Building Code, as amended, is required in all unincorporated areas where the County has land use jurisdiction, with the following exceptions:

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

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

#### **5.2.4. Agricultural Stand**

All products displayed or offered for sale shall be raised or grown on the same lot or parcel on which the stand is located, or shall be located on an adjacent parcel under the same ownership.

#### **5.2.5. Agricultural Structure Exemption from the Building Code**

Agricultural structures in the A-35 zoning district with a minimum lot size of 35 acres are not subject to the requirements of this section. All other agricultural structures may receive an agricultural structure exemption from the Building Code if the following standards are met:

- (A) **Use of Agricultural Structure.** The structure must be used solely for one or more of the following uses on the subject parcel for which the agricultural use is located:
- Shelter for livestock (including hen chickens) or for the storage of the feed and equipment relating to the care, training, raising, and/or maintenance of the livestock (including hen chickens); or
  - Agricultural products associated with horticultural, dairy, livestock, hen chickens, as well as other products customarily produced on a farm or ranch; or
  - Agricultural implements and machinery, such as tractors and tractor attachments, when used as part of a farming or ranching operation as defined in Chapter 1 of this Code.
- (B) **Size of Agricultural Structure.**
- The size of agricultural structures shall not exceed two (2) times the size of the building footprint of the principal use or 5,000 square feet, whichever is greater. Any agricultural structure exceeding the above allowance, shall require special use approval.
- (C) **Exterior Appearance of Agricultural Structure**
1. Agricultural structures are required to have appropriately sized doors to allow for livestock and/or agricultural implements and machinery to enter and exit the structure.

2. Agricultural structures are required to have a minimum of three of the following design features:

- Dutch doors,
- Barn breezeway,
- Gambrel roof,
- Barn cupola,
- Exterior stalls,
- Shelter overhang,
- Dormer Windows,
- Appropriate siding material for weather exposure, and/or
- Finished wood panels, vinyl siding, brick or stone veneer siding, stucco, etc.

3. The PCD Director may approve an exterior appearance that does not meet the specific requirements of this Section provided the proposed agricultural structure meets the purpose of this Section and provides an equivalent benefit to the community and environment as would otherwise be achieved by meeting the specific requirements of this Section.

**(D) Prohibited Structures, Materials, and Uses.**

1. The following types of structures are prohibited:

- Portable or temporary structures,
- Shipping or storage containers,
- Carports,
- Canopies,
- Mobile homes, and/or
- Semi-trailers

2. The following types of construction materials are prohibited:

- Tires,
- Fabric, and/or



- Tarpaulins

3. The following uses are prohibited in an agricultural structure that is exempt from the Building Code:

- Commercial and/or non-commercially related uses allowing public access,
- Marijuana related uses,
- Residential (personal storage, vehicle storage, etc.), and
- Non-agricultural related uses

4. The PCD Director may prohibit any other structures, materials and uses if it is determined that it does not meet the intent of this Section.

(E) **Application Required.** An approved Agricultural Structure Exemption from the Building Code application and site plan is required. An affidavit signed by the property owner(s) shall be filed with the Clerk and Recorder acknowledging the use of the structure being limited to an approved agricultural use.

(F) **Other Permits Required.** Compliance with the Building Code is required for all electrical, plumbing, and/or mechanical work installed within a structure for which an Agricultural Structure Exemption from Building Code has been granted.

(G) **Other Applicable Standards.** For the purpose of obtaining an agricultural structure exemption from the Building Code, agricultural structures shall meet all applicable standards in this Code unless specifically modified by this Section or as otherwise modified by special use approval.

(H) **Revocation of Agricultural Structure Exemption from the Building Code.**

(1) **Violation Grounds for Revocation.** The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the Agricultural Structure Exemption from the Building Code application and affidavit shall constitute sufficient grounds for revocation of the exemption from the Building Code by the BoCC, after a public hearing at which the holder of the exemption from the Building Code shall be afforded the opportunity to be heard.

(2) **Notice of Revocation Hearing.** The holder of the exemption from the Building Code shall be notified of the time and place of the revocation hearing via first class mail no less than ten (10) days prior to the hearing.

(3) **Determination of Revocation.** In determining whether revocation is warranted, the BoCC shall consider, among other factors, the nature and magnitude of the violations found to exist; the impact of the violations on the health, safety and welfare of adjacent property owners and surrounding communities; and any other evidence presented in aggravation or mitigation of the violations committed.

(4) **Revocation in Addition to Other Penalties.** Revocation is in addition to any other remedies and enforcement provisions provided by this Code or by law.

#### 5.2.6. Agritainment

(A) **General Standards.** Events and activities include, but are not limited to: pumpkin patch, hay ride, corn maze, hay maze, petting zoo (farm animals only), historical farm, farm tour, vineyard, agricultural festival, community garden, and other similar uses as determined by the PCD

Director. Supplemental uses to an Agritainment use may include a gift shop, chuck wagon dinners, farmers markets, and other similar uses as determined by the PCD Director.

- (B) **Person Conducting Agritainment.** The Agritainment use shall only be operated by the owner or leasee [lessee] of the property on which it is located.
- (C) **Temporary Use Not Considered Agritainment.** An event or activity occurring one (1) time per year, not exceeding five (5) days in duration, shall not be considered Agritainment and shall be required to obtain a temporary use permit prior to holding the event or initiating the activity.
- (D) **Conducted in Accordance with Laws.** Agritainment shall be conducted in compliance with all applicable county, state and federal laws.
- (E) **Vehicles Limited.** The total number of vehicles at any given time shall not exceed fifty (50) unless otherwise approved by the PCD Director. The total vehicle count applies to all vehicles parked on the site, including, but not limited to, all employee, customer, and vendor vehicles associated with the use.
- (F) **Building Permits Required.** Buildings or structures that are open to the public or employees shall be subject to the requirements of the building code.
- (G) **Excluded Uses.** The following uses, among others, shall not be considered Agritainment:
  - Business event center
  - Indoor and outdoor amusement center
  - Outdoor theater
  - Race track
  - Auction and flea market
  - Carnival or circus
  - Recreation camp
  - Rodeo
  - Shooting range
  - Any activity related to or associated with medical marijuana as defined in C.R.S § 12-43.4-101, or retail marijuana as defined in C.R.S § 12-43.3-103.

(H) **Overnight Accommodations Not Allowed.** Overnight accommodations shall not be allowed as part of the Agritainment use.

(I) **Agritainment As a Special Use.** Any proposed agritainment use which does not comply with the provisions of this section shall require special use approval.

(J) **Other Applicable Standards.** Agritainment shall meet all other applicable standards in this Code unless specifically modified by this Section or as otherwise modified by special use approval.

#### 5.2.7. Animal Keeping

(A) **Waste Removal and Disposal.**

Animal waste and other excrement associated with animal keeping shall be removed and disposed of on a regular basis and shall not be allowed to accumulate excessively.

(B) **No Other Animals Allowed.** The keeping of animals, including exotic animals, not qualifying in any of the below categories shall not be allowed.

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

- (1) **Other Domesticated Animals.** No more than 2 other domesticated animals, in addition to the 4 dogs or cats allowed above; such as miniature goats, miniature ponies, miniature pigs, and other similar animals; may be kept in a residential zoning district allowing less than 2.5 acres. The 2 other domesticated animals shall not be counted towards the maximum allowance of 4 dogs and cats total. The other domesticated animals shall:

- Not exceed 100 pounds

- Not be exotic, wild or ordinarily considered dangerous

- (2) **Exceptions.** The following domesticated animals shall not be included in the maximum allowance provided they are kept entirely within a dwelling unit: cats, fish, small reptiles and amphibians, small rodents, or small birds.

(D) **Hen Chickens.** In a residential zone district allowing less than 2.5 acres, a reasonable number of hen chickens are allowed per ownership. No roosters are permitted. In zoning districts where a hobby farm is allowed there is no limit on the number of chickens, hens or roosters kept on the lot or parcel.

(E) **Pigeon Keeping.** The keeping of pigeons is subject to the following requirements:

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

(F) **Beekeeping, Residential.**

- (1) **Hives.** All bee colonies shall be kept in hives with removable combs, which shall be kept in sound and usable condition.
- (2) **Setbacks.** All hives shall be located in the rear yard and at least 5 feet from any adjoining property with the back of the hive facing the nearest adjoining property. If hive is located next to a sidewalk or any other public gathering place a 6-foot tall privacy fence will be required to minimize interaction with passers-by.

- (3) **Water Required Onsite.** Each property owner or beekeeper shall ensure that a source of water is available at all times to the bees so that the bees will not congregate at swimming pools, birdbaths, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained as not to become stagnant.
- (4) **Queens.** In any instance in which a colony routinely exhibits aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition toward swarming, it shall be the duty of the beekeeper to requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.
- (5) **Hive Density.** It shall be unlawful to keep any hive on a multi-family zoned parcel or to keep more than the following number of hives on any parcel within El Paso County, based upon the size or configuration of the parcel on which the apiary is situated:

- Less than ½ acre parcel size: 2 hives;
- ½ acre or more but less than 1 acre parcel size: 4 hives;
- 1 acre or larger parcel size: 6 hives; or
- Regardless of parcel size, where all hives are situated at least 200 feet in any direction from all property lines of the parcel on which the apiary is situated, there shall be no limit to the number of hives.

#### 5.2.8. Auction, Auction Facility

Auctions shall be considered an accessory use when:

- (A) **Frequency and Duration.** The auctions will be conducted no more than 3 times within an ownership during a year and no auction will exceed 5 days.
- (B) **Material Storage.** Materials for auction are not owned by the landowner and will not be stored on the site for more than 30 days.
- (C) **Classification as Auction Facility.** When the standards for frequency and duration or material storage are exceeded the use will be classified as an auction facility as identified in Table 5-1.

#### 5.2.9. Automobile and Boat Storage Yards

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

#### 5.2.10. Batch Plant, Temporary

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

- (A) **Adjacent to Project.** The plant shall be located on, adjacent to, or in the immediate proximity of the right-of-way being improved.
- (B) **Hours of Operation Limited.** A temporary batch plant shall only be operated between 7 a.m. to 7 p.m.
- (C) **Repair of Road Damage.** Damage to any roads that provide access to the temporary batch plant that may be attributable to the use of the site for a temporary batch plant shall be repaired

by the temporary batch plant owner or operator to the satisfaction of the ECM Administrator. Financial Assurance may be required by the ECM Administrator to cover potential repair costs.

- (D) **Other Permits Required.** A construction permit, work in the right-of-way permit, and ESQCP shall be obtained from the ECM Administrator prior to the issuance of a temporary use permit authorizing the use of the subject property for a temporary batch plant.
- (E) **Hauling Routes.** The ECM Administrator may limit hauling routes and the size of loads to protect the general welfare of the citizens in accordance with the ECM.
- (F) **Duration of Use.** The duration of time the batch plant is operated shall be limited to the duration of the associated public improvement project.
- (G) **Use of Asphalt or Concrete.** The use of any asphalt or concrete produced at the temporary batch plant shall be limited to the public improvement project described in the temporary use permit.

#### 5.2.11. Bed and Breakfast Home

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

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

#### 5.2.12. Bed and Breakfast Inn

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

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

- (G) **Smoke Detector and Emergency Lighting.** Each guest room shall be provided with a smoke detector. Emergency lighting for emergency exits shall also be installed.
- (H) **Required Licenses and Sales Tax Collected.** The bed and breakfast inn shall obtain and maintain all required licenses and pay applicable sales tax.

#### 5.2.13. Car Wash

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

#### 5.2.14. Caretaker's Quarters

- (A) **Number of Caretaker's Quarters.** One caretaker's quarters is allowed per ownership.
- (B) **Type of Structure.** A caretaker's quarters may be a detached single-family dwelling, manufactured home, apartment-type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home, or as a tiny house meeting the use specific standards found in Chapter 5 may be used as a caretaker's quarters.
- (C) **Occupancy Limited.** A caretaker's quarters may be occupied only by a caretaker and their immediate family.
- (D) **Other Applicable Standards.** A caretaker's quarters shall meet all standards for a principal dwelling unit of the same type and the accessory dwelling standards in this Chapter unless specifically modified by this Section.

#### 5.2.15. Carnival or Circus

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

#### 5.2.16. Cemetery, Personal

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

#### 5.2.17. Child Care Centers, Family Care Homes, and Group Homes

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

- (A) **Separation Requirements.** No family care homes, child care centers, or group homes, excluding group homes for handicapped or disabled persons, shall be located on an adjacent lot or parcel or within 500 linear feet along the same road from the lot or parcel boundary lines as another family care home, child care center, or applicable group home except for those facilities that: (1) qualify as a single-family dwelling and have an occupancy in the family care home, child care center, or group home of fewer than 6; or (2) where the family care home, child care center, or group home is located within a commercial zone district.
- (B) **Parking, Screening and Buffering.** The facility shall comply with the parking standards of the Land Development Code. All commercial components, such as parking lots and playgrounds, shall be screened and buffered from neighboring residences and uses. For family care homes, child care centers, or group homes, excluding group homes for handicapped or disabled persons, the County may request a transportation plan showing how the operators of the facility intend to meet the transportation needs of the residents of the facility. The sufficiency of the transportation plan may be considered by the County in reviewing an application but may not, by itself, constitute grounds for denying the application. See, C.R.S. § 30-28-115(2.5).

**(C) Facility Allowances and Applicable Review Processes.**

- (1) A family care home, child care center, or group home shall be considered an allowed use or may require a special use permit depending on the specific facility type and number of residents/enrollment as shown in Table 5.3 when located within a forestry, agricultural, and residential zone district, and shall not be considered a second principal use when operated in conjunction with or within a residence on the property. Additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons are allowed.
- (2) A family care home, or group home shall not include any person required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as amended, unless related by blood, marriage or adoption or in foster care.
- (3) A family care home, child care center, or group home shall maintain compliance with any building codes, fire codes, and health codes based upon the occupancy classification and number of residents and necessary persons for care of the residents.
- (4) Copies of any applicable current state or local certifications, licenses or permits for the group home shall be maintained on the premises.
- (5) All existing family care homes, child care centers, and group homes shall meet these standards, except separation requirements at Section 5.2.16(A), by December 31, 2014, regardless of pre-existing circumstances, and no nonconforming rights are hereby established.

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

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

(or indispensable or essential) to achieving the objective of equal housing opportunities between those with disabilities and those without.

- b) Reasonable accommodation requests will follow the applicable special use process and procedures pursuant to the Group Home and Special Use sections of Chapter 5 of this Code, except that if the PCD Director elevates the application to a public hearing, that hearing shall be exclusively before the BOCC, and except that such requests will follow review criteria based on the FHAA for reasonable accommodations as follows rather than special use review criteria:
- i. An accommodation request must be reasonable and necessary. A necessary accommodation is reasonable unless it requires a fundamental alteration in the nature of a program or imposes undue financial and administrative burdens on the County. For example, an applicant could show that the group home is one way of ameliorating the effects of disabled persons' disabilities and that the request to locate in a given location is reasonable. Whether a requested accommodation is reasonable requires balancing the needs of the parties involved.
  - ii. In order to impose special restrictions on either a special use or a reasonable accommodation approval, the County must show either: (1) that the restriction benefits the protected class or (2) that it responds to legitimate safety concerns raised by the individuals affected, and is not based upon stereotypes.

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

| Use Type                                | Allowed Use<br>(Max. Occupancy/Enrollment) | Special Use<br>(Occupancy/Enrollment) |
|---|--|---------------------------------------|
| <b>Family Care Home</b>                 |  |                                       |
| Family Foster <sup>2</sup>              | 8  | NA                                    |
| Day Care Home <sup>2</sup>              | 12   | NA                                    |
| Adult Day Care                          | 8  | 9-12                                  |
| Specialized Group Facility <sup>2</sup> | 8  | 9-12                                  |
| <b>Child Care Center<sup>1</sup></b>    |  |                                       |
| Large Day Care Center <sup>2</sup>      | NA   | 13 or more                            |
| Small Day Care Center <sup>2</sup>      | NA   | 12 or fewer                           |
| Nursery <sup>2</sup>                    | NA   | As Limited by State                   |



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

#### **5.2.18. Commercial and Industrial Accessory Structures and Uses**

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

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

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

#### **5.2.19. Commercial Mobile Radio Service Facility (CMRS) Facilities**

##### **(A) General.**

##### **(1) Purpose.** The purposes of this Section are:

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

##### **(2) Applicability.** The standards in this Section apply to all CMRS facilities located, constructed or modified after the effective date of this Code.

##### **(3) Relationship to Other Provisions.** A CMRS facility shall comply with all applicable provisions of this Code. Where a conflict exists between the requirements of this Section and another applicable standard in this Code, the most restrictive standard shall control. Where a conflict exists between the requirements of this Section and another applicable State or Federal standard the State or Federal standards shall control.

##### **(B) General Standards.**

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

- An applicant for a new freestanding CMRS facility shall demonstrate that a good faith effort has been made to co-locate on existing CMRS facilities. The applicant shall demonstrate that due to physical constraints, or economic or technological infeasibility, no such location or co-location is available. The applicant shall also demonstrate that contact has been made with the owners of all suitable structures within the search area of the proposed site and was denied permission to locate its CMRS facility on those structures;
- If a telecommunications competitor attempts to co-locate a CMRS facility on an existing or approved CMRS facility or location, and the parties cannot reach an agreement, the County may require a third-party technical study to be completed at the expense of both parties to determine the feasibility of co-location; and
- All facilities shall be designed and constructed to allow for co-location of a minimum of 2 users except for a small cell CMRS, pole mounted CMRS, or those otherwise specifically exempted by the BOCC.

- (2) **Compliance with FCC Standards.** At the request of the PCD Director, which request shall occur no more than once per year, CMRS facility owners and operators shall certify that:

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

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

- (3) **Abandonment and Expiration.** If the CMRS facility ceases operation for any reason for a period of one year:

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

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

- (5) **Accessory Equipment for a CMRS Facility.** All accessory equipment for a CMRS Facility shall be 100% screened from view. All equipment shelters shall be located within the lease area for the CMRS facility. No equipment storage shelter shall exceed 15 feet in height. Equipment storage shelters shall be grouped as closely together as practical, so as to minimize impact on adjoining properties. The total area of all accessory equipment,

including equipment storage shelters, shall not exceed 400 square feet per CMRS facility, except for a small cell facility where 17 square feet shall be the maximum allowed.

(6) **Standards for Freestanding CMRS Facilities.**

- (a) **Tower/Structure Removal Agreement.** Prior to commencing construction of a new freestanding CMRS facility or any alteration of an existing freestanding CMRS facility, a Tower/Structure Removal Agreement shall be signed by the owner of the property and filed for recording with the Clerk and Recorder.
- (b) **Financial Assurance Required.** Prior to commencing construction of a new freestanding CMRS facility or any alteration of an existing freestanding CMRS facility, the owner of a freestanding CMRS facility shall be required to provide the County with adequate financial assurance to cover removal of the facility if abandoned. The form of financial assurance shall be approved by the PCD Director. New financial assurance will be required prior approval of alteration of an existing freestanding CMRS facility and when the ownership of the lease or facility changes hands.
- (c) **Minimum Setbacks for Freestanding CMRS Facilities.**
  - (i) Located Within 250 Feet of Residential Zoning District. A freestanding CMRS facility located within 250 feet of any property zoned for residential use shall be set back from any residential property line one foot of distance for every foot of facility height (as measured from grade elevation), plus an additional 10 feet.
  - (ii) Located Over 250 Feet from Residential Zoning District. A freestanding CMRS facility located greater than 250 feet from property zoned for residential use shall meet the minimum setback requirements for structures and structures of the underlying zoning district and located in a manner to contain any freefall or icefall on the same property.
- (d) **Maximum Height for Freestanding CMRS Facilities.** A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the zoning district unless otherwise specifically authorized as a part of the special use or variance of use approval. Any tower that exceeds 200 feet shall require FAA approval prior to approval of a special use or variance of use.
- (e) **Administrative Special Use or Variance of Use Amendment.** The PCD Director may administratively amend the special use or variance of use approval for a minor modification to the CMRS facility provided the modifications do not constitute a Substantial Change. A modification constitutes a Substantial Change if:
  - (i) It increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;
  - (ii) It involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
  - (iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not

to exceed four cabinets; or, for base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

- (iv) It entails any excavation or deployment outside the current site;
  - (v) It would defeat the concealment elements of the eligible support structure; or
  - (vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the Middle Class Tax Relief Act of 2012.
- (f) **Design Standards for Freestanding CMRS Facilities.** A freestanding CMRS facility shall adhere to the following design standards to minimize impacts:
- (i) **Compatible with Surrounding Area.** A freestanding CMRS facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area, subject to any applicable FAA regulations.
  - (ii) **Existing Vegetation.** Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in with the surrounding environment, to the extent practicable. Existing vegetation shall be preserved or enhanced, where feasible.
  - (iii) **No Lighting.** The facility antennae shall not be lighted unless required by the FAA and authorized by the permit or approval.
  - (iv) **Dangerous Equipment and Attractive Nuisance.** Any equipment that could be dangerous to persons or wildlife shall be adequately fenced. The attractive nuisance potential shall be minimized through fencing and methods to discourage unauthorized climbing.
  - (v) **Dish Diameter Limited.** The diameter of a microwave dish antenna shall not exceed 4 feet.
- (g) **Photo Simulations Required.** Photo Simulations are to be provided for any new freestanding CMRS facility or for a Substantial Change to an existing freestanding CMRS facility. The Photo Simulations shall illustrate a minimum of three different views of what the site will look like once the antennae and associated equipment have been installed. Photos and Photo Simulations should show the "existing" and "proposed" conditions.
- (7) **Stealth CMRS Facility Design Standards.** A stealth CMRS facility shall meet the same design standards and maximum height allowance as a freestanding CMRS facility.
- (8) **Design Standards for Building Roof or Wall-Mounted CMRS Facilities.**
- (i) **Wall-Mounted CMRS Facility Design Standards.** Wall-mounted CMRS facilities shall adhere to the following design standards to minimize impacts:

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

- If the roof of the building is flat, the facility shall not extend above the roof line of the building. For purpose of this Section, the roof line includes already existing facilities and equipment on the roof.

- (ii) **Roof-Mounted CMRS Facility Design Standards.** A roof-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

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

- The facility shall be screened from view and colored to match the building or structure to which it is attached.

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

- (9) **Design Standards for Pole-Mounted CMRS Facilities.** A pole-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

- (i) **Compatible with Surroundings.** The facility shall be designed to be compatible with surrounding buildings, structures, or trees and existing or planned uses in the area.
- (ii) **Colored to Match Pole.** The facility shall be colored to match the pole to which it is attached.
- (iii) **Height Limit.** The facility shall not extend more than 10 feet above the height of the existing pole.
- (iv) **Accessory Equipment and Shelters.** The total area of all accessory equipment, including equipment storage shelters, shall not exceed 400 square feet per CMRS facility. Equipment storage shelters shall be screened from view by landscaping, vegetation, fencing, or comparable method of screening.

- (10) **Design Standards for Small Cell CMRS Facilities.** All small cell CMRS facilities proposed to be constructed outside of public right-of-way shall adhere to the following standards:

- (i) **Statement of Compliance.** Every application shall include a statement citing how the proposed facility meets the definition of a either a small cell facility as defined by Colorado House Bill 17-1193 or as otherwise amended.
- (ii) **Compatible with Surroundings.** The facility shall be designed to be compatible with surrounding buildings, structures, or trees and existing or planned uses in the area.
- (iii) **Design Standards for Small Cell CMRS Facilities Located on a Pole.**
  - (a) **Existing Pole Required.** The small cell CMRS shall be mounted to an existing legally established pole. The PCD Director may allow the construction of a new

pole where utilizing an existing pole is not feasible. Any application where a new pole would be constructed shall include an analysis explaining why the use of an existing pole is not feasible.

- (b) **Colored to Match Pole.** The facility shall be colored to match the pole to which it is attached. Where a new pole is proposed, the pole shall be colored to match other poles in the area or, if no other poles exist in the area, the new pole shall be colored so as to be compatible with the surroundings.
  - (c) **Minimum Setbacks for Pole-Mounted Facilities.** The facility shall be setback from any property line one foot of distance for every foot of facility height (as measured from grade elevation), plus an additional 10 feet. Where a legally existing traffic signal, utility pole, street light, flagpole, electric or transmission line support tower, or other similar structure is being utilized, there shall be no setback requirement.
  - (d) **Height Limit.** The facility, including antennae, shall not exceed the maximum structure height limit in the zoning district. Where a legally existing traffic signal, utility pole, street light, flagpole, electric or transmission line support tower, or other similar structure is being utilized, there shall be no height requirement.
  - (e) **Accessory Equipment and Shelters Limited in Size.** Primary equipment enclosures shall be no larger than seventeen square feet. The following associated equipment may be located outside of the primary equipment enclosure: electric meter, concealment, telecommunications demarcation box, ground-base enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.
- (iv) **Design Standards for Small Cell CMRS Facilities that are Building Roof or Wall-Mounted.** The facility shall meet the general standards included in Design Standards for Building Roof or Wall-Mounted CMRS Facilities listed above.

#### 5.2.20. Construction Equipment Storage, Accessory

- (A) **General Standards.** The storage of vehicles, materials, equipment, field offices associated with a federal, state, or local public improvement project, public or special district utility project, or private development-related project construction project, occurring on the same lot, parcel or tract as the project, is allowed as an accessory use, provided construction equipment storage shall cease and the subject property shall be restored within 30 days after the project is completed. The same lot, parcel, or tract shall include all lots, parcels, and tracts within a subdivision when the project is for the purposes of construction of the subdivision.
- (B) **Construction Trailers and Field Offices.** Construction trailers and field offices shall comply with required zoning setbacks and dimensional standards, and all other applicable requirements of this Code.
- (C) **Storage within Right-of-Way.** Construction equipment storage within a County right-of-way is not regulated or authorized by this Section, and is subject to a work in the right-of-way permit pursuant to the requirements of the ECM.

#### 5.2.21. Construction Equipment Storage, Temporary

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

- (B) **Construction Trailers and Field Offices.** Construction trailers and field offices shall comply with required zoning setbacks and dimensional standards, and all other applicable requirements of this Code.
- (C) **Storage within Right-of-Way.** Construction equipment storage within a County right-of-way is not regulated or authorized by this Section, and is subject to a work in the right-of-way permit pursuant to the requirements of the ECM.

#### 5.2.22. Dwelling, Additional

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

#### 5.2.23. Dwelling, Single-Family Attached

- (A) **Standards that Apply in RS-6000 and RS-5000 Districts.** The following standards apply to single-family attached dwellings in the RS-6000 and RS-5000 zoning districts.
  - (1) **Limited Number of Contiguous Units.** No more than 2 dwelling units may be attached. Structures containing 3 or more attached dwelling units are prohibited in the RS-6000 and RS-5000 zoning districts.
  - (2) **Lot Area to Meet Minimum Standards.** Each single-family attached dwelling shall be on a lot that complies with the lot area and width standards for new lots in the zoning district. Single-family attached dwellings shall not be placed on lots with a nonconforming lot area.
  - (3) **Side Setbacks Modified.** The minimum required side setback on the side of the dwelling unit containing the common wall is reduced to zero. The minimum required side setback on the side of the dwelling unit opposite the common wall shall be at least double the side setback standard of the zoning district.
  - (4) **Corner Lot Setbacks.** On corner lots, either the rear setback or side setback on the side of the dwelling unit containing the common wall may be reduced to zero; however, the remaining side or rear setback shall comply with the rear setback standard of the zoning district.
  - (5) **Front Facade.** The front facade of a single-family attached dwelling shall not be comprised of more than 40% garage wall area, and all garage doors shall be recessed at least 5 feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.
  - (6) **Easements Remain In Force.** While setbacks may be reduced to zero, any easements remain in force and shall be vacated or an encroachment granted prior to construction.
- (B) **Standards that Apply in the RM-12 and RM-30 Zoning Districts.** The following standards apply to single-family attached dwellings in the RM-12 and RM-30 zoning districts.
  - (1) **Limited Number of Contiguous Units.** No more than 8 dwelling units may be attached. Structures containing 9 or more attached dwelling units are prohibited in the RM-12 and RM-30 zoning districts.
  - (2) **Density and Lot Size.** The density and lot size (area and width) requirements of the zoning district apply. Commonly-owned areas, including commonly-owned open space, driveway, or parking areas apply toward the overall density standard.
  - (3) **Setbacks Around Perimeter.** The front, side, and rear setback standards of the zoning district apply around the perimeter of the property.



- (4) **Side Setback Modified.** The side setback on the side containing a common wall is reduced to zero.
- (5) **Corner Lot Setbacks.** On corner lots, either the rear setback or side setback on the side of the dwelling unit containing the common wall may be reduced to zero; however, the remaining side or rear setback shall comply with the rear setback standard of the zoning district.
- (6) **Front Facade.** The front facade of a single-family attached dwelling may not be comprised of more than 40% garage wall area, and all garage doors shall be recessed at least 5 feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.
- (7) **Roof-Lines.** The roof of each single-family attached dwelling shall be distinct from the others through separation of roof pitches or direction, or other variation in roof design.
- (8) **Common Accesses.** A common access to the rear of the lots for common or individual parking is allowed and may take the form of an easement. Common access drives shall be at least 12 feet wide if designed for one-way traffic and at least 20 feet wide if designed for two-way traffic. When the access drive abuts residentially-zoned property that is not part of the single-family attached dwelling project, it shall be buffered by a screening fence meeting the requirements of Chapter 6.
- (9) **Easements Remain In Force.** While setbacks may be reduced to zero, any easements remain in force and shall be vacated or an encroachment granted prior to construction.

**5.2.24. Family Care Homes (See Childcare Centers, Family Care Homes and Group Homes)**

**5.2.25. Farm/Ranch Residence**

- (A) **Minimum Qualifying Acreage.** A farm/ranch residence shall only be allowed as an accessory use where the ownership in the farm or ranch operation includes a minimum of 35 acres.
- (B) **Number of Farm/Ranch Residences.** The total number of residences (including any principal dwellings, farm/ranch residences, caretaker's quarters, or other dwelling units) within a farm or ranch ownership shall not exceed one unit per 5 acres.
- (C) **Type of Structure.** A farm/ranch residence may be a detached single-family dwelling, manufactured home, apartment type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home may be used as a farm/ranch residence.
- (D) **Occupancy Limited.** A farm/ranch residence may be occupied only by a person principally employed at or engaged in the operation of the farm or ranch and their immediate family, and may not be leased or rented. The request to allow additional dwellings or mobile homes in the operation of a farm, ranch, dairy, or fur farm, may be substantiated by verification of employment necessary to the operation of the site. The verification may consist of tax records, employment agreements or other documentation as determined suitable by the PCD. This verification shall substantiate the need for the employee and on-site living quarters to the operation of the farm, ranch, dairy, or fur farm.
- (E) **Other Applicable Standards.** A farm or ranch residence shall meet all standards for a principal dwelling unit of the same type.

**5.2.26. Fireworks Sales**

- (A) **Sales Period Limited.** Fireworks sales are limited to the period from May 31<sup>st</sup> to July 5th each year.

- (B) **Fire Department Approval Required.** The fireworks sales area shall be located within an area provided with fire protection by a fire department. Fire department approval is required prior to the approval of a temporary use permit.
- (C) **Driveway Permit Required.** A driveway permit shall be issued to allow access to the fireworks sales area prior to the approval of a temporary use permit.
- (D) **Required Signage.** A fireworks sales area shall post signage noting it is illegal to shoot fireworks within all towns and cities in El Paso County and violators will be prosecuted. Each fireworks sales area shall provide either one sign, with minimum 3 inch letter size, or 4 signs of 8½ by 11 inches, placed in a conspicuous location easily readable by the public, noting the language as stated or similar language approved by the PCD Director.

#### 5.2.27. Garden Supplies and Nursery Stock

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

#### 5.2.28. Group Homes (See Childcare Centers, Family Care Homes and Group Homes)

#### 5.2.29. Home Occupations

There are two categories of home occupations: residential home occupations and rural home occupations. Separate standards and criteria apply to each category. This Section is not meant to regulate a small home lawn mowing service, lemonade stand, magazine sales, cookie sales, or other traditional small-scale businesses or business-like activities operated by a child residing in the dwelling, which are considered exempt from the provisions of this Code; however in no instance may a medical marijuana land use qualify as a home occupation. The PCD Director shall determine whether a site plan and a home occupation permit are necessary to verify compliance with the home occupation standards.

##### (A) Residential Home Occupation.

- (1) **Intent.** It is the intent of this Section to provide clear standards for home occupations in zones that allow residential use which will ensure compatibility with the residential purposes of those zones and that there are no adverse effects on the residential character of those zones, and which will not allow in residential zones those uses allowed in commercial and industrial zones except as specifically authorized by this Section.
- (2) **Allowed Residential Home Occupations.** The following home occupations shall be allowed in a zoning district where residential uses are allowed, subject to the standards and requirements of this Section:
  - Any principal or sideline occupation or trade or any hobby which results in the sale or trade of any products manufactured by the resident on the premises or the preparation or provision of any service by the resident on the premises;
  - Any professional or business office, whether the resident's principal or occasional work place;
  - Any educational or training service requiring pupils, students or trainees to come to the premises for instruction by resident (e.g., music or art studios);

- Any non-profit, civic, or religious organization or association for which the resident is employed, works, serves, or represents, whether or not the resident is remunerated for the services; and
- Any bed and breakfast home, which operates in conformance with specific-use and all other applicable development standards of this Code.

(3) **Excluded Uses.** A residential home occupation shall not include the following uses:

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

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

- Accessory in Character.** The residential home occupation shall be clearly subordinate to the use of the lot as a residence, and the use of the dwelling or detached accessory structure for the home occupation shall not result in any visual or other essential change in the residential character of the property.
- Person Conducting Occupation Resides on Lot.** The residential home occupation shall be conducted only by a person or persons residing on the lot or parcel and only so long as contained entirely within the dwelling or a detached accessory structure. No more than two (2) vehicles, excluding customer parking, associated with a home occupation, may be parked or stored outdoors on any property and shall meet the use specific standards for Parking, Storage and Repair of Vehicles and Machines, Personal found in Chapter 5 of this Code.
- Limit on Area.** The total area used for the home occupation shall not exceed 25% of the existing dwelling and/or more than 500 square feet of any accessory structure. The operation of a home occupation shall not result in the elimination of the dwelling's kitchen or all of its bedrooms.

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

(e) **Outside Storage Prohibited.** There shall be no outside storage or display on the premises of material, tools or equipment used as part of the home occupation or any products manufactured as part of the home occupation.

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

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

(g) **Limit on Visitation by Clients.** The occupation will ordinarily not bring more than 3 clients or customers to the lot or parcel at any one time.

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

(i) **Nuisances and Hazards Avoided.** Any mechanical, electrical or electronic equipment or machinery used in the home occupation shall be operated in a fashion so that no noise, vibration, glare, fumes, odors, heat, or electrical interference are detectable to the normal senses beyond the boundary line of the lot or parcel. In no case shall any equipment be allowed which involves the use of hazardous, explosive or highly flammable (other than fuel needed to power the equipment) substances or which produces hazardous, explosive or highly flammable wastes or products.

(j) **Conducted In Accordance with Laws.** The occupation is conducted in compliance with all applicable building, fire, health, and environmental laws, codes, and regulations.

(k) **No Visual Impacts.** No activity associated with a home occupation shall be allowed which results in detrimental visual impacts to the surrounding neighborhood.

(l) **More than One Home Occupation Allowed.** More than one home occupation may be conducted on any property provided that aggregate impacts are limited to those allowed by this Code.

(m) **Deliveries Limited.** Deliveries other than standard parcel services are prohibited when associated with a home occupation.

(B) **Rural Home Occupation.**

(1) **Applicability.** The provisions of this Section shall only apply to parcels within the A-35 zoning district.

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

- (3) **Intent.** The intent of the more broadly defined rural home occupation is to recognize the unique land use characteristics in A-35 (Agricultural) zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.
- (4) **Minimum Lot Size Required.** A rural home occupation is allowed on any parcel that is 35 acres or more in area. Lots or parcels less than 35 acres shall only be approved by the rural home occupation as a special use provisions of this Code.
- (5) **Allowed Home Occupations.** The following types of uses, in addition to those allowed as a residential home occupation, may qualify as rural home occupations, if the general standards of a rural home occupation are met:
  - Contractor's equipment yards, construction businesses, welding shops;
  - Vehicle storage or repair businesses;
  - Other small businesses which are rural or agricultural in nature; or
  - Other small businesses which the PCD Director determines meet the intent of this Section of the Code.
- (6) **Excluded Uses.** The following types of businesses, among others do not qualify as a rural home occupation:
  - Any heavy industrial, solid waste disposal, solid waste transfer, scrap tire recycling or mineral extraction use;
  - Any use involving significant public occupancy or overnight accommodations other than those uses specifically allowed in the zoning district;
  - Any commercial tower or utility use, not otherwise allowed; and
  - Any outdoor concert, shooting range, race track or comparable use.
- (7) **General Standards for Rural Home Occupation.** Rural home occupations shall conform to the requirements and standards of a residential home occupation with the following specific allowances.
  - (a) **Outside Storage and Work Areas Allowed.** Outside storage, parking and work areas are allowed provided these are set-back a minimum of 50 feet from all property lines and are limited in combination to one acre or 5% of the total lot or parcel area, whichever is less. The screening standards of Chapter 6 of this Code shall apply to all outside storage areas.
  - (b) **Employees.** A maximum of 2 employees are allowed on the subject lot or parcel per day, who are not family members or principally employed in a use which is otherwise allowed on the lot or parcel.
  - (c) **Trips Generated by Home Occupation Limited.** The total number of one-way vehicle trips generated by the rural home occupation shall not exceed an average of 20 per day.
  - (d) **Inoperable Vehicles.** A maximum of 10 inoperable non-agricultural vehicles shall be allowed in conjunction with the rural home occupation.

- (e) **Environmental Impacts.** The rural home occupation shall not result in any generation of solid waste or hazardous substances or petroleum or excessive noise, vibration, dust, glare, drainage, erosion or other environmental impacts to surrounding lot or parcel owners.
- (f) **More than One Home Occupation Allowed.** More than one rural home occupation is allowed on a single property, provided that aggregate impacts are limited to those allowed by this Code.

(C) **Rural Home Occupations as a Special Use.**

- (1) **Applicability.** This Section is applicable to a rural home occupation in the A-35 zoning district not meeting the requirements for a Rural Home Occupation in the A-35 Zoning District or in those zoning districts where a Rural Home Occupation has been identified as a Special Use in Table 5-2.
- (2) **Intent.** The intent of allowing a rural home occupation as a special use is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential, forestry, or agriculturally zoned property in manner that protects neighboring properties from extreme or unreasonable impacts.
- (3) **Minimum Lot Size Required.** A rural home occupation is allowed as a special use on any parcel or lot that is 5 acres (including a legally-created 4.75-acre parcel or lot along a section line road) or more in area.
- (4) **General Requirements.** A rural home occupation by special use shall conform to all standards for locating and operating a rural home occupation except as otherwise modified by these standards and the special use approval.
- (5) **Special Provisions and Allowances.**
  - (a) **Limit of Administrative Approval.** A rural home occupation which receives administrative special use approval shall expire 5 years from the date of approval. The special use may be renewed following the same procedure as the original application.
  - (b) **Employees and Traffic.** A maximum of 10 employees are allowed on the subject lot or parcel per day, who are not family members or principally employed in a use which is otherwise allowed on the lot or parcel. The rural home occupation shall not generate more than a maximum of 50 daily trips.

**5.2.30. Kennel**

(A) **Minor.**

- (1) **Applicability.** A kennel in which 5 to 8 dogs or cats exist within a 24 hour period of time, and all of which exceed 4 months in age. Dogs or cats owned by the occupants of the premises shall be included in the count.
- (2) **Minimum Setback for Kennel.** Structures used for boarding, training, or breeding associated with the kennel adjoining a residential, forestry, or agricultural zoning district shall be setback a minimum of 100 feet from all property boundaries. The PCD Director may allow a reduction in the setback where appropriate actions are taken to mitigate potential impacts.
- (3) **Overnight Boarding.** Where overnight boarding occurs, animals shall not be allowed unsupervised outdoor access.
- (4) **Employees.** A maximum of 2 employees are allowed when located on lots or parcels with a minimum of 35 acres, or as otherwise modified by special use approval.

- (5) **Conducted in Accordance with Laws.** The kennel shall be conducted in compliance with all applicable county, state and federal laws.

(B) **Major.**

- (1) **Applicability.** A kennel in which 9 or more dogs or cats exist, and all of which exceed 4 months in age. Dogs or cats owned by the occupants of the premises shall be included in the count.
- (2) **Minimum Setback for Kennel.** Structures and outdoor areas used as part of a kennel's operation adjoining a residential, forestry, or agricultural zoning district shall be setback a minimum of 200 feet from all property boundaries. The PCD Director may allow a reduction in the setback where appropriate actions are taken to mitigate potential impacts.
- (3) **Overnight Boarding.** Where overnight boarding occurs, animals shall not be allowed unsupervised outdoor access.
- (4) **Conducted in Accordance with Laws.** The kennel shall be conducted in compliance with all applicable county, state and federal laws.

**5.2.31. Light Manufacturing, Accessory Use**

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

**5.2.32. Livestock, Barns, Corrals, and Stables**

- (A) **Applicability.** These standards are applicable to horses, goats, cattle, llamas, bison and other animals as defined as livestock in Chapter 1 of this Code. These standards do not apply to animals included under Animal Keeping.
- (B) **Animal Waste Standards.** Manure stockpiles or composting manure shall be setback a minimum distance of 100 feet from any lot line. Manure shall be removed from the property, composted, or worked into the soil as fertilizer on a regular basis so as not to accumulate excessively. Drainage facilities and erosion control measures shall be established on the site to protect adjacent properties from runoff.
- (C) **Barns, Corrals, and Stables shall meet the following standards:**
- (1) **Location of Barns, Corrals, and Stables.** Barns, Corrals, and Stables shall be located at least 25 feet from the front, 25 feet from the side, and 25 feet from the rear lot, parcel, or tract boundary line. All corrals shall be situated at least 35 feet from a residential structure on adjoining lots, measured in a straight line from nearest point to nearest point. Open-ended or open-sided stables shall be oriented to the interior of the lot, parcel or ownership unless located at least 100 feet from all property line.
- (2) **Not Located Over Onsite Wastewater Treatment System.** Barns, corrals, and/or stables shall not be located over any portion of an Onsite Wastewater Treatment System.
- (3) **Boundaries of Corral.** On lots or parcels less than 2.5 acres in size the outer boundaries of any fenced area shall be considered the corral unless there is a separately identified corral.
- (4) **Limit on Number of Livestock in RR-0.5 Zoning District.** In the RR-0.5 Zoning District, one acre is required to keep livestock. No more than 2 livestock over the age of one year are allowed per ½ acre in RR-0.5 Zoning District.

#### 5.2.33. Marijuana, Personal Cultivation of

- (A) **Accessory to a Residential Use.** Personal cultivation of marijuana shall only be an accessory use to a dwelling unit, and may only occur in those zone districts where a residential use is allowed.
- (B) **Located in Primary Residence.** Personal cultivation of marijuana may only occur in the primary residence of the patient, caregiver or person over 21 years old, or in an accessory structure on the same property.
- (C) **Location within Primary Residence.** All personal cultivation of marijuana must occur in a separate, enclosed, locked space, not to exceed 150 square feet for a single-family dwelling or 100 square feet for all other dwelling units, within the dwelling unit or accessory structure.
- (D) **Plant Limits.** No more than 12 marijuana plants, with  $\frac{1}{2}$  or fewer being mature, flowering plants can be grown in a single dwelling unit, regardless of the number of patients, caregivers or persons over 21-years old, or any combination thereof, that reside in the dwelling unit.
- (E) **Extraction.** No compressed, flammable gas or volatile solvent may be used in the extraction of THC or other cannabinoids. For purposes of this paragraph, "volatile solvent" means a liquid that is capable of dissolving other material and vaporizes at room temperature.
- (F) **Cannot be Considered a Home Occupation.** In no instance may personal cultivation of marijuana qualify as a home occupation.
- (G) **Cannot be Perceptible.** The odor of marijuana shall not be detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit. Personal cultivation of marijuana shall not be perceptible from the exterior of the dwelling unit or accessory structure visually or as a result of undue parking or vehicular or foot traffic.
- (H) **Enforcement.** The El Paso County Sheriff's Office is specifically authorized to enforce the provisions of this section upon coordination with the PCD Director or his/her designee. The requirement for a show cause hearing found in Section 11.3.2 of this Code shall not apply to the enforcement of standards related to personal cultivation of marijuana.

#### 5.2.34. Mineral and Natural Resource Extraction

- (A) **Commercial Mineral and Natural Resource Extraction Operations.**
  - (1) **Purpose.** To establish specific standards for commercial mineral and natural resources extraction operations to minimize impacts to the community while providing for the efficient removal of commercially-viable minerals and natural resources.
  - (2) **Applicability.** These standards are applicable to any new or expanding commercial mineral and natural resources extraction operation.
  - (3) **General Requirements.**
    - (a) **Compliance with this Section.** In addition to compliance with the special use permit standards, any other applicable requirements of this Code, and any conditions imposed by the BoCC, a commercial mineral and natural resource extraction operation shall also comply with the standards, requirements and conditions required by this Section.
    - (b) **Valid Mining Permit Required.** A commercial mineral and natural resource extraction operation shall have a valid mining permit from the Colorado Mined Land Reclamation Board prior to beginning or expanding operations, and during the entire period of operation.
    - (c) **Written Notice of Filing for Permit with MLRB.** Written notice of the filing of an application for a reclamation permit or renewal of an existing mining permit to the Colorado Mined Land Reclamation Board shall be provided to the PCD by the



applicant concurrent with the placement of a copy of the application or renewal for public inspection at the office of the Clerk and Recorder in accordance with C.R.S. § 34-32-112 (10)(a).

- (d) **Proof of Publication Required.** The applicant shall provide copies of the proof of publication of any notice required by C.R.S. § 34-32-112 (10)(b) to the PCD.
- (e) **Comply with Construction Permit and Erosion and Sediment Quality Control Permit.** Mineral and natural resource extraction operations shall comply with ECM and any required permits.
- (4) **Local Approval and State of Colorado Discharge Permits.** Approval of a special use permit does not relieve the applicant from compliance with discharge requirements of the State of Colorado.
- (B) **Additional Standards.** A mineral and natural resource extraction operation shall, in addition to meeting the special use standards, demonstrate conformance with the following standards:
  - (1) **Consistent with Master Plan.** The operation shall be consistent with the Master Plan for Extraction of Commercial Mineral Deposits.
  - (2) **No Adverse Long-Term Visual Impacts.** The operation shall have no adverse long-term visual impact either from adjacent properties or major transportation corridors.
  - (3) **Reclaimed to a Compatible Use.** The land on which the operation is located shall be reclaimed to a use and character compatible with surrounding uses and zoning.
  - (4) **Operation to Result in Efficient Use of Resource.** The operation shall result in an efficient use of the mineral deposit.
  - (5) **Disturbance of Sensitive Environment Limited.** The operation shall not substantially disturb uniquely sensitive environmental features including but not limited to wetlands, riparian habitats, wildlife habitats, threatened or endangered species habitat, high priority land for conservation, and rare or unusual natural features.
  - (6) **Disturbance of Historic Resources Limited.** The use shall not substantially disturb identified historical, archaeological or paleontological sites.
  - (7) **Buffering Required.** The site and associated special use operations shall be adequately buffered from surrounding properties and uses.
  - (8) **Water Supply Adequate for Operations and Reclamation Uses.** Adequate water supplies shall be available for drinking, dust control, landscaping, general operations and effective reclamation. Proof of approved water supply shall be provided to PCD.
  - (9) **Mitigation of Impacts to Adjacent Properties.** Adverse impacts from vibration, noise, glare, blowing or flowing materials, or odors shall be mitigated to ensure minimal impacts to adjacent properties and travelers.
  - (10) **Commercial Mineral Deposit Required.** A commercial mineral deposit as defined by State Statute shall exist on the land on which the operation will be located.
  - (11) **Site Security and Safety.** Adequate site security and safety plans shall be provided at all times.
  - (12) **Hours of Operation.** Hours of operation shall be compatible with neighboring uses, traffic volumes, affected transportation corridors and school bus operations, and designated pedestrian crosswalk activity over the lifetime of the operation.
  - (13) **Reclamation of Visual and Environmental Impacts.** Reclamation of adverse visual and other environmental impacts shall take place within a reasonable and specified time frame.

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

(C) **Construction-Related Mining.**

- (1) **Construction-Related Mining Limitations.** Construction-related mining as a temporary use shall be limited to the following types of mining operations:

- A sand, gravel, or quarry aggregate operation which is to be operated for the sole purpose of obtaining materials for road, utility, or similar public construction projects under a federal, State, or local government, or special district contract where the contract calls for the work to be commenced within 90 days of contract approval and which will affect 10 acres or less. The administrative approval shall last only so long as the contract or any supplement thereto is in effect but no longer than 24 months.

- Any sand, gravel, or quarry aggregate operation the primary purpose of which is to level, excavate, or otherwise prepare land for road or building construction and which: (1) Involves the removal from the site of less than 50,000 cubic yards of product, whether or not said product is sold; (2) Can be completed within 4 months of initial earthmoving activity; (3) Does not involve crushing or processing of the mineral product on site; and (4) Is not located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and Section 404 permits have been obtained.

(2) **Standards.**

- (a) **Grading.** Interim and final grading shall be designed to protect adjacent lands from damage associated with storm drainage including concentrated flows or ponding, or collapse. A grading plan for the proposed site on completion of the mining activity shall be approved as part of the special use permit.
- (b) **Erosion and Sediment Control.** All operations and activities shall conform to the ECM and any permitting requirements including the requirement to obtain an ESQCP.
- (c) **Noxious Weed Management Plan.** A noxious weed management plan (including re-vegetation or restoration of the site) conforming to the requirements of this Code shall be prepared approved by the County, and implemented.
- (d) **Fugitive Dust and Air Quality.** No special use permit shall be approved until a copy of the fugitive dust and any other required air or water quality permits are submitted to the PCD Director.
- (e) **Hours of Operation Limited.** Construction-related mining shall only be conducted between 7 a.m. to 7 p.m.
- (f) **Repair of Road Damage.** Damage to any roads that provide access to the construction-related mining site that may be attributable to the use of the site for construction-related mining shall be repaired by the construction-related mine owner or operator to the satisfaction of the ECM Administrator. Financial assurance may be required by the ECM Administrator to cover potential repair costs.
- (g) **Other Permits Required.** A construction permit, work in the right-of-way permit, and ESQCP shall be obtained from the ECM Administrator prior to the issuance of a

special use permit authorizing the use of the subject property for construction-related mining.

- (h) **Hauling Routes.** The ECM Administrator may limit hauling routes and the size of loads to protect the general welfare of the citizens in accordance with the ECM.
- (i) **Duration of Use.** The duration of time the construction-related mine is operated shall be limited to the duration of the associated project.
- (j) **Mineral Processing.** Mineral processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of the special use.
- (k) **Conditions of Approval.** The PCD Director may impose any condition or requirement deemed necessary to protect the health, safety, and welfare of the public; to prevent a nuisance or hazard to property; and to ensure proper completion of the project, including but not limited to:

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

#### 5.2.35. Mixed Use Residential

Mixed use residential uses shall comply with the following standards:

- (A) **Residential Use to be Subordinate to Commercial Use.** Mixed-use residential units shall be subordinate to the commercial use of the mixed use building.
- (B) **Lot Area Required Per Residential Unit.** The following minimum gross lot area requirements apply to all mixed use buildings:

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

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

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

#### **5.2.36. Mobile Homes**

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

#### **5.2.37. Model Home/Subdivision Sales Office**

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

#### **5.2.38. Oil and/or Gas Operations**

##### **(A) General.**

- (1) **Purpose.** The intent of this section is to facilitate the exploration and production of oil and/or gas resources within the unincorporated areas of the County in a responsible manner, which includes ensuring the potential land use and environmental conflicts will be avoided or appropriately mitigated. The following regulations are enacted in order to preserve the rights and privileges of surface and mineral estate owners and lessors, while ensuring the health, safety, and general welfare of the present and future residents of El Paso County and the preservation and protection of environment and wildlife resources.
- (2) **Applicability.** All oil and/or gas operations, including exploration and production activities, are subject to the requirements of this section. In the event that the provisions of this section conflict with any other provisions of the Code, this section shall supersede as it applies to oil and/or gas operations.
- (3) **Authority.** This section is adopted pursuant to C.R.S. §§ 29-20-11 et seq., 34-60-101 et seq., and 30-28-101 et seq.. These standards are not intended to supersede state laws, regulations, and rules pertaining to oil and/or gas development, but rather are meant to supplement those requirements where appropriate.
- (4) **Waivers.**
  - (a) **General.** The Board of County Commissioners (BOCC) or the PCD Director may grant a waiver for one or more of the requirements of this section.
- (5) **Right to Enter.** The empowerment of the PCD Director to enter and inspect a property is authorized under Section 11.1.4 of this Code. If entry is denied, the County shall have the authority to discontinue application processing, revoke approved permits and applications, or to obtain an order from a court of competent jurisdiction to obtain entry.
- (6) **Notice of Application and Public Hearing.** Notice to surface property owners and affected residents of the County shall follow the provisions of the Procedures Manual pertaining to special use applications for oil and/or gas operations. At a minimum, written notice shall be provided by the applicant to any adjoining property owner at the time of special use application to the County. In addition, notice shall be provided by the County to any adjoining property owner a minimum of 14 days prior to a decision on an application by the PCD Director or a minimum of 14 days prior to a hearing on the application by the Planning Commission or the BoCC.
- (7) **Local Government Designee.**
  - (a) **General.** The COGCC rules establish a process for consultation with local governments on certain state applications pertaining to the location of roads, production facilities, and well sites. To facilitate this process, the COGCC rules allow local governments to appoint a Local Government Designee (LGD), to which copies of all applicable documents are sent by the COGCC for consultation on behalf of the local government.

- (b) **Consultation.** By enacting the regulations of this section, the BoCC hereby acknowledges that the LGD for El Paso County shall be authorized to provide consultation on behalf of El Paso County on any notifications received from the COGCC and that such consultation shall be based upon the requirements of this section and the relevant provisions of the Procedures Manual.
- (B) **Definitions.** The application of the following terms and associated definitions shall be limited to those applications submitted under this section of the Land Development Code (LDC). These terms and definitions do not modify, alter, or replace any other terms or definitions included within other sections of this Code, including, but not limited to, those terms and definitions contained within Chapter 1.
- Oil and/or Gas Facility.** Equipment or improvements used or installed at any location for the exploration, production, withdrawal, gathering, treatment, or processing of oil and/or natural gas.
- Oil and/or Gas Operations.** Exploration for oil and/or gas, including the conduct of seismic operations and the drilling of test bores; the sitting, drilling, deepening, recompletion, reworking, or abandonment of an oil and/or gas well, underground injection well, or gas storage well; production operations related to any such well including the installation of pipelines, flowlines, and gathering systems; any construction, site preparation, storage and/or staging, or reclamation activities associated with such operations; a centralized facility for oil and/or gas production, water injection, water transfer or recycling, or water pumping, and associated facilities; or any other related activity.
- Operator.** The person or entity who has the legal right to drill into and produce from a pool and to appropriate the oil or gas produced there from either for such operator or others.
- Site.** Any lands, including the surface of severed mineral estates, on which exploration for, or extraction and removal of oil or gas is authorized pursuant to a lease agreement.
- Surface Owner.** The owner of the surface property on which the facility will be constructed or any owner of a surface estate within one mile of an oil and/or gas facility or within one-half (1/2) mile of the terminus of any directional well bore.
- Wellhead.** The equipment attached to the casing of an oil, gas, or injection well above the surface of the ground.
- All other terms used in this article, which are not otherwise defined by this Code, shall be given their usual, customary, and accepted meaning.

(C) **Application Review and Approval Process.**

(1) **Required Applications.**

- (a) **Special Use Application.** Approval of a special use application is required for oil and/or gas operations in all zoning districts.

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

- (a) **Special Use Applications for Oil and/or Gas Operations.** Special use applications for oil and/or gas operations may be reviewed and approved administratively by the PCD Director. The PCD Director shall make a decision on a special use application within 30 days of the day that a complete application is submitted. The final decision on the application by the PCD Director shall be based upon a determination by the PCD Director that all necessary information has been received, which may include receipt of any applicable waiver requests, and upon consultation with the Engineering Criteria Manual (ECM) Administrator and El Paso County Public Health (EPCPH). An appeal of any decision made by the PCD Director shall be made to the Board of County Commissioners in accordance with Section 5.3.6 (F) of this Code and the Procedures Manual. ~~An appeal of any decision made by the PCD Director shall be~~

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~~heard by the Board of County Commissioners.~~ The Director, at his or her sole discretion, is authorized to elevate any special use application for review by the Planning Commission and for final action by the BoCC. All complete special use applications for oil and/or gas operations shall be to the El Paso County District Court.

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

(D) **Specific Development and Performance Standards.**

(1) **Transportation Impact Analysis and Mitigation.**

- (a) **Purpose.** This section is meant to ensure that oil and/or gas facility operators plan, manage, and mitigate impacts to County roadways and bridges that result from facility construction, facility operation, and ongoing new traffic generation. In order to protect the health, safety, and welfare of the existing and future residents of El Paso County, mitigation of potential transportation impacts shall be required.
- (b) **Transportation Impact Study.** Applications for all oil and/or gas operations may be required to include a transportation impact study, which shall clearly identify and distinguish the impacts to County roads and bridges related to facility construction, operations, and ongoing new traffic generation. All required studies shall be prepared in accordance with the Engineering Criteria Manual (ECM) or other guidelines as provided by the ECM Administrator. The process for mitigation of transportation impacts typically includes a plan for roadway maintenance, and improving or reconstructing County roads, including providing financial assurance.
- (i) **Traffic Control Plan Required.** A traffic control plan shall be prepared for each phase of construction where County roads will be utilized for transportation of materials in support of site construction and/or operations. The plan shall include the following components:

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

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

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

- Special Transport Permit

- (iii) **Maintenance.** In the event that the activities of a facility operator cause any roadway to become substandard, the County may require the operator to provide ongoing maintenance of the applicable substandard County roadways. Such roadway improvements such as graveling, shouldering, and/or paving as determined in the transportation Impact Study.
- (iv) **Site Access.** Any access to a property from a County roadway requires a County-issued access permit. Access permits to the County road system are issued through either the PCD private driveway permit process or through the Department of Public Works (DPW) temporary access permit process. Both permits are revocable upon issuance of a stop work order or if other permit violations occur. The permitting and construction of site accesses shall comply with the standards of the ECM.
- (v) **Financial Assurance Required.** The transportation impact study, along with the associated construction drawings and cost estimate, shall determine whether to require the operator to enter into an Oil and/or Gas Operations Impact Mitigation Agreement with the County and any other applicable jurisdiction. Such agreement shall be supported by an acceptable form of financial assurance, as outlined in this section under the Financial Assurance subsection.

(2) **Emergency Response Plan.**

- (a) **Required Plan.** All oil and/or gas facility operators shall provide an emergency response plan to the El Paso County Sheriff's Office, Fire Marshal, and the fire protection jurisdiction having authority. No application for oil and/or gas operations shall be considered complete or be approved until and unless the operator has provided such plan to the Sheriff's Office, Fire Marshal, and the fire protection jurisdiction having authority. The plan shall be filed with the Sheriff's Office, Fire Marshal, and the fire protection jurisdiction having authority and updated on an annual basis. Each annual update is to be provided for each calendar year by February 1 of the same year.
- (b) **Required Plan Content.** The emergency response plan shall, at a minimum, consist of the following:
  - (i) Name, address, and phone number, including 24-hour emergency numbers for at least two persons responsible for emergency field operations.
  - (ii) An as-built facilities map showing the name, location, and description of all minor and major facilities, including the size, type, and content of all pipelines, pits, and tanks. To the extent allowed by law, the as-built facilities map shall be held confidentially by the El Paso County Office of Emergency Management (OEM), and shall only be disclosed in the event of an emergency. To the extent allowed by law, the County OEM shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).
  - (iii) A written response plan for any potential emergencies that may be associated with the construction, drilling, completion, or operation of the facilities. This plan shall include, but not be limited to, any or all of the following: explosions, fires, gas, chemical or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.

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

- (a) **Groundwater Quality Monitoring Plan.** Applications for oil and/or gas operations shall include a groundwater quality monitoring plan if well drilling activities are

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

- (i) Establishing a monitoring network of existing water well, seeps, and/or springs in order to evaluate the potential effects of oil and gas drilling on groundwater,
  - (ii) Determining baseline conditions for naturally occurring constituents, and
  - (iii) Providing mitigation measures to be implemented if monitoring results indicate significant impacts to groundwater quality as a result of oil and gas operations.
- (b) **Existing Well Monitoring Network.** A monitoring network of existing wells, seeps, and/or springs shall be included in the groundwater quality monitoring plan. A minimum of four (4) existing water wells, seeps, and/or springs within a one-half (½) mile radius from the wellhead shall be included in the monitoring plan, if available. The PCD Director and/or the BoCC, in consultation with EPCPH, may require the inclusion of additional wells, seeps, and/or springs into the monitoring plan, subject to availability. The inclusion of any well, seep, and/or spring into a monitoring network requires documented landowner consent, which should include right of entry for the County to enter the site in the event of execution of the financial assurance for the groundwater monitoring plan.
- (c) **Water Quality Samples.** Groundwater samples shall be collected prior to the commencement of any drilling activities for the purpose of establishing baseline water quality. Subsequent to the completion of drilling activity, all water wells within the respective monitoring network shall be tested at years one (1), three (3), and six (6) from the date of drilling completion. The monitoring network shall also include any future water wells drilled within the ½ mile radius subsequent to the oil and gas well drilling, subject to EPCPH determination and landowner consent. All samples shall be collected by a qualified independent contractor experienced in water quality sampling and shall be sent to a State of Colorado certified laboratory for analysis. The groundwater samples shall be analyzed for the following:
- (i) pH unites (EPA Method 150.2 or calibrated field instrument),
  - (ii) Total dissolved solids (TDS),
  - (iii) BTEX compounds (benzene, toluene, ethylbenzene, total xylene),
  - (iv) Methane,
  - (v) Major ions, including but not necessarily limited to, chloride, sulfate, sodium, calcium, potassium, bromide, arsenic, barium, chromium (total), and cadmium.
- Testing results shall include the analysis for the above listed parameters, location of the water well, seep, and/or spring (to the nearest 10 feet), location of the oil or gas well site (to the nearest 10 feet), depth of any included water well, depth and identification of aquifers (if identifiable), and date of sampling. Such results, upon prior approval by the respective landowners, shall be submitted to the COGCC, PCD, EPCPH, and any applicable water district and/or central water provider within 90 days of the date of sample collection.

(4) **Noxious Weed Management.**

- (a) **Purpose.** The purpose of this section is to ensure that oil and/or gas facility operators assess, manage, and mitigate the potential spread of noxious weeds, pursuant to Noxious Weeds Section in Chapter 6 of this Code, the Colorado Noxious Weed Act C.R.S. § 35-5-5 et. Seq., and the El Paso County Weed Management Plan adopted by Resolution 09-106 on March 24, 2009.



- (b) **General.** Oil and gas facility operators shall be responsible for ongoing site and access road noxious weed control during construction and operation of the facility. The selection of a reseeding mix and the method(s) for appropriate weed control shall be determined through documented consultation with El Paso County Environmental Division, the Natural Resources Conservation Service (NRCS), and the Colorado Department of Agriculture, as applicable.

(E) **Financial Assurance.**

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

(F) **Review Standards.** (Clarified by Resolution 12-69 approved 2/21/2012)

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

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

The technical requirements for compliance with the special use are technically feasible and commercially available.

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

#### **5.2.39. Outdoor Sales and Display**

Outdoor sales and display shall meet the following standards:

- (A) **Materials to be Displayed.** Outdoor sales and display are limited to retail merchandise.
- (B) **Outdoor Sale and Display Location.** Outdoor sales and display shall not be located in a manner that would impede pedestrian and vehicle circulation. The ADA path of travel and building ingress and egress shall be maintained. Outdoor sales and display shall not reduce the number of parking spaces required pursuant to Chapter 6 of this Code.

#### **5.2.40. Outside Storage**

- (A) **Applicability.** All outside storage is subject to the requirements of this Section.
- (B) **Outside Storage Standards.** Outside storage shall meet the following standards.
  - (1) **Materials to be Stored and Principal Use Required.** Outside storage may include vehicles, raw materials, supplies, finished or semi-finished products or equipment used in conjunction with, and specifically accessory to, an allowed principal use conducted on the premises unless listed as a principal use. Outside storage of inoperable vehicles or equipment in a location other than the salvage yard is only permitted to the extent allowed in the Parking, Storage and Repair of Vehicles and Machines, Personal Section of Chapter 5 of this Code, provided the standards of that section are met. Employee or customer parking or outdoor sales and display areas shall not be considered outside storage.
  - (2) **Materials Screened by Solid Fence or Vegetation.** Outside storage shall be enclosed and concealed by a solid fence or wall at least 6 feet in height or any combination of berming, shrubs, trees fencing or walls which will provide at maturity a minimum of 6 feet of height and 100% opaque screening for the area utilized for outside storage.
  - (3) **Outside Storage Not to Exceed Height of Screening.** Outside storage or stacked materials shall not exceed the height of the screening fence except for operable vehicles, trailers, or other equipment designed to be towed or lifted as a single component.
  - (4) **Storage of Equipment and Vehicles Exceeding Height of Fence.** All equipment and vehicles exceeding the height of the fence shall be stored on the rear 1/4 of the property except when adjacent to a residential zoning district, in which case the equipment or vehicles shall be a minimum 50 feet from the residential zoning district boundary.
  - (5) **Storage Adjacent to Road.** Outside storage is allowed within the required setback area from a road provided that the storage area does not occupy more than 50% of the lineal frontage at the right-of-way.
  - (6) **No Storage in Required Landscape Area.** Outside storage shall not be allowed within any required landscaped area.
  - (7) **Screening Fence Waived Between Adjacent Storage Areas.** When outside storage areas abut each other and are not visible from public areas, administrative relief may be sought from the requirement for a solid fence between the outdoor storage areas.
  - (8) **Salvage Yards and Solid Waste Landfills.** Salvage yards and solid waste landfills are not regarded as outside storage, but salvage yards are required to meet the screening standards of this Section.

- (9) **Temporary Storage.** Administrative relief from the outside storage standards may be sought in association with approved temporary uses.
- (10) **Landscaping Requirements to be Met.** Outside storage shall comply with the landscaping requirements in this Chapter.
- (C) **Relationship to Site Development Plan.** Outside storage areas shall be so identified on the site development plan prior to the establishment of the outside storage use.

#### 5.2.41. Over The Air Reception Devices

An Over the Air Reception Device (OTARD) mounted to a mast or pole shall be setback from any property line one foot of distance for every foot of facility height (as measured from grade elevation), plus an additional 10 feet. The applicant shall supply PCD with a site plan identifying the location of the OTARD in conformance with such setbacks within 14 days of the placement of the OTARD.

#### 5.2.42. Parking, Storage and Repair of Vehicles and Machines, Personal

##### (A) Standards Applicable in all Zone Districts.

- (1) **Allowed Vehicles.** Boats, trailers, recreational vehicles, stock automobiles, ski mobiles and all-terrain vehicles owned by a property's owner or occupant may be stored or parked outdoors in any zone district provided the storage or parking meets the standards listed in this Section.
- (2) **Parking on Public Right-of-Way.** Any parking or storage of vehicles on the public right-of-way shall conform to the requirements of the Sheriff's Office, this Code and any ordinances adopted by El Paso County.
- (3) **Occupancy of Vehicles Prohibited.** No person shall occupy or reside within any vehicle and/or recreational vehicle. Recreational vehicles may be occupied when located within a RVP district or used as temporary housing subject to the standards of Chapter 5 of this Code.
- (4) **Collectors' Vehicles.** The owner or occupant of any lot, parcel or tract may park or store outdoors on such property any inoperable vehicle, or parts thereof, described in this subsection provided the storage standards of this subsection are met. Any inoperable vehicle not described in this subsection is subject to the provisions generally applicable to inoperable vehicles below.

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

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

##### (B) Standards Applicable in Residential and Agricultural Zone Districts.

- (1) **Prohibited Vehicles.** No vehicles with a gross vehicle weight rating of 13,001 lbs. or greater shall be kept, stored or parked on private property in a zoning district where a residential use exists, except in the A-35 zoning district. This shall include, but is not limited to, tractor trailers, over-the-road semi-trucks, road cleaners, motor graders and similar maintenance or construction equipment. This provision does not apply to recreational vehicles. Notwithstanding the above, one tractor trailer or over-the-road semi-truck may be parked in a fully enclosed building in association with a residential use on a lot or parcel greater than 2 ½ acres in area.
- (2) **Inoperable Vehicles and Vehicle Parts.** The outdoor storage or parking of any inoperable vehicle or recreational vehicle and the outdoor storage of any vehicles parts, shall be prohibited on any lot or parcel used for residential purposes or within a Residential or Agricultural Zoning District, except within the A-35 zoning district where a maximum of ten (10) inoperable non-agricultural vehicles shall be allowed as part of a rural home occupation pursuant to Chapter 5 of this Code.
- (3) **Vehicle and Machine Repair.** Vehicles and/or machines owned by and for the sole use of persons residing on a lot, tract or parcel may be repaired, excluding painting or welding, only within an enclosed structure. Vehicles and/or machines owned by others may be repaired in the A-35 zoning district or as a rural home occupation as a special use in conformance with this Code.

#### 5.2.43. Peddler Sales

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

- (A) **Adequate Parking Available.** The area occupied by the temporary sales does not reduce the number of available parking spaces below the minimum number of parking spaces required by Chapter 6.
- (B) **Safe Ingress and Egress.** Adequate and safe ingress and egress is provided.
- (C) **No Sales Areas or Parking In Right-of-Way.** Sales areas or parking for customers shall not be located within a right-of-way.
- (D) **Temporary Use Permit Required.** When sales occur in the same place or parking lot for more than 3 times in a year or will exceed 5 days in duration in the same place or parking lot, a temporary use permit is required.

#### 5.2.44. Public Building, Project, Way, Place, or Space

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

#### 5.2.45. Residential Accessory Structures and Uses

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

- Detached private parking garage or carport;
- Storage shed;
- Gazebo;
- Deck (attached or detached, covered or uncovered);

- Pets;
- Agricultural Structures;
- Swimming pool, hot tub, tennis court or similar private recreational facility;
- Private greenhouse;
- Personal cultivation of marijuana;
- Fence, wall and hedge;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code;
- Yard sales;
- Solar energy systems and wind-powered generator; and
- Airplane hangar for personal use on property 2.5 acres or greater, where the property owner can demonstrate authority to utilize an adjacent or nearby airport or private airport

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

#### **5.2.46. Retail Sales, Accessory**

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

#### **5.2.47. Salvage Yards**

##### **(A) General.**

- (1) **Purpose.** The purpose of this Section is to: (1) achieve visual screening from public roads and adjacent residences for existing and proposed salvage yards; (2) facilitate compliance with all federal, State, and local environmental regulations governing the use, storage, generation, and disposal of hazardous substances and hazardous wastes within the salvage industry; and (3) prevent the release of hazardous substances to the environment resulting from leaks, fugitive air emissions, accidents, or improper disposal.
- (2) **Applicability.**
  - (a) **Establishing a Facility.** The requirements of this Section shall apply to all development applications to establish a salvage yard, automobile recycling center, scrap and waste recycling facility, junkyard or other similarly classified use.
  - (b) **Existing Facilities After January 1, 2010.** Effective January 1, 2010, the requirements of this Section shall apply to all existing salvage yards, automobile recycling centers, scrap and waste recycling facilities, junk yards, or other similarly classified uses, whether conforming or nonconforming, sited or nonsited.

- (c) **Not Applicable to Solid Waste or Recycling Facilities.** This Section does not apply to those solid waste or recycling facilities regulated under Chapter 5 or under the CDPHE Solid Waste Regulations unless expressly stated.
  - (3) **No Amortization Intent.** This Section is not intended to amortize out of existence, uses which lawfully exist at the date of adoption, but is intended to establish performance and operational standards for all facilities subject to this Section.
  - (4) **Not Intended to Supersede Other Environmental Regulations.** This Section is not intended to supersede any federal, State or local requirement or regulation regarding environmental compliance which is applicable, or which is subsequently adopted or imposed.
- (B) **General Requirements.**
- (1) **Notice and Requirement of Owner to Comply with Regulations.** PCD will attempt to notify existing facilities and facility owners of these requirements or changes to these requirements. The owner is responsible for complying with all applicable requirements of the federal, State, and local environmental laws and regulations.
  - (2) **Maintain Records of Hazardous Substances.** The owner is responsible for identifying all hazardous substances used, processed, stored or handled at the facility and for maintaining updated qualitative and quantitative records of these materials at the facility.
  - (3) **Reporting Requirements Not Relieved.** Compliance with this Section does not release any facility from the reporting requirements of the Local Emergency Planning Committee or any federal, State, or local environmental law.
- (C) **Operational Standards for All Facilities.**
- (1) **Screening.**
    - (a) **Require to Comply with Screening Standard.** All storage areas, processing areas and parts removal areas shall be screened from public roads and adjacent residential use in conformance with the screening standards of Chapter 6, or located within an enclosed structure.
    - (b) **Berms Allowed.** The use of berms is allowed in conjunction with the fencing and landscaping requirements of this Code to achieve effective screening.
  - (3) **Landscaping.**
    - (a) **Landscaping to Conform to Landscaping Requirements.** The facility shall be landscaped in conformance with the requirements of Chapter 6, except that landscaping may be concentrated on the road frontage area where screening is required.
    - (b) **Relief for Pre-Existing Facilities.** Existing facilities not previously subject to the landscaping requirements of this Code may request administrative relief from the landscaping requirement, but not the screening or fencing requirements.
  - (4) **Fencing.**
    - (a) **Require to Comply with Fencing Standard.** The facility shall be fenced in accordance with the requirements of Chapter 6 of this Code. The facility shall be fenced with the equivalent of a 6 foot chain link fence.
    - (b) **Fencing and Screening Requirements Combined.** The fencing and screening requirements may be combined.
    - (c) **Storage within Fence.** All material, automobiles, parts, etc. shall be located inside fenced or screened areas.
  - (5) **Storage of Automobiles.**

- (a) **Storage within Easements.** Storage of automobiles, parts, or materials shall not occur in any easement without the approval of the beneficiary of the easement.
  - (b) **Storage within Drainage Areas.** Storage of automobiles, parts, or materials shall not occur in drainage facilities or within the identified 100-year floodplain.
  - (c) **Stacking of Materials.** Automobiles or vehicles for parts removal or waiting to be crushed shall not be stacked more than 2 automobiles high.
  - (d) **Automotive Recycling Facility Limited to 250 Automobiles.** Storage shall not exceed 250 automobiles waiting to be crushed or to have parts removed in an automotive recycling facility.
- (6) **Removal and Storage of Parts.**
- (a) **Location of Dismantling.** All dismantling of automobiles or other vehicles shall be conducted within an entirely enclosed structure and on an impervious pad, except where the parts are to be removed by the customer.
  - (b) **Storage of Part Inside or in Parts Racks.** All parts shall either be stored within an entirely enclosed building, or stored in parts racks which do not exceed 8 feet in height or the height of the screening fence whichever is greater.
  - (c) **Condition of Parts in Outdoor Storage.** Outside storage of disassembled parts is prohibited unless empty and stored with the fluid cavities open for inspection and in a manner which prevents direct contact with rainwater.
  - (d) **Hazardous Substance Outdoors.** Outdoor use of hazardous substances including disassembly of any machinery, equipment or vehicles is not allowed unless drip pans, secondary containment, or other steps are taken to prevent any release.
- (7) **Vector and Mosquito Control.**
- (a) **Approved Vector Control Plan Required.** The facility shall provide and implement a vector control plan approved by the EPCPH.
  - (b) **Approved Mosquito Control Plan Required.** The facility shall provide and implement a mosquito control plan approved by the EPCPH.
- (8) **Environmental Controls.**
- (a) **Automotive Waste Controlled.** All automotive waste generated during the recycling processes shall be removed, collected, stored, transported and recycled according to all federal, State and local regulations.
  - (b) **Seeps or Leaks of Automotive Waste.** Automotive waste shall not be allowed to seep or leak on soil.
  - (c) **Hazardous Substance Containers Product Tight and Labeled.** All primary containment and individual storage containers of hazardous substance or hazardous waste shall be product tight, maintained, and labeled in compliance with federal, State and local regulations.
  - (d) **Hazardous Substance Areas Secure.** Any area where hazardous substances are stored shall be fenced in, and measures shall be taken to prevent anyone but facility personnel or other authorized persons from entering these areas.
  - (e) **Onsite Wastewater System Designed by Professional Engineer.** An OWTS serving a facility shall be designed by a professional engineer.
  - (f) **Floor Drains Not Connected to Drainfield.** Any floor drains in a parts removal area or hazardous substances handling, usage or storage area shall not be connected to a drainfield, septic tank, or stormwater system.

- (g) **Hazardous Substances and Secondary Containment.** All drums containing hazardous substances and hazardous wastes shall only be stored within a secondary containment area or in a structure or other secure area which meets the requirements of secondary containment. The secondary containment area shall be protected from weather and maintained in accordance with all applicable fire codes.
- (h) **Flammable Liquids.** Flammable liquids shall be stored in accordance with applicable fire department regulations.
- (i) **Hazardous Substance Disposal.** Any disposal of hazardous substances shall be in accordance with federal, State, and local regulations.
- (9) **Stormwater Permitting.** All facilities are subject to the requirements of the CDPHE and the ECM regarding stormwater quality and erosion control permits.
- (10) **Noise Ordinance.** Facilities shall comply with the provisions of Ordinance 02-1 Concerning Noise Levels in Unincorporated El Paso County. For purposes of the noise ordinance, a legally existing salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use is considered an industrial area.
- (11) **Noxious Weed Plan.** A development application to establish or expand a salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use shall be accompanied by an approved noxious weed management plan when noxious weeds are identified by either the Noxious Weed Map or the Forestry and Noxious Weed Manager as being located on the subject property.
- (12) **Fire Control Plan.** A development application to establish or expand a salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use shall be accompanied by a fire control plan, which shall be reviewed and approved by the fire department having authority, or in the event there is no applicable fire department, by the El Paso County Fire Marshall.
- (13) **Drainage Report.** A development application to establish a salvage yard, automobile recycling center, scrap and waste recycling facility, junkyard or other similarly classified use shall be accompanied by a drainage report in conformance with this Code and the ECM.
- (14) **Signage.** All signage shall conform to the requirements of Chapter 6.
- (D) **Recordkeeping.**
  - (1) **Hazardous Substances Records.** An up-to-date inventory list of hazardous substances and hazardous wastes generated, used, stored, handled, processed, or disposed shall be maintained on site in accordance with federal, State, and local regulations including hazardous waste manifests, bills of lading, or other equivalent manifesting for all hazardous substance disposal.
  - (2) **Vehicle Records.** An up-to-date inventory list of vehicles on site and salvaged during the year shall be maintained on site.
- (E) **Annual Reporting.** All facilities shall provide the PCD an annual report by April 15 of each year that includes, at a minimum, the following information:
  - Owner, including address and phone number;
  - Operator, including address and phone number;
  - Sales tax number and collection amount;
  - Inventory of vehicles at the start of the year and at the end of the year;



- Total number of vehicles that came in and went;
  - Information to determine whether a yard remains active;
  - Business and sales tax license;
  - Fire, release, and emergency events, include date and time, and resulting action and report reference number;
  - Quantity of automobiles in storage waiting to be crushed;
  - Verification of stormwater validity and ID numbers;
  - Name and contact information of contractor for hazardous waste removal; and
  - Any required LEPC reporting.
- (F) **Inspections.** All facilities governed by the requirements of this Section shall be open to inspection by County staff. Annual inspections programs may be implemented to ensure compliance with the standards.
- (G) **Closure.**
- (1) **Notification of Closure.** Any facility governed by this Section shall notify the PCD if they cease to operate for more than a 60-day period.
  - (2) **Operation Nonconforming Operations.** Any facility that operates as a nonconforming use and ceases to operate is subject to the nonconforming use discontinuance of use provisions of this Code.
  - (3) **Evaluation of Vacated or Closed Areas.** If any operational area is vacated, the owner shall provide an evaluation of potential environmental impacts for the vacated or closed area. Environmental mitigation may be required by State and federal regulations.

#### 5.2.48. Seasonal Produce Sales

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

#### 5.2.49. Sexually-Oriented Businesses

- (A) **Separation Between Sexually-Oriented Businesses.** No structure may be used for a sexually-oriented business if the structure is located within 1,000 feet of any other structure which is used for a sexually-oriented business as defined by the jurisdiction where it exists. The measurement is a linear measurement from the nearest wall of the structure proposed for the sexually-oriented business, to the nearest wall of the structure used for any existing sexually-oriented business. Measurements are not affected by municipal boundaries.
- (B) **Separation Between Sexually-Oriented Business and Other Uses.** No structure may be used for a sexually-oriented business if the structure is located within 1,000 feet of any property: (1) where residential uses are identified as a principally allowed use; (2) a public or private K-12 school; (3) a public park; or (4) a religious institution. All minimum distances shall be measured as linear measurements from the zoning district boundaries or from the property line of any residential use, public or private K-12 school, public park, or religious institution to the nearest wall of the structure in which the sexually-oriented business is to be located. Measurements are not affected by municipal boundaries.

#### 5.2.50. Shipping Containers

- (A) **Applicability.** The following standards shall apply to all shipping containers, including those which have been permitted as an accessory structure per the Building Code. The following standards shall not apply to parcels from which the shipping containers are sold and/or rented as an approved use or may be otherwise categorized as outside storage.

(B) **Shipping Containers in Residential, Forestry, and Agricultural Zoning Districts**

- (1) **Visibility.** All shipping containers, other than those placed within the A-35 zoning district, shall be:

- Painted to be compatible with surrounding buildings and structures; and/or
- Screened from public view by one or more of the following: a seven foot solid opaque fence, evergreen trees or shrubbery which will reach a minimum of seven feet in height at maturity, or similar screening method. Temporary screening methods such as tarps, mesh, chain-link fencing with slats, or other similar non-permanent methods shall not be permitted in place of a solid opaque fence.

- (2) **Dimensional Standards.** Shipping containers are subject to the applicable zoning district setback requirements, except when located within the A-35 zoning district. Shipping containers may not be stacked.

- (3) **Compliance with the Building Code.** A building permit may be required, as determined by the Pikes Peak Regional Building Department, prior to the placement of any shipping container.

- (4) **Base Required.** All shipping containers shall be placed on a suitable level base, as determined by the PCD Director, to help ensure stability and safety.

(C) **Shipping Containers in Commercial and Industrial Zoning Districts.**

- (1) **Visibility.** All shipping containers shall meet the outside storage standards in Chapter 5 and shall be painted to be compatible with surrounding buildings and structures in the area.

- (2) **Dimensional Standards.** Shipping containers are subject to the applicable zoning district setback requirements. Shipping containers may not be stacked.

- (3) **Compliance with the Building Code.** A building permit may be required, as determined by the Pikes Peak Regional Building Department, prior to the placement of any shipping container.

- (4) **Base Required.** All shipping containers shall be placed on a suitable level base, as determined by the PCD Director, to help ensure stability and safety.

#### 5.2.51. Shipping Containers, Temporary

- (A) **Duration.** Temporary use of a shipping container may not exceed 30 consecutive days during a one year period unless the PCD Director has approved an extension of time.

- (B) **Location.** Temporary shipping containers must be located on the same property for which it is utilized.

#### 5.2.52. Solar Energy System

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

- (B) **Maximum Height of Attached Panels.** Solar panels attached to a roof shall not exceed the maximum height allowed in the zoning district for the structure type by more than 5 feet.
- (C) **Maximum Height of Detached Solar Panels.** The maximum height of a detached solar panel is 15 feet.
- (D) **Location of Detached Panels.** Detached solar panels are prohibited within any setback area or between the front or side corner lot, parcel or tract boundary line and the front structure line of the principal structure.

#### 5.2.53. Temporary Housing

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

#### 5.2.54. Tiny House, Recreational Vehicle Park

- (A) **Applicability.** The following standards apply to tiny houses within the Recreational Vehicle Park zoning district.
- (B) **Minimum Construction Standard.** Tiny houses shall be constructed to ANSI RVIA standards. Tiny houses not constructed to ANSI RVIA standards shall be allowed with certification by a licensed professional structural engineer certifying that, at a minimum, the unit and support structure has been designed in accordance with all applicable horizontal and vertical loads as required by the local authority having jurisdiction.
- (C) **Exterior Appearance Single-Family in Character.** Tiny houses shall be finished on all sides with finished wood panel siding, vinyl siding, brick or stone veneer siding, stucco finish siding, other architecturally finished veneer, or with other similar types of siding as approved by the PCD Director.

#### 5.2.55. Tiny House, Single Lot

- (A) **Applicability.** The following standards apply to tiny houses used as accessory living quarters or as a principle use on an individual lot or parcel. This section does not apply to tiny houses located in a Recreational Vehicle Park zoning district.
- (B) **Number of Tiny Houses per Lot or Parcel.** One tiny house shall be allowed as a principle use on an individual lot or parcel, except in the A-35 (Agricultural) zoning district where two tiny houses may be allowed. One additional tiny house may be allowed on an individual lot or parcel where accessory living quarters are permitted.
- (C) **Minimum Construction Standard.** Tiny houses shall be constructed to ANSI RVIA standards. Tiny houses not constructed to ANSI RVIA standards shall be allowed with certification by a licensed professional structural engineer certifying that, at a minimum, the unit and support structure has been designed in accordance with all applicable horizontal and vertical loads as required by the local authority having jurisdiction.

(D) **Exterior Appearance Single-Family in Character.**

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

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

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

- More than one type of exterior siding listed above in subsection D.1 on a single side in an integrated manner;
- Upgraded entry feature, such as transom or side windows around an exterior door;
- Exterior accessories, such as permanent shutters, or fixed sunshade devices, or gutters/downspouts;
- Pitched roofline (3:12 pitch or steeper);
- Dormers;
- Premanufactured skylights;
- Built-in porch or deck;
- Exterior residential light sconces or downcans; or
- Other features as otherwise approved by the PCD Director.

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

(E) **Screening.** Tiny house wheels, running gear, and hitch components shall be either:

- Removed and the tiny houses set on a platform;
- Screened from view with skirting of the same exterior siding and materials as the tiny house;

- Screened from view via placement on a subsurface pad serving as a foundation and with integrated plantings and landscaping; or
  - Screened with other methods as otherwise approved by the PCD Director.
- (F) **Interior Storage of Water Prohibited.** No interior water storage tank, unless otherwise approved as an integrated water system by the PCD Director in consultation with El Paso County Public Health, shall be allowed within a tiny house.
  - (G) **Storage of Wastewater Prohibited.** No interior storage of wastewater, unless approved by the PCD Director in consultation with El Paso County Public Health, shall be allowed within a tiny house.
  - (H) **Proof of Utilities.** Proof of electric, natural gas, and/or propane availability is required. Proof of water and wastewater service is required unless otherwise approved by the PCD Director pursuant to subsections F and G above. Electrical, natural gas, propane, water, and wastewater connections must meet the requirements of the utility provider and/or El Paso County Public Health, as appropriate. Individual wells and on-site wastewater treatment systems (OWTS) shall be permitted in accordance with state and local regulations. A permit from the local jurisdiction having authority is required for electrical, gas, propane, and plumbing connections.
  - (I) **Tiny House Site Plan Review Required.** A tiny house site plan application shall be applied for and approved prior to the placement of the tiny house on an individual lot or parcel. Tiny house residential site plan applications shall, at a minimum, consist of the following:
    - Proof of ANSI RVIA construction or certification by a licensed professional structural engineer;
    - Elevation drawings of the tiny house to include the method of screening/skirting and identification of the type of siding material(s);
    - Floorplan of the tiny house;
    - Proof of utilities;
    - Applicable landscaping plan with subsurface pad; and
    - Additional documentation as required by the PCD Director that may be necessary, in his or her opinion, to approve the site plan.
  - (J) **Accessory Structure Allowances.** Accessory uses to a tiny house used as a principle use are limited to residential accessory uses. Accessory structures exceeding the allowance of two times the size of the footprint of the tiny house may be approved by the PCD Director with the residential site plan review. Accessory structures exceeding the size limitation of the zoning district shall not exceed 500 square feet. An accessory structure exceeding this allowance shall require an application for relief from the dimensional standards.

#### **5.2.56. Tower, Commercial (Non-Commercial Mobile Radio Service Facility)**

##### **(A) General.**

- (1) **Purpose.** The purposes of this Section are to establish standards for the location of commercial towers in the County.

- (2) **Applicability.** The standards in this Section apply to all commercial towers after the effective date of this Code.
- (3) **Relationship to Other Provisions.** A commercial tower shall comply with all applicable provisions of this Code. Where a conflict exists between the requirements of this Section and another applicable standard in this Code, the most restrictive standard shall control.
- (B) **Design Standards for a Commercial Tower.** A commercial tower shall adhere to the following design standards to minimize impacts:
  - (1) **Compatible with Surroundings.** The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area, subject to any applicable FAA regulations.
  - (2) **Existing Vegetation and Landforms.** Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment, to the extent practicable.
  - (3) **Accessory Equipment.** All accessory equipment shall be 100% screened from view. All equipment shelters shall be located within the lease area for the tower. No equipment storage shelter shall exceed 15 feet in height. Equipment storage shelters shall be grouped as closely together as practical, so as to minimize impact on adjoining properties.
  - (4) **Location on Property.** The tower shall be located on the property to contain onsite all ice-fall or debris from tower failure.
  - (5) **Height Limitations.** A commercial tower shall be exempted from the structural height restrictions of the zoning district in which the facility is located.
  - (6) **No Lighting.** The facility antennae shall not be lighted unless required by the FAA and identified in the special use approval.
  - (7) **Attractive Nuisance.** The attractive nuisance potential shall be minimized through fencing and methods to discourage unauthorized climbing.
  - (8) **Accessory Uses Restricted.** Accessory uses to a commercial tower may not include offices, broadcast studios, or long-term vehicle storage.

#### 5.2.57. Tower, Private (Non-CMRS)

- (A) **Attached Private Towers.**
  - (1) **Maximum Height of Facility Attached to Principal Structure.** Private towers constructed on or attached to a principal structure are considered to be accessory structures and shall satisfy all location and bulk restrictions of the zoning district. The height of the devices shall be limited to 1½ times the maximum height allowed in the zoning district, unless otherwise provided. To be considered attached, the facility shall not only be attached to the principal structure, but shall be located within 5 feet of the principal structure.
  - (2) **Exceeding Height Allowance.** Private towers in excess of the maximum height allowed for the facility are considered to be a special use.
  - (3) **Number of Private Towers Allowed.** One private tower is allowed per lot or parcel, unless additional towers are approved through a special use approval.
- (B) **Detached Private Towers.**
  - (1) **Height Limited.** Unless otherwise approved as part of the special use, no private tower, including the main structure and any retractable, non-retractable extension, or antenna, may extend higher than the following:

- F-5, A-5, and Residential Zoning Districts: The maximum height of a detached private tower shall be 2 times the maximum height allowed in the zoning district.

- A-35 (Agricultural) District: The maximum height of a detached private tower shall be 100 feet.

- Commercial or Industrial Zoning Districts, and the MHP, MHS, and RVP Zoning Districts: The maximum height of a detached private tower shall be 1½ times the maximum height allowed in the zoning district.

- (2) **One Private Tower Per Lot.** Unless otherwise approved as part of the special use, only one private tower may be constructed on a lot or parcel. One private tower may include up to two supporting structures in the event that it is necessary to support one antenna.
- (3) **Not Located in Setback Area.** A private tower shall not be located within the setbacks prescribed for principal structures by the zoning district.
- (4) **Supporting Devices in Setback Area.** Supporting devices such as guy wires and support poles shall be located on the same lot or parcel as the tower and may not be located in the front setback area. A zero foot setback for guy wires from the side and rear property lines is permissible. In no event, however, may the supporting devices be located within any utility or drainage easement.
- (5) **Setback from Electrical Transmission Lines.** A private tower shall not be located closer than a distance of one horizontal foot for every vertical foot of tower and antenna height, plus 10 feet, from any electrical transmission line. This does not include the service line for the lot or parcel where the private tower is to be located.
- (6) **Setback from Property Lines.** The private tower shall maintain a setback from all property lines based upon a ratio of one horizontal foot for every vertical foot of tower and antenna height, for protection from free fall or ice fall. The setback may be modified if the applicant provides a certified engineer's or qualified expert's report substantiating that any free fall of the tower or ice fall from the private tower can be contained totally upon the applicant's lot or parcel and the modified location is certified by the applicant's engineer or expert as safe.
- (7) **Anti-Climb Apparatus.** Adequate measures, such as anti-climb apparatus or removal of climbing ladder, are required in order to discourage unauthorized climbing.
- (8) **Compliance with Federal Laws.** No private tower may be constructed in violation of FAA or FCC laws or regulations.

(C) **Special Use for Private Tower Exceeding Allowances.**

- (1) **Special Use Approval Required.** Special use approval is required in the event that:

- Any private tower, facility, or any extensions thereto exceed the height limit; or

- More than one private tower is proposed on the lot or parcel.

- (2) **Review Standards.** In addition to the special use standards, the Planning Commission and BoCC shall consider and apply the following standards and criteria in reviewing a proposed private tower:

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

**5.2.58. Vehicle Repair Garage, Commercial (Including Truck and Recreational Vehicle Repair)**

- (A) **Enclosed Building Required.** Repairing or dismantling of vehicles and storing of parts and accessories shall be conducted within an entirely enclosed structure. Any vehicles awaiting repair stored outside shall be stored in accordance with the outdoor storage standards in this Chapter.
- (B) **Inoperable Vehicles and Vehicle Parts.** Except for temporary storage in an authorized area for automobile and trailer sales, auto repair garage, gasoline filling station or similar repair or short-term vehicle facility, and except as permitted by subsection (B) (3) above, no inoperable vehicle shall be kept or stored outside on any lot, tract or parcel within a commercial or industrial zoning district. Any vehicle stored on a lot, parcel, or tract in excess of 6 months will be presumed not to be temporary storage and will be subject to zoning enforcement. Areas permitted to be used for temporary storage of inoperable vehicles under this section shall be maintained so as not to constitute a health, safety or fire hazard, shall be effectively screened from ordinary public view by means of a solid fence, berm, trees or shrubbery, and shall be kept free of weeds, trash and other objectionable items.

**5.2.59. Waste Disposal, Hazardous Waste, and Recycling Facilities**

- (A) **General.**
  - (1) **Authority.** This section is adopted pursuant to the following authorities:
    - The Solid Wastes Disposal Sites & Facilities Act, C.R.S. §§ 30-20-101, et seq.
    - C.R.S. §§ 25-15-401, et seq., "Infectious Waste".
    - CDPHE "Regulations Pertaining to Solid Waste Disposal Sites & Facilities", 6 C.C.R. 1007-2 (hereinafter referred to as "State Solid Waste Regulations").
    - The Local Government Land Use Control Enabling Act of 1974, C.R.S. §§ 29-20-101, et seq.



- Sections 1008, 4004, and 4010 of the Resource Conservation and Recovery Act (RCRA) of 1976 as modified by the Hazardous and Solid Waste Amendments of 1984 (commonly referred to as "Subtitle D of RCRA").

- 40 C.F.R. Part 257 "Criteria for Classification of Solid Waste Disposal Facilities and Practices" and 40 C.F.R. Part 258 "Criteria for Municipal Solid Waste Landfills" (hereinafter referred to as "RCRA Subtitle D Regulations").

- 40 C.F.R. Parts 260-270, 273, and 279, known as RCRA Subtitle C.

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

(a) **Recycling or Transfer Station Facilities.**

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

(b) **Certificate of Designation Facilities.**

- Solid waste disposal site and facility
- Waste tire disposal (monofill) facility
- Infectious waste disposal facility
- Composting facilities requiring a CD
- Hazardous waste facility

(c) **Other Facilities or Operations Involved with Solid Wastes.** Other types of facilities or operations involving the collection, storage, treatment, utilization, processing or final disposal of solid wastes, which is not expressly exempted from regulation by State statute and which is not expressly covered by this Section shall not be sited until additional regulations specific to the type of facility or operation proposed have been

enacted by the BoCC. This shall not include garbage hauling trucks or businesses that are subject to regulation under C.R.S. § 30-15-401(1)(a).

- (d) **Recycling or Transfer Station Facilities.** Those recycling or transfer station facilities which exceed the allowances or do not comply with the general requirements, conditions and standards for the facility type are required to secure a Certificate of Designation. If a facility with a recycling activity fails to comply with Section 8 of the State Solid Waste Regulations, that activity shall be subject to all other applicable provisions of the State regulations (6 CCR 1007.2), which may require additional County approvals.

(3) **Exceptions.**

- (a) **General Exceptions.** A person may dispose of their own solid waste on their own property, as long as the solid waste disposal site and facility complies with the rules and regulations of the State Board of Health and does not constitute a public nuisance. The determination of compliance with the State regulations rests with the CDPHE after input from El Paso County. The minimum standards of the State regulations require, in this instance:
- Taking reasonable measures to collect, contain and dispose of litter;
  - Ensuring that noise, dust and odors do not pose a health threat;
  - Managing the site so that birds, insects, rodents, and other vectors do not pose a health hazard;
  - Providing adequate cover so that water does not pond on the site, and that wind erosion and water pollution does not become a problem;
  - Submittal of a design and operations report;
  - Submittal of closure plans; and
  - Notice of disclosure to prospective purchasers in the form of a recorded document of the site that solid waste has been disposed of on the property.

- (b) **Disposal Subject to Construction Permit.** A site plan identifying the location of the waste disposal shall be provided. The requirements for obtaining a Construction Permit and special requirements of the EPCPH may be applicable.

- (c) **Site Restrictions or Conditions Applicable.** Conditions may be placed on any approval or acknowledgement of the site in order to restrict access from unauthorized individuals and to prevent nuisance conditions from occurring.

(4) **Interrelationship with CDPHE.**

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

- (b) **Referral of Special Use or Site Development Plan to CDPHE.** Any special use or site development plan application for a waste disposal or recycling facility may be referred in writing to the CDPHE for review and comment, or for the determination as to whether the Certificate of Designation requirements of the State Solid Waste Regulations are applicable, and for technical review of the site, facility and operation plan documents. The applicant is responsible for payment of any review fees established by the CDPHE.
  - (c) **CDPHE Notified of County Approval.** The CDPHE shall be notified by the County when a development permit approving a facility is issued.
- (5) **Interrelationship with the ECPH.** Applications for approval of waste disposal and recycling facilities and amendments thereto will be referred to the ECPH for review and comment.
- (B) **General Development and Operation Standards.**
  - (1) **Requirement for Special Use or Site Development Plan.** Approval of a site development plan is required for all waste disposal and recycling facilities, unless otherwise provided. Approval of a special use may be required in specific zoning districts. Waste disposal sites subject to a CD are not allowed to use the administrative special use process.
  - (2) **Compliance with Standards of this Code.** The development standards of this Code shall apply to all waste disposal and recycling facilities.
  - (3) **Conditions of Approval.** In the review of a special use for a facility governed by this Section, the BoCC retains the right to impose any technical requirements it considers appropriate in order to reasonably protect the environment and the public health and safety.
  - (4) **Concurrent Submittals and Time Limits.** A facility requiring a Certificate of Designation requires special use approval. The applications should be processed concurrently, however since CDPHE review is required, and involves time frames not within the control of the County, concurrently submitted applications are not subject to any mandatory processing time frames or time limitations to proceed to a hearing.
  - (5) **Requirement to Pay Tipping Fees.**
    - (a) **Tipping Fees to be Paid by CD Facilities.** Certificate of Designation facilities are considered solid waste disposal sites and facilities and shall participate in the collection of a solid waste tipping fee to fund solid waste planning and other solid-waste-related activities in the County as provided in the El Paso County Solid Waste Disposal Site and Facility Fund ("Tipping Fee") Resolution.
    - (b) **State Fees Not Required to be Paid for Recycled Materials.** Those facilities classified as recycling facilities or facilities where a Certificate of Designation is not required are not required to collect the fees in C.R.S. § 25-16-104.5 for those wastes that are recycled.
    - (c) **Local Tipping Fees Not Required to be Paid for Recycled Materials.** Those facilities classified as recycling facilities or facilities where a Certificate of Designation is not required are not required to collect or remit to the County the fees identified in the El Paso County Solid Waste Disposal Site and Facility Fund ("Tipping Fee") Resolution for those wastes that are recycled.
  - (6) **Construction and Stormwater Requirements.** A facility approved under this Section shall comply with the requirements of the ECM and applicable federal, State, and local requirements.
  - (7) **Outdoor Processing and Storage of Untreated or Unprocessed Waste Prohibited.** Solid waste processing facilities or recycling facilities operations shall take place

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

- (8) **Odor, Animal and Vector Control.** At no time shall a waste disposal site or waste processing facility create malodorous conditions or allow the harborage of animals or provide conditions allowing vectors, including the breeding of mosquitoes and flies.

(C) **Operations Plan.**

- (1) **Requirement to Prepare an Operations Plan.** The operational plans for facilities shall address or provide, at a minimum, the following, to the extent applicable. Additional requirements may be applicable by the State to specific types of facilities.

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

isolation and removal along with requirements for a certified or EPCPH approved instructional program for employees for handling hazardous, radioactive and explosive wastes situations and establishment of proper notification and reporting procedures to appropriate federal, State and local agencies;

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

- (2) **Operations Plan to Conform to CDPHE Requirements.** The operations plan or design and operations plan shall comply with the applicable CDPHE requirements.
- (3) **Requirement to Maintain an Approved Operations Plan.** A copy of the approved operations plan shall be maintained at the facility. Copies of the approved operations plan shall be placed on file at the PCD and with the local fire department.

(D) **Closure Plan.**

- (1) **Requirement to Prepare and Implement a Closure Plan.** Facilities shall prepare and implement a closure plan in accordance with applicable CDPHE regulation and the requirements of this Section.

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

(1) **Trash Transfer Facility or Intermediate Processing Facilities.**

- (a) **Receive Only Household, Commercial and Industrial Wastes.** Unless otherwise specifically considered and approved, a trash transfer facility or intermediate processing facility shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations and State regulations) including construction and demolition materials (containing no asbestos). Acceptance of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumping, friable asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other "special wastes" that are not classified as hazardous, toxic or highly flammable by federal or State regulation, shall not be allowed unless acceptance is allowed by State regulations, deemed appropriate by the BoCC and expressly approved, and the facility is specifically designed and approved for these wastes. All composting, co-composting, recycling, soil stripping, and incineration programs on site or associated with the facility shall likewise require specific consideration and approval.
- (b) **No Radioactive Materials.** No radioactive materials or materials contaminated by radioactive substance shall be disposed of at any trash transfer facility or intermediate processing facility. Detection devices and procedures shall be required to assure compliance.
- (c) **Transfer Standards.** Refuse may be transferred from one type of containerized collection receptacle, processed by shredding, baling, or compaction to another receptacle. All solid waste received at a transfer station shall be transferred as soon as practicable. All solid wastes arriving at the transfer station that are not transferred within 24 hours of receipt shall be placed in closed containers or in totally enclosed structures, structures, or other means of cover acceptable to the CDPHE, that deter water, birds, insects, rodents and other vectors from reaching wastes. All structures where solid wastes are dumped or stored shall be equipped with doors that close or roll down.
- (d) **Transfer Stations Comply with Regulations.** Transfer stations shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.
- (e) **Comply with State Design Criteria and Operations.** The facility shall comply with the design criteria and operations standards of the State.
- (f) **Issues to be Addressed by Operational Plan.** The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of all solid wastes awaiting transport to a solid wastes disposal site and facility and all materials to be recycled;
- Information regarding the proposed acquisition, location, and operation of any heavy equipment or machinery to be used in the operation;

- The parking location of any temporarily parked trash trucks or trash transfer vehicles;
- All methods of cleaning the facility and equipment;
- A detailed building plan showing the operational design of the facility;
- Information relating the primary means of selling or disposing of recycled materials and the proposed site for final disposal of the residual solid wastes; and
- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed.
  - (g) **Solid Waste Structure Location.** All structures where solid wastes are dumped or stored or areas where containerized solid wastes are stored shall be setback at least 100 feet from all property lines, and the facility site shall be fenced, landscaped, or otherwise buffered so as to minimize impacts on neighboring property. Where deemed appropriate, setback requirements may be varied.
  - (h) **No Dumping or Storage of Waste in Open Areas.** Non-containerized solid wastes shall not be dumped or stored in open areas.
  - (i) **Additional Findings.** In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a trash transfer facility or intermediate processing facility:
- The facility will comply with the special use standards;
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility;
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the landfill which will be receiving its solid wastes, will adequately serve the needs of El Paso County; and
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.
  - (j) **Closure Plan.** A closure plan for a transfer station shall include a plan for the removal of all stored solid wastes and wash down liquids. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the transfer station.
- (2) **Infectious Waste Transfer Facilities.**
  - (a) **Receipt, Storage and Transfer of Contained Infectious Waste Only.** Infectious waste transfer facilities shall be limited to the receipt, storage and transfer of contained infectious waste only. No treatment or processing of infectious waste shall be sited. Non-incident solid waste functions which are not related to infectious waste transfer shall require approval by the BoCC.  
  
Onsite, occasional and household generators are exempted from these requirements as provided by Section 13.2 of the State Solid Waste Regulations and C.R.S. § 25-115-404.

- (b) **Applicants Required to Comply with this Section.** Any applicant for an infectious waste transfer facility shall comply with the procedures, requirements, conditions and standards of this Section with the following modifications:

- The application shall specifically be processed in accordance with and maintain compliance with applicable portions of Section 13, "Infectious Wastes Disposal" of the State Solid Waste Regulations;
- All applications shall specify what general types of infectious wastes shall be accepted at the facility. This list is subject to review and approval by the BoCC;
- All applications and operational plans shall specifically identify the proposed treatment or final disposal facility to which the wastes will be transferred; and
- Operational data requirements shall be limited to those necessary to minimize any land use concerns, to assure that adequate services exist on site, to adequately address all health, safety and security concerns, and to make certain that the disposal site accepts no other materials than those authorized.

(c) **Operational and Location Standards.**

- (i) **200 Foot Setback from Residential Use.** The facility shall be located a minimum of 200 feet from the boundary of the nearest zoning district which allows residential uses.
- (ii) **Security.** Fencing, signage, lighting and other security measures shall be sufficient to preclude unauthorized access and disposal. Access to the facility shall be controlled at all times to preclude unauthorized access or disposal.
- (iii) **Customers Limited.** The facility shall not be open to the general public, and an updated list of all customers using the facility shall be maintained by the operator.
- (iv) **Transport and Handling of Infectious Waste.** Transport, storage, handling and manifesting of infectious wastes shall be in accordance with Sections 13.7.5 and 13.8 of the State Solid Wastes Regulations except as more stringent requirements may be provided for in these local regulations.
- (v) **Back-Up Power Supply Required.** A back-up power supply shall be provided for refrigeration and a contingency plan shall be prepared to address refrigeration or other failures.
- (vi) **Daily Inspection Records.** Daily inspection records shall be maintained and made available pursuant to Section 13.7.7 of the State Solid Waste Regulations.
- (vii) **Spill Incident Reports.** Spill incident reports required in Section 13.8.5 of the State solid waste regulations shall also be provided to the EPCPH.
- (viii) **Truck Washing and Disinfection.** Trucks or other storage facilities shall not be washed prior to adequate disinfection. All wastewater from the washing operation shall be collected and treated in an approved and adequate central sewer system.
- (ix) **No Temporary Storage on Non-Designated Sites.** Mobile storage units which contain transferred infectious waste shall not be temporarily stored at non-designated sites within El Paso County except under emergency conditions as defined in the facility's operational plan.



- (x) **Refrigeration of Wastes Stored for 48 Hours.** Infectious waste to be stored longer than 48 hours shall be stored inside an enclosed structure maintained at 45°F or less which provides a minimum of 3 days storage, considering both volume (cubic yards) and weight (tons). Untreated waste may not be stored longer than 2 weeks without written permission of the CDPHE.
- (d) **Additional Findings.** In addition to the applicable standards of review and findings, the following additional findings shall apply to an infectious waste transfer facility:
  - The facility will comply with the special use standards;
  - Primary and back-up power supplies are adequate;
  - Refrigeration failure and other incident response plans are adequate;
  - Adequate and properly trained personnel will be available;
  - Access to the facility will be sufficiently controlled to preclude unauthorized access and disposal at all times;
  - Facility capacity and contingency plans are adequate to address weather-related and other ordinarily anticipated disruptions in transportation to final treatment or disposal sites; and
  - Radiological and hazardous waste detection and screening procedures are adequate.
- (e) **Closure Plan.** Closure plans for final closure of the infectious waste transfer station shall include a plan for the removal of all stored wastes and wash down liquids. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the transfer station.  
  
The facility shall be closed in accordance with regulations in effect at the time of closure and with the closure plan, which if amended, shall be submitted for review and approval by the CDPHE 60 days prior to closure.
- (3) **Recycling Facilities Including Material Recovery Facilities.** These requirements are applicable to a facility which qualifies as a recycling facility under Section 8 of the CDPHE regulations pertaining to solid waste disposal sites.
  - (a) **Exemptions.** The following activities and facilities are not subject to regulation by this Section:
    - Drop-off or buy-back centers for recyclable materials, including household hazardous waste facilities;
    - Recycling facilities that are located on the same site where the waste is generated, and that recycle or store only waste from that site (examples are: an office building that stores materials for routine pick-up by a recycler or a construction project that is processing materials derived from the project);
    - Businesses that recycle materials only as a sideline or by-product of their normal business activities (examples are: a gravel operation that brings in concrete or asphalt rubble for eventual

grinding into recycled aggregate or highway construction projects that process concrete and asphalt as part of the overall project);

- Composting facilities that are separately regulated under Section 14 of the State Solid Waste Regulations; and

- Facilities that collect and process automobiles, appliances or scrap metal components.

- (b) **Receive Only Household, Commercial and Industrial Solid Wastes.** Unless otherwise specifically considered and approved, Recycling Facilities including Material Recovery Facilities shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations) including construction and demolition materials (containing no asbestos). Acceptance of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, friable and non-friable asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other special wastes that are not classified as hazardous, toxic or highly flammable by federal or State regulation, shall not be allowed.
- (c) **No Radioactive Materials.** No radioactive materials or materials contaminated by radioactive substance shall be accepted, transferred, or processed at any recycling facility including material recovery facilities station. Detection devices and procedures shall be required to assure compliance.
- (d) **Materials Recovery Facilities to Comply with Regulations.** Material recover and recycling facilities shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.
- (e) **Comply with State Design Criteria and Operations.** The facility shall comply with the design criteria and operations standards of the State.
- (f) **Issues to be Addressed by Operational Plan.** The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of all solid wastes awaiting transport to a Solid Wastes Disposal Site and Facility and all materials to be recycled;

- Information regarding the proposed acquisition, location, and operation of any heavy equipment or machinery to be used in the operation;

- The parking location of any temporarily parked material trucks or material transfer vehicles;

- All methods of cleaning the facility and equipment;

- A detailed building plan showing the operational design of the facility;

- Information relating the primary means of selling or disposing of recycled materials and the proposed site for final disposal of the residual solid wastes; and

- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed.

- (g) **Solid Waste Structure Location.** All buildings where solid wastes are dumped or stored or areas where containerized solid wastes are stored shall be located at least 100 feet from all property lines, and the facility site shall be fenced, landscaped or otherwise buffered so as to minimize impacts on neighboring property. Where determined to be appropriate, location requirements may be varied in the approval of a facility.
- (h) **Fencing Required.** The facility shall be adequately fenced with a minimum of 6 feet chain link fence or equivalent, so as to prevent all loose waste material and debris from escaping and to provide security from unauthorized access to the facility. Loose materials and debris shall not be allowed to accumulate along the fence line.
- (i) **Minimum Site and Facility Standards.**
  - (i) Minimize Dust. Recycling facilities shall be operated and managed to minimize the potential for release of contaminants to groundwater and to minimize the creation of dust and odors or other nuisance conditions.
  - (ii) Operations Subject to Blowing Operated Indoors. here a recycling facility processes paper waste, all unloading, processing, baling, or otherwise consolidating of paper waste that is subject to blowing shall be located completely indoors. Outdoor storage of bales is allowed.
- (j) **Recycling Plan.** The recycling plan shall include, but not be limited to:

- Items to be recycled may include but not be limited to: glass, plastic, paper, cardboard, aluminum and other metals, tires, oil and batteries;
- Detail of recycling process, beginning with initial disposition at the facility to final recovery point;
- Conceptual floor plan outlining process;
- Methods of recycling (mechanical vs. non-mechanical). If mechanical, list number and type of equipment;
- Number of employees and work stations of employees;
- Storage and disposition of recycled products; and
- Estimate of quantities/volumes of recycled products.
- (k) **Reporting.** The County shall be included in any reporting required by CDPHE regulations
- (l) **Additional Findings for a Recycling Facility.** In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a recycling facility:
  - The facility will comply with the special use standards;

- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the materials will adequately serve the needs of El Paso County; and

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

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

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

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

(a) **Exceptions.** The regulations of this Section do not apply to:

- Backyard composting, processing yard or landscaping waste into mulch, or a business that accepts finished compost for bagging or handling;

- Agricultural composting if: (1) compost materials are derived from onsite agricultural activities by the generator only; and (2) the facility only imports other compatible materials in quantities necessary for effective composting as part of a standard agriculture practice; and (3) composting activities that occur at the site of generation or contiguous property owned or leased by the generator; and

- The composting of biosolids with other materials under regulations promulgated pursuant to C.R.S. § 25-8-205 (1)(e).

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

(c) **Minimum Standards of Operation for Composting Facilities.** All composting facilities shall operate in a manner to:

- Control surface water flowing onto the site and prevent surface water from leaving the site;

- Control onsite and prevent off-site nuisance conditions such as noise, dust, odors, vectors and windblown debris;

- Prevent water pollution at or beyond the site boundaries; and

- Control access to prevent illegal dumping.

(d) **Additional Findings for a Composting Facility.** In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a composting facility:

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

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

(f) **Post-Closure Care and Maintenance.** Following closure of the facility, a notation shall be placed on the deed notifying any potential purchaser that the property has been used as a composting facility.

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

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

(5) **Waste Tire Recycling Facilities.** These requirements are applicable to all facilities that accept waste tires for recycling, including shredding, splitting, baling, or whole tire storage where the tires are not being landfilled.

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

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

(c) **General Requirements and Limitations.**

- (i) **Accept Whole, Split, Baled, or Shredded Waste Tires.** These facilities may only accept whole, split, baled, or shredded waste tires, including reusable whole tires, unless specifically approved by the BoCC to accept other materials.
  - (ii) **No Retail Sales.** No retail sales shall be allowed from these facilities unless sited by zoning and specifically allowed by the BoCC.
  - (iii) **Comply with Regulations.** Waste tire recycling facilities shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.
  - (iv) **Comply with State Design Criteria.** The facility shall comply with the design criteria and operations standards of the State.
  - (v) **No Storage of Excess Tires.** The quantity of tires stored above-ground on site will not exceed that amount necessary for the effective conduct of business.
  - (vi) **No Tipping Fees for Recycled Material.** A waste tire recycling facility is not required to pay tipping fees to El Paso County because the waste is recycled.
- (d) **Operating Plan.** The operational plan shall, among other things, satisfactorily address or provide:

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

(e) **Site Conditions and Operating Standards.**

- (i) **Stockpiling of Tires Limited.** The stockpiling of reusable tires at either of these facilities shall not exceed that minimally necessary for the conduct of the applicant's tire resale business, and in no case more than 10,000 tires unless justified by the applicant and specifically approved by the BoCC. All stockpiles shall be stacked no more than 6 feet high.
- (ii) **Control of Drainage.** Any surface drainage entering into or originating in the facility shall be controlled so that it does not flow into the storage areas, and any surface flows leaving these areas shall be minimized and controlled so as to create no significant degradation as to water quality. Surface flows in any area where tire shredding activity or shredded tire storage is occurring shall be fully retained, and all tire-pollutants shall be removed to the maximum extent practicable or as otherwise prescribed by federal or State Statutes. No tires shall

be placed within any drainage way or in any storage area below groundwater level.

- (iii) **Disturbed Soils.** The design and operation of the facility shall be such as to minimize the quantity of disturbed surface area on the site. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.
- (iv) **No Storage of Tires in Floodplain.** No storage of waste tires shall occur within any regulated floodplain or within any drainage way or wetland without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of the drainage way or wetland.
- (v) **Fencing and Landscaping.** Fencing, landscaping and berming shall be installed as necessary for appropriate buffering to visually screen the operation from surrounding properties and nearby roads.
- (vi) **Cell Size of Stockpiles.** In no case shall storage piles of whole tires, tire bales, or tire shreds that are stored on open ground or in cells be larger than 50 feet in width, 250 feet in length. If stored in below grade cells, tires shall not exceed 30 feet in depth. If stored above grade, tire height shall not exceed 10 feet. Any required berming between cells or piles shall equal the depth or height of the adjoining cells or piles. An approved field measurement system shall be employed to facilitate estimates of pile dimensions.
- (vii) **Separation of Stockpiles.** A minimum of 40 feet shall be maintained between piles of whole, shredded, or baled tires to allow access for firefighting equipment.
- (viii) **Clear Area Between Stockpiles and Buildings.** A minimum distance of 50 feet of clear area is to be maintained from all buildings and property lines when surface level tire piles are utilized.
- (ix) **Location of Excavated Storage Areas.** Any excavated areas for storing waste tires shall be at least 100 feet from all buildings and property lines.
- (x) **Location of Processing.** Any tire shredding, splitting, baling, or processing equipment shall be situated at least 200 feet from all property lines or on site hydrants or cisterns used for fire control, and at least 500 feet from any whole tire storage cells.
- (xi) **Variation in Setback Requirements.** Setback requirements may be varied in the approval of the site development plan and operating plan after recommendation by the fire department, where deemed appropriate.
- (xii) **All Weather Access Roads.** The facility shall maintain all-weather access roads to those areas of active operation and as necessary to meet the obligations of the fire control plan.
- (xiii) **Litter and Vegetation Control.** The facility shall collect litter in order to avoid a fire hazard or a nuisance and control the growth of vegetation to minimize potential fuel sources.
- (xiv) **Security.** Adequate fencing, natural barriers or other security measures to preclude public entry shall extend around the entire perimeter of the facility and shall include a lockable gate or gates.
- (xv) **Facility to be Signed.** Prominent signs shall be posted in public view at the entrance to the facility with the name of the facility, the hours which the facility is open for public use, a listing of the wastes accepted at the facility, and a phone number for a 24-hour emergency contact.

- (xvi) Telephone Required. The operator shall maintain a working telephone at the facility.
  - (xvii) Vector Control Plan. The operator of a waste tire facility shall have a written vector control plan that shall be submitted to the BoCC. If pesticides are used in vector control efforts, they shall be used in accordance with the Pesticide Applicator's Act, C.R.S. § 35-10-101, et seq.
  - (xviii) Attendant. During all stages of operation the facility shall have an attendant who is responsible for site activities.
- (f) **Fire Protection.**
- (i) Fire Control Plan. The operator shall submit a fire control plan specifying the facility's fire lane locations and widths, the means that are assumed to be used to extinguish fires, and designation of a facility emergency coordinator.
  - (ii) Plan to Conform to Fire Department. The fire control plan shall be in accordance with local fire codes and the plan shall be written by a qualified professional and submitted to and approved by the Fire Marshall and the applicable fire department prior to beginning operations. A copy of the local fire control authority approval shall be forwarded to the CDPHE.
  - (iii) Equipment to Suppress Fire Available. Adequate heavy equipment for the purposes of suppressing a tire fire shall be kept available within the vicinity of these facilities. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-tire fires shall be maintained at the facilities, and with any operating equipment such as shredders, balers, etc. The applicant shall make other arrangements for the fighting and prevention of fires at the facilities as are satisfactory to the Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.
  - (iv) Design to Reduce Spread of Fire. Measures will be incorporated into the design of the request to adequately reduce the spreading of any potential tire fires.
- (g) **Reporting Requirements.**
- (i) Annual Report Submitted by May 1. An annual report shall be submitted by the facility by May 1 of each year. The report shall state the amounts of waste tires received at the facility, processed, disposed of onsite, and shipped off-site for the preceding calendar year.
  - (ii) Inventory. Inventory of waste tires shall be tracked by the operator of the facility in and out of the facility, with the inventory including a precise correlation of quantities of the tires with their identified source and final destination. Copies of these reports shall be submitted to the PCD and EPCPH on at least an annual basis or more frequently if so directed by the BoCC.
  - (iii) Notification of Emergency. The facility shall immediately notify the EPCPH and the CDPHE in the event of a fire or other emergency. Within 2 weeks of this notification, the facility shall submit a report on the emergency to the Department and the BoCC. This report shall describe the origins of the emergency, the actions that have been taken, actions that are currently being taken or are planned, results or anticipated results of these actions, and an approximate date of resolution of the problems generated by the emergency.
- (h) **Additional Findings for a Waste Tire Recycling Facility.** In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a waste tire recycling facility:



- The facility will comply with the special use standards of Chapter 5.
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility.
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the recycled tires will adequately serve the needs of El Paso County.
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.
  - (i) **Closure Plan.** At the termination of a recycling activity, a facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the recycling facility.  
 All solid waste and all other materials shall be removed from the facility prior to closure and potential nuisance conditions shall be addressed. All wastes shall be taken to an appropriate solid waste site and facility for proper management or disposal.
- (6) **Inert Material Disposal Sites.** These requirements are applicable to all facilities that are considered an inert material disposal site.
  - (a) **Special Use Permit Required.** Any person desiring to operate an inert material solid waste disposal site which does not qualify for exception below as a minor inert material disposal site shall make application for special use approval to PCD.
  - (b) **Minor Inert Material Disposal Site Exception.**
    - (i) **Applicability and Exemption.** A minor inert material disposal site that satisfies the requirements of this Section is not required to secure a special use permit or comply with the general waste disposal and recycling facility requirement.
    - (ii) **Compliance with Other Applicable Laws.** A minor inert material disposal site shall satisfy all other federal, State, and local regulations and requirements, including those pertaining to floodplains, wetlands preservation, water quality protection, and dust and erosion control.
    - (iii) **Limits on Type of Inert Material.** The only inert material being disposed of is earth, sand, gravel, rock, hardened concrete, or masonry.
    - (iv) **Filled with Landowner Consent.** The disposal site is being filled, with the knowledge and consent of the landowner, for the primary purpose of leveling, raising, or otherwise preparing land for road or building construction or other allowed land use that requires a leveled, raised, or prepared surface.
    - (v) **Limit on Amount of Material.** The total amount of inert material to be placed on the site is less than 100,000 cubic yards and covers 10 acres or less of land, and the disposal site is not adjacent to another property which was filled pursuant to this exception during the past 18 months.
    - (vi) **Covered and Revegetated.** The filling operation, including compacting and leveling of all disposed material, is covered with at least 6 inches of soil and revegetated in accordance with the ESQCP, or road or building construction is commenced and will be completed within 12 months of initial disposal activity.

- (vii) Filling Activity Complies with ECM. The filling operation shall be in compliance with the ECM and any applicable permit.
  - (viii) Filling Activity Complies with Noxious Weed Plan. The filling operation shall be in compliance with the noxious weed management plan requirements of this Code.
  - (ix) Failure to Comply with Standards. Failure to comply with any of these requirements, as determined by the PCD Director, either before or after starting the activity, requires compliance with the special use permit provisions of this Code and any applicable general waste disposal and recycling facility requirements.
- (c) **Disposal Limited.** Disposal of inert material at any approved site shall be limited to earth, sand, gravel, rock, hardened concrete, masonry, asphalt paving fragments, scrap lumber and plywood, waste or diseased trees, drywall, shingles, and other demolition or construction wastes approved through this review process. It does not include, among other things, asbestos or anything containing hazardous or toxic wastes or materials, yard clippings or other organic wastes, waste tires, junked vehicles, sludge or industrial wastes or by-products, or petroleum or other contaminated soil.
- (d) **Conditions and Standards.** Any applicant for an inert material disposal site shall be required to comply with the procedures, requirements, conditions and standards of this Code, with the following modifications:
- (i) **Applications to Specify Materials to be Disposed.** All applications shall specify what types of inert materials are proposed to be disposed at the proposed site. This list is subject to review and approval by the BoCC.
  - (ii) **Reports Required.** The following reports are required in addition to any special use requirements: operational plan, visual impact analysis, traffic impact analysis, noxious weed management plan, ultimate land use analysis, and drainage and erosion control plan. Appropriate geological, hydrological, and engineering information also may be required by the PCD Director, when considered necessary. Operational data requirements will be limited to those necessary to minimize any land use compatibility concerns, to assure that adequate services exist on site, and to make certain that the disposal site accepts no other materials than those authorized. A satisfactory reclamation plan, including sufficient evidence of ability and intent to complete said plan on closure, shall be submitted with the application.
  - (iii) **Not Located in Floodplain.** No inert material solid wastes disposal site shall be located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and Section 404 (Federal Clean Water Act) permits have been obtained. Any proposed inert material disposal that will likely have a significant negative impact on water quality or drainage flow patterns will be regarded unfavorably.
  - (iv) **Limited Excavation and Mounding.** An inert material solid wastes disposal site shall be designed such that no significant excavation is needed to create room for the disposed materials and such that there is not a "mound" of disposed material that creates a significant grade and height difference with the surrounding terrain, unless the ultimate, use of the property (as allowed by zoning) would establish a need for a mound. A site development plan detailing the size, configuration, and final reclamation and use of the disposal site shall be submitted to the PCD with the application.
  - (v) **Notation on Property Title.** The existence and extent of the inert material disposal site shall be duly noted on the title of the property where it is located and

recorded with the Clerk and Recorder prior to the commencement of dumping activity.

- (e) **Closure Plan.** At the termination of acceptance of inert material the facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal.

(G) **Certificate of Designation Facilities.**

- (1) **Applicability.** These requirements are applicable to all facilities that are considered a solid waste disposal site and facility, including:

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

(2) **Minimum Standards for Certificate of Designation Facilities.**

(a) **General Requirements and Conditions.**

- (i) **Allowed by Zoning.** A Certificate of Designation shall only be considered and approved in those zoning districts where the specific is allowed by use subject to special review.
- (ii) **Comments from CDPHE Required.** A request for Certificate of Designation will be forwarded to the CDPHE for review based on the standards and criteria as outlined in the "Regulations Pertaining to Solid Wastes Disposal Sites and Facilities". A submittal will be not be deemed complete and scheduled for hearings before the Planning Commission when a final set of review comments have been received from the CDPHE, provided the applicant has complied with all previous information requests and submittal requirements of the PCD, EPCPH and CDPHE.
- (iii) **CDPHE Recommendations Binding.** The conditions and binding recommendations of the CDPHE review shall be adopted as minimal conditions of approval. Other conditions may be imposed by the BoCC in addition to conditions and binding recommendations of the CDPHE. A petition shall not be scheduled for the BoCC hearing until all State recommendations have been satisfied that are a condition precedent to the approval of the Certificate of Designation.
- (iv) **Comply with All Other Regulations.** The operator or owner of the facility shall comply with the laws, standards, rules, regulations and orders of the EPA, the CDPHE, the Colorado Water Quality Control Commission, and all applicable zoning and other laws and regulations of El Paso County.
- (v) **Right of Entry.** Personnel from the EPCPH, PCD, and other involved County departments shall have a right to enter this property during regular business hours, without notice, for the purpose of inspecting for compliance with the terms and conditions of the Certificate of Designation. During the inspections, the EPCPH and County employees may take samples of the waste, soil, air or water and analyze said samples in order to detect the nature and concentration of any contaminants and may test or otherwise check any environmental monitoring equipment on site. Inspections will be performed by the EPCPH and by County

employees in conformance with recognized health and safety procedures. The County will allow the facility owner or operator the opportunity to be present during any sampling activity. On request by the owner or operator at the time of inspection, the County employees will provide split or duplicate samples of materials they collect. The collection and analysis of any waste, soil, air, or water samples will be performed following standard operating procedures and quality control and quality assurance standards.

- (vi) **Owned and Operated by Applicant.** The facility and the facility site shall be solely owned and operated by the applicant. If the applicant is a corporation or partnership, all stockholders and interest holders owning or controlling rights in 20% or more of the total interests in the corporation or partnership, along with managing partners and corporate officers, shall be identified. Any parent corporations or other controlling entities shall likewise be identified. The holder of any Certificate of Designation has an ongoing duty to comply with this requirement and to notify the BoCC as to any changes in this regard.
- (vii) **No Transfer of CD.** A Certificate of Designation is personal to the specified owner and operator of the approved facility and may not be transferred or assigned without the consent of the CDPHE and the BoCC, which action may include a review and modification of the terms and conditions of approval for the facility in accordance with then existing laws and regulations.
- (viii) **Proof of Adequate Financial Resources.** Proof may be required that the applicant has adequate financial resources or is sufficiently capitalized and has adequate material resources and experience (including a past record of quality performance in solid wastes operations) to properly operate the facility and comply with all conditions and requirements. In the event the BoCC determines based on evidence in the record that an applicant does not have the resources or abilities in this regard, additional guaranties or financial assurance from a parent or other closely related corporation, individual stockholder or interest holder, or other source may be required.
- (ix) **Obtain All Permits Before Operation.** Prior to commencement of operation of the facility, all required construction, air and water quality permits shall be obtained and copies provided to the PCD. A final determination by the appropriate enforcement agency as to noncompliance with any air or water quality permit by the owner or operator may be considered as cause by the BoCC for revocation or suspension of a Certificate of Designation. A determination to suspend or revoke a Certificate of Designation shall be made by the BoCC based on the evidence in the record following appropriate notice and during a public hearing conducted in the same manner as an original approval.
- (x) **Compliance with All Criteria and Restrictions.** The facility shall be subject to and comply with all criteria, specifications, procedures, and restrictions contained in the Certificate of Designation application as submitted or amended by the applicant unless said criteria, specifications, procedures, and restrictions are inconsistent with or have been modified by the conditions and requirements imposed by the CDPHE or the BoCC. As a condition of approval, the BoCC may require that the applicant revise its application documents and plans to be consistent with all conditions and requirements imposed and to serve as a legally controlling document for the operation of the facility.
- (xi) **Most Restrictive Provisions Apply.** Any federal or State statute, regulation or other authority which is more restrictive or specific than those requirements and conditions imposed under this Section shall be applicable.

- (xii) **CD Only Valid in Accordance with Financial Assurances.** The Certificate of Designation shall only be valid as long as any financial assurances as required by statute or the CDPHE are valid.
  - (xiii) **Only Household, Commercial and Industrial Solid Wastes.** Unless otherwise specifically considered and approved, a solid wastes disposal site and facility shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations) including construction and demolition materials (containing no asbestos). Disposal of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other "special wastes" that are not classified as hazardous, toxic, or highly flammable by federal or State regulation, shall not be allowed unless disposal is allowed by State regulation and expressly approved after conformance with all applicable federal, State and local laws and regulations. All composting, co-composting, recycling, soil stripping and incineration programs and leachate impoundments on site or associated with the facility shall likewise require specific consideration and approval.
  - (xiv) **Application to Provide Sufficient Evidence.** The application for the Certificate of Designation shall include all information required by, along with sufficient evidence that the facility can and will comply with all standards, criteria, procedures, and restrictions of, Sections 2, 4 and 6 (as applicable) of the State solid waste regulations and the provisions of Part 258 of the RCRA Subtitle D Regulations, including design criteria and groundwater and other monitoring and analysis.
- (b) **Operating Plan Requirements.** All criteria, specifications, standards, procedures and restrictions included into the application documents and plans shall be reasonably sufficient to substantially alleviate or mitigate all health, safety, environmental and land use risks and impacts that will be or will likely be related to or caused by the operation of the proposed facility. Any risks or impacts unique to the proposed facility or site or that were not otherwise reasonably anticipated may be subject to additional conditions and requirements, not specified herein, that the CDPHE or the BoCC determine, based on the evidence in the record, will effectively work to substantially alleviate or mitigate these risks or impacts. The BoCC has the authority, in its own discretion, to determine what level of evaluation of risks and impacts shall be undertaken.
- (c) **Site Conditions and Operating Standards.**
- (i) **Public Display of CD.** Prior to commencement of operation, the Certificate of Designation shall be publicly displayed in a prominent place at the facility, and placed on file with the PCD and the fire department. The Certificate shall include the approved operational plan and any approved site development plan of the facility.
  - (ii) **Fenced.** The facility shall be adequately fenced so as to prevent all loose waste material and debris from escaping the property and to provide security from unauthorized access to the facility. Loose materials and debris shall not be allowed to accumulate along the fence line.
  - (iii) **Only on Property Included in CD and Special Use.** All activities approved for the facility shall be conducted exclusively within the legally described boundaries of the area for which the Certificate of Designation was issued and for which the special use approval was granted. All structures, operations, activities, and equipment situated or conducted on the facility site shall be limited to those

indicated in the approved application and site development plan or approved amendment.

- (iv) **Double Fee for Unsecured Loads.** The facility operator shall collect double the normal fee from all vehicles entering the facility with unsecured loads. A load may be secured by adequate enclosure, containerization, roping, or tarping. A log of unsecured loads shall be maintained by the operator, including date of the incident, identity of the vehicle and its driver, and type of waste. Said log shall be available for inspection by EPCPH and County staff at any time during regular business hours of the facility.
- (v) **Access Adequate.** All roads providing access to and from and driveways into and throughout the facility shall be of sufficient size, structure, and design to handle the type and level of traffic typically associated with such a facility. The facility shall be served by all-weather roads, driveways and parking areas, all of which shall be treated or surfaced so as to prevent dust nuisances to neighbors and any violations of fugitive dust regulations. To the extent applicable, the ECM and any adopted access standards shall control. If any transportation improvements are indicated, the applicant shall prepare and execute a transportation improvements agreement, in consultation with the appropriate federal, State and local highway authorities. At a minimum, the agreement shall specify the type and timing of the needed improvements, the standards and criteria to which the improvements shall be constructed, any maintenance or future upgrade responsibilities, and the method of financing the improvements.
- (vi) **Maintenance Area for Equipment.** Any facility maintenance area for the repair or upkeep of vehicles or heavy equipment shall be indicated on the site development plan. Adequate safety and environmental protection procedures shall be established in the operational plan for the storage of any liquids other than water and for a response in the event of a spill or leak of fuels, oils, solvents, and other hazardous or flammable liquids. Berming, impervious surfaces and liquid collection systems may be required. Unless otherwise approved by the BoCC, all heavy duty repairs or maintenance of vehicles and heavy equipment on site involving significant disassembling of engines or machinery shall be conducted inside of an enclosed structure with a concrete floor.
- (vii) **Water Needs.** The applicant shall identify all potable and non-potable water needs at the facility along with the likely source of the water supplies. In particular, the applicant shall demonstrate that it can obtain regular and adequate water supplies for specified fire needs, dust control, cleaning, and the construction and maintenance of liners for solid wastes disposal sites and facilities.
- (viii) **Area Markers.** Prior to commencement of operation of the facility, permanent visible markers shall be placed delineating the area for the approved Certificate of Designation site.
- (ix) **Ceasing and Resuming Operations.** In the event that the operator ceases operations at the facility for in excess of 180 days, the BoCC may demand, in writing, that the operator resume operations by a specified date or, if this is not possible, initiate final closure activity. Failure by the operator to comply with this demand shall enable the BoCC, after notice to the operator and the holding of a public meeting on this matter, to undertake all necessary and prudent actions for the closure of the facility.
- (x) **No Landfilling in Drainage ways.** No landfilling shall occur within any regulated floodplain under any circumstances nor within any drainage way, wetland, or geologic hazard areas without the approval or other authorizing action by the

CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of drainage ways, wetlands, or geologic hazard areas.

- (xi) No Radioactive Materials. No radioactive materials or materials contaminated by radioactive substances shall be disposed of at any Solid Waste Disposal Site or facility not specifically approved for that purpose. Detection devices or procedures shall be required to assure compliance.
- (xii) Drainage Controlled. Any surface drainage entering into or originating in the facility shall be controlled so that it does not flow into active or completed landfilling areas, unless otherwise approved by the BoCC as part of a facility's drainage and erosion control plan. Surface flows, coming in contact with refuse, at the working face or otherwise, shall be fully retained, with all waste-related pollutants being removed to the maximum extent practicable or as otherwise prescribed by federal or State law. Any proposed or recommended diversion structures shall be designed in accordance with the ECM. All detention facilities and diversion structures shall be regularly tested for hazardous or toxic contamination, as established in the approved operational plan, and shall be subject to any necessary corrective action as specified by the CDPHE and the EPCPH.
- (xiii) Minimize Disturbance. Surface area disturbances within the Certificate of Designation site shall be no more than is absolutely necessary for the effective and efficient operation of the facility. The applicant shall document and justify the maximum surface area to be disturbed at any one time. Adequate erosion control measures shall be designed and implemented to minimize soil loss from the site. All disturbed areas that can be reclaimed shall be subject to a diligent program of stabilization and revegetation to blend with the surrounding terrain. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.
- (xiv) Drainage and Erosion Control Plan Review. The drainage and erosion control plan shall be subject to review and comment by the EPCDPW, CGS, and NRCS.
- (xv) Operational Plan. The Operational Plan for the facility shall require, among other things, that: (1) a minimum of 6 inches of cover soil or other approved cover shall be placed over all exposed refuse at the end of each working day; (2) the working face (area where refuse is exposed) of the active landfilling area shall be limited, at any given moment, to a total area of 22,500 square feet unless a larger working face is justified by the applicant and approved by the BoCC; (3) any landfilling and onsite borrowing activity shall not be conducted outside the areas specified within the approved site development plan; (4) any landfilling cells shall be constructed and filled in the manner and sequence prescribed by the approved application and site development plan; (5) the operator shall further restrict the size of the working face, install movable fencing downwind of the face, and implement other effective blowing trash controls during windy periods and shall totally cease landfilling operations during "high wind warnings", as defined by State solid waste regulations; (6) the operator shall remove all blown litter on site and within a mile downwind of the facility within 48 hours following a high wind warning, as defined by State solid waste regulations, or other defined period of sustained wind, as approved by the BoCC in the Operational Plan; and (7) an adequate waste screening process and training program will be implemented for the detection and prevention of disposal of regulated hazardous and toxic wastes.
- (xvi) Equipment for Suppressing Fires. Adequate heavy equipment for the purposes of suppressing a landfill fire shall be maintained at the facility. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-landfill fires shall be maintained at the facility. The applicants shall undertake to

make such other arrangements for the fighting and prevention of fires at the facility, as are satisfactory to the County Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

- (xvii) Setbacks from Landfill Cells. Any excavated cells for landfilling shall be at least 100 feet from all buildings and property lines. Where appropriate, setback requirements may be varied. Fencing, landscaping and berming shall be installed as necessary for appropriate buffering.
- (d) **Reporting Requirements.** The operator or owner shall prepare and submit all reports and other information designated by the BoCC as necessary to monitor the activities of the facility. All operating records shall be made available, on request, to the County and the CDPHE.
- (e) **Additional Requirements for Waste Tire Disposal Facilities.**
  - (i) **Tire Storage Limited.** The above-ground storage, sorting or recycling (including shredding, baling, or splitting) of tires may be allowed at a waste tire only disposal facility if these activities are outlined in the approved operational plan and are clearly incidental to the primary purpose of the operation.
  - (ii) **Tire Acceptance.** These facilities may only accept whole, split, baled, or shredded Waste Tires, including reusable whole tires, unless specifically approved by the BoCC to accept other materials.
  - (iii) **General Operational Plan Inclusions.** For a waste tire disposal facility which has a recycling component, the operational plan shall, among other things, satisfactorily address or provide: (1) interim storage of waste tires to be recycled in accordance with the requirements for waste tire recycling facilities, including provisions limiting sizes of individual tire piles to a height and width that allows for sufficient fire lanes and proper control and management as specified by the County Fire Marshal or the pertinent fire department; (2) information regarding the proposed acquisition, location, and operation of any tire shredding machine or other heavy machinery to be used in the tire recycling operation; (3) information regarding the sale or disposition of tires or tire products; (4) an alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed; and (5) all of the operational requirements contained in or imposed through Section 9 of the State solid waste regulations.
  - (iv) **Inventory.** For a waste tire disposal facility which has a recycling component, the inventory of waste tires shall be tracked by the operator of the facility in and out of the facility, with said inventory including a precise correlation of quantities of the tires with their identified source and final destination. Copies of these reports shall be submitted to the PCD and EPCPH on at least an annual basis or more frequently if so directed by the BoCC.
  - (v) **No Retail Sales.** No retail sales shall be allowed from these facilities unless allowed by zoning and specifically designated by the BoCC.
  - (vi) **Maximum Stockpile.** The stockpiling of reusable tires at either of these facilities shall not exceed that minimally necessary for the conduct of the applicant's tire resale business, and in no case more than 10,000 tires unless justified by the applicant and specifically approved by the BoCC. All stockpiles shall be stacked no more than 6 feet high.
  - (vii) **Operational Plan to Address Tire Storage and Processing.** The operational plan shall, among other things, satisfactorily address or provide: (1) all waste tires to



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

- (viii) **Drainage Control.** Any surface drainage entering into or originating in either of these facilities shall be controlled so that it does not flow into tire disposal or storage areas, and any surface flows leaving these areas shall be minimized and controlled so as to create no significant degradation as to water quality. Any proposed or recommended diversion structures shall be designed in accordance with the ECM. Surface flows in any area where tire shredding activity or shredded tire storage is occurring shall be fully retained, and all tire-pollutants shall be removed to the maximum extent practicable or as otherwise prescribed by federal or State law. No tires shall be placed within any drainage way or in any cell below groundwater level.
- (ix) **Minimize Disturbed Area.** The design and operation of these facilities shall be such as to minimize the quantity of disturbed surface area on the site. All areas disturbed in the initiation of the operation of these facilities which can be reclaimed and all berms, soil piles, or completed landfill cells shall be diligently stabilized and revegetated to blend in with the surrounding terrain. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.
- (x) **No Landfilling in Floodplain.** No landfilling or storage of waste tires shall occur within any regulated floodplain under any circumstances nor within any drainage way or wetland without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of the drainage way or wetland.
- (xi) **Equipment for Suppressing Fire.** Adequate heavy equipment for the purposes of suppressing a tire fire shall be kept available within the vicinity of these facilities. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-tire fires shall be maintained at the facilities, and with any operating equipment such as shredders, balers, etc. The applicants shall undertake to make such other arrangements for the fighting and prevention of fires at the facilities, as are satisfactory to the County Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.
- (xii) **Setbacks of Tire Storage.** All surface-level tire piles shall be set back at least 50 feet from all buildings and property lines. Any excavated cells for landfilling or storing waste tires shall be at least 100 feet from all buildings and property lines. Any tire processing, shredding, splitting, or baling equipment shall be situated at least 200 feet from all property lines, and the location of the equipment and any associated fuel storage or energy supply is subject to approval by the County Fire Marshal. Setback requirements may be varied in the approval of the site development plan or operational plan where deemed appropriate. Fencing, landscaping and berming shall be installed as necessary for appropriate buffering.

(H) **Submittal Requirements.**

- (1) **Application Required.** An application shall be completed on the appropriate form. The application shall include signatures of the operator and owners of all equitable and legal interest in the property site where the facility is proposed to be located (hereinafter referred to as "facility site") and the proposed facility.
- (2) **Modification of Submittal Requirements.** Where appropriate the PCD Director may waive or modify the submittal requirements for the additional reports identified in the submittal list.
  - (a) **Waiver Request Required.** Prior to any complete application being submitted, a waiver request is to be initiated by the applicant submitting a detailed letter to the PCD Director listing and justifying what report requirements should be waived and stipulating what other information would be provided instead. After notification to and receipt of comments and recommendations from all State and local agencies which would ordinarily review said reports the Director may grant the request, modify the report requirements, or deny the request, as he deems appropriate.
  - (b) **Approval of Waiver.** Approval of any waiver request shall not constitute a relinquishment of the right of the CDPHE, PCD or BoCC, on determining there is a reasonable need, to later request specific information that might ordinarily be included in a report that was waived.
- (3) **Application Filing Fees.**
  - (a) **Application Fees Paid.** Application fees in accordance with the fee schedule are to be paid to El Paso County on final submittal of the application to the PCD, after any modifications to the plans are made to the satisfaction of the CDPHE.
  - (b) **Reduction in Fees.** In cases where the proposed operation is of a limited scale and complexity or duration, the applicant may request that the BoCC reduce the submittal fee to that for a Minor Certificate of Designation.
  - (c) **Amendments Subject to Adopted Fees.** Amendments to approved Certificate of Designations shall be subject to a fee as identified in the fee schedule.
  - (d) **Applicant Required to Pay Outside Agency Review Fees.** In the event that agencies designated by the PCD to review applications submitted under this Section charge for the reviews, the applicant shall pay charges prior to any hearing. The applicant may also be required to pay, prior to any hearing, the costs incurred by the County in retaining any contracted consultant or expert to review and analyze the application and associated technical information. The extent and nature of the costs should be established between the applicant and the County prior to contracting for the services.
- (4) **Notice Requirements.** In addition to those notice requirements contained in the Procedures Manual, the following statutory requirements shall be observed: Public hearing on the petition shall not be heard until public notice has been published in a newspaper of general circulation in the County at least 10 days but no more than 30 days prior to the date of the hearing. Public notice shall contain the time and place of the hearing, state the matter to be considered the applicant's proposal for a Certificate of Designation, provide a description of the facility and the facility site, and provide a description of the geographic area which is within 3 miles of the proposed facility site. In addition, notice of the public hearing shall be posted at a conspicuous point in at least one location within the County Office Building and in at least one location at the proposed facility site. The notice shall be posted for a period beginning at least 30 days before the public hearing and continuing through the date of the hearing.
- (5) **Standards of Review and Findings.** In addition to the special use review standards found in Chapter 5, the applicant for a facility under this Section shall demonstrate the

following to the satisfaction of the BoCC. It is the applicant's responsibility to provide information necessary to evaluate the standards. The BoCC shall make its decision to approve or disapprove the proposed facility, and shall make specific findings, based on the following standards. The following standards shall apply to all requests for a Certificate of Designation:

- (a) **Adverse Impacts.** Adverse impacts to surrounding properties from blowing trash, odors, vectors, noise, lights, and surface water flows caused by the operation of the facility will be minimized by adequate operational controls or by the existence or acquisition of an adequate buffer.
- (b) **Operational Plan.** The submitted operational plan identifies procedures and provisions which adequately assure that the facility will be operated in a safe and environmentally acceptable manner and will cause minimal negative impacts, including:
  - Hours and methods of operation will be compatible with the neighboring land uses.
  - Adequate waste screening measures recognized by the industry and federal government will be implemented to assure proper identification, isolation and removal of unauthorized wastes or materials and prevent unauthorized activity.
  - Adequate methods will be available to contain and dispose of all liquids associated with the operation in an acceptable manner.
  - Fire protection and emergency response plans will be adequate for the type of facility proposed.
  - Fencing and other site security and trash retention will be adequate for the type of facility proposed.
  - Other requirements and conditions for operational plans have been fully addressed and will be complied with by the applicant.
- (c) **Recycling Goals.** The owner or operator incorporates recycling goals, either on site or off-site, which will result in a notable reduction in the waste stream.
- (d) **Minimize Traffic and Other Problems.** The facility is so designed that it can be operated in a manner which will minimize traffic, storage, fire fighting, safety and other site-related problems.
- (e) **Natural Hazards.** The facility will not be located where natural or man-made hazard or conditions will cause undue conflicts or environmental problems.
- (f) **Water Supplies.** Adequate water supplies will be available for drinking, fire protection, showers, sanitary and cleaning purposes, landscaping, dust suppression, reclamation, and general operation.
- (g) **Closure.** Adequate provisions have been made to address either anticipated or unanticipated closure or abandonment of the facility.
- (h) **Drainage and Erosion Control Measures.** Drainage and erosion control measures will be adequate.
- (i) **Convenience and Accessibility.** The facility will be reasonably convenient and accessible to the using public.

- (j) **Environmental and Health Standards.** The applicant can demonstrate the ability and willingness to comply with the environmental and health standards and operating procedures provided under the "Solid Wastes Disposal Sites and Facilities Act," C.R.S. §§ 30-20-100.5 et seq., and the State solid waste regulations.
- (k) **Financial Resources.** The applicant can demonstrate the ability to provide the financial and material resources and experience (including a past record of quality performance in solid wastes operations) necessary to properly operate the facility, and comply with all imposed conditions and requirements
- (l) **Facility Need.** The facility is presently or will, within a reasonably foreseeable future period of time, be needed to accommodate the waste management needs of the area it is intended to serve or to provide healthy competition in the regional solid waste management market.
- (m) **Compatibility.** The facility is proposed to be located where, based on existing and projected urban growth patterns and the type of facility proposed, it will have a reasonably compatible or harmonious relationship with surrounding property development, including:

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

- (a) **Failure to Comply.** Failure to comply with any terms or conditions of approval or with the applicable requirements and conditions of this Section or the State solid waste regulations may result in reconsideration of a Certificate of Designation by the BoCC. Reconsideration, following appropriate notice and during public hearing as prescribed by the Procedures manual and this Code, may result in the modification, suspension, or revocation of the Certificate. El Paso County reserves the right to pursue any other remedies and enforcement means provided in this Code or by law.
- (b) **Misrepresentation and Other Issues.** Above and beyond any other bases or grounds provided in this Section for denying, suspending or revoking a Certificate of Designation, an application for a Certificate of Designation may be denied, or an issued Certificate of Designation may be suspended or revoked, if the BoCC reasonably determines that it has significant and convincing evidence that an applicant or Certificate holder or any entity associated with the applicant required to be identified by this Section has:

- Intentionally misrepresented or knowingly failed to disclose any material fact in the application for or amendment of, or in a public hearing regarding, a Certificate or in any reporting documents submitted as part of the operational requirements; or
- Intentionally misrepresented or concealed any material fact pertaining to its financial or material resources, its experience and record in solid wastes operations, or other pertinent information regarding its corporate or partnership structure; or
- Exhibited a repeated history of willful disregard and violation of federal, State or local laws or regulations pertaining to solid wastes operations, hazardous or toxic materials or wastes operations, or related environmental or health laws; or
- Been convicted of a felony by final judgment within the five years immediately preceding the date of submission of the Certificate application or at any time following issuance of the Certificate, in any court for any crime defined by State or federal statutes as involving restraint of trade, price-fixing, antitrust, bribery, fraud or business-related racketeering; or
- Had any Certificate of Designation or similar permit revoked or permanently suspended by any federal, State or local authority for cause related to environmental or health noncompliance or criminal acts.

- (2) **Decision to Deny, Suspend, or Revoke a Certificate.** In deciding whether to deny, suspend, or revoke a certificate under this Section, the BoCC shall consider the relevant facts and mitigating circumstances surrounding the foregoing including:

- The relevance of the offense to the nature of the business for which the Certificate of Designation has been or will be issued;
- The nature and seriousness of the offense, including the number and frequency of complaints;
- The circumstances under which the offense occurred;
- The date of the offense; and

- The ownership and management in place at the time of the offense and any subsequent changes thereto.

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

- (J) **BoCC Right to Review and Modify CD.** The BoCC retains the right to review and modify any Certificate of Designation as to its consistency with all applicable local, State, and federal laws and regulations pertaining to the protection of the environment and public health and safety. This would include the Resource Conservation and Recovery Act's Subtitle D Regulations for municipal solid waste landfills.
- (K) **Administrative Modifications to Operational and Drainage and Erosion Control Plans for a Waste Disposal or Recycling Facility.**
  - (1) **Purpose.** To allow for modifications to be administratively approved by the PCD Director for operational documents governing any facilities included under this Section in cases where the modifications are clearly of a minor nature and do not contravene the intent of the Certificate of Designation or special use as approved by the BoCC.
  - (2) **Limitations.** This process shall be applied only to proposed modifications to the design and operations plan, and drainage and erosion control plans prepared in conformance with this Section.
  - (3) **Exclusions.** Modifications specifically excluded from this process include the following:
    - Modifications which could be considered to modify or conflict with any conditions or notations specifically imposed by the BoCC on the approved Certificate of Designation, special use or any agreement entered with the BoCC.
    - Any large combination or comprehensive set of modifications, even in cases where the changes would be considered minor when considered separately.
    - Modifications that affect the location of waste placement and landfill elevations which result in negative visual impacts to surrounding properties.
    - Major or categorical changes to waste acceptance allowances and procedures.
    - Any other modifications, which in the discretion of the PCD Director, should be considered by the BoCC.
  - (4) **Examples of Modifications.** Modifications which might be allowable under this procedure include but are not limited to the following:
    - Substitutions of personnel, equipment, plans or procedures.
    - Minor changes to operating hours or rates.
    - Minor non-categorical changes to waste acceptance allowances and procedures.

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

(5) **Procedures.**

- Application.** The applicant shall submit the proposed modification in writing, with specific references to current text, to the PCD. Justification for, and applicability of, the proposed modification should be clearly stated. Posting and notification may be undertaken if deemed appropriate.
- Referral.** The PCD will refer the proposed modification to all appropriate agencies, organizations and individuals to include the following at a minimum:

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

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

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

- (8) **Appeal.** ~~Any aggrieved party may appeal the final action of the PCD Director to the BoCC within 30 days of the of the final action in accordance with the Procedures Manual and this Code. Any interested party may appeal the final action of the PCD Director to the BoCC in accordance with the Procedures Manual and this Code.~~

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- (L) **Amendment to the Certificate of Designation.** Instead of an appeal, or following an unsuccessful appeal on the proposed administrative modification, an applicant may apply for an amendment to the Certificate of Designation or special use, which may be processed as prescribed in this Section.
- (M) **Submittal Requirement List for a Certificate of Designation.**

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

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

- (2) **General Reports.** 30 copies each of reports required by the CDPHE under the State solid waste regulations including but not limited to:

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

- (3) **Additional Reports.** 15 copies each of reports required including the following:

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



- Noxious Weed Management Plan

#### 5.2.60. Wholesaling, Accessory Use

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

#### 5.2.61. Wildlife Rehabilitation

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

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

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

#### 5.2.63. Wind-Powered Generators

##### (A) Minimum Lot Size.

- (1) **Freestanding Generator.** One private wind-powered generator is allowed as an accessory use where the parcel size is 2½ acres or larger irrespective of nonconforming status.
- (2) **Roof-Mounted or Attached Generator.** One private roof-mounted or attached wind-powered generator is allowed per lot, tract or parcel as an accessory use provided it does not exceed the maximum height allowance within the applicable zoning district.

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

- (C) **Minimum Height of Blades Above Ground.** The minimum height of the blades above the ground shall be 20 feet.

- (D) **Number of Generators Allowed.** A maximum of one generator per 5 acres is allowed. Additional generators may be approved through a special use approval, without being considered a second principal use.

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

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

- (G) **High Wind Mitigation.** The PCD shall be provided with assurance from the manufacturer that safety features to mitigate the effects of high wind conditions have been designed for the

particular generator prior to issuance of a building permit for construction of a wind -powered generator.

- (H) **Noise Levels.** Allowed noise levels shall meet the requirements of this Code.
- (I) **Electromagnetic and Electrical Interference.** No equipment shall adversely affect the operation of any off-premises electrical, radio or television equipment including electrical interference with navigational signals for radio communications between an aviation facility and aircraft.
- (J) **Manual Shut-Off Required.** Any individual wind-powered generator shall include a manual shut-off, which may be utilized by utility company personnel.

#### 5.2.64. Wind/Meteorological Measuring Facility

- (A) **Applicability.** This Section is applicable to any wind/meteorological measuring facility established after the date of adoption of this Section which exceeds the height limits allowed by the zoning district.
- (B) **Development Standards for Meteorological Towers.**
  - (1) **Height.** Wind/meteorological measuring facilities are not subject to height restriction of the zoning district, but instead are subject to the height as established through the special use process. The height of the tower or pole is measured from the top surface of the wind/meteorological measuring facility foundation (or to the adjoining ground level if no foundation exists) to the highest point of the tower or pole.
  - (2) **Setbacks.** Wind/meteorological measuring facilities shall be located a distance of 1½ times the height of the facility from any house, road, property line, third party transmission lines, or freestanding communication tower.
  - (3) **Climb Prevention.** Wind/meteorological measuring facilities shall be unclimbable by design or protected by anti-climbing devices such as:
    - Fences with locking portals at least 6 feet high; or
    - Anti-climbing devices 12 feet vertically from the base of the wind/meteorological measuring facility.
  - (4) **Color.** Towers or poles shall be painted white or gray or another non-reflective, unobtrusive color.
  - (5) **Compliance with the Federal Aviation Administration.** The wind/meteorological measuring facility shall comply with all applicable FAA requirements.
  - (6) **Compliance with Additional Regulations.** Nothing in this Section is intended to preempt other applicable State and federal laws and regulations.
- (C) **Decommissioning Plan.** A wind/meteorological measuring facility approved pursuant to this Section shall provide a decommissioning plan to ensure that the wind/meteorological measuring facility is properly decommissioned. The decommissioning plan shall include:
  - Provisions describing the triggering events for decommissioning the wind/meteorological measuring facility;
  - Provisions for the removal of structures, debris and cabling, including those below the soil surface;

- Provisions for the restoration of the soil and vegetation;
- An estimate of the decommissioning costs certified by a professional engineer;
- Financial assurance, secured by the owner, for the purpose of adequately performing decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning costs;
- Identification of and procedures for County access to financial assurances;
- A provision that the terms of the decommissioning plan shall be binding on the owner and any of their successors, assigns, or heirs; and
- A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

#### 5.2.65. Yard Sales

Yard and garage sales are limited to no more than 3 occurrences on a lot or parcel during the year, with each occurrence limited to no more than 5 days. Yard sales exceeding 5 days in duration or 3 occurrences per year require a temporary use permit. A yard sale may only be held on a property where a dwelling exists as the principal use.

Footnotes:

— (1) —

**Editor's note**— At the direction of the County, the uses in this Section 5.2 have been arranged in numerical sequence and alphabetical order. The historical notation of Section 5.2 is as follows: Res. No. 14-243, Exh. 1, 7-1-2014; Res. No. 15-351, Exh. A, 8-25-2015; Res. No. 15-503, Exh. A, 12-15-2015; Res. No. 16-164, 5-17-2016; Res. No. 17-372, Exh. A, 12-12-2017; Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 18-010, Exh. A, 1-9-2018; Res. No. 18-334, Exh. A, 8-14-2018; Res. No. 18-496, Exh. A, 12-20-2018; Res. No. 19-62, Exh. A, 2-26-2019; Res. No. 19-330, Exh. A, 8-27-2019; Res. No. 19-421, Exh. A, 11-12-2019; Res. No. 19-450, Exh. A, 12-10-2019

### 5.3. - STANDARDS FOR REVIEW, APPROVAL, AND ADMINISTRATION OF USES

#### 5.3.1. Temporary Use Permits

- Purpose.** The temporary use permit is a mechanism by which the County may allow a use to locate on a short term basis and by which it may allow seasonal, short term or transient uses not otherwise allowed. A temporary use permit may be issued to allow for installation of temporary emergency or critical facilities related to a utility or communication site, after any required approval has been granted to establish the permanent facility. A temporary use permit shall not be approved for a marijuana club.
- Temporary Use Permit Required.** All temporary uses shall require a temporary use permit prior to beginning operation. All temporary uses shall comply with the standards established by this Code for the temporary use.
- Temporary Use Standards.**

- (1) **Zoning District Standards and Requirements Apply.** Setbacks and all other standards and requirements of the zoning district in which the temporary use is located shall apply to all structures or uses connected with the temporary use, unless otherwise identified herein.
- (2) **PCD Director Determination.** The PCD Director may determine, at his or her discretion, that a use does not qualify for approval as a temporary use due to the size, duration, or intensity of the use, or that potential impacts caused by the temporary use cannot be properly mitigated. The PCD Director may determine that a use not identified as a temporary use in Tables 5-1 and 5-2 may qualify for approval as a temporary use due to the size, duration, and intensity of the use.
- (3) **Duration of Temporary Use.** Temporary uses shall be limited to the specific dates/time period identified on the temporary use permit. No temporary use shall be allowed for a period exceeding one year, unless otherwise noted. Renewals of temporary uses may be granted in one year increments, following the same procedures as the original temporary permit issuance. Any renewal or reapplication shall be treated as a new application.
- (4) **Compliance with Building Code and Health Code.** Compliance with the Building Code and the Health Code is required for all temporary uses.
- (5) **Parking and Requirement for Driveway Permit.** Safe access and adequate parking shall be provided for the temporary use. Any temporary use that requires a building permit, lasts more than 31 days, or results in a driveway intersecting a County road is required to secure a driveway permit.
- (6) **Compliance with Engineering Criteria Manual.** Any temporary use is required to comply with the ECM.
- (7) **Suspension/Revocation.** If, upon review, the conditions or restrictions imposed by this Code or by the temporary use permit have not been complied with, the PCD Director may take any action deemed necessary to remedy the noncompliance, including but not limited to revocation of the temporary use permit or pursuing the noncompliance as a zoning violation.
- (8) **Permit Transferability.** A temporary use permit is valid only for the lot or parcel identified on the temporary use permit, and is not personal.

(Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-421, Exh. A, 11-12-2019)

### 5.3.2. Special Use

- (A) **Purpose.** The purpose of the special use process is to address potential impacts of certain land uses on existing and allowed uses in the same neighborhood. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.
- (B) **Applicability.** No special use application shall be considered unless the underlying land is located within a particular zoning district which allows the proposed special use.
- (C) **Criteria.** In approving a special use, the following criteria may be considered:
  - The special use is generally consistent with the applicable Master Plan;
  - The special use will be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;

- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

(D) **Limits of Approval.** Issuance of a special use permit shall authorize only the particular use and activity for which it is issued, for the time period, if specified, and in accordance with the permit conditions imposed. The special use permit runs with the land. The special use is based upon the parcel size stated in the application. A reduction or increase in parcel size is considered a substantial modification of the special use unless specifically provided for in the approval. The special use permit does not relieve the owner from compliance with any other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the special use permit is approved.

The Board of County Commissioners may impose time restrictions on the approved special use permit as a condition of approval as it deems necessary.

(E) **Performance Guarantees and Financial Assurance.** Sufficient performance guarantees and financial assurance may be required to ensure implementation of and compliance with the conditions imposed. The terms or any required guarantees and financial assurance shall be made part of a development agreement.

(F) **Public Facilities and Services.** Special use permits shall be subject to the terms and requirements of the applicable development standards and regulations relating to the provision and financing of necessary public facilities and services. Determinations concerning the adequacy and efficiency of the provision of necessary public facilities and services, and the financing of the same, shall be based on standards and criteria adopted by the BoCC and may include a requirement that the applicant for a special use permit agrees to contribute a fair and equitable share of the costs of the public facilities and services through the payment of development impact fees, special assessments, participation in a local improvement district or special district, or other similar mechanism for the provision and financing of adequate public facilities and services.

Sufficient financial assurance may be required to ensure the timely completion of any public improvements needed to address potential impacts of the proposed use. The terms and conditions regarding the provision of public facilities and services shall be made part of the development agreement.

(G) **Limited to Approved Special Uses.** Any land on which a special use permit is approved shall be limited to those uses and structures enumerated within the special use permit and no more than one principal allowed use.

(H) **Administrative Approval Authorized.** Any special use may be acted upon by the PCD Director, except for those related to a CD request or mineral and natural resources extraction,

which includes processing. The PCD Director, in his sole discretion, is authorized to elevate a special use application to a public hearing.

(I) **Post Approval Requirements.**

- (1) **Site Development Plan or Site Plan Review Required.** Site development plan review or site plan review is required before an application for a building permit can be authorized by the PCD. Site development plan or site plan review may be concurrent with the special use permit process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.
- (2) **Conditions Included in Development Agreement and Filed for Recording.** Conditions may be included in the development agreement signed by the applicant and the County. The development agreement shall be filed for recording by the applicant with the Clerk and Recorder.

(J) **Periodic Review of Special Use Permit.**

- (1) **Special Use Permit Subject to Periodic Review.** Approved special uses shall be subject to a periodic review by the PCD to determine compliance with all applicable requirements and standards of this Code, and the conditions. The initial review shall be not more than one year from the date of issuance of the special use permit unless otherwise provided. Upon completion of each periodic review, the PCD shall document its findings and any recommendations or requirements to the holder of the special use permit.
- (2) **Hearing Concerning Findings of Periodic Review.** The BoCC shall have the power to conduct, after notice, public hearings concerning a special use permit and compliance of the owner with the applicable requirements and standards of this Code, and the conditions imposed by the County.

(K) **Abandonment.**

- (1) **Determination of Abandonment of Use.** Unless otherwise provided, a special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of approval of the special use; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, a special use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved special use site.
- (2) **Determination of Abandonment of Mineral Extraction.** A mineral extraction special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if the mineral extraction activity has been discontinued for a period of 3 years.
- (3) **Extension of Special Use Permit.** Prior to the expiration of the special use permit due to a determination of abandonment, a one year extension may be granted by the PCD Director for good cause shown after receiving a written request for extension.

(L) **Suspension or Revocation.**

- (1) **Violation of Permit Grounds for Suspension or Revocation.** The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the special use permit or development agreement shall constitute sufficient grounds for suspension or revocation of the special use permit by the BoCC, after a public hearing at which the holder of the special use permit shall be afforded the opportunity to be heard.
- (2) **Notice of Revocation Hearing.** Notice of the public hearing on the suspension or revocation of a special use permit shall be in accordance the Procedures Manual, and given by conspicuously posting the subject property for a period of at least 10 days prior to the public hearing, and mailing a copy of the written notice to the holder of the special use permit and any complaining party at least 10 days prior to the public hearing.

- (3) **Determination of Suspension or Revocation.** In determining whether suspension or revocation is warranted, the BoCC shall consider, among other factors, the nature and magnitude of the violations found to exist; the impact of the violations on the health, safety and welfare of adjacent property owners and surrounding communities; and any other evidence presented in aggravation or mitigation of the violations committed.
- (4) **Suspension or Revocation in Addition to Other Penalties.** Suspension or revocation is in addition to any other remedies and enforcement provisions provided by this Code or by law.
- (M) **Permit Transferability.** The special use permit is valid only for the lot or parcel identified on the special use permit and may be transferred to a new property owner.

(Res. No. 16-164, 5-17-2016; Res. No. 17-374, Exh. A, 12-12-2017)

### 5.3.3. Approval of Location

- (A) **Purpose.** The purpose of this Section is to determine if a public use, structure or utility proposed for location in unincorporated El Paso County conforms to the adopted Master Plan, and to provide procedures for the timely review of the Approval of Location of public facilities or uses as provided by C.R.S. §§ 30-28-110, et seq.
- (B) **Determination of Public Use.** A public use is considered to be any activity primarily funded by taxes, or of an entity which has the capability to levy taxes, or is of benefit to the public such as airports, schools, parks, utilities, and other similar public areas or structures.
- (C) **Applicability.** The Planning Commission is required to review and approve construction of or plans for the construction of any road, park, or other public way, ground, or space, public building or structure, or public utility, whether publicly or privately owned prior to the construction of any facility. This procedure shall not apply to the following:
  - Where such activity is subject to the provisions of Appendix B Guidelines and Regulations for Areas and Activities of State Interest of El Paso County (hereinafter "Appendix B" Guidelines and Regulations); and
  - Routine extensions of public utility lines and minor modifications to existing uses or facilities.

The following projects require Approval of Location review to the extent they are not subject to Appendix B Guidelines and Regulations:

  - Public schools (including Charter Schools);
  - Public roads, public parks, trails and trail heads, public ways, grounds and spaces, public buildings and structures and utilities, whether public or privately owned;
  - Public building where the building, facility or use provides or fulfills a governmental function the governmental unit is legally authorized to provide including publicly-owned jail or prison facilities;
  - Water storage facility including a reservoir, pond, lake, tank or basin, natural or man-made, used for the storage, regulation or control of water;
  - Central office buildings of telephone utilities;

- Fiber optic cable regeneration buildings; and
- Cable TV buildings and satellite receiving areas.

(D) **Specific Facilities or Actions Exempted from the Approval of Location Permit.** The following facilities or actions are exempted from the approval of location permit, but shall comply with any other permit or development requirements:

- Operation, maintenance, repair and replacement of existing water and sewage collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility;
- Projects addressed by an intergovernmental agreement which the County has approved will be subject to this Code unless otherwise provided by the terms of the intergovernmental agreement;
- Any facility necessary to serve any subdivision or other use approved under this Code provided that the BoCC specifies in its approval of the subdivision or other use that separate review of the system, extension, or proposal is not necessary under this Code;
- A facility identified within a PUD, where the Site Development Plan has been submitted and reviewed concurrently with PUD application.
- Expansion of existing facilities does not require submittal of a new application if the expansion was identified and approved in the original application.

(E) **Federal or State Reviewed or Approved Facilities.** Review or approval of a project by a federal or state agency does not prevent, and will not substitute for, the need to obtain a permit for that project under this Code. Where in the opinion of the Planning Commission, federal or State review and approval processes adequately address the impacts that this Code is designed to address, the County may agree to rely on that review and approval.

(F) **Public Facilities Identified as an Allowed or Special Use in the Zoning District.** Where the public facility is identified as an allowed or special use in the zoning district, the Approval of Location process shall be controlling for the authorization of the facility.

(G) **Public Schools and Charter Schools.**

- (1) **Prior to Acquisition of Land for School Site.** Prior to acquiring land or contracting for the purchase of land for a school site, the school district shall consult with and advise the Planning Commission in writing to ensure that the proposed site conforms to the adopted Master Plan as far as is feasible.
- (2) **Prior to Construction of a Structure.** Prior to construction of any structure or building, the school district shall submit a site development plan for review and comment to the Planning Commission.
- (3) **Request by Planning Commission for Public Hearing.** The Planning Commission may request a public hearing before the school district on the proposed site location or site development plan. If the Planning Commission requires a hearing, the school district shall promptly schedule the hearing, publish at least one notice in advance of the hearing and provide written notice of the hearing to the Planning Commission.



- (4) **Information to be Considered and Recommendation.** The Planning Commission will consider all information presented at the hearing. If no hearing is requested, the Planning Commission will consider all information provided by the school district and provide to the school district its recommendations and conclusions.
- (5) **School District Responsible for Facility Locations.** The authority to make final determinations as to the location of public schools and to erect buildings and structures is the school district's.
- (H) **Other Requirements and Clarifications.**
  - (1) **Site Development Plan Required.** A proposed site development plan shall be submitted to the Planning Commission for approval before construction or authorization of any public road, public park, trail or trail head, public way, ground or space, public building or structure or utility, whether public or privately owned.
  - (2) **Disapproval of County-Funded Project.** In case of disapproval of a County-funded project, the Planning Commission shall communicate its reasons to the BoCC. The BoCC is authorized to overrule the disapproval by a majority vote. Upon overruling, the BoCC may proceed with construction or authorization of the project.
  - (3) **Non-County Projects.** If the project is one that is not required to be authorized or financed by the County, the Planning Commission's disapproval may be overruled by the body or official having jurisdiction over the authorization and financing of the project by a majority vote. In the case of a utility owned by an entity other than a political subdivision, the Planning Commission's disapproval may be overruled by the public utilities commission by not less than a majority of its entire membership.
  - (4) **County Projects Subject to Review.** Applicable County-funded or County-authorized projects shall be approved pursuant to C.R.S. § 30-28-110, other applicable statutes and laws, and interpretation of the same by the PCD Director and the CAO.
  - (5) **Failure of the Planning Commission to Act.** Failure of the Planning Commission to act within 30 days after the date of official submission to it is deemed an approval, unless a longer period is granted by the submitting board, body or official.
- (I) **Special Process for Recording Plats Involving Roads.** All plans of roads for public use, and all plans, plats, plots, and replats of land laid out in subdivision or building lots and the roads, alleys, or other portions intended to be dedicated to a public use or the use of purchasers or owners of lots, shall be submitted to the BoCC for review and subsequent approval, conditional approval, or disapproval. It is not lawful to record any such plan or plat in any public office unless the same bears, by endorsement or otherwise, the approval of the BoCC after review by the Planning Commission.
- (J) **Review Standards.** The application for a public use, structure or utility is reviewed for conformity with the submittal and processing requirements included within this Code and Procedures Manual and for conformity with the adopted Master Plan.
- (K) **Effect of Approval.** Issuance of an approval of location permit shall authorize only the particular use and activity for which it is issued, in accordance with the permit conditions imposed. The approval of location permit runs with the land. The applicant shall be subject to all other permits, standards and regulations of this Code, including but not limited to Appendix B Guidelines and Regulations, except to the extent expressly modified in the permit approval, in order to use the land in accordance with the approval of location permit and associated site plan. No building permit shall be authorized to implement the use until the approval of location permit is issued.
- (L) **Conversion of Public Facility to Private Facility.** A conversion of a public facility with an approval of location to a private facility shall be completed in conformance with the applicable zoning district standards.
- (M) **Post Approval Requirements.**

- (1) **Satisfaction of Conditions.** Prior to beginning any construction or the commencement of the approved use, the applicant shall satisfy any required conditions.
  - (2) **Site Development Plan Review or Site Plan Review.** Site development plan review or site plan review is required before an application for a building permit can be authorized by the PCD. Site development plan or site plan review may be concurrent with the approval of location process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.
- (N) **Abandonment.**
- (1) **Determination of Abandonment of Use.** Unless otherwise specified by the Planning Commission, an approval of location shall be deemed abandoned, and the approval of location permit shall be of no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of the Planning Commission approval; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, an approval of location shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.
  - (2) **Extension of Approval of Use Permit.** Prior to the expiration of approval of use permit, a one year time extension may be granted by the PCD Director for good cause shown after receiving a written request for extension.

(Res. No. 17-374, Exh. A, 12-12-2017)

#### 5.3.4. Variance of Use

- (A) **Purpose.** Occasionally, a use is proposed that is not allowed in the applicable zoning district. The BoCC may grant a variance of use to allow the proposed use if it determines that it meets the criteria contained in this Code.
- (B) **Applicability.**
  - (1) **Where Applicable.** Those uses that are not otherwise an allowed use or special use in a zoning district, except in a PUD Zoning District, may be considered for a variance of use. A variance of use may not be considered in a PUD Zoning District. The power of the BoCC to vary the provisions of this Code is permissive, not mandatory, and shall not be exercised in such a way as to frustrate the scheme or intent of this Code. The power to grant variances shall be exercised sparingly.
  - (2) **Variance of Use to Comply with Review Criteria and Other Standards.** The BoCC evaluates each proposed variance of use for general compliance with the review criteria in this Code and the development standards that apply to all development.
- (C) **Criteria.** In approving a variance of use, the following criteria may be considered:
  - The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
  - The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;
  - The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;

- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

(D) **Limit of Approval.** Issuance of a variance of use permit shall authorize only the particular use and activity for which it is issued, for the time period, if specified, and in accordance with the permit conditions imposed. The variance of use runs with the land. The variance of use is based on the parcel size stated in the application. A reduction or increase in parcel size is considered a substantial modification of the variance of use unless specifically provided for in the approval. The variance of use permit does not relieve the owner from compliance with any other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the variance of use permit is approved.

The Board of County Commissioners may impose time restrictions on the approved variance of use permit as a condition of approval as it deems necessary.

(E) **Renewal/Expiration.** If the existing variance of use is subject to expiration, continued operation of the use after expiration of the variance of use permit constitutes a violation, subject to the requirements of Chapter 11. Therefore, the applicant shall submit a new application prior to expiration of the permit conforming to the requirements in place at the time of submittal in order to renew the variance of use permit. If the permit expires, in order to resolve the violation, Applicant shall be required to submit a new application for a new variance of use permit.

(F) **Administrative Renewal Authorized.** Any variance of use renewal may be acted upon by the PCD Director. In renewing a variance of use, the PCD Director shall consider the record of compliance with conditions of approval, proposed modifications in the scope of the land use, criteria for approval pursuant to this Section or as may otherwise be amended, and may consider other relevant factors. The PCD Director, in their sole discretion, is authorized to elevate a variance of use permit renewal to a public hearing.

(G) **Suspension/Revocation.** The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the variance of use permit shall constitute sufficient grounds for suspension or revocation of the variance of use permit by the BoCC, subject to the requirements of Chapter 11.

(H) **Abandonment.** Unless otherwise specified by the BoCC, variance of use shall be deemed abandoned, and the variance of use permit shall be of no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within one year of the BoCC's approval; or (2) the primary intended use or activity has been discontinued for a period of one year. For purposes of this provision, a variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted.

(Res. No. 16-164, 5-17-2016; Res. No. 16-233, Exh. A, 6-28-2016; Res. No. 17-374, Exh. A, 12-12-2017)

#### 5.3.5. Map Amendment (Rezoning)

- (A) **Purpose.** The purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern. In addition to categorizing land by uses such as residential, commercial, and industrial, the LDC also specifies such details as building setback lines, the height and bulk of buildings, the size and location of open spaces, and the intensity to which the land may be developed. The zoning of parcels of land generally conforms to and promotes the County's Master Plan. Zoning protects the rights of property owners while promoting the general welfare of the community. By dividing land into categories according to use, and setting regulations for these categories, zoning governs private land use and segregates incompatible uses.

Generally, rezoning is justifiable under one of the following circumstances:

- When the requested rezoning is in general conformance or consistency with the County's Master Plan;
- If inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning is demonstrated;
- When there was an error or oversight in the original zoning of the property; or
- The zone change is necessary for the general health, safety, or welfare of the community.

- (B) **Criteria for Approval.** In approving a Map Amendment, the following findings shall be made:

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

- (C) **Conditions on Rezoning Authorized.** Conditions of approval may be included in the resolution approving a rezoning request. Where any approved condition would impact the permitted uses or density and dimensional standards of the rezoned property, the existence of the conditions shall be noted on the Zoning Map. Any amendment to the conditions placed upon a rezoning is considered a new zoning action. Conditional zoning shall not be used to circumvent the intent or requirements of this Code, shall be exercised sparingly and in exceptional situations, and the burden of proof shall be upon the applicant to demonstrate the need.

- (D) **Updates of Maps.** The PCD Director is responsible for producing all updates of the County Zoning map.

- (E) **County Initiated Zoning.** The County may initiate the rezoning of any property within the unincorporated area of the County.

(Res. No. 17-374, Exh. A, 12-12-2017)

#### **5.3.6. Administrative Determinations on Uses**

- (A) **Purpose.** The purpose of this Section is to provide for a mechanism to interpret the permissibility of uses of property which are not expressly identified as one of the land uses authorized in a zoning district or overlay zoning district, or defined by this Code.
- (B) **General Considerations.** A request for an administrative determination shall relate to a specific site, zoning district, use or application. An administrative determination of this Code issued by the PCD Director shall have the same effect as any provision of this Code. An administrative determination of this Code remains in effect until rescinded in writing by the PCD Director, until such time as the administrative determination is overturned on appeal, or until such time as an amendment to the Code results in a change affecting the administrative determination. An administrative determination requires analysis and comparison of various code provisions to arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards.
- (C) **Similar Uses.**

- (1) **Determination of Similar Uses.** No use not specifically identified as an allowed use, special use, temporary use, or accessory use shall be allowed unless the PCD Director determines the use is similar to an expressly allowed use, special use, temporary use, or accessory use. The uses allowed in each zoning district or overlay zoning district are identified in Chapter 5.

When a use is not specifically identified as allowed in a zoning district or overlay zoning district, it shall not be allowed in the zoning district or overlay zoning district unless it meets the following criteria in determining the use is a similar use:

- The function, performance characteristics, and location requirements of the unlisted use shall be consistent with the purpose and description of the zoning district where it is proposed;

- The unlisted use is compatible with the uses specifically allowed in the district, and similar in characteristics such as traffic and parking generation, noise, glare, vibration, and dust.

- (2) **Exclusion of Uses.** The listing of any use as being allowed in any particular zoning district or overlay zoning district shall be deemed to be an exclusion of the use from any other zoning district, in which the use is not specifically listed.
- (3) **Interpretations in Writing.** Similar use determinations shall be made in writing by the PCD Director, who shall also determine whether an amendment to this Code to include the similar use is appropriate. Interpretations that are not in writing shall have no force or effect. Written interpretations set no precedent and shall be limited to the property identified in the interpretation unless determined to apply to an entire category of land.
- (4) **Record of Interpretations.** The PCD Director shall maintain an official record of all interpretations in the PCD. The official record shall be available for inspection.
- (5) **Effect of Determination of Similar Use.** Any use determined to be substantially similar to an allowed use, special use, temporary use, or accessory use in a zoning district or overlay zoning district shall comply with all other development standards contained in this Code pertaining to the substantially similar use, including, but not limited to, dimensional requirements, landscaping requirements, parking requirements, and design requirements.

- (D) **Request for Interpretation.** Before a text or use interpretation will be provided by the PCD Director, a request for interpretation shall be submitted to the PCD in a form established by the PCD Director, and processed in accordance with Chapter 2.
- (E) **Limit of Interpretations.** No interpretation shall authorize any use in a zoning district or overlay zoning district unless the PCD Director determines the use is substantially similar to an allowed use, special use, temporary use, or accessory use in the zoning district or overlay zoning district. No interpretation shall allow the establishment of any use inconsistent with the statement of purpose for the zoning district or overlay zoning district, and no interpretation shall have the effect of amending, abrogating, or waiving any other standard or requirement established by Code.

(F) **Appeals.** An appeal of an administrative determination on use may be made by an aggrieved party within thirty (30) days of the administrative determination in accordance with the procedures adopted by the BoCC or Executive Director.

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(Res. No. 17-374, Exh. A, 12-12-2017)

#### 5.4. - DENSITY AND DIMENSIONAL STANDARDS

##### 5.4.1. General Density and Dimensional Standards

Tables 5-4 and 5-5 list the density and dimensional standards that apply within each zoning district. Other regulations of this Code or site specific conditions may further limit development. A blank cell means there is no applicable standard.

##### 5.4.2. Application of Density and Dimensional Standards

- (A) **Measuring Minimum Lot Width.** Minimum lot width is the minimum lot width at the front building setback line.
- (B) **Measuring Setbacks.** Setbacks are measured from the property line, unless noted otherwise.
- (C) **Setbacks for Corner Residential Lots.** Corner residential lots may have a reduced setback.
- (D) **Setbacks for Specific Uses.** Some uses have a modified setback or height allowance.
- (E) **Accessory Structure Not Located in Easement.** An accessory structure shall not be located within an easement, unless express permission from the beneficiary of the easement is provided.
- (F) **Overlay Zoning District Standards May Apply.** Special limitations or allowances may apply to land within an Overlay Zoning district.

**Table 5-4. Density and Dimensional Standards for Agricultural, Residential and Special Purpose Districts**

| Zoning District          | Maximum Density (DU/ac) | Minimum Lot Size  |                               | Minimum Setbacks Principal(Accessory) <sup>1,4,5</sup> |      |      | Maximum Lot Coverage | Maximum Height |
|--------------------------|-------------------------|-------------------|-------------------------------|--|------|------|----------------------|----------------|
|                          |                         | Area <sup>1</sup> | Width (at front setback line) | Front  | Rear | Side |                      |                |
| Forestry and Agriculture |                         |                   |                               |  |      |      |                      |                |

|   |   |                             |        |                        |                         |                        |                       |                    |
|---|---|-----------------------------|--------|------------------------|-------------------------|------------------------|-----------------------|--------------------|
| F-5   |   | 5 acres <sup>2</sup>        | 200 ft | 25 ft <sup>3,4</sup>   | 25 ft <sup>3,4</sup>    | 25 ft <sup>4</sup>     | 25%                   | 30 ft              |
| A-35  |   | 35 acres                    | 500 ft | 25 ft <sup>3,4,5</sup> | 25 ft <sup>3,4,5</sup>  | 25 ft <sup>3,4,5</sup> | None                  | 30 ft <sup>6</sup> |
| A-5   |   | 5 acres <sup>2</sup>        | 200 ft | 25 ft <sup>3,4</sup>   | 25 ft <sup>3,4</sup>    | 25 ft <sup>3,4</sup>   | None                  | 30 ft              |
| <b>Rural Residential/Rural Suburban</b>         |   |                             |        |                        |                         |                        |                       |                    |
| RR-5  |   | 5 acres <sup>2</sup>        | 200 ft | 25 ft <sup>3</sup>     | 25 ft <sup>3</sup>      | 25 ft <sup>3</sup>     | 25%                   | 30 ft              |
| RR-2.5  |   | 2.5 acres                   | 200 ft | 25 ft <sup>3</sup>     | 25 ft <sup>3</sup>      | 15 ft <sup>3</sup>     | None                  | 30 ft              |
| RR-0.5  |   | 21,780 sq ft                | 100 ft | 25 ft <sup>3,11</sup>  | 25 (5) ft <sup>3</sup>  | 10 ft <sup>3,11</sup>  | None                  | 30 ft              |
| <b>Residential Suburban Zoning Districts</b>    |   |                             |        |                        |                         |                        |                       |                    |
| RS-20000  |   | 20,000 sq ft                | 100 ft | 40 ft                  | 40 (15) ft              | 15 ft                  | 20%                   | 30 ft              |
| RS-6000   |   | 6,000 sq ft <sup>7,13</sup> | 50 ft  | 25 ft <sup>13</sup>    | 25 (5) ft <sup>13</sup> | 5 ft <sup>13</sup>     | 40%/45% <sup>15</sup> | 30 ft              |
| RS-5000   |   | 5,000 sq ft <sup>7,13</sup> | 50 ft  | 25 ft <sup>13</sup>    | 25 (5) ft <sup>13</sup> | 5 ft <sup>13</sup>     | 40%/45% <sup>15</sup> | 30 ft              |
| <b>Residential Multifamily Zoning Districts</b> |   |                             |        |                        |                         |                        |                       |                    |
| RM-12   | 12  | 3,500 sq ft <sup>8,13</sup> | 35 ft  | 15 ft <sup>10,13</sup> | 20 ft <sup>10,13</sup>  | 10 ft <sup>10,13</sup> | 70%                   | 40 ft              |
| RM-30   | 30  | 5,000 sq ft <sup>9,13</sup> | 75 ft  | 25 ft <sup>10,13</sup> | 15 ft <sup>10,13</sup>  | 15 ft <sup>10,13</sup> | 60%                   | 40 ft              |
| <b>Special Purpose Zoning Districts</b>         |   |                             |        |                        |                         |                        |                       |                    |
| R-T   |   | 5 acres                     | 200 ft | 25 ft                  | 25 (5) ft               | 25 ft <sup>12</sup>    | 30%                   | 30 ft              |
| MHP   | All standards are located in the zoning district standards.   |                             |        |                        |                         |                        |                       |                    |
| MHS   | All standards are located in the zoning district standards.   |                             |        |                        |                         |                        |                       |                    |
| RVP   | All standards are located in the zoning district standards.   |                             |        |                        |                         |                        |                       |                    |
| PUD   | All development standards for principal and accessory uses are established by the Development Plan. |                             |        |                        |                         |                        |                       |                    |

|   |
|---|
| <sup>1</sup> Specific uses may be subject to larger minimum lot area requirements.  |
| <sup>2</sup> In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.  |
| <sup>3</sup> Agricultural stands shall be setback a minimum of 35 feet from all property lines.   |
| <sup>4</sup> Sawmills shall be setback a minimum of 300 feet from all property lines.   |
| <sup>5</sup> Livestock feed and sales yards shall be setback a minimum of 200 feet from all property lines, except that loading facilities may be located adjacent to a road right-of-way where loading/unloading of animals takes place.   |
| <sup>6</sup> One additional foot of height is allowed for each foot of additional setback provided above the required minimums up to a maximum of 100 feet. For example, a maximum height of 35 feet is allowed for structures setback a minimum of 30 feet from all property lines and a maximum height of 50 feet is allowed for structures setback a minimum of 45 feet from all property lines.   |
| <sup>7</sup> Minimum lot area applies to single-family detached dwellings. For two-family dwellings and all other uses a minimum lot area of 7,000 square feet is required.   |
| <sup>8</sup> The minimum lot area of 3,500 square feet applies to single family attached dwellings. The minimum lot area for single-family detached dwelling units is 5,000 square feet. The minimum lot area for two-family dwellings and all other allowed uses is 7,000 square feet. Central water and wastewater services are required regardless of lot size or conforming status.   |
| <sup>9</sup> Minimum lot area of 5,000 square feet applies to single-family detached dwellings, Two-family dwellings and the first 2 units of a multi-family development. An additional 1,000 square feet of lot area is required each additional dwelling unit within a multi-family development. The maximum multi-family density may not exceed 30 dwelling units per acre. All other uses are subject to a minimum lot area of 7,000 square feet. Central water and wastewater services are required regardless of lot size or conforming status. |
| <sup>10</sup> The minimum distance between buildings shall be 10 feet.  |
| <sup>11</sup> The side yard setback for an accessory structure shall be 10 feet, unless the structure is at least 60 from the front property line or nearest road right of way, where a 5 feet setback is allowed. In no instance shall an accessory structure be closer to the front property line than the principal structure.   |
| <sup>12</sup> The side yard setback is 25 feet when the lot is 5 acres or larger, or 5 feet if the lot is less than 5 acres.  |
| <sup>13</sup> If the building is established as or converted to condominium or townhome units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks requirements, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements. A 25 foot perimeter boundary setback shall be maintained around the entire development, but a zero foot setback is allowed along any internal lot line within the development.                        |
| <sup>14</sup> If no separate setback is shown in parentheses for accessory structures, the principal structure setback applies to accessory structures.   |
| <sup>15</sup> Where a single-story ranch style residence is proposed, the maximum lot coverage may be 45% of the total lot area.  |



(Res. No. 16-164, 5-17-2016; Res. No. 16-165, Exh. A, 5-17-2016; Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 18-496, Exh. A, 12-20-2018; Res. No. 19-330, Exh. A, 8-27-2019)

**Table 5-5. Density and Dimensional Standards for Commercial, Industrial and Obsolete Districts**

| Zoning District  | Zoning District Area  | Minimum Lot Size     | Minimum Setbacks        |                           |                           | Maximum Lot Coverage | Maximum Height     |
|--|---|----------------------|-------------------------|---------------------------|---------------------------|----------------------|--------------------|
|  | Minimum   |                      | Front                   | Rear                      | Side                      |                      |                    |
| Commercial Zoning Districts  |   |                      |                         |                           |                           |                      |                    |
| CC   | 1 acre <sup>11</sup>  |                      | 25 ft <sup>1,11</sup>   | 25 ft <sup>2,11</sup>     | 25 ft <sup>2,11</sup>     |                      | 40 ft              |
| CR   | 5 acres <sup>11</sup>   |                      | 50 ft <sup>3,4,11</sup> | 25 ft <sup>2,3,4,11</sup> | 25 ft <sup>2,3,4,11</sup> |                      | 45 ft              |
| CS   | 2 acres <sup>11</sup>   |                      | 25 ft <sup>1,3,11</sup> | 25 ft <sup>1,2,3,11</sup> | 25 ft <sup>1,2,3,11</sup> |                      | 45 ft              |
| Industrial Zoning Districts  |   |                      |                         |                           |                           |                      |                    |
| I-2  | 20 acres  | 1 acre <sup>11</sup> | 50 ft <sup>5,11</sup>   | 50 ft <sup>5,11</sup>     | 30 ft <sup>5,11</sup>     | 35%                  | 45 ft              |
| I-3  | 40 acres  | 1 acre <sup>11</sup> | 30 ft <sup>6,11</sup>   | 30 ft <sup>6,11</sup>     | 30 ft <sup>6,11</sup>     | 25%                  | 40 ft <sup>7</sup> |
| Obsolete Zoning Districts  |   |                      |                         |                           |                           |                      |                    |
| C-1  |   |                      | 15 ft <sup>1,11</sup>   | 15 ft <sup>9,10</sup>     | 8, 9                      |                      | 30 ft              |
| C-2  |   |                      | 15 ft <sup>1,11</sup>   | 20 ft <sup>9,10</sup>     | 8, 9                      |                      | 50 ft              |
| M  |   |                      | 15 ft <sup>1,11</sup>   | 15 ft <sup>10</sup>       |                           |                      | 50 ft              |
| R-4  | All development standards for principal and accessory uses are established by the Development Plan. |                      |                         |                           |                           |                      |                    |
| <sup>1</sup> Gasoline pumps and canopies shall be at least 15 feet from the front property line or public right-of-way, except where the landscaping regulations require a greater setback.    |   |                      |                         |                           |                           |                      |                    |
| <sup>2</sup> The minimum setbacks is 25 feet from the perimeter boundary of the district, but no minimum setback is required from any internal side or rear lot line within the same district. |   |                      |                         |                           |                           |                      |                    |
| <sup>3</sup> Temporary uses shall be setback at least 25 feet from all property lines and 100 feet from Residential zoning districts.  |   |                      |                         |                           |                           |                      |                    |

|   |
|---|
| <sup>4</sup> Gasoline pumps and canopies shall be setback at least 25 feet from all property lines.   |
| <sup>5</sup> Minimum building setback distance from any adjoining residential zoning district boundary is 125 feet. The PCD Director may allow a reduction in the setback where appropriate actions are taken including landscaping, fencing, berms or building design, or where the use can be limited to mitigate potential impacts.  |
| <sup>6</sup> Minimum building setback distance from any adjoining residential zoning district boundary is 175 feet. The PCD Director may allow a reduction in the setback where appropriate actions are taken including landscaping, fencing, berms or building design, or where the use can be limited to mitigate potential impacts.  |
| <sup>7</sup> The maximum height of any structure is in accordance with the following formula: A plane with a pitch of 2 feet horizontal to one foot vertical beginning at a height of 25 feet above all property lines using the mean property line elevations as the datum.  |
| <sup>8</sup> The side yard setback is subject to the following restrictions: (1) Where adjacent to a residential zoning district, the setbacks of the residential zoning district shall apply; (2) If the side wall of the building is constructed of 4 hour fire rated material, a setback between buildings of 3 feet is required if the wall does not serve as a common wall where no setback is required; and (3) If the side wall is not constructed of 4 hour fire rated material, the side yard setback and building separation is 5 feet. |
| <sup>9</sup> Where adjacent to a residential zoning district, the rear yard setback of the residential zoning district shall apply.   |
| <sup>10</sup> The setback for stables and corrals is 50 feet.   |
| <sup>11</sup> If the building is established as or converted to condominium units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements.  |

(Res. No. 16-164, 5-17-2016; Res. No. 17-374, Exh. A, 12-12-2017)

#### 5.4.3. Measurements and Exceptions

(A) **Purpose.** The purpose of these standards is to explain setback standards and allow exceptions for certain unique circumstances, while maintaining the basic purposes of use of setbacks, which include:

- Provide for adequate open spaces;
- Promote and protect the public health, safety and welfare;
- Establish uniform standards;
- Protect property values;
- Protect the public from damage or injury which may be attributable to distractions or obstructions caused by improperly situated buildings or structures; and

- Enhance the overall quality of development in any zoning district.

(B) **Applicability.** These standards apply to all buildings, structures, accessory structures, and uses which are subject to regulation by this Code.

(C) **General Provisions.**

- (1) **Use Specific Standard Supersedes Zoning District Standard.** Where a different density or dimensional requirement is established for a specific use in this Code, it shall supersede the density or dimensional requirement in Table 5-4 and 5-5.
- (2) **No Projection of Structure into Easement.** No portion of a structure shall project into any utility or drainage easement except with the permission the agency or agencies having jurisdiction over the easement.
- (3) **Public or Quasi-Public Utility Buildings Not Subject to Standards.** Utility buildings or facilities owned by a governmental, quasi-governmental or public entity are not subject to the development standards of the respective zoning district, but are instead governed by the standards of the approval of location, site development plan, or site plan submitted with the development application.

(D) **Setback Measurement.**

- (1) **Setbacks for Structures.** All setbacks are for structures, unless otherwise provided. Setback requirements are applicable, even if a building permit is not required.
- (2) **Setbacks Measured from Property Line.** All setbacks shall be measured from the property line of the lot or parcel unless otherwise provided. In the case of an easement or other right-of-way for public road, the setback shall be measured from the easement or right-of-way line. Where the lot or parcel includes vacated right-of-way, the setback is measured from the new property line resulting after the right-of-way vacation. In the event the right-of-way is bounded by a public improvement easement, the setback shall be measured for the edge of the right-of-way and not the public improvement easement.
- (3) **Setback from Planned Roadways and Associated Rights-of-Way.** In accordance with BoCC policy and the right-of-way standards established by the ECM, all setbacks shall be measured from the proposed right-of-way line of roadways as depicted within the MTCP.
- (4) **Separation Requirements Between Land Uses.** Some zoning districts and land uses have specific separation distance requirements which are indicated in the use standards and in the density and dimensional standards.
- (5) **Corner Lot Setbacks Modification in Residential Zoning Districts.** The required front yard setback for corner lots, located in residential zoning districts (including a residential PUD) with a minimum required lot size of ½ acre or less, on the side of the dwelling where the driveway access is not located may be ½ the required front yard setback of zoning district, or 15 feet, whichever is greater, provided further, no part of any structure shall project into the sight distance triangle as defined in the ECM.
- (6) **Flag Lot Setbacks.** The required front, side and rear yard setbacks shall be established by determining the front, side and rear lot lines based on the following criteria.
  - (a) **Front Lot Line.** The property line most parallel and nearest to the road from which access from the road is gained is the front lot line.
  - (b) **Rear Lot Line.** The property line that is most opposite or parallel to the front lot line is the rear lot line.
  - (c) **Side Lot Line.** Property lines that are not considered front or rear property lines are side lot lines.
- (7) **Irregularly Shaped Lots Setbacks.** For wedge or pie shaped lots the minimum width at front setback line shall establish the front setback. The PCD Director shall determine how

lot lines shall be designated and the resulting setbacks where the provisions of this Code do not clearly establish the lot lines or setbacks requirements.

- (8) **Deck Setbacks.** Attached decks over 18 inches in height from finished grade to finished floor are considered a part of the principal structure and shall meet the same setbacks as the principal structure. Detached decks over 18 inches in height from finished grade to finished floor are considered accessory structures and shall meet the principal structure setbacks unless separate accessory structure setbacks are provided for in the applicable zoning district. To be considered detached, the deck must not be connected to the principal structure, or located within 9 inches of the principal structure. Decks, slabs, or patios, whether attached or detached 18 inches or less in height from finished grade to finished floor are not considered structures.
- (9) **Mobile Home Setbacks.** If the tongue is to be removed, the setback measurement shall be from the outer walls of the mobile home. The tongue (if not removed) may extend into the required front yard setback, but not other yard setbacks, provided the provision of the required parking can still be maintained.
- (10) **Merger and Setbacks.** In the instance where the lot or parcel is merged, the setback is measured from the lot or parcel line resulting after the merger.

(E) **Projection into Setbacks.**

- (1) **Projections in Residential Zoning Districts.** For property located in residential zoning districts (including a residential PUD), containing a minimum required lot size of ½ acre or less:

- An enclosed porch, 4 feet by 4 feet or less, may project into a required front or rear yard setback.
- Open and unenclosed patios, decks, platforms, landings or ramps may extend into required front, side or rear yard setbacks provided the patio, deck, platform, landing or ramp does not exceed 18 inches in height measured from the finished floor to any adjacent point of the finished grade.
- Awnings, chimneys and flues, sills, belt courses, cornices, eaves and other similar architectural features may project not more than 2 feet into required front, side or rear yard setbacks.
- Cantilevered bay windows, no greater than 12 feet in width, may project not more than 3 feet into a required front or rear yard setback. The window shall include no supports that extend into the required front or rear yard setback.
- An open sided temporary carport, metal or canvas, which is not classified as a structure under the Building Code, may extend into the required front yard setback to a point 15 feet from the property line as long as any site visibility is maintained, and into the side and/or rear yard setback. No portion shall project into any utility or drainage easement except with the permission the agency or agencies having jurisdiction over the easement. Approval of a residential site plan is required prior to placement or construction of a carport.
- Window wells may extend into the required side and rear yard setback. No portion shall project into any utility or drainage easement except with the permission the agency or agencies having jurisdiction over the easement.

(2) **Projections in All Zoning Districts.** For property located in all zoning districts:

- Wall signs may project into required front, side or rear yards not more than 18 inches.
- Fire escapes may extend 6 feet into a required rear yard.
- Utility distribution lines and related equipment commonly located along property lines may be located within a required setback (except utility or telephone boxes taller than 18 inches cannot be located within a sight distance triangle). A neighborhood substation, or gas regulator/meter station shall meet the required setbacks.
- Mailboxes, or mailbox complexes, established and approved in accordance with requirements of the ECM may be located within the front or side setback.
- Signs or entryway features may be located within the setback area in accordance with this Code and the ECM.
- Non-permanent handicap access ramps may project into a required setback.

(F) **Lot Requirements.**

(1) **Measuring Lot Width and Lot Depth.** Lot width is measured parallel to the front lot line. Lot depth is measured at an angle of 90 degrees to the front lot line.

(2) **Minimum Lot Area.**

- (a) **Specific Use Require More Lot Area.** Some land uses require a minimum lot size which is greater than the minimum size established by the zoning district.
- (b) **Public Right-of-Way Not Included in Lot Area.** Lot area shall not include any portion of an adjacent public right-of-way, but may include the land within a private road easement.
- (c) **Flag Stem Not Included in Lot Area.** Lot area shall not include the area within a flag stem.
- (d) **Lot Area for Nonconforming Lots.** The lot area requirements for nonconforming lots are established within this Chapter. Lots conforming to the minimum lot area requirements of the zoning district that are subsequently reduced in land area due to land acquisition by a governmental entity shall be considered conforming to the minimum lot area requirements.
- (e) **Minimum Lot Area Not Required for Utility Facilities.** A minimum lot area shall not be required for utility facilities or telecommunication facilities. The required lot area shall be established through the appropriate review and hearing process.

(G) **Maximum Structure Height.** The maximum height of structures is listed in Table 5-4 and 5-5. The method of measurement is detailed within the definition in Chapter 1.

(1) **Exceptions to Height Limits.**

- (a) **Height Limits Not Applicable to Architectural Features.** The maximum height limitations of this Code do not apply to church spires, belfries, cupolas, chimneys and other similar design or architectural features or other appurtenances that are usually installed above roof level.

- (b) **Height Limits Superseded by Specific Use Standards.** The maximum height limitations of this Code do not apply or are superseded by the specific use or development standards of this Code, or land use approval actions that apply to water tanks, public buildings antennas, utility poles, utility facilities, wind generators, amateur radio towers, and commercial towers and similar facilities.

(Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-421, Exh. A, 11-12-2019)

#### 5.5. - PROVISIONS FOR RELIEF FROM DENSITY AND DIMENSIONAL STANDARDS

##### 5.5.1. Administrative Relief

- (A) **Purpose.** The purpose of this Section is to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal or a minor problem arises with the strict application of development standards.
- (B) **PCD Authorized to Grant Administrative Relief.** The PCD Director may approve administrative relief to the requirements for lot area, front, side and rear setbacks, and height limitation. Administrative relief shall be for the purpose of relieving difficulties or hardships due to narrowness, shallowness, shape or topographic condition of a specific piece of property, or to provide limited flexibility to lot standards when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of this Code will be caused by the administrative relief granted.

The PCD Director may only grant relief in accordance with the following standards:

- (1) **Reduction in Lot Area, Setbacks, and Lot Width.** A maximum of a 20% reduction in lot area, setbacks and lot width from the amount required in the zoning district in which the subject property is located may be approved.
- (2) **Increase in Lot Coverage and Structure Height.** A maximum of a 20% increase in the lot coverage and structure height from the amount required in the zoning district in which the subject property is located may be approved.
- (3) **Increase in Accessory Structure Size.** A maximum of a 20% increase in the size of an accessory structure from the size allowed in the zoning district in which the subject property is located may be approved.
- (4) **Decrease in Parking Requirements.** A maximum of a 20% decrease in the parking requirements in the zoning district in which the subject property is located may be approved.
- (5) **Reduction in Distance Separation.** A maximum reduction of 50% in distance separation requirements for day care homes, group homes, and other similar human service establishments may be approved.
- (6) **Increase in On-Premise Sign Area.** A maximum increase of 20% in the area of any on-premise sign may be approved.
- (C) **Limitations on Administrative Relief.** The following limitations shall apply to the granting of administrative relief:
  - (1) **Sight Distance Triangle.** Administrative Relief to setbacks on corner lots shall not be granted by the PCD Director in a sight distance triangle at corners and railroad crossings unless it is specifically found by the County that no potential traffic problem is created because of diminished sight distances.
  - (2) **Setback and Height Relief on Same Lot.** Administrative Relief shall not be granted for both setback and height requirements on the same lot or parcel.

(3) **Plat Notes or Restrictions.** Administrative Relief cannot be granted from a standard that is set by plat note or restriction.

(4) **Within an approved PUD District.** Administrative Relief in accordance with the limitations of this Code may be granted from a standard that is set by the PUD Development Plan or Development Guide for a single lot or parcel or between two adjacent parcels. Minor variances to PUD standards affecting multiple parcels may be approved as a minor PUD amendment.

**(D) Findings Necessary to Grant Administrative Relief:**

(1) **Criteria to be Met.** To grant administrative relief, all of the following criteria shall be met, in addition to the compliance with the other applicable development standards:

- The strict application of the standard in question is unreasonable or unnecessary given the development proposal or the measures proposed by the applicant; or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;
- The intent of this Code and the specific regulation in question is preserved;
- The granting of the administrative relief will not result in an adverse impact on surrounding properties; and
- The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel.

(2) **Additional Factors Considered.** In addition to the criteria required to be met for approval of administrative relief, consideration may also be given to the following factors:

- The granting of administrative relief would help minimize grading and reduce vegetation removal;
- The granting of administrative relief would avoid unnecessary site disturbance or minimize grading;
- The granting of administrative relief would allow the proposed building location and existing vegetation on the site to restrict visibility of the additional height from a distance, from the road or from downhill properties; and
- The granting of administrative relief would allow for building design such as split pads, stepped footings, below grade rooms and roof forms pitched to follow the slope.

(E) **Responsibility of Applicant to Comply.** The PCD Director may require a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected to demonstrate compliance with the approval of the administrative relief.

(F) **Revoke Administrative Relief.** The PCD Director may revoke any administrative relief by issuing a zoning violation notice if, in the PCD Director's opinion, the use is not in compliance with the intent and purpose for which the administrative relief was granted.

- (G) **Minor Variations During Platting.** Minor variations from strict application of the provisions of a development plan or conventional zoning district may be allowed at the discretion of the PCD Director in order to facilitate the reasonable and expeditious platting of the property. Variations shall be allowed only after a finding by the PCD Director that:

- The variation does not constitute a substantial change to the allowed land use; and that
- No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.

The variation shall not by themselves constitute grounds for disapproval by the BoCC of any final plat unless the BoCC specifically finds that the variation constitutes a substantial change in the allowed land use or causes a substantial detriment to the public good or harm to the general purpose and intent of this Code.

(Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-421, Exh. A, 11-12-2019)

#### **5.5.2. Dimensional Variances and Appeals to the Board of Adjustment**

- (A) **Applicability.** Any person aggrieved by the inability to obtain a building permit or by any order, requirement or decision made by an administrative officer or agency in the administration, interpretation or enforcement of the following provisions of this Code can appeal to the Board of Adjustment.

- (B) **Authorities of the Board of Adjustment.**

- (1) **Appeal of Administrative Decisions or Determinations.** The Board of Adjustment shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the PCD pertaining to the application or enforcement, under this Code, of:

- A zoning district's development requirements or a use standard relating to physical dimension, structural location, or bulk limitation;
- Nonconforming building provisions;
- Nonconforming lot or parcel or merger by contiguity provisions;
- Parking and development requirements;
- Landscape requirements;
- On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;
- Distance separation requirements required for daycare applications;
- Appeal of an action regarding administrative relief;
- Determination of wildfire hazard or zoning district boundary;



- Any other matter appealable to the Board of Adjustment under the provisions of this Code.

- (a) An appeal of any administrative decision or determination pursuant to this Section must be made within thirty (30) days of the administrative decision or determination.
- (b) In considering any appeal brought under this Section or under any other Section of the Code which refers to this Section, the BOA must find that the appellant has provided sufficient relevant evidence to determine that the PCD erred in applying the applicable Code provisions in making its administrative decision or determination in order to approve the appeal.

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(2) **Grant of Variance of Specific Development Standards.**

- (a) **Variances to Physical Requirements.** The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to (1) the exceptional narrowness, shallowness or shape of the specific piece of property, or (2) the exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- The variance provides only reasonably brief, temporary relief; or
  - The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or
  - Some other unique or equitable consideration compels that strict compliance not be required.
- (b) **Variances to Standards Subject to Appeal.** The Board of Adjustment is authorized to grant variances to those standards subject to appeal to the Board of Adjustment where strict compliance with this Code would result in peculiar or exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.
  - (c) **Other Variance Matters.** To hear any other variance matters expressly delegated to the Board of Adjustment by this Code.
- (3) **Prohibited Actions by the Board of Adjustment.** The Board of Adjustment shall not take any action which would result in any of the following:
- Permitting a use other than those allowed in the property's zoning district;
  - Authorizing an existing zoning violation for a building or use that is subject to prosecution pursuant to C.R.S. § 30-28-124(1), without the express written consent of the CAO;
  - Alteration of any definition contained in this Code;

- Substantial modification to any PUD or Special Use allowed or approved by the BoCC; or
  - Variation of any subdivision standard.
- (C) **Action by the Board.** The affirmative vote of 4 members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the PCD Director; to approve any variance; to resolve boundary line disputes; or to take any other action regarding an appeal or application.
- (D) **Limitations on Approval and Expiration.**
- (1) **Approval Limited to Proposal Presented.** A physical variance is limited to the property configuration and existing or proposed structures actually presented to the Board of Adjustment as part of the variance application.
  - (2) **Expiration of Approval if Action Not Initiated.** A physical variance for a proposed structure, except for lot area variances where a plat has been filed for recording, is valid only if construction of the structure is initiated within one year of the date of the Board of Adjustment's approval of the variance.
  - (3) **Expiration of Approval if Structure Removed.** A physical variance for an existing or subsequently constructed structure, except for lot area variances where a plat has been filed for recording, is valid only so long as the structure is not removed or demolished.
  - (4) **Run with the Land.** Variance requests approved by the Board of Adjustment shall run with the land for which the variance has been approved.
- (E) **Responsibility of Applicant to Comply.** The PCD Director may require a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected to demonstrate compliance with the approval of the dimensional variance.
- (F) **Revocation of Approval or Permit.** Failure to abide by or comply with any requirements, conditions or restrictions of this Code may result in the PCD Director scheduling a hearing regarding revocation of the Board of Adjustment's approval following the appropriate enforcement procedures.

(Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-421, Exh. A, 11-12-2019)

## 5.6. - LEGAL NONCONFORMITIES

### 5.6.1. Purpose

This Section governs uses, structures and lots that were legally established prior to the adoption of this Code and do not comply with one or more requirements of the Code. The County seeks to allow nonconforming uses, structures, and lots to continue to exist and be maintained and put to productive use and to encourage as many aspects of the uses, structures, and lots to be brought into conformance with this Code as is reasonably practical. This Section is intended to recognize the interests of the property owner in continuing the nonconformity but also to preclude the extension, expansion, or change in character of the nonconformity or the reestablishment of the nonconformity after it has been abandoned.

### 5.6.2. General Provisions

- (A) **Continuation of Use.** A nonconforming use may be continued and a nonconforming building may continue to be occupied, except as otherwise provided for in this Section. A pre-existing,

nonconforming use which would require the approval of a special use shall be presumed to have the required special use permit.

- (B) **Change of Building or Use.** A nonconforming building or use may be changed to any conforming building or use, but may not be later changed back to any nonconforming building or use. A legal nonconforming use shall not be changed to a different nonconforming use. Any change of a nonconforming use to another use shall immediately terminate the right to continue the nonconforming use.
- (C) **Interruption of Nonconforming Use.** If a nonconforming use is abandoned for a period of one year, the structure and land where the nonconforming use previously existed shall be occupied and used only by a conforming use. Intent to resume active operation of the nonconforming use shall not affect the foregoing. The burden of proof that a nonconforming use has been continuously maintained rests with the property owner or operator of the use. The evidence that an operation has been continuous shall be clear and conclusive. Any nonconforming use may be deemed abandoned after a period of less than one year if the property owner expressly states intent to abandon the use, or engages in action which unambiguously expresses intent to abandon.
- (D) **Default of Title.** If the title to any property changes by reason of tax delinquency, and the property is not redeemed as provided by law, the future use of the property shall be in conformity with this Code.

#### 5.6.3. Restoration

- (A) **Damage to Structure.** A nonconforming structure damaged or partially destroyed by fire, explosion or natural occurrence may be restored to the condition in which it was immediately prior to the occurrence of the damage or destruction, provided:
  - The value of the damage is less than 50% of the County Assessor's assessed value of the improvements damaged;
  - The restoration or reconstruction does not extend beyond the original limits of the structure in setback, lot area coverage, height, floor area, and number of bedrooms or bathrooms; and
  - All restoration or reconstruction is started within one year from date of the damage and is completed within two years.
- (B) **Intentional Damage by Property Owner or Agent.** The right to continue a nonconforming use terminates immediately when the structure containing a nonconforming use is destroyed by an intentional act of the property owner or their agent.
- (C) **Restorations Exempt for Site Development Plan Review.** Restorations meeting the requirements of this provision are not required to undergo a site development plan review.

#### 5.6.4. Enlargement of a Nonconforming Use

- (A) **Within an Existing Building.** A nonconforming use when located within a structure may be extended throughout the existing structure devoted to the use at the time of the adoption of the provisions of this Code causing the use to become nonconforming, provided that any structural alteration conforms to the requirements of this Code.
- (B) **Expansion of Use as Variance of Use or Special Use.** A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a Variance of Use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.

- (C) **Expansion of Use as Variance of Use or Special Use.** A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a Variance of Use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.

#### 5.6.5. Alteration of a Nonconforming Structure

- (A) **Structural Alterations Limited.** A nonconforming structure may be structurally altered, repaired, or enlarged in any way allowed by this Code; however, no alterations, repairs, or enlargements shall be made in a nonconforming building which would increase the degree of nonconformity with the density and dimensional standards of this Code. Additions or extensions may be made to a structure that is legally nonconforming as to height, area or setbacks provided the addition and the use of the addition conforms to all the requirements for the zoning district in which it is located.
- (B) **Maintenance.** Normal repairs and maintenance of a nonconforming structure are allowed. A nonconforming structure, however, cannot be repaired or altered in a manner that increases its nonconformity with this Code.
- (C) **Unsafe Buildings.** Any structure containing a nonconforming use or any nonconforming building declared unsafe by the Building Department may be strengthened or restored to a safe condition.
- (D) **Movement of Nonconforming Structure.** Should a nonconforming structure be moved, it shall conform to the provisions of the zoning district in which it is located after the move.
- (E) **Replacement of a Mobile Home in a Nonconforming Mobile Home Park.** Within a nonconforming mobile home park, a mobile home may be replaced with a post-1976 mobile home meeting the requirements of the Building Code on a unit by unit basis provided the setbacks as identified in the MHP District are met.

#### 5.6.6. Lots and Specific Facilities and Uses

(A) **Nonconforming Signs.**

- (1) **Termination of Right to Maintain Nonconforming Sign.** The right to maintain a nonconforming sign shall be terminated by one or more of the following events or activities:
- Abandonment of the nonconforming sign for a continuous period of one year;
  - Increase of any sign dimension;
  - Damage to or destruction of the nonconforming sign from any cause whatsoever, where the cost of repairing the damage or destruction exceeds 50% of the replacement cost of the sign on the date of the damage or destruction. In determining the replacement cost of a nonconforming sign, the cost of the land, the cost of renting land, or any factor other than the cost of the sign itself shall not be considered; or
  - Failure of the nonconforming sign to comply with this Code at time of construction.
- (2) **Change of Copy, Orientation or Trim.** The copy, orientation or trim on the sign and supporting structure may be changed on a nonconforming sign.
- (3) **Maintenance.** Nonconforming signs shall be maintained in good repair and any damaged sign, however caused, shall be repaired, except as otherwise limited by this Section.

- (4) **Replacement of Nonconforming Signs.** Where the number of signs on a lot or parcel exceeds the number of signs allowed by this Code, 2 nonconforming signs shall be removed for every new or replacement sign to be erected. The maximum size of the new sign shall not exceed the maximum size allowed by this Code.
- (B) **Nonconforming Telecommunications Towers.** For nonconforming telecommunications towers there shall be no increase in the number of antennas located on a tower, or an increase in the height or weight bearing capacity of the tower beyond that necessary to conform to safety regulations adopted by the County, State or federal government, except that the following shall be allowed:
- (1) **Replacement of Antennas.** Antennas may be maintained, or replaced, with another antenna intended to provide the same service.
  - (2) **New Antennas Added to Tower.** New antennas may be added to a tower where the tower and antennas do not exceed 200 feet in height above the base of the tower, and the new antenna does not exceed 25 feet in length and 8 inches in diameter, and does not extend above the height of the existing tower.
  - (3) **Maintenance and Repairs.** Maintenance, repairs or alterations to legal nonconforming telecommunication towers may be performed that are necessary to maintain the tower in good condition and repair. The weight bearing capacity and wind loading capacity of a tower may only be increased to the extent necessary to maintain the tower in conformance with State or national standards for weight bearing capacity and wind loading capacity for the number of antennas otherwise allowed on the tower as set forth in this Section.
  - (4) **Removal of Unused Nonconforming Tower.** If there are no antennas on a nonconforming telecommunications tower or if a nonconforming telecommunications tower has been abandoned for a period of one year, the tower and any accessory structures, structures or equipment shall be removed within one year from the expiration of the one year period or it shall be brought into conformity with this Code.
- (C) **Nonconforming Sexually-Oriented Businesses.**
- (1) **Subsequent Location of Use or Change in Zoning District Boundary.** A sexually-oriented business lawfully operating at the time of adoption of this Code is not in violation of this Code by the subsequent location of a religious institution, school, park, residence, or residential district, within 1000 feet of the sexually-oriented business.
  - (2) **Nonconforming as a Result of Change to this Code.** A sexually-oriented business lawfully operating at the time of adoption of this Code and rendered nonconforming by any modification of this Code shall comply with all requirements included in this Code, but shall not be subject to the distance separation requirements.
- (D) **Nonconforming Mineral Resource Extraction.** Mineral and natural resource extraction operations that are sought to be conducted on property owned by or under lease or contract by the operator of a nonconforming mineral extraction operation and that is located on land contiguous to the nonconforming mineral extraction operation may be undertaken as an extension of the nonconforming mineral extraction operation.
- (E) **Nonconforming Pre-1976 Mobile Homes.** Existing pre-1976 mobile homes are considered nonconforming uses and may only be replaced with a dwelling conforming to the requirements of the Building Code or a pre-1976 mobile home which has been certified in accordance with the building code. Within the A-35 zoning district only, existing pre-1976 mobile homes may be converted to accessory structures for use as storage and other non-habitable uses with the removal of the kitchen and any related appliances.
- (F) **Nonconforming Landscaping and Parking.**
- (1) **Continuation.** Landscaping or parking areas legally existing at the time this Code became effective which have become nonconforming because they no longer meet current requirements, may be continued until either of the following changes occur:

- Any new construction or addition of building floor area consisting of 50% or more of the existing gross building floor area of the development project; or
- Any change from a residential use to a non-residential use (or vice versa) consisting of 50% or more of the existing gross building floor area of the development project.

All required landscaping shall be provided in conjunction with either of the changes described above.

- (2) **Extension.** Nonconforming landscaping or parking spaces shall not be enlarged, expanded, extended or increased, except as provided in this Code. Additional parking may be required whenever the PCD Director determines that it is necessary to avoid congestion on public roads and to provide for the general safety and convenience of County residents.

(Res. No. 17-374, Exh. A, 12-12-2017)

#### 5.6.7. Nonconforming Lot or Parcel

- (A) **Applicability.** A lot or parcel that is nonconforming due to lot size shall be subject to the following provisions when a building permit for a dwelling or habitable addition is requested. A non-habitable addition or accessory improvement (e.g., a garage, deck, or tool shed) on a lot or parcel where a dwelling already exists is not subject to the requirements of this Section, but is subject to the dimensional standards of the applicable zoning district. An existing dwelling, located on a lot or parcel that is nonconforming due to lot size that is destroyed or partially destroyed by fire shall be subject to the restoration provisions of this Code.
- (B) **Request for Conformity.** A nonconforming lot or parcel shall be considered conforming when the owner requests and receives a zoning lot determination from the PCD Director that identifies the lot as conforming. Recording of the determination shall be initiated by the owner with PCD within 30 days of the date of the determination.
- (C) **Determination of Conformity.** To determine a nonconforming lot as conforming, all of the following criteria shall be met, as applicable:
  - (1) The creation of the lot or parcel was in conformance with all applicable regulations at the time of its creation;
  - (2) The lot or parcel is currently in compliance with all use regulations and conditions and restrictions of any applicable special use or variance of use;
  - (3) The lot or parcel has completed the merger by contiguity process to create a zoning lot unless the PCD Director has authorized a remainder lot or parcel to be considered conforming;
  - ~~(4) All contiguous legal lots under the same ownership have been combined through a merger by contiguity process to create a zoning lot unless the PCD Director has authorized a remainder lot or parcel to be considered conforming.~~
  - (45) For existing dwellings, verification provided by an El Paso County Certified Inspector that there is no evidence of wastewater related issues or that any wastewater issues are being remedied;
  - (56) For a new dwelling, a soils test has been submitted demonstrating sufficient area for the onsite wastewater treatment system and a private well to be installed meeting all internal and external lot minimum horizontal setback requirements;



(67) For a new dwelling, documentation of water availability, including but not limited to, a copy of the well permit, evidence of a water tap, or a copy of a water commitment letter has been provided;

(78) At least 30% of the zoning lot is considered buildable after exclusion of land identified as containing 100 year floodplain and 30% slopes.

(89) The lot or parcel meets one of the following lot size requirements:

- Central water and sewer are both provided, and the area of the zoning lot is at least 20,000 square feet or is 60% of the minimum lot area required by the applicable zoning district, whichever is less; or
- Central water is provided, but central sewer is not provided, and the area of the zoning lot is at least 20,000 square feet; or
- No central water or central sewer is provided and the area of the zoning lot is one acre or more.

(D) **Compliance with Development Standards.** Nonconforming lots or parcels shall comply with development standards of the applicable zoning district, except the lot frontage requirements, unless otherwise indicated in this Code. Lots or parcels subject to the merger by contiguity provisions of this Code shall have setbacks applied only along the exterior boundaries of the merged properties.

(E) **Recognition Not Basis for Subdivision.** Recognition of nonconforming lots shall not be a basis or justification for new subdivision development. New subdivisions shall comply with the applicable zoning requirements.

(F) **Remainder Parcel Considered Conforming.** A remainder lot or parcel not meeting the minimum lot size requirement for the subject property shall only be considered a conforming zoning lot if the owner requests and receives a zoning lot determination from the PCD Director identifying the remainder parcel as conforming. Recording of the determination shall be initiated by the owner with PCD within 30 days of the date of the determination.

~~(G) **Nonconforming Lots Subject to Board of Adjustment Review.**~~

~~(1) **Requirement for Variance.** Appeals of the PCD Director determination of a lot being conforming or nonconforming shall be appealed to the Board of Adjustment within 30 days of the date of the determination. In reviewing the appeal request the BOA may consider the density of the surrounding area, compliance with the Master Plan, the suitability of the parcels for the proposed construction, and the size and location of the proposed structures on the property in making their decision.~~

~~(2) **Common Ownership.** For the purposes of a merger by contiguity, contiguous lots or parcels owned by a husband and wife, individually or by joint or common ownership shall be considered common ownership. Any property owner disputing whether this common ownership provision should be applied to the property may appeal to the Board of Adjustment.~~

~~(3) **Appeal of Merger Determination.** Where merger is required by this Section in order to receive authorization of a building permit the applicant may request a Merger Hearing with the BoCC in accordance with the requirements of C.R.S. § 30-28-139. The result of a merger hearing shall not obviate the requirement to comply with the nonconforming lot standards of this Code.~~

(Res. No. 17-374, Exh. A, 12-12-2017; Res. No. 19-330, Exh. A, 8-27-2019)

#### 5.6.8. Decisions and Appeals

- (A) **Authority with PCD Director.** All decisions concerning nonconformities will be made by the PCD Director.
- (B) **Appeals of PCD Director Decision.** ~~All decisions of the PCD Director concerning nonconformities, other than use determinations, may be appealed by an aggrieved party to the Board of Adjustment pursuant to the authority and within the timeframe established in Section 5.5.2 (B)(1)(a) and pursuant to any applicable procedures set forth in this Code or the Procedures Manual. All decisions of the PCD Director concerning nonconformities in this Code may be appealed to the Board of Adjustment, except that appeals regarding non-conforming use determinations are heard by the BoCC.~~
- (C) **Property Owner Responsible for Evidence.** The property owner is responsible for providing evidence regarding the establishment and continuation of a nonconforming use.

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▲ (Res. No. [17-374](#), Exh. A, 12-12-2017)

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#### (2) Merger by Contiguity.

(a) **Purpose.** The purpose of this Section is to establish standards whereby nonconforming substandard-sized lots or parcels can be combined to create a lot or parcel that more closely approximates the lot size requirements of the applicable zoning district to provide for building permit issuance for new construction or habitable additions, without necessitating a replat or variance.

(b) **Applicability.** The merger by continuity may be applied to any contiguous nonconforming lots or parcels of land where:

- Not more than 1 residential dwelling is located on the lots or parcels to be combined;
- The lots or parcels to be combined are located within the same zoning district; and
- The lots or parcels are owned in common ownership by the same person, persons or entity.

#### (c) Interpretation of Contiguity.

(i) **Common Boundary.** Lots or parcels shall be regarded as contiguous when not less than  $\frac{1}{4}$  of the perimeter of either lot or parcel is shared by both lots or parcels or if the lots or parcels share a common boundary of at least 50 feet, whichever is less.

(ii) **Severance of Contiguity.** The contiguity of lots or parcels shall not be considered severed by the existence, along their common boundaries, of a private road, road easement, driveway or alley; a public or private transportation or utility easement or utility easement; a river, creek, stream, or other natural or artificial waterway; geologic condition that naturally or artificially divides property; or an intersecting mining claim.

(d) **Effect of Merger.** The following provisions shall be applied as a result of merger to the merged lots or parcels:

- The merged lots or parcels shall be considered as 1 lot or parcel of land for the purposes of application of this Code;
- The merged lots or parcels shall have setbacks applied only along the exterior boundaries of the merged properties;
- Lot frontage requirements shall not apply to merged lots or parcels; and



- The merged lots or parcels shall be considered a zoning lot.

(e) Common Ownership. For the purposes of a merger by contiguity, contiguous lots or parcels owned by a husband and wife, individually or by joint or common ownership shall be considered common ownership. Any property owner disputing whether this common ownership provision should be applied to the property may appeal to the Board of Adjustment.

**(f) No Guarantee of Merger Results in Buildable Parcel.** Merger does not guarantee that the resulting lot or parcel will meet the zoning district standards and be considered buildable, but shall establish the legality of the lot or parcel for zoning purposes.

**(g) Approval Criteria.** The PCD Director, in approving a merger by contiguity, shall find:

- The lots or parcels being merged are legal lots or parcels;
- The merger will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;
- The merger will not result in a nonconformity not otherwise existing prior to the merger;
- The merger is necessary to achieve compliance with the nonconforming lot or record provisions of this Code, or will accomplish a similar purpose;
- All separation distances for an OWTS can be met; and
- The extraction of areas designated as 100 year floodplain, major drainageways and slopes in excess of 30 percent leaves a single buildable area of at least 30 percent of the lot or parcel's total net area.

**(h) Completed Action.** These actions shall be considered completed and in effect when an approved merger agreement is filed for recording with the Clerk and Recorder.