

RESOLUTION NO. 2016-1

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO AMENDING SECTIONS 62-1, 66-23, 66-24, 66-46, 70-5, 70-43, 74-18, 74-91, 74-97, 74-113, 74-171, 74-172, 74-173, 74-174, 74-175, 82-4, 82-5, 82-6, 82-7, 82-8, 82-11, 82-12, 82-13, 82-14, 82-37, 82-81, 82-83, 82-86, 82-84, 82-92, 82-95, 82-99, 82-141, 82-165, 82-175, 82-186, 82-187, 82-201, 82-210, 86-1, 86-2, 86-3, 86-4, 86-5, 86-21, 86-23, 86-24, 86-25, 86-26, 86-27, 90-19, 90-77, 90-123, 90-124, 94-17, 94-33, 94-39, 94-54, 98-4, 100-2, 100-3, 102-22, 102-30, 102-54, 102-73, 102-110, 106-132, 106-133, 106-111, 106-112, 106-432, 106-533, AND 106-534, FOOTNOTES FOR CHAPTERS 74, 78, 82, AND 86, AND THE HEADING FOR CHAPTER 86, ARTICLE II OF THE LA PLATA COUNTY LAND USE CODE TO CONSOLIDATE AND CLARIFY DEFINED TERMS

WHEREAS, pursuant to the Colorado County Planning Code, C.R.S. § 30-28-101 *et seq.*, the Board of County Commissioners of La Plata County, Colorado (the "Board") is empowered to plan and provide for the physical development of the unincorporated territory of La Plata County (the "County"); and

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, empowers the Board to plan for and regulate the use of land within the unincorporated territory of the County, including but not limited to: regulating the use of land on the basis of the impact thereof on the community or surrounding areas; regulating the location of activities and developments which may result in significant changes in population density; providing for phased development of services and facilities; and otherwise planning for and regulating use of land so as to provide for the planned and orderly use of land; and

WHEREAS, Colorado counties possess those powers enumerated by the Colorado Constitution and Colorado Revised Statutes and such further incidental implied powers as are reasonably necessary to carry out the express powers; and

WHEREAS, the Colorado County Planning Code and Local Government Land Use Control Enabling Act constitute a broad delegation of authority to the County generally encompassing the subject of land use; and

WHEREAS, pursuant to these authorities, the Board adopted land use regulations and subdivision regulations, as set forth in Subpart B of the La Plata County Code (the "Code"); and

WHEREAS, the La Plata County Planning Commission held a duly noticed public meeting on December 10, 2015, and after receiving competent evidence at the hearing, made a recommendation to the Board to approve Project No. 2015-0325; and

Referents:
BOCC

WHEREAS, the Board held a duly noticed public meeting on January 19, 2016, and received competent evidence that Sections 62-1, 66-23, 66-24, 66-46, 70-5, 70-43, 74-18, 74-91, 74-97, 74-113, 74-171, 74-172, 74-173, 74-174, 74-175, 82-4, 82-5, 82-6, 82-7, 82-8, 82-11, 82-12, 82-13, 82-14, 82-37, 82-81, 82-83, 82-86, 82-84, 82-92, 82-95, 82-99, 82-141, 82-165, 82-175, 82-186, 82-187, 82-201, 82-210, 86-1, 86-2, 86-3, 86-4, 86-5, 86-21, 86-23, 86-24, 86-25, 86-26, 86-27, 90-19, 90-77, 90-123, 90-124, 94-17, 94-33, 94-39, 94-54, 98-4, 100-2, 100-3, 102-22, 102-30, 102-54, 102-73, 102-110, 106-132, 106-133, 106-111, 106-112, 106-432, 106-533, and 106-534, Footnotes for Chapters 74, 78, 82, and 86, and the Heading for Chapter 86, Article II of the Code should be amended, as set forth in the attached Exhibit A, to consolidate and clarify defined terms; and

WHEREAS, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to amend Sections 62-1, 66-23, 66-24, 66-46, 70-5, 70-43, 74-18, 74-91, 74-97, 74-113, 74-171, 74-172, 74-173, 74-174, 74-175, 82-4, 82-5, 82-6, 82-7, 82-8, 82-11, 82-12, 82-13, 82-14, 82-37, 82-81, 82-83, 82-86, 82-84, 82-92, 82-95, 82-99, 82-141, 82-165, 82-175, 82-186, 82-187, 82-201, 82-210, 86-1, 86-2, 86-3, 86-4, 86-5, 86-21, 86-23, 86-24, 86-25, 86-26, 86-27, 90-19, 90-77, 90-123, 90-124, 94-17, 94-33, 94-39, 94-54, 98-4, 100-2, 100-3, 102-22, 102-30, 102-54, 102-73, 102-110, 106-132, 106-133, 106-111, 106-112, 106-432, 106-533, and 106-534, Footnotes for Chapters 74, 78, 82, and 86, and the Heading for Chapter 86, Article II of the Code, as set forth in the attached Exhibit A, to consolidate and clarify defined terms.

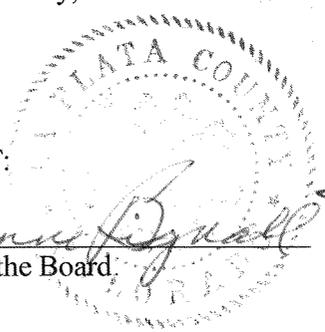
NOW, THEREFORE, BE IT RESOLVED BY THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS:

1. Sections 62-1, 66-23, 66-24, 66-46, 70-5, 70-43, 74-18, 74-91, 74-97, 74-113, 74-171, 74-172, 74-173, 74-174, 74-175, 82-4, 82-5, 82-6, 82-7, 82-8, 82-11, 82-12, 82-13, 82-14, 82-37, 82-81, 82-83, 82-86, 82-84, 82-92, 82-95, 82-99, 82-141, 82-165, 82-175, 82-186, 82-187, 82-201, 82-210, 86-1, 86-2, 86-3, 86-4, 86-5, 86-21, 86-23, 86-24, 86-25, 86-26, 86-27, 90-19, 90-77, 90-123, 90-124, 94-17, 94-33, 94-39, 94-54, 98-4, 100-2, 100-3, 102-22, 102-30, 102-54, 102-73, 102-110, 106-132, 106-133, 106-111, 106-112, 106-432, 106-533, and 106-534, Footnotes for Chapters 74, 78, 82, and 86, and the Heading for Chapter 86, Article II of the La Plata County Land Use Code shall be and hereby are amended as set forth in the attached Exhibit A.
2. The enactment of this Resolution is necessary for the immediate preservation of public health, safety and welfare and, therefore, this Resolution shall take effect immediately.

****remainder of page intentionally left blank****

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 19th
day of January, 2016.

ATTEST:



Jeanne Bignall
Clerk to the Board

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO



Brad Blake, Chair



Julie Westendorff, Vice-Chair



Gwen Lachelt, Commissioner

EXHIBIT A

Section 62-1 shall be repealed in its entirety and re-enacted as follows:

Sec. 62-1. Definitions.

The following terms shall apply to the county planning documents including, but not limited to, the county comprehensive land use plan, the county land use system, the development district and the subdivision regulations. Unless otherwise defined or specified in the context used, the following words, terms and phrases and their derivatives shall be interpreted in the same fashion when used in this subpart B:

Words used in the present tense shall also include the future tense; words used in the singular shall also include the plural; the masculine shall also include the feminine.

06CW99 Court Decree means the court decree issued by Division 7 water court case In re La Plata County, 06CW99 (filed December 20, 2006) or any subsequent decrees pertaining to La Plata County Water Right No. 1, La Plata County Water Right No. 2, or La Plata County Water Right No. 3.

Abandonment means the permanent abandonment of a well and shall be based on the operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC). Presumption of permanent abandonment of a major facility shall be based upon nonuse or nonoperation for one year without notification to the department of the intent to resume operations under specified conditions.

Absolute water right means a water right that has been granted permanent status by a water court because water has been fully diverted and applied to a beneficial use. As opposed to an absolute water right, a conditional water right simply preserves a water user's ability to diligently pursue the perfection of an absolute water right.

Accessory building or structure means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use, including those buildings defined in this section as farm and garden buildings.

Accessory use means any vocational or non-vocational land use that is secondary to the use of the lot for residential purposes, except those uses for which a land use permit is not required pursuant to section 82-7.

Acre feet (af) means a volumetric measurement of water used for quantifying water usage, and equaling 325,851 gallons of water or approximately the amount of water that will cover an acre of land at a depth of one foot.

Action means a decision made, by motion, on a particular application by the planning commission, joint planning commission, and/or board of county commissioners.

Adjacent landowner means the owner of adjoining property.

Adjoining property means a lot or tract of land which shares all or part of a common lot line with another lot; also, a lot which is across a road from another lot.

Administrative application means an application for an administrative land use permit.

Administrative development or administrative use means a development or use that requires an administrative land use permit.

Administrative processing fee means an amount set forth in Appendix A of the County Code that must be paid in two parts. The minimum administrative processing fee shall be paid when a water user submits an application for an increment, and any remaining amount owed shall be paid along with the water fee.

Administrator, as the term is used within Chapter 98, means the director of the county public works department; distinct from the term *Floodplain administrator* as that term is used in Chapter 78.

Agent means one authorized to make binding representations on behalf of the applicant.

Agricultural, as the term is used within Chapter 90, means currently in use for farm or ranch purposes, including pasture, and assessed in the county assessor's records as agricultural land.

Agricultural irrigation increment means an amount of water sized to provide sufficient water to irrigate one acre of pasture grasses.

Agriculture means the production, keeping or maintenance for sale, lease or personal use, of plants and animals useful to man including, but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds and vegetables.

Agriculture-related operations, as the term is used within Chapter 106, means the keeping and raising of domestic livestock for personal use, and the raising of crops and produce for personal use or for profit. The sale of goods produced on site is permitted.

Antenna means any device mounted on a telecommunications tower or other type of structure to receive, transmit, or relay wireless telecommunications signals.

Applicant (a) means the owner of the land containing the existing and/or proposed development, the owner's representative or agent; (b) as the term is used within Chapter 90, means that person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question in accordance with Chapter 90.

Application means, depending on the context, either the application form or, collectively, the application form, any supporting documentation, and the administrative processing fee.

Area, minimum lot means the total area within the property lines of the lot.

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

Best Management Practices means proven techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health and the environment, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. BMPs are dynamic and intended to promote excellence in the conduct of operations.

Board means the Board of County Commissioners of La Plata County.

Board of county commissioners means the Board of County Commissioners of La Plata County.

Bridge as the term is used within Chapter 74, means a three-sided structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having passageway for carrying vehicles.

Buffer means land, berms, fences and/or landscaping used to visibly separate one use from another and/or to block noise, glare, dust or other external effects.

Buildable area means an area on which a dwelling unit can be placed which is free of avalanche hazard, mine subsidence hazard, slope movement, severe soil limitations, slope over 30 percent, stream/river channels, and road easements; and which contains a minimum 3:1 depth to width ratio.

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

Building permit means a permit issued by the county building department pursuant to chapter 18 of the County Code.

Burden of Proof means by a preponderance of the evidence.

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

Business plaque means a sign for a specific business or activity that is attached to a directional sign.

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

CDOT means the Colorado Department of Transportation

Centralized Facility means a facility serving multiple well pads consisting of one or more compressors, generators and/or water, gas or oil treatment equipment.

Chemical(s) means any element, chemical compound or mixture of elements and/or compounds.

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

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

Class I application means an application for a class I land use permit.

Class I development or *class I use* means a development or use that requires a class I land use permit.

Class II application means an application for a class II land use permit.

Class II development or *class II use* means a development or use that requires a class II land use permit.

Code means the La Plata County Land Use Code.

COGCC means the Colorado Oil and Gas Conservation Commission.

Collocation means the mounting of antennae and support facilities on a telecommunications tower or other type of structure that already has at least one (1) telecommunications facility mounted on it.

Commercial livestock operation means a business or private operation in which the primary purpose is to raise and sell livestock for profit. For the purposes of the Animas Valley Land Use Plan, this use shall not include cattle or swine feedlots, dairy farms or poultry houses.

Commercial property means property designated and authorized for commercial use.

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

Constant rate pumping test means a well aquifer testing procedure in which a well is pumped for a significant length of time at a constant rate. Data from this test can be analyzed to determine hydraulic characteristics of an aquifer.

Construction means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling. This shall also include any and all activity incidental to the initial drilling and completion (as defined under the state oil and gas conservation commission regulations) of an oil or

gas well or major oil and gas facility.

Costs, as the term is used within Section 82-99, means any county approved monetary expenses actually incurred and paid by an original developer for the installation or construction of an improvement required through the land use permit review process on property adjacent to or outside of the development that is directly related to and necessary for such installation or construction, including design and planning. Costs may include, but are not limited to, land acquisition, materials, labor, engineering, survey, title, management, supervision, consulting, legal, and other professional matters, including any pro rata portion of any expenses incurred in the installation of multiple improvements or facilities. However, under no circumstances may costs include the expenses incurred in preparing and processing a cost recovery statement, including the administrative processing fee, or any impact fee assessed on such original developer as a part of the land use permit review process.

County means La Plata County in the State of Colorado.

County Code means the La Plata County Code.

CPW means Colorado Parks and Wildlife.

Critical Use Hours means that time of day when disturbance is most likely to increase stress to and negatively impact wildlife.

Critical Use Period means that portion of the year (weeks or months) when disturbance is most likely to increase stress to and negatively impact wildlife.

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

Cul-de-sac means a dead-end street which widens sufficiently at the end to permit a vehicle to make a U-turn. The circular form should have a minimum radius of 40 feet in residential areas and 50 feet in commercial and industrial areas.

Date of completion, as the term is used within Section 82-99, means the date that the county accepts dedication of an improvement or, in the case of an improvement to which the county does not require dedication, the date of the release of the collateral that was retained by the county through a development improvements agreement, the state department of transportation or such other relevant agency to secure the installation or construction of the improvement

Day care home, as the term is used within Chapter 106, means a child care facility for no more than six children that is usually run out of the director's home.

Density means the relative level of impact of development, as expressed in number of dwelling units per acre for residential, lot size or lots per acre for residential subdivisions, or floor area ratio for commercial, industrial or institutional development.

Department means the La Plata County Planning Department or its successor.

Depletion means the amount of water lost to a river system when water is diverted from the river system (opposite of Return flow).

Depletion point means generally the lowest point within the Animas River, Junction Creek, or Lightner Creek Watersheds where return flows shall return to the applicable river systems and upstream of which diversions shall occur. For the Animas River Watershed, the depletion point is specifically located as follows: 2,540 feet east of the West line and 50 feet south of the North line of Section 16, Township 35 North, Range 9 West of the NMPM, in La Plata County. For the Junction Creek Watershed, the depletion point is specifically located as follows: 2,515 feet east of the West line and 1,360 feet south of the North line of Section 20, Township 35 North, Range 9 West of the NMPM, in La Plata County. For the Lightner Creek Watershed, the depletion point is specifically located as follows: 1,050 feet east of the West line and 200 feet south of the North line of Section 25, Township 35 North, Range 10 West of the NMPM, in La Plata County.

Developer (a) means the same as the term "applicant"; (b) as the term is used within Section 82-99,

means any person, firm, partnership, joint venture, association, corporation or public or governmental entity participating as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of the property subject to land use permit, provided that a public or governmental entity may only be deemed to be "developer" for the purposes of this regulation if it otherwise meets the requirements of this section, and, if, in the discretion of the board designation of the entity as a "developer" is in the overall best interest of the county.

Development means the division of a parcel of land into two or more lots; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or use; any mining, excavation, landfill or land disturbance; any new use or extension of the use; the extension or alteration of the scope of a use.

Development improvements agreement and performance guarantee means a bond, certified check, loan commitment or escrow agreement covering the estimated cost of the required public or private improvements to be posted by the developer with the county to guarantee the completion of public improvements in a development in accordance with the requirements of the county. When public works facilities are constructed by the county a warranty and guarantee are required from the contractor to ensure all construction is performed properly and to guarantee against defective work for a period of one year after final acceptance.

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

Director means the Director of the Planning Department or any member of the Director's staff authorized to represent the Director.

Distribution line means any water line which serves the purpose of providing water from (downstream of) the main or transmission line to a household or series of households but prior to the endpoint device(s).

Ditch company means a mutual ditch company, a carrier ditch company, and the like, whether or not incorporated and whether or not a for-profit enterprise, in the business of transporting water to individual water users.

Diversion or divert means, depending on the context, the location where water is removed, the structure which removes the water, or the act of removing water from its natural course or location by means of a control structure, ditch, canal, flume, reservoir, bypass, pipeline, conduit, infiltration gallery, ground water well, pump, or other structure or device.

Domestic animal increment means an amount of water sized to provide a large domestic animal 15 gallons per day.

Drainage plan, as the term is used within Chapter 90, means a written description and depiction on a site plan for the collection, transport, treatment and discharge of stormwater runoff.

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

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

Dwelling, as the term is used within Chapter 106, means any building or portion thereof which is used as the private residence or sleeping place of not more than five unrelated human beings.

Dwelling unit means one or more rooms designed, occupied, or intended for occupancy, as separate living quarters.

Dwelling, single-family, as the term is used within Chapter 106, means a detached building designed exclusively for, and occupied by one family, excluding manufactured housing not defined in C.R.S. § 30-28-115.

Easement means authorization by a property owner for the use of a designated portion of his property by another, for a specified purpose.

Emergency repairs means necessary repairs to protect the health, safety and comfort of the general public.

Encouraged means a standard which encourages or discourages certain kinds of performance by an applicant.

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

Facility means a site and the equipment associated with an Oil & Gas site used for the production, transportation, treatment, and/or storage of oil and gas and waste products in accordance with Chapter 90.

Fair share reimbursement means a reimbursement of the costs of installing an improvement, paid by a secondary developer to the original developer for that share of the costs related to the capacity of the improvement that is projected to be used by the benefitted property pursuant to that property's development. An improvement may be eligible for fair share reimbursement under these regulations if the costs of such improvement exceed \$100,000.00 or if the director recommends that such improvement be so eligible.

Family or household, as the term is used within Chapter 106, means no more than five unrelated persons living and cooking together on the premises as a single dwelling unit.

Farm and garden buildings and uses means those buildings and structures used to shelter or enclose livestock, poultry, feed, flowers, field equipment or similar uses; with the building not exceeding 800 square feet. Those uses of land devoted to raising of crops, poultry or livestock for private purposes or consumption.

Feedlot means a lot, yard or corral, or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. The term does not include areas which are used for raising crops or other vegetation and upon which livestock are allowed to graze or feed.

Flowline means a pipeline connecting an individual well to production metering equipment.

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

Gas well means a well capable of producing natural gas

Gathering Line means a pipeline transporting produced gas, oil, or water from multiple intermediate lines.

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

Granny flat means a second dwelling unit of no more than 1,000 square feet that is attached to the principle structure.

Green Book means A Policy on Geometric Design of Highways and Streets 1984, American Association of State Highway and Transportation Officials.

Heavy Equipment means drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding five tons.

Home occupation means any use customarily performed within a dwelling by the inhabitants thereof, but which is incidental to its residential use. Home occupation use shall have no external evidence of a business or industrial nature.

Hydraulic conductivity means the capacity of aquifer material to yield or transmit water. Hydraulic conductivity is dependent on the size and amount of interconnections between the pore spaces in an aquifer's rock and soil. It is expressed in terms of the volume of water that would be transmitted in a unit

of time through a unit cross-sectional area of rock under a unit hydraulic gradient.

Impervious cover means the roof and pavement areas that cover a lot and impede water infiltration.

Improvement (a) means any item which becomes part of, is placed upon, or is affixed to real estate including, but not limited to, utilities, roads, structures, berms, fences, landscaping and buffers; (b) as the term is used within Chapter 90, means any new construction activity or addition of equipment or materials to an Oil & Gas site; (c) as the term is used within Section 82-99, includes, but is not limited to, any type of structure, facility or other improvement for public use that the county requires to be installed by an original developer as a condition or requirement of land use permit approval of such development, which also benefits one or more adjacent or other properties.

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

Intermediate Line means a pipeline transporting produced gas, oil, or water from one well pad after it passes through production metering equipment to a gathering line.

Joint Planning Area means the unincorporated area designated by the board of county commissioners in the Joint Planning Area Map.

Land use permit means a permit issued by the county planning department pursuant to Subpart B of the County Code.

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

Level of service means the operating conditions a driver will experience while traveling on a particular facility. Where roadway conditions (physical characteristics of the highway) are fixed, level of service on any particular highway varies primarily with volume.

Lighting, as the term is used within Chapter 106, means illumination which shall not spill or glare off site. No business sign shall remain illuminated throughout the night. Security lighting shall be at a minimum. Noise levels shall be maintained so as to minimize the nuisance for nearby residents.

Limited commercial increment means an amount of water sized to provide 700 gallons per day assuming the use of a septic system that results in 15 percent depletion to the river system, although the use of septic system is not required.

Limited commercial lawn and garden increment means an amount of water sized to provide sufficient water to irrigate 2,000 square feet of lawn.

Livestock means cattle, sheep, horses, mules, burros, rabbits, goats, pigs, fowl and all other domesticated animals.

Local road means one that primarily serves for access to a farm, residence, business or other abutting property.

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

Low-intensity, tourist-related recreational uses means golf courses, driving ranges, RV parks, riding stables, fishing ponds, campgrounds, glider ports of no more than six planes (two fixed wing, four gliders). This special use permit classification shall not include amusement parks, firing ranges, miniature golf courses, bowling alleys, video arcade amusements or drive-in theaters.

Major oil and gas facilities means:

(1) Centralized facilities.

(2) Water injection, centralized water transfer stations, centralized water pump stations and associated facilities serving multiple well pads.

(3) Storage yards and construction staging yards in place for six months or longer.

(4) Any permanent equipment facility or structure related to the production of oil and/or gas which contains internal combustion engines with a cumulative horsepower, de-rated for elevation, of 200 BHP or greater.

(5) Transmission line or any pipeline for which the power of eminent domain is exercised.

(6) Any oil and gas facility not meeting the definition of minor oil and gas facility.

Man camp means an area of land occupied by mobile homes, travel trailers, truck campers, tent trailers or any other structures, including service buildings and kitchen facilities, serving as housing for 100 or more personnel of an industrial or commercial construction project, gas treatment plant and/or oil or gas development.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to required utilities. For floodplain management purposes, the term "manufactured home" includes park trailers, travel trailers and other similar vehicles placed on a site for more than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

Manufactured home park or subdivision means a parcel or contiguous parcels of land divided into three or more manufactured home lots for rent or sale.

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

Marijuana Facility means (a) a medical marijuana-infused products manufacturer or optional premises cultivation operation as those terms are defined in C.R.S. § 12-43.3-104; (b) a marijuana cultivation facility, marijuana product manufacturing facility, medical marijuana center, retail marijuana store, or marijuana testing facility as those terms are defined in Section 16(2) of Article XVIII of the Colorado Constitution; or (c) an off-premises storage facility pursuant to 1 CCR 212-1, Rule M 802 and 1 CCR 212-2, Rule R 802.

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

May means a permissive requirement; *should* means a strong recommendation.

Medical marijuana means "medical marijuana" as the term is defined in C.R.S. 12-43.3-104(7).

Mineral Lessee means the entity entitled under an oil or gas lease to drill and operate wells. The lessee may also be the applicant for purposes of this article.

Mini-storage facility, as the term is used within Chapter 106, means a business that provides storage space for household or commercial goods within an enclosed building or group of buildings with controlled access to individual storage spaces. Outdoor storage shall not be permitted including, but not limited to, equipment, trailers, boats, recreational vehicles and other motor vehicles. Sales shall not be conducted on the premises, including but not limited to, auctions, wholesale or retail sales, garage sales, estate sales and other similar sales events. The maximum floor area of the storage space shall be 20,000 square feet on any one parcel.

Minor exemption subdivision means a process by which parcel or lot boundaries are created which meet the definition of exemption from subdivision in accordance with C.R.S. § 30-28-101. This procedure may be used for the creation of a maximum of three lots.

Minor Oil and gas facilities requiring special mitigation measures means:

(1) An individual wellsite built and operated to produce petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements

specified in this article for minor facilities.

(2) Any of the facilities specified under subsection (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.

(3) Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six weeks.

Minor oil and gas facilities means:

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

(2) Intermediate lines which extend beyond one-quarter mile (1,320 feet) from the wellhead, gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.

(3) Temporary storage and construction staging yards in place for less than six months.

Mixed use development means the development of a lot, building or structure with two or more different uses including, but not limited to, residential, office, manufacturing, retail, public or entertainment.

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

Multifamily dwelling means a building, or portion thereof, containing three or more dwelling units.

MUTCD means the most recently published version of the Manual on Uniform Traffic Control Devices.

Neighborhood-oriented businesses as the term is used in Chapter 106, means gasoline stations, grocery stores, restaurants serving no alcohol, liquor stores, laundromats, video stores, postal services, hardware stores, retail sale of goods produced on site and plant nurseries.

Nonconforming use (a) See Section 82-20(3)(a) of this Subpart B; (b) as the term is used within Chapter 90, means a use that was legally established, but no longer complies with the regulations of Chapter 90; a non-conforming use is legal if it complies with section 90-44(e).

NRCS means the Natural Resource Conservation Service.

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

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

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

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

Oil and Gas Equipment means machinery or structures located on well pads or rights-of-way including, but not limited to, wellheads, separators, dehydration units, heaters, meters, storage tanks,

compressors, pumping units, internal combustion engines, and electric motors.

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

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

Oil well means a well capable of producing crude petroleum oil.

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

Original developer means a party who installs or constructs one or more improvements that the county requires to be installed or constructed pursuant to the land use permit review process, or, in the event a developer relinquished control or authority over the governance of the subdivision to a home owners association or other similar organization, that home owners association or other similar organization.

Owner (a) means any person, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land; (b) as the term is used within Chapter 74, means the developer, contractor or any other person or organization who is obligated or responsible for performing work for county acceptance; (c) as the term is used within Chapter 90, means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for such owner or operator or others in accordance with Chapter 90.

Operator as the term is used within Chapter 90, means the same as "owner."

Parcel means a contiguous quantity of land owned by a single owner. The number of deeds held by a single owner under which the contiguous land is held is irrelevant.

Parking areas, as the term is used within *Chapter 106*, means those areas designated for required and auxiliary parking for multifamily residential and business operations. Parking areas shall be landscaped at a ratio equivalent of one parking stall (162 square feet) landscaped to five actual parking spaces. The landscaped area may be placed around the perimeter of the parking lot. Parking lots shall be graveled at a minimum, and otherwise conform to county parking regulations.

Permanent Equipment means equipment located onsite for a duration of time greater than six months effective one year after the drilling and completion of a well.

Permit means written governmental permission issued by or under the authority of the board of county commissioners empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

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

Pipeline Corridor means the tracts of land within which a pipeline right-of-way is located.

Planning Commission means the La Plata County Planning Commission.

Planning Department means the La Plata County Planning Department.

Platted Building Envelope means an area of land within a buildable lot within which all site structures, buildings and other hardscape elements shall be contained, except driveways.

Platted Subdivision lot, as the term is used within Chapter 90, means any lot created pursuant to state law, which has received subdivision approval by the board of county commissioners since May 5, 1972.

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

Professional engineer means a registered professional civil engineer licensed in the state, and experienced and practicing in the field of water resource development.

Professional geologist means a person who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of 30 semesters (45 quarters) of undergraduate or graduate work in a field of geology and whose post baccalaureate training has been in the field of geology with a specific record of an additional five years of geological experience to include no more than two years of graduate work. (Source C.R.S. § 34-1-201.)

Project means the same as the term "development."

Property Line means a real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, or separates property from the public premises.

Public and quasipublic facilities means schools; churches; cemeteries; grange halls; fire stations; utility and transportation facilities; and county, state or federal uses or facilities. All outdoor storage shall be screened from view.

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

Recreational vehicle means an automobile, travel trailer, camp car, camper, bus, motor home, tent or other vehicular or portable unit, with or without motive power, designed and constructed for travel and intended for human occupancy as temporary living quarters for recreational, vacation or travel purposes.

Recreational vehicle park means land designed and developed to accommodate three or more recreational vehicles. If the lots are to be sold or leased, it shall be considered a subdivision. If any single recreational vehicle is located in a recreational vehicle subdivision for more than 180 days, the development shall be considered a mobile home subdivision, deemed new development requiring a permit, and shall meet the requirements of a mobile home subdivision.

Required means mandatory.

Residential, as the term is used within Chapter 90, means a property having an existing residence or platted subdivision lot within one-quarter mile of an oil and gas facility site.

Residential increment means an amount of water sized to provide 350 gallons per day assuming the use of a septic system that results in 15 percent depletion to the river system, although the use of septic system is not required.

Residential lawn and garden increment means an amount of water sized to provide sufficient water to irrigate 2,000 ft² of lawn.

Residential property means any real property platted and approved for potential future or existing use.

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

Right-of-way (a) means a strip of land acquired for or devoted to public circulation including utilities, drainage and irrigation canals and ditches, purposes which have been dedicated to the county; (b) as the term is used within Chapter 90, means:

- (1) A persons legal right to pass through grounds or property owned by another, or
- (2) Land, property or interest therein usually in a strip, acquired for or devoted to transportation purposes.

Roadway means the improved portion of the road right-of-way or a travelway including curb, gutter and sidewalk or shoulders for vehicles, pedestrians and bicycles.

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

Security fencing as the term is used within Chapter 90, means a six-foot chain link fence topped by three strands of barbed wire, or the equivalent, with a gate that can be secured.

Service area means the area legally described as being served by a particular water source and system.

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

Service shop means any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit on the resident's lot.

Setback (a) means the distance between the foundation of a structure and a property line, road right-of-way or constructed road, whichever is more stringent; (b) as the term is used within Chapter 90, means the distance between the following, including but not limited to, a wellhead, intermediate line, gathering line or major facility structure boundary and the closest projection of a residential, commercial, or industrial building structure, a lot or property line, a permitted facility, or a platted building envelope in a platted subdivision.

Shall means mandatory.

Single-family residential means a freestanding dwelling intended for occupancy by a family or group of persons sharing living arrangements

Site (a) means land devoted to or intended for development; (b) as the term is used within Chapter 90, means any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease.

Special event means a use or activity at a specific location at which 50 or more persons may gather, may attract more than 25 vehicles per day, or may create significant onsite or offsite impacts, and does not exceed seventy two (72) hours.

Specific yield means the amount of water released by gravitational drainage from an unconfined aquifer. It is analogous to specific capacity except it is used in the analysis of an unconfined aquifer. See "Storage coefficient."

Speculative tower means a telecommunications tower for which no antennae are immediately proposed.

Staff means personnel working for the county.

Standard Operating Practices means criteria developed by the county for the protection of wildlife resources in the county during oil and gas development activities. Standard operating practices may be referred to herein as "SOPs."

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

Stealth tower means a telecommunications facility consisting of a telecommunications tower, antennae, and support facility that have been designed to effectively blend in with the existing environment by use of camouflaging techniques.

Steep slope means slopes with greater than 30 percent grade.

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

Storage (screened) means the keeping of possessions, belongings, goods, materials, equipment and other items out of view from adjacent properties or roads. Storage may be screened by opaque fencing, landscaping, topography or structures.

Storage coefficient represents the volume of water released from or taken into storage per unit area of an aquifer for a unit change of head in a confined aquifer. This measure is used to estimate the amount of water available for withdrawal from a well. In an unconfined aquifer the coefficient of storage is referred to as the specific yield. See "Specific yield."

Structure means a placement or combination of materials to form a construction for use or occupancy, whether installed on, above or below the surface of land or water.

Structure-mounted facility means any telecommunications facility, antenna, or support facility mounted upon a structure that is not a telecommunications tower as defined by this section.

Stub road means a dead-end road used for access to a maximum of three single-family dwellings and not over 800 feet in length.

Subdivision means a parcel of land which is divided into two or more parcels, separate interests or interests in common as defined in C.R.S. § 30-28-101, except as specifically exempted according to section 102-2.

Substantial change means a change to a telecommunications facility meeting one of the following criteria:

(1) For telecommunications towers outside of public rights-of-way, a change increasing the height of the tower by more than ten (10) percent, or by the height of the new antenna array with separation from the nearest antenna not to exceed twenty (20) feet, whichever is greater (thus, a 150-foot tower may be increased in height by up to fifteen (15) feet without constituting a substantial increase in size. If there is already an antenna at the top of the tower, the tower height may be increased by up to twenty (20) feet plus the height of a new antenna to be located at the new top of the tower);

(2) For telecommunications towers in public rights-of-way and for structure-mounted facilities, a change increasing the height of the tower or structure by more than ten (10) percent or ten (10) feet, whichever is greater;

(3) For telecommunications towers outside of public rights-of-way, a collocation protruding from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the collocation, whichever is greater;

(4) For telecommunications towers in public rights-of-way and for structure-mounted facilities, a collocation protruding from the edge of the tower or structure more than six (6) feet;

(5) A change involving installation of more than the standard number of new equipment cabinets for the telecommunications technology involved, but not to exceed four (4) cabinets;

(6) A change entailing any excavation or deployment outside the current site of the telecommunications tower or structure;

(7) A change that would defeat the existing concealment elements of the telecommunications tower or structure; or

(8) A change that does not comply with conditions associated with the prior approval of construction or modification of the telecommunications tower or structure-mounted facility unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding substantial change threshold identified above.

Substantial improvement means any extension, repair, reconstruction or other improvement of a property, the cost of which equals or exceeds 50 percent of the fair market value of a property, either before the improvement is started or if the property has been damaged and is being restored, before the damage occurred.

Support facility means any electrical or mechanical equipment, equipment cabinets, wiring, and other forms of physical improvements used in support of antennae.

Surface Owner means the owner of the surface property on which the facility will be constructed or the owner of property who receives notice pursuant to Section 90-77.

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

Tap means authorized legal connection to a water system. Physical tap has been installed on a water main, a transmission line, or distribution line and serves one single residence or commercial unit.

Telecommunications facility means any antennae, telecommunications towers, and support facilities used to provide telecommunications services. The term telecommunications facility shall not include:

- (1) Amateur radio operators' equipment licensed by the Federal Communications Commission;
- (2) Any satellite earth station antenna two (2) meters (i.e. six feet and six and three quarter inches) or less in diameter which is located in an area whose existing or intended use is commercial or industrial;
- (3) Any non-commercial satellite earth station antenna one (1) meter (i.e. three feet and three and three eighths inches) or less in diameter;
- (4) Telecommunications towers with a tower height of less than thirty-five (35) feet, located on a gas or oil well pad, supporting only antennae that are solely used to transmit or receive information related to gas or oil well production;
- (5) Utility meters that enable communication between the meter and the central utility system; and
- (6) Small cells and distributed antennae systems that are mounted upon or completely contained within a residence or commercial operation and have the sole purpose of improving telecommunications service for occupants of the residence or employees of the commercial operation.

Telecommunications provider means an entity licensed by the Federal Communications Commission to provide telecommunications services to the general public.

Telecommunications tower means any structure whose primary purpose is to support one or more antennae in order to provide telecommunications services.

Temporary use means a use or activity at a specific location that is limited to 120 consecutive days or thirty (30) non-consecutive days within a calendar year.

Temporary Use Area, as the term is used within Chapter 90, means disturbed lands immediately adjacent to the well pad or right of way used by an operator during the construction or maintenance of a well, pipeline or other facility that will be reclaimed for permanent operations.

Time share means a condominium in which ownership of units is divided in time intervals. A time share development is a subdivision.

Townhome means a one-family dwelling in a row of at least three such dwelling units in which each unit has its own access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire-resistant walls.

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

Trade Secret Chemical Product means a chemical product the composition of which is a trade secret.

Trailblazer means a small supplemental guidance sign panel with the type of service offered and the name, direction and distance to the business.

Transmissivity means the hydraulic conductivity of an aquifer multiplied by the aquifer thickness. It is the rate of flow of groundwater (expressed as gallons per day) through a vertical strip of the gradient of 1 (100 percent). Estimates of an aquifer's transmissivity can be used to determine how much water will move through the aquifer.

Truck garden/fruit or vegetable stands means roadside stands for operation during not more than six months in each year for the sale of farm products raised or produced on the premises.

Use means the purpose for which land or a building is designed, arranged or intended, or for which either is or may be occupied or maintained.

Utilities means and includes the following: domestic water, sanitary sewer, cable TV, electric power, gas, telephone, irrigation water, and drainage.

Variance means a departure from the standards of the county land use system which would not entail departures from procedure or the county comprehensive land use plan.

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

Water fee means an amount set forth in Appendix A of the County Code that must be paid prior to the director executing a water use agreement.

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

Water Pump Station means a facility that receives produced water via gathering lines for the purpose of lowering gathering line water pressure.

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

Water service providers means any private water companies, governmental entities or quasi-governmental entities, or the like, whether or not incorporated and whether or not a for-profit enterprise, in the business of providing water service to individual water users.

Water Transfer Station means a facility that receives produced water via surface transportation from one or more well pad locations.

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

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

Watershed means a geographical area from which water drains and contributes to a given point in a river system.

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

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

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

Wetlands means those areas that are inundated or saturated by surface water 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 generally include swamps, marshes, bogs and similar areas. This definition shall include ox bow lakes and ponds.

Section 66-23 shall be amended as follows:

Sec. 66-23. Variance and special exception application; contents and procedure.

The variance and special exception application contents and procedure shall be the same as for class II applications. Variance and special exception applications available at the planning office department shall be used.

Section 66-24 shall be amended as follows:

Sec. 66-24. Action by applicant.

Completed applications shall be submitted to the planning department, and a meeting of the board of adjustment shall be convened within 60 days of the acceptance of the application by the planning office department. The applicant or his representative shall be present at the public hearing for action to be taken.

Section 66-46 shall be amended as follows:

Sec. 66-46. Associate members.

Associate members of the planning commission are hereby authorized by the board of county commissioners to perform the duties of regular members who are temporarily unable to act due to absence, illness, interest in any matter before the commission, or any other cause. The services of associate members shall be alternated, where practicable, and, to achieve this goal, the director of the planning department shall contact associate members to achieve a five-member planning commission, whenever possible.

Section 70-5 shall be amended as follows:

Sec. 70-5. Comprehensive planning maps.

- (a) The county adopts, for comprehensive planning purposes, as advisory policy maps and master plans the following reference maps and master plans:
- (1) The Flood Insurance Study for La Plata County, Colorado (dated 6/15/1981 and subsequently amended 3/16/1995), with accompanying flood insurance rate maps and floodway maps (dated 12/15/1981 and subsequently amended 3/16/1995); US Army Corps of Engineers Mapping and Technical Stream Profile Information: Durango Colorado Study (1974), Durango Colorado Study (1977), Vallecito Creek Study (1976), Hermosa Colorado Study (1977), Goff Engineering Dalton Ranch Study - Animas River (7/24/1992); and Goff Engineering James Ranch Study - Animas River (11/10/1992).
 - (2) Wildfire Hazard Area Maps - 1974, Colorado State Forest Service.
 - (3) Geologic Hazard Maps - June, 1976, as prepared for the Animas Regional Planning Commission.
 - (4) Planning Maps of the La Plata County Open Space Committee; the Visual Resource Valuation Map, and the individual component maps including Sensitivity Levels, Public Ownership and Wildlife Habitat.
 - (5) Cumulative Impact Map of Wildlife for La Plata County, as prepared by the Colorado Division of Parks and Wildlife.
 - (6) Project Plan, La Plata County Dry Hydrant Program.

Section 70-43 shall be amended as follows:

Sec. 70-43. Wildlife.

In properties containing high impact areas as identified on the ~~division of w~~Colorado Parks and Wildlife cumulative impact maps, provision of appropriate impact mitigation measures including, but not limited to, placing development in other areas of the property, limitations on use during critical use periods and/or critical use hours, and minimization of impacts on streams is encouraged.

Section 74-18 shall be amended as follows:

Sec. 74-18. Reserved Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

All-weather access means a road surface, either gravel or paved, constructed in accordance with this article.

Board means the county board of commissioners.

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

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

Cul-de-sac means a dead-end street which widens sufficiently at the end to permit a vehicle to make a U-turn. The circular form should have a minimum radius of 40 feet in residential areas and 50 feet in commercial and industrial areas.

Department means the county road and bridge department.

Easement means the right to use land for access, flowage, or for right-of-way.

Emergency repairs means necessary repairs to protect the health, safety and comfort of the general public.

Green Book means *A Policy on Geometric Design of Highways and Streets 1984*, American Association of State Highway and Transportation Officials.

Improvements agreement and guarantee means a bond, certified check, loan commitment or escrow agreement covering the estimated cost of the required public or private improvements to be posted by the developer with the county to guarantee the completion of public improvements in a development in accordance with the requirements of the county. When public works facilities are constructed by the county a warranty and guarantee are required from the contractor to ensure all construction is performed properly and to guarantee against defective work for a period of one year after final acceptance.

Level of service means the operating conditions a driver will experience while traveling on a particular facility. Where roadway conditions (physical characteristics of the highway) are fixed, level of service on any particular highway varies primarily with volume.

Local road means one that primarily serves for access to a farm, residence, business or other abutting property.

Owner means the developer, contractor or any other person or organization who is obligated or responsible for performing work for county acceptance.

Private driveway means a private roadway providing access for vehicles to a parking space, garage or three or fewer residences. Private driveway standards shall not be utilized in a platted subdivision for roads serving more than one residence. Roads within platted subdivisions which serve more than one residence or lot, whichever is most restrictive, shall meet local road standards.

~~Right-of-way means a strip of land acquired for or devoted to public circulation including utilities, drainage and irrigation canals and ditches, purposes which have been dedicated to the county.~~

~~Roadway means the improved portion of the road right-of-way or a travelway including curb, gutter and sidewalk or shoulders for vehicles, pedestrians and bicycles.~~

~~Rural arterial means a road which serves through traffic for cross county travel, and is not intended to be a residential street. The arterial provides connections with major state roadways and has a high potential for the location of significant community facilities.~~

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

~~Stub road means a dead-end road used for access to a maximum of three single-family dwellings and not over 800 feet in length.~~

~~Utilities means and includes the following: domestic water, sanitary sewer, cable TV, electric power, gas, telephone, irrigation water, and drainage.~~

Section 74-91 shall be amended as follows:

Sec. 74-91. Road design standards.

- (a) *Intent of section.* This section sets forth criteria and standards for designing roadways within the jurisdiction of the county. The intent is to provide the design engineer with standards that will ensure the design and construction of roadways which will incorporate high engineering qualities and provide the public a safe and durable roadway requiring a minimum of maintenance and repairs.
- (b) *General procedure.* In determining the design of a new roadway, the following shall be considered:
 - (1) Projection of future development densities.
 - (2) Traffic volumes to be generated by developments.
 - (3) Environmental impact.
 - (4) Tie-in with existing roadways and the traffic impact created hereby.
 - (5) Proper grades and sight distance.
 - (6) Selected design date from the 1984 AASHTO edition of *A Policy on Geometric Design of Highways and Streets* is presented in the alignment section of these standards for the designers' quick reference and use. The above manual should be studied for a more comprehensive coverage in roadway alignment.
- (c) *Basic design policies.*
 - (1) *Design period.* Roadway design shall be based on the projected needs 20 years after construction.
 - (2) *Projected development.* Projection of development over the design period shall be based on land use regulations, existing land use, proximity to developed areas, historic growth and other factors expected to influence development.
 - (3) *Projected traffic volumes.* Trip generation should be based on the type of occupancy for which the development is designed and should be tempered by the occupancy rate and activities generated. Trip generation values, to be used for calculating average daily trips (ADT) shall be as follows:

Type	Unit
Single-family	8 ADT/unit
Multifamily	5 ADT/unit

Other uses not listed above shall use trip generation values as shown in the *Transportation and Traffic Engineering Handbook* (see bibliography), or as verified by other acceptable data sources. Partial occupancy and partial build-out conditions that typically exist in county developments may permit reduced ADT values for roadways within or serving developments in excess of 20 dwelling units by 25 percent for a multifamily development and 30 percent for a single-family development. If trip generation volumes as calculated above exceed 2,000 ADT for a given roadway, the developer shall provide a traffic report for the proposed roadway prepared by a registered professional engineer. The traffic report shall present trip generation calculations and level of service calculations based upon actual studies of comparative developments and uses. Traffic safety shall be addressed as well as the need for roadway improvements, such as acceleration/deceleration lanes, left-turn lanes, guardrail, signs and striping. Warrants and design criteria for accel/decel lanes shall be as required by the State Highway Access Code and the AASHTO Greenbook. When unusual conditions exist, the county may require such a traffic study for roadways with a calculated ADT in excess of 500. Roadway geometry design should be developed using design hour volume when the adjusted ADT exceeds 2,000. The design hour volume is the 30th highest hour volume per year and shall be calculated as ten percent of adjusted ADT for roadways with ADT less than 2,000, or shall be as developed by the traffic report required above for roadways with an ADT greater than 2,000.

- (4) *Road classification.* The classification of a proposed road shall be based on the estimated ADT as determined in subsection (c)(3) of this section.

Design Capacity for Classes of Roadways	ADT
Major arterial	5,000+
Minor arterial	2,500—4,999
Major collector	1,500—2,499
Minor collector	1,000—1,499
Local	0—999

- (5) *Design speed.* The following are appropriate ranges of design speeds for various conditions:

Terrain	Collector Street	Local Street (mph)
Level and rolling	30—45	20—30
Mountainous	25—40	20—25

Level and rolling terrain is that which slopes less than 15 percent. Mountainous terrain is that which slopes more than 15 percent. A variance may be granted to allow curve radii less than required for design speeds in special situations where smaller radii can be shown to create less environmental impact without significant reduction in safety. In no case shall any curve radius be less than 50 feet.

(6) *Road widths.* Road widths and maximum grades shall be as shown in the following table:

Type	ADT or Units Served	Design Speed (mph)	R.O.W. (feet)	Surface Width (feet)*	Shoulder Width (feet)*	Maximum Grade (percent)
Major arterial	5,000 plus ADT	55	90	32	4	6
Minor arterial	2,500—4,999 ADT	45	80	30	3	6
Major collector	1,500—2,499 ADT	20-30	80	24	5	8
Minor collector	1,000—1,499 ADT	20-45	75	24	4	8
Local	1—4 units	15-30	40	18		10
Local	5—9 units	15-30	50	22	3	10
Local	10 plus units	20-45	60	24	3	8

*Surface area is either gravel or asphalt, depending on ADT's. Surface width for arterials includes a paved shoulder. The shoulder area is gravel.

Figured Not Included

(7) *Intersections.*

- a. Under normal conditions, roads should be designed so as to intersect as nearly as possible at right angles, except where topography or other site conditions justify variations. A minimum angle of intersection of roads generally shall be 60 degrees.
- b. Safe sight distances at all intersections shall be required. Intersections including median openings shall be designed with adequate corner sight distance and the area kept free of obstacles.
- c. Corner sight distance is defined as measured from a point on the minor road at least 15 feet from the edge of the major road pavement and measured from a height of eye of 3.75 feet on the minor road to a height of object 4.5 feet on the major road.
- d. The corner sight distances for a local road shall be a minimum of 350 feet and for stub roads shall be a minimum of 250 feet.
- e. In addition to the corner sight distance requirement, no fence, wall, entrance, hedge shrub planting, tree or other sight obstruction above 2½ feet above the road surface elevation shall be located within the triangular area formed by the edge of the road surface or curblines and a line connecting them at points 35 feet from their point of intersection.
- f. Roads entering the opposite sides of a road shall either be directly across from each other or offset by at least 125 feet from centerline to centerline.
- g. The gradient within 100 feet of an intersection shall not exceed five percent and shall be as flat as reasonably possible.
- h. Corner radii at all intersections shall be a minimum 20 feet in residential areas and 40 feet in industrial or commercial areas.
- ~~i. Private driveways shall not exceed a five percent grade within 15 feet of the intersection right-of-way.~~

(8) *Surfacing requirements.*

- a. All roads in a subdivision having a net density greater than three units per acre shall be

paved.

- b. All new roads having a projected trip generation of 400 or greater ADT (average daily traffic) shall be paved.
- c. Private drives and roadways serving more than three lots accessing onto a paved public road shall have paved aprons approved by the county's engineer.
- d. The minimum surfacing requirement shall be eight inches of class 3 ABC material with three inches of class 6 ABC finish material. Field conditions CBR or R value tests may indicate an application for a variance.

(d) *Horizontal alignment.*

- (1) Horizontal alignments in rural areas are usually dictated in large measure by topography and intended or existing land use of adjacent properties. However, where possible, both horizontal and vertical street alignments should relate to the natural contours of the site in so far as is practical while being consistent with sage geometric design.
- (2) Arterial roads shall be designed in accordance with AASHTO *A Policy On Geometric Design Of Highways and Streets*.
- (3) Local and stub road curves should be designed with as large a centerline radius curve as feasible with the following radius controls:
Local road, 300 feet minimum, 500 feet desirable; and
Stub road, 50 feet minimum, 100 feet desirable.
- (4) Because of snow and ice conditions the maximum super elevation rate shall be 0.08 ft./ft.
- (5) Stopping sight distance shall be determined from table III-1, page 138 of the AASHTO 1984 Green Book.
- (6) Passing sight distance shall be determined from table III-5, page 155 of the AASHTO 1984 Green Book.
- (7) Table III-6 of the 1984 AASHTO Green Book shall be consulted for maximum degree of curve and minimum radius for varying design speeds.
- (8) Street alignment in commercial and industrial areas should be commensurate with the topography but should be as direct as possible. Alignment in residential areas should fit closely with the existing topography to a reasonable extent without reducing the safety of the facility.

(e) *Vertical alignment.* Vertical curves should be simple in applications, have a design that is safe for the required vehicular speed, be pleasing in appearance, and provide a road shape and surface that drains properly. Vertical curves are required when the algebraic differences in road grades is greater than 2.5 percent.

- (1) *Crest vertical curves.* Minimum lengths of crest vertical curves, as determined by sight distance requirements, generally are satisfactory with regard to safety, comfort and appearance. Basic formulas for length of a parabolic vertical curve in terms of algebraic difference in grade and sight distance are shown in the AASHTO Green Book and other sources.
 - a. Stopping sight distance: Figure III-39, page 309 of the 1984 AASHTO Green Book shall be used for design controls for crest vertical curves.
 - b. Passing sight distance: Design controls for crest vertical curves shall be based on table III-33, page 311 of the 1984 AASHTO Green Book.
- (2) *Sag vertical curves.* Sag vertical curve design criteria shall be governed by formulas and tables shown in chapter II, pages 312 to 315 of the 1984 AASHTO Green Book.
- (3) *General design controls.* The general design controls cited in the 1984 AASHTO Green Book shall be considered appropriate to the design of all roads in the county.

Section 74-97 shall be amended as follows:

Sec. 74-97. Driveways.

- (a) *Purpose.* The intent of this section is to provide safe ingress and egress for driveways and adequate access for emergency responders to protect the health, safety and welfare of the community, while recognizing the need for flexibility in driveway development.
- (b) *Permits for new development; exceptions.*
- (1) A driveway permit that complies with this section shall be obtained from the department of public works prior to issuance of the following:
 - (a) A final building permit or certificate of occupancy for a new dwelling unit; and
 - (b) An Administrative, Class I, or Class II permit that serves twenty-four (24) or less ADT.
 - (2) A driveway permit is not required for and all standards in this section shall not apply to the following:
 - (a) Development of additional dwelling units that are subject to administrative review pursuant to section 82-37(b);
 - (b) Redevelopment or reconstruction of an existing dwelling unit. For the purposes of this section, a manufactured home shall be considered a dwelling unit;
 - (c) Development of a dwelling unit that was issued a valid building permit prior to April 1, 2015;
 - (d) Development of a primary dwelling unit on a parcel that duly obtained a driveway permit from the County and constructed such driveway prior to April 1, 2015; and
 - (e) Development of a dwelling unit that utilizes a driveway that is less than 125 feet in length and intersects with a private road or public non-County road.
 - (3) Reserved.
 - (4) A driveway or access that intersects with a County road and serves a vacant lot or an agricultural use shall be exempt from the requirements of this section but shall be required to obtain a permit prior to commencing work within the right-of-way.
 - (5) Development of a primary dwelling unit on a parcel that intersects with County Road 124 at a point north of where the County's winter maintenance terminates shall not be required to obtain a driveway permit; however, such driveway shall be required to obtain a permit prior to commencing work within the right-of-way.
- (c) *General Standards.* Driveways shall meet the following requirements:
- (1) *Surface Width.* For horizontal tangent (straight) sections of driveway, the surface width shall be twelve (12) feet, with two (2) foot clear zones on each side that are free from unmovable obstructions. For curved sections with a centerline radius of 150 feet or less, the surface width shall be sixteen (16) feet with two (2) foot clear zones that are free from unmovable obstructions with appropriate tapering from tangent sections. Curved sections that are less than 100 feet in length, as measured along the centerline, and that do not exceed a 90 degree change in direction, shall be permitted to maintain a surface width of twelve (12) feet.

- (2) Surface. To ensure that a driveway can support a 60,000 lb vehicle, the driveway surface, including turnouts and turnarounds, shall be constructed of a minimum 4" Class 6 (3/4" minus) aggregate surface placed on a compacted subgrade material, from the intersection of the roadway to the primary structure(s). The subgrade shall be scarified and compacted to a minimum depth of 12 inches below finished grade and shall be free of roots, sod, weeds, wood, construction debris, ice, snow, or other frozen materials, and deleterious matter. The clear zones are not required to meet a surfacing requirement, but shall not exceed a four (4) foot horizontal to one (1) foot vertical grade. The surfacing requirements are minimum standards and an applicant may choose to exceed these standards.
- (3) Cut and fill slopes. Cut slopes shall not be greater (steeper) than one (1) foot horizontal to one (1) foot vertical and four (4) feet high. Fill slopes shall not be greater (steeper) than two (2) feet horizontal to one (1) foot vertical and four (4) feet high. A slope that exceeds the minimum cut or fill requirements of this paragraph shall either be certified as stable in its current finished state by a Colorado-licensed engineer or shall be designed by a Colorado-licensed engineer.
- (4) Maximum grade. The maximum grade shall not exceed twelve (12) percent for horizontal tangent (straight) sections. For curved sections with a centerline radius of 150 feet or less, the grade shall not exceed ten (10) percent. Curved sections that are less than 100 feet in length, as measured along the centerline, and that do not exceed a 90 degree change in direction, shall be permitted to maintain a maximum grade of twelve (12) percent.
- (5) Overhead clearance. The minimum overhead clearance shall be thirteen (13) feet, six (6) inches for the width of the entire surface and clear zone. All overhead impediments, including but not limited to wires, trees, and gates, shall remain clear from the intersection of the access road to the termination of the driveway.
- (6) Access to a legal property. A driveway shall provide access to a lot that was legally created and has obtained all required land use permits under subpart B.
- (7) Legal access. Evidence of legal access across adjoining properties shall be provided through an express grant or a written description of the prescriptive use.
- (8) Interior curves. Minimum thirty (30) foot radius inside curves shall be provided.
- (9) Turnarounds. Driveways that are longer than 400 feet shall provide a turnaround within 150 feet of the nearest point of the primary dwelling unit. The turnaround shall be designed and constructed to allow a thirty-five (35) foot long emergency vehicle to turn around. Where topography or the length of the driveway influences the location of the turnaround, the public works director is encouraged to contact the applicable fire district for comment on the proposed location. After receipt of comment from the applicable fire district, the public works director may waive or reduce the requirement for a turnaround.
- (10) Turnouts. Driveways that are longer than 800 feet shall provide a turnout every 400 feet as measured from the access road. Turnouts shall meet the surface requirements of this section, shall be sixty (60) feet in length and shall provide twenty (20) feet in surface width with reasonable tapering and two (2) foot clear zones on each side. Driveways that are 1,000 feet or less in length and allow an unobstructed line of sight from the adjacent road to the structure shall not be required to construct turnouts. Where topography or the length of the driveway influences the location(s) of the turnout, the public works director is encouraged to contact the applicable fire district for comment on the proposed location(s). After receipt of comment from the applicable fire district, the public works director may reduce the number of required turnouts or vary the locations of the turnouts.
- (11) Drainage. Driveway design and construction shall not adversely affect the drainage on a

roadway and any adjacent properties.

- (12) Flood hazard areas. Driveways within flood hazard areas shall comply with the requirements in chapter 78 of subpart b.
- (13) Bridges. Driveways that utilize bridges shall comply with the standards for low ADT roads as identified in section 74-92 of subpart b and the flood hazard area requirements as identified in chapter 78 of subpart b.
- (14) Costs. The cost of all driveway construction, reconstruction and maintenance, including any portion in a public or private right-of-way, including but not limited to culvert design, installation, and replacement, shall be the responsibility of the property owner, unless provided otherwise in a separate written agreement.
- (15) Intersection of a driveway and roadway.
 - a. Driveways that intersect with a county road shall slope away from the shoulder of the road surface at a minimum grade of at least two (2) percent for the first ten (10) feet. All other driveways shall not exceed five (5) percent for the first fifteen (15) feet from the intersection with the shoulder of the road.
 - b. The axis of the driveway at the intersection with the roadway shall be no less than a sixty (60) degree angle to the centerline.
 - c. The intersection of the driveway and the roadway shall be at least fifty (50) feet from the intersection of any roadways. The public works director may allow a driveway within fifty (50) feet of an intersection if the driveway is located on a local or low ADT road and there is a determination that the location would not adversely impact the safety of the traveling public.
 - d. The public works director shall determine if a culvert is required at the intersection of a driveway and a county road. If a culvert is required, the minimum culvert size shall be fifteen (15) inches along a County road and twelve (12) inches along all other roads and the minimum culvert cover shall be eight (8) inches. Culverts along County roads shall be constructed of metal or concrete and shall maintain a slope consistent with the roadside drainage. The public works director may require that a larger culvert and culvert cover is required based on the location of the proposed driveway.
 - e. Sight distance along a county or state access road at the intersection of the driveway shall meet the Colorado State Highway Access Code minimum standards. Sight distance along all other roads at the intersection of the driveway shall provide adequate sight distance in both directions along the roadway in order to maneuver safely and without interfering with roadway traffic. The public works director may require a Colorado licensed engineer to certify that there is adequate sight distance in both directions along the roadway.
 - f. House addressing signs shall be visible from the intersection of the roadway and driveway. Such signs shall be made of a non-combustible and reflective material that contrasts in color with the background. Numbers shall be a minimum of four (4) inches high and have a minimum stroke width of .5 inches.
 - g. A maximum of one driveway shall be permitted from a lot with less than 100 feet of frontage. The public works director may allow for more than one driveway for lots with 100 or more feet of frontage after making a determination that an additional driveway does not adversely impact the safety of the traveling public.

(d) Process. An application for a driveway permit shall be obtained from the public works department or building department. After review of the design of the driveway and determination of compliance with the provisions of this section, the public works director shall issue conditional approval of a driveway permit. A conditional approval shall be valid for one (1) year from the date of approval. Upon completion of construction of the driveway, the property owner shall contact the public works department for a final inspection. The public works director shall issue a final approval of a driveway permit if the inspection demonstrates that the driveway construction complies with the provisions of this section. A final building permit or certificate of occupancy may be issued prior to final approval of a driveway permit if the public works director determines that seasonal conditions prevent the immediate surfacing or completion of the driveway; in such case, a final approval shall be obtained when the seasonal conditions would allow the surfacing to be completed, which shall not be more than six (6) months after issuance of the final building permit.

(e) *Waivers.*

(1) Process. An applicant may submit a written request for a waiver of any general standard in this section to the public works director. The applicant shall provide to the public works director a postage-paid, addressed envelope and form that seeks comment from the applicable fire district on the waiver request. In addition, the applicant is encouraged to meet with the applicable fire district to discuss the waiver request. The applicable fire district shall be the fire district that provides emergency response to the property served by the proposed driveway. The fire district shall have ten (10) working days from the date of receipt of the comment request to provide the public works director with comments. Comments received from the fire district shall be placed in the file. The public works director may grant a waiver from the application of the general standard no earlier than twenty-one (21) days after submittal of the request to the applicable fire district. The applicable fire district shall be treated as a commenting agency and the public works director shall consider any and all timely comments submitted prior to reaching a final decision. Any waiver granted by public works will be provided in writing and notice shall be provided to the applicable fire district.

(2) Mitigating factors to consider. If the public works director receives comment from the fire district that granting the waiver request would present health, safety, and welfare concerns, the public works director may consider, but is not limited to, the following factors when determining whether to grant the waiver request:

- a. Plans for and implementation of substantial defensible space measures, as identified in the State of Colorado Forest Service, Creating Wildfire-Defensible Zones Guide;
- b. Provision of adequate on-site water supply capable of supplying fire flow for fire protection, as set forth in Chapter 34 of the La Plata County Code;
- c. Design and construction of internal automatic fire sprinkler systems designed and installed in compliance with Chapter 34 of the La Plata County Code for all properties served;
- d. Paving of the driveway; and
- e. Use of a substantial amount of fire-resistant building construction types and designs recognized for fire ~~adaped~~adapted communities for all properties served.

(3) Criteria for public works director determination. The public works director may grant a request for a waiver if he or she determines that the following elements have been satisfied:

- a. Topography challenges or other site-specific constraints make it extremely difficult to

comply with the standards; and

- b. The granting of a waiver will not be detrimental to the health, safety, and welfare of the public, including the occupants of the residential structure(s) served by the driveway.
- (4) Limitation of extent of waiver and conditions. The public works director may limit the extent of a waiver to the degree necessary to comply with subparagraph (2). In addition, the public works director may condition the waiver on the implementation of measures that mitigate health, safety, and welfare concerns. The public works director's final determination shall be in writing and a copy shall be provided to the applicable fire district.

Section 74-113 shall be amended as follows:

Sec. 74-113. Methodology.

- (a) *Rainfall and runoff analysis.* The analysis of storm runoff shall be based upon *Urban Drainage and Flood Control District Criteria Manuals*, Denver, CO and rainfall data taken from the National Oceanic and Atmospheric Administration. (U.S. Department of Commerce) (NOAA) Atlas 2, *Precipitation - Frequency Atlas of the Western United States, Volume III - Colorado*. For developments less than 200 acres, the Rational Method shall be used for determining the quantity of storm runoff. For developments greater than 200 acres, the methodology outlines in the SCS Technical Release No. 55 or Technical Release No. 20 shall be used for determining the quantity of storm runoff.
- (b) *Storage (detention/retention).* Volumes for detention facilities can be determined from the criteria found in the *Urban Drainage and Flood Control District Manual Volume 3, Best Management Practices; and such Volumes shall be determined to be minimum requirements.* Other methods may be applied in determining storage/detention facilities upon approval by the public works director.
- (c) *Storage release mechanism.* The release mechanism from retention/detention ponds shall accommodate recurrence intervals of ten (10) year and 100-year storms by utilizing a structure which employs both orifice and weir flow control. Other methods of release can be specified as approved by the public works director.

Section 74-171 shall be amended as follows:

Sec. 74-171. Permit required.

A person must obtain a permit from the public works department prior to installing a cattle guard in a county right-of-way. To obtain a permit, an applicant must submit an application to the public works department and obtain a revocable license to perform work in the county right-of-way.

Section 74-172 shall be amended as follows:

Sec. 74-172. Public Works Director review.

The public works director shall review an application for a cattle guard on a county road, inspect the site, and request further relevant information from the applicant. Design of the cattle guard shall be based on the Colorado Department of Transportation standard plans for cattle guards. The department-public works director may deny the application if there is a determination that the installation of the cattle guard would be detrimental to the health, safety, and welfare of the public, or would adversely affect the flow of traffic or maintenance of the county road.

Section 74-173 shall be amended as follows:

Sec. 74-173. Construction.

Construction of the cattle guard shall conform to the plans submitted to and approved by the department-public works director. All construction must comply with the terms and conditions of the revocable license to perform work in the county right-of-way.

Section 74-174 shall be amended as follows:

Sec. 74-174. Cleaning and repair.

- (a) A person(s) who directly benefits from the cattle guard on a county road shall periodically clean the space within the cement box and below the grate of the cattle guard and make necessary repairs to the entire structure. Cleaning includes the removal of all sand, silt, dirt and other solid debris which renders the cattle guard ineffective. The department shall be notified prior to commencement of work and shall approve all plans for cleaning or repair. The person cleaning or repairing the cattle guard shall be responsible for placement of signs in accordance with the Manual on Uniform Traffic Control Devices, as published by the U.S. Department of Transportation, Federal Highways Administration.
- (b) A person who directly benefits from a cattle guard on a county road may request that the county clean or repair the cattle guard. The department-public works director shall use discretion in whether to clean the debris or repair the cattle guard at the county's expense.
- (c) The county may request in writing that a person, who directly benefits from the cattle guard on a county road, clean or repair the cattle guard. The person shall clean or repair the cattle guard within the time period set forth in the notice and at the person's expense.

Section 74-175 shall be amended as follows:

Sec. 74-175. Removal.

- (a) A person who directly benefitted from a cattle guard on a county road may request removal of the cattle guard. The person requesting removal shall notify in writing all people potentially benefitted from the cattle guard of the request to remove. Such notice shall be sent via certified U.S. mail and shall state that comments may be provided to the public works department within 15 days of receipt. If the cattle guard no longer serves a public benefit, the department-public works director shall grant removal. If the county grants the request for removal, the cattle guard shall be removed at the county's expense.
- (b) A permit to construct a cattle guard shall not create a vested property right, and the county, in the department-public works director's sole discretion, may remove a cattle guard in a county road after mailing written notice of removal to all people, if any, potentially benefitted from the cattle guard. Such notice shall be mailed at least 15 days prior to commencement of construction.

Chapter 74 footnotes shall be amended as follows:

Cross reference— Buildings and building regulations, ch. 18; development districts, ch. 70; floods, ch. 78; land use and development permits, ch. 82; manufactured home, mobile home and recreational vehicle parks, ch. 86; natural resources, ch. 90; land use regulations for public property, ch. 94; signs, ch. 98; subdivisions, ch. 102; zoning, ch. 106.

Chapter 78 footnotes shall be amended as follows:

Editor's note— Res. No. 2010-37, § 1(Exh. A), adopted July 20, 2010, repealed and reenacted chapter

78 in its entirety to read as herein set out. Formerly, chapter 78 pertained to similar subject matter, and derived from LPLUS, §§ 9.1.1—9.1.4, 9.2, 9.3.1—9.3.9, 9.4.1—9.4.3, 9.5.1—9.5.4, 9.6.1, 9.6.2; Res. No. 2001-14, Exh. A, adopted April 16, 2001; Res. No. 2002-43, § 1, adopted October 7, 2002; Res. No. 2004-20, § 1, adopted June 28, 2004, and Res. No. 2008-30, § 1, adopted November 12, 2008.

Cross reference— Buildings and building regulations, ch. 18; development standards and specifications, ch. 74; land use and development permits, ch. 82; manufactured home, ~~mobile home~~, and recreational vehicle parks, ch. 86; natural resources, ch. 90; subdivisions, ch. 102; zoning, ch. 106.

State Law reference— Authority to adopt flood control regulations, C.R.S. §§ 29-20-101 et seq., 30-15-401.

Section 82-4 shall be amended as follows:

Sec. 82-4. Class II land use permit.

- (a) *Class II land use permit required.* A class II land use permit shall be required for any one or more of the following developments:
- (1) Commercial development or redevelopment;
 - (2) Industrial development or redevelopment; (
 - (3) Multifamily residential development;
 - (4) Second, third, or additional dwelling units on a lot pursuant to section 82-37(d);
 - (5) ~~Mobile~~Manufactured home parks;
 - (6) Mixed use development;
 - (7) Commercial storage or parking of equipment, machines, tools, products, raw materials, cars and/or trucks, including salvage/junk yards;
 - (8) Large child care centers as defined and regulated by the state department of human services;
 - (9) Gravel mining or mineral extraction operations;
 - (10) Public facilities, including new road construction;
 - (11) Airstrips;
 - (12) Man camps;
 - (13) Boardinghouses;
 - (14) Group care facilities;
 - (15) Recreational vehicle parks;
 - (16) Commercial campgrounds;
 - (17) Agriculture-related commercial and industrial operations for the processing or manufacturing of crops, forage or livestock including, but not limited to, dairies, poultry processing, meat packing plants, breweries and wineries;
 - (18) Domestic utility extensions shall not require a class II permit unless a permit is required pursuant to section 82-8, the oil and gas regulations or article III of chapter 74 of this subpart B;
 - (19) Similar uses;
 - (20) A portion of a phased development;
 - (21) Expansion of a nonconforming use;
 - (22) Changes in land use from one previously permitted class II use to a different class II use, if the

different use is likely to generate more or different impacts from the existing use, or increases in the intensity of a class II use;

- (23) Accessory uses pursuant to section 82-5(e);
- (24) Construction of a telecommunications tower not subject to class I permit;
- (25) Marijuana facilities;
- (26) Replacement of a telecommunications tower not subject to class I permit; and
- (27) The first placement of a structure-mounted facility on a structure that is not a telecommunications tower.

Section 82-5 shall be amended as follows:

Sec. 82-5. Accessory uses.

- (a) *Accessory use general standards.* All accessory uses shall meet the following general standards:
 - (1) Accessory uses shall be located on the same lot as a dwelling unit;
 - (2) Accessory uses shall maintain the residential character of the dwelling unit, the lot, and the neighborhood;
 - (3) Accessory use shall not store, transport on site, dispense, use, or handle hazardous materials in a manner requiring an operational permit pursuant to section 105.6.21 and table 105.6.21 of the International Fire Code, 2003 edition;
 - (4) Accessory uses' light sources shall be shielded, directed downward, and directed away from the property boundaries;
 - (5) Accessory uses shall not produce noise that causes more than a five (5) decibel increase from the ambient noise level as measured at the accessory use's property line boundary;
 - (6) Accessory uses shall not produce adverse or noxious odors detectable at the accessory use's property line boundary;
 - (7) Accessory uses shall not be in violation of any applicable state or local laws or regulations; and
 - (8) The owner and/or operator of an accessory use shall be a resident of the dwelling unit.
- (b) *Land use permit not required.* An accessory use shall not require review by the planning department or a land use permit if meeting the general standards in section 82-5(a) and the following additional standards:
 - (1) The accessory use shall be limited to no more than four hundred (400) square feet, and shall only be located within the dwelling unit or an attached garage;
 - (2) The accessory use shall not include any outside storage;
 - (3) The accessory use shall not include employees, agents, assistants, or other individuals related to the normal operations of the accessory use that are not residents of the dwelling unit;
 - (4) The accessory use shall not include any onsite sales to customers, classes, demonstrations, or any other visits by members of the public;
 - (5) The accessory use shall not include any exterior signs, or interior signs visible from the exterior, which identify the accessory use;
 - (6) The accessory use shall not increase traffic more than four (4) average daily trips above the levels normally attributable to the use of the lot for residential purposes; and
 - (7) The accessory use shall not include storage of heavy equipment, and shall be limited to no more than one (1) two-axle business vehicle regularly parked on the lot.

- (c) *Administrative land use permit.* An accessory use shall be permitted pursuant to an administrative land use permit if meeting the general standards in section 82-5(a) and the following additional standards:
- (1) The accessory use shall be limited to no more than eight hundred (800) square feet, and shall be located within the dwelling unit, an attached garage, a detached garage, and/or a single out-building;
 - (2) The accessory use shall be limited to no more than five hundred (500) square feet of additional exterior storage, and such storage shall be screened;
 - (3) The accessory use shall be limited to no more than one (1) employee, agent, assistant, or other individual related to the normal operations of the accessory use that is not a resident of the dwelling unit;
 - (4) The accessory use shall not include any onsite sales to customers, classes, demonstrations, or any other visits by members of the public;
 - (5) The accessory use shall not include any exterior signs, or interior signs visible from the exterior, which identify the accessory use;
 - (6) The accessory use shall not increase traffic more than eight (8) average daily trips above the levels normally attributable to the use of the lot for residential purposes;
 - (7) The accessory use shall not include storage of heavy equipment, and shall be limited to no more than one (1) two-axle business vehicle regularly parked on the lot; and
 - (8) The accessory use shall meet all other standards in subpart b of the La Plata County Code applicable to administrative developments. If the standards imposed by this subsection (c) conflict with any other standards and cannot be read harmoniously with such standards, the standards in this sub-section (c) shall control and apply.
- (d) *Class I land use permit.* An accessory use shall be permitted pursuant to a class I land use permit if meeting the general standards in section 82-5(a) and the following additional standards:
- (1) The accessory use shall be limited to no more than twelve hundred (1,200) square feet, and shall be located within the dwelling unit, an attached garage, a detached garage, and/or a single out-building;
 - (2) The accessory use shall be limited to no more than one thousand (1,000) square feet of additional exterior storage, and such storage shall be screened;
 - (3) The accessory use shall be limited to no more than two (2) employees, agents, assistants, or other individuals related to the normal operations of the accessory use that are not residents of the dwelling unit;
 - (4) The accessory use shall be limited to incidental onsite sales to customers, classes, demonstrations, or other visits by members of the public, so long as such activities do not impermissibly increase the average daily trip limit pursuant to subsection (6) below;
 - (5) The accessory use shall be limited to no more than one (1) sign, and such sign shall be no more than four (4) square feet on each side;
 - (6) The accessory use shall not increase traffic more than twenty-four (24) average daily trips above the levels normally attributable to the use of the lot for residential purposes;
 - (7) The accessory use shall be limited to no more than two (2) business vehicles regularly parked on the lot, including heavy equipment; and
 - (8) The accessory use shall meet all other standards in subpart b of the La Plata County Code applicable to class I developments. If the standards imposed by this subsection (d) conflict with any other standards and cannot be read harmoniously with such standards, the standards in this sub-section (d) shall control and apply.

- (e) *Class II land use permit.* An accessory use shall require a class II land use permit if not meeting the general applicable standards in section 82-5(a) and the additional standards in sections 82-5(b), (c), or (d). Accessory uses requiring a class II land use permit shall meet all standards in subpart b of the La Plata County Code applicable to class II developments.

Section 82-6 shall be amended as follows:

82-6. Road cuts.

- (a) *Permit required.* A driveway access permit is required for all ~~private-d~~Driveways or roadways accessing onto a county road.
- (b) *Requirements.* Requirements for road cuts are as follows:
- (1) Procedure: Class I;
 - (2) Data requirements: Site plan illustrating conformance; and
 - (3) Standards: Required county road and bridge standards.

Section 82-7 shall be amended as follows:

Sec. 82-7. Development not requiring a land use permit.

- (a) The following developments do not require a land use permit, provided that the development meets all applicable standards in subpart b:
- (1) Single-family residences on a vacant legal lot of record;
 - (2) Placement of a ~~mobile~~manufactured home on a lot or parcel on a vacant legal lot of record;
 - (3) Agricultural uses not subject to class II review;
 - (4) Barns, garages, and sheds intended solely for noncommercial use;
 - (5) Uncovered decks, fences, retaining walls, sidewalks;
 - (6) Parking a recreational vehicle in a recreational vehicle park;
 - (7) Seismic, stratigraphic test, core or other exploratory holes drilled for the purpose of obtaining geological information only;
 - (8) Change of use to a land use which does not require a permit;
 - (9) Second or third dwelling units on a lot pursuant to section 82-37(a);
 - (10) Accessory uses pursuant to section 82-5(b);
 - (11) Family child care homes, as defined and regulated by the state department of human services, which serve eight or fewer children; and
 - (12) (a) *Provided that an administrative review establishes that the real property meets County Code requirements for (i) access, (ii) septic, and (iii) water, any parcel that meets the following criteria:*
 - (1) The parcel was created between May 5, 1972 and December 31, 1979; and
 - (2) The parcel is located in a non-water critical area pursuant to Colorado Division of Water Resources standards in effect at the time of the administrative review or the parcel has a valid well permit or the parcel is served by central water;shall not require further County subdivision approval, however, County review and approval will be required for all other purposes as set forth in the County Code.

- (b) Provided that an administrative review establishes that the real property meets County Code requirements for (i) access, (ii) septic, and (iii) water, any parcel that meets the following criteria:
 - (1) The parcel was created between May 5, 1972 and October 2, 2000;
 - (2) The parcel has a single family dwelling which was built on or after January 1, 1986 and either has a valid building permit, or following inspection by the county building inspector, a valid building permit can be issued; and
 - (3) A valid well permit has been issued for the parcel or the parcel is served by central water;shall not require further County subdivision approval, however, County review and approval will be required for all other purposes as set forth in the County Code.
- (c) Provided that an administrative review establishes that the real property meets County Code requirements for (i) access, (ii) septic, and (iii) water, and provided a valid well permit has been issued for the real property, any parcel that has been created on or before October 2, 2000, by foreclosure by a financial institution or by court order shall not require further County subdivision approval, however, County review and approval will be required for all other purposes as set forth in the County Code.

Section 82-8 shall be amended as follows:

Sec. 82-8. Oil and gas development.

- (a) ~~Defined.~~ Oil and gas development includes all development which is reasonably necessary to the extraction, exploration or production; oil and gas wells; and accessory offices, storage buildings, rig camps and gas transmission lines not located on federal land.
- (b) ~~Requirements.~~ Requirements for oil and gas development are as follows:
 - (1) Procedure: Class I or class II; and
 - (2) Standards: Oil and gas regulations (chapter 90 of subpart B of this Code).

Section 82-11 shall be amended as follows:

Sec. 82-11. Subdivision and minor exemption subdivision.

- (a) *Permit required.* No person, corporation, partnership or agency shall subdivide land, or begin the physical layout or development of a subdivision or minor exemption subdivision without first obtaining the approval of the board of county commissioners in the form of a subdivision or minor exemption subdivision permit. A subdivision is subject to a preliminary plat review by the planning commission or the joint planning commission and the board, followed by a final plat review by the planning commission, joint planning commission and/or the board. Final plat planning commission review may be waived by the planning director if the conditions of section 82-95(c) are met. A minor exemption subdivision is subject to a single plat review before the joint planning commission or board of county commissioners.
- (b) *Defined.* See the definitions of the terms "subdivision" and "minor exemption subdivision" in Section 62-1 articles I and II of chapter 102 of subpart B of this Code.
- (c) *Requirements.* Requirements for subdivision and minor exemption subdivision are as follows:
 - (1) Procedure: Subdivision or minor exemption subdivision procedure;
 - (2) Data requirements: Subdivision application contents and general data requirements; and

- (3) Standards: Required and encouraged standards. Subdivision design standards and appendices; ~~mobilemanufactured~~ home and recreational vehicle subdivision standards, if applicable.

Section 82-12 shall be amended as follows:

Sec. 82-12. ~~Mobile~~Manufactured home subdivisions and parks.

- (a) ~~Applicability. Mobile home and m~~Manufactured home subdivisions and parks are a specialized type of development which represents one of the more intensive types of development found in the county. These developments are further defined in chapter 62 of subpart B of this Code.
- (b) ~~Requirements.~~ Requirements for ~~mobilemanufactured~~ home subdivisions and parks are as follows:
- (1) Procedure: Class II;
 - (2) Data requirements: General data requirements; and
 - (3) Standards: Class II and ~~mobilemanufactured~~ home regulations as established in chapter 86 of subpart B of this Code.

Section 82-13 shall be amended as follows:

Sec. 82-13. Special events and temporary uses.

(a) *Special events.*

- (1) ~~Defined. A special event is a use or activity at a specific location at which 50 or more persons may gather, may attract more than 25 vehicles per day, or may create significant onsite or offsite impacts, and does not exceed 72 hours.~~
- (12) *Permit required.* Operation of a special event shall require a special event permit. A special event permit is not required for private events at a private residence, including but not limited to weddings, funerals, and family gatherings that do not exceed 24 hours, and no admission, rental fee or any other charge is assessed.
- (23) *Requirements.* An applicant for a special event permit shall submit to the planning department an application which shall include plans, narrative, fees, and other documentation deemed appropriate by the director for clearly defining the event. The application shall demonstrate compliance with the following:
- a. *Water.* If necessary, sufficient potable water shall be provided.
 - b. *Sewer.* Adequate sewage disposal shall be provided. The director may require that San Juan Basin Health Department provide written confirmation that the plans are adequate.
 - c. *Access.* Legal access shall be demonstrated.
 - d. *Parking.* Adequate parking facilities shall be required. The director may consider proposed use of buses and traffic control personnel to determine adequacy.
 - e. *Noise.* Noise that is incompatible with the surrounding area shall be prohibited. The applicant may be required to provide appropriate mitigation measures to reduce noise impacts.
 - f. *Lighting.* All lighting sources shall be directed inward, downward, and away from adjacent properties.
 - g. *Solid waste.* Adequate and appropriate solid waste collection, disposal and refuse controls shall be demonstrated.

- h. *Duration and time.* The duration and time of the special event activities shall be limited to the hours between 6:00 a.m. and 10:00 p.m.
- i. *Structures.* All existing permanent structures shall be in compliance with the building code.
- j. *Setbacks.* All temporary structures shall be setback from property boundaries to ensure compatibility with surrounding uses and LPLUC 82-178(c).
- k. *Set up for event.* Set up for the event shall occur no more than 48 hours prior to the start of the special event.
- l. *Clean up and removal of temporary structures.* All trash and refuse, as well as temporary structures shall be removed from the property within 72 hours of the conclusion of the approved special event.
- m. *Limitations.* A property shall not have more than three special event permits issued per calendar year and no more than one special event permit shall be issued on a property concurrently.

(34) *Notice.* The applicant shall provide notice to all property ~~surrounding~~ landowners within 500 feet of the property lines, (1,000 feet of the property lines within the Animas Valley), and post a notice on the property. Notice to adjacent property ~~surrounding~~ landowners shall contain: a description of the special event, a plot plan identifying activity locations, the date(s) and duration of the event, contact information for the planning department, and a date by which the comments must be submitted. Posted notice shall contain: date(s) and duration of event, brief description of event, and plot plan identifying activity locations. The applicant shall provide proof of compliance with the noticing requirements no more than two days after the application submission. The director may require the applicant to send additional notices to property landowners or agencies.

(45) *Director determination.* The director shall review the application for a special event permit and may approve, deny or approve with conditions based on the requirements of this section. Conditions may be required to ensure compliance with this section.

(b) *Temporary uses.*

(1) *Defined.* A temporary use is a use or activity at a specific location that is limited to 120 consecutive days or 30 non-consecutive days within a calendar year.

(12) *Requirements.* A temporary use shall meet all Class I standards. The board of county commissioners may provide exceptions, when necessary, to limit the construction of permanent infrastructure or buildings.

(23) *Process.* A temporary use application shall be submitted to the planning department and shall follow the Class I process.

(34) *Limitations.* A temporary use permit shall expire at the end of each calendar year; unless the approved permitted duration includes a portion of the subsequent year. A property is limited to one temporary use permit issuance per calendar year.

Section 82-14 shall be amended as follows:

Sec. 82-14. Joint planning area development.

(a) *Joint planning area development defined.* The following types of development within the joint planning area shall be defined as joint planning area development:

(1) Development requiring a class II permit pursuant to section 82-4;

(2) Development requiring a subdivision permit, including a minor exemption subdivision permit, pursuant to section 82-11; and

(3) Development proposing a development agreement pursuant to C.R.S. § 24-68-104(2).

- (b) *Requirements.* Joint planning area development shall be required to meet the following requirements:
- (1) Class II or subdivision application, data and noticing requirements;
 - (2) Class II or subdivision standards; and
 - (3) Procedural requirements, including but not limited to, the specific procedures identified in sections 82-78, 82-81, 82-89 and 92-91.

Section 82-37 shall be amended as follows:

Sec. 82-37. Applications for additional dwelling units.

- (a) *No required planning department review.* An application for a second dwelling unit on one parcel does not require any planning department review or approval if the parcel is at least 70 acres. An application for a third dwelling unit on one parcel does not require any planning department review or approval if the parcel is at least 105 acres.
- (b) *Administrative review.*
- (1) An application for a second or third dwelling unit on one parcel may be reviewed and approved by the director if sufficient written documentation is submitted and supports the following requirements:
 - a. The parcel is at least 30 acres for a second dwelling unit and 45 acres for a third dwelling unit;
 - b. The parcel was assessed as agricultural in the most recent county assessment; and
 - c. The second or third dwelling meets the County Code requirements for wastewater and water, and the ~~private~~ driveway standards in section 74-97.
 - (2) An application for one second dwelling unit on one parcel may be reviewed and approved by the director if sufficient written documentation is submitted and supports the following requirements:
 - a. The livable floor area of the second dwelling does not exceed the size of the primary dwelling unit or 2,000 square feet, whichever is less;
 - b. The second dwelling will share the same electrical meter, water source, wastewater treatment system, and access as the primary dwelling unit; and
 - c. The second dwelling meets the County Code requirements for wastewater and water, and the ~~private~~ driveway standards in section 74-97.
 - d. If a central water or sewer system is proposed, written documentation from the water or sewer provider that the system can adequately handle the potential increase in capacity.
- (c) *Class I review.* An application for a second dwelling unit on one parcel requires Class I review and approval by the board, if: (1) the parcel is at least six acres or more; and (2) is not eligible for administrative approval. A Class I second dwelling is subject to all Class I standards and shall be setback at least 30 feet from all property lines.
- (d) *Class II review.* An application for a second or additional dwelling units on one parcel requires Class II review and approval by the board, if it is not eligible for administrative or Class I review and approval.

Section 82-81 shall be amended as follows:

Sec. 82-81. Director report; administrative review; class I projects, lot consolidations,

minor exemption subdivisions and boundary adjustments.

- (a) Administrative review shall be subject to all procedures in this chapter, except sections 82-82, 82-88, 82-92(b),(d),(e) and (f), and 82-93.
- (b) Class I projects and lot consolidations shall be subject to all of the procedures in this chapter, except sections 82-82 and 82-95. Boundary adjustments and minor exemption subdivisions shall be subject to all of the procedures in this chapter except sections 82-82. The director shall make a recommendation to approve, approve with conditions or deny the proposal. If the proposed development implements or has no effect on all relevant required standards, the director shall recommend approval of the proposed development. The director may attach conditions which are reasonably required or necessary to comply with the standards of this division. The results of this recommendation shall be referred to the joint planning commission or the planning commission for a public hearing. At the public hearing at which the project is presented to the joint planning commission or the planning commission, the joint planning commission or the planning commission may, by vote, approve, deny, approve with conditions, continue or remand the project to the planning director for additional review.
- (c) Where class I projects, lot consolidations, minor exemption subdivisions and boundary adjustments, and any other project or facility made eligible for this procedure by this division, meet or exceed all required standards, requirements, procedures and specifications, and which are recommended for approval, or approval with conditions, the ~~planning director, or his designee,~~ may, but shall not be so required, place such matters on a minor projects proposed consent planning public hearing agenda. The planning commission may approve such consent agenda with a single motion, or pull any such project off of the proposed consent agenda for project specific review, at that public hearing. Any commissioner, member of the public, applicant or county staff person may request such project specific review at the public hearing.

Section 82-83 shall be amended as follows:

Sec. 82-83. Surrounding Landowners.

- (a) *Distance.* Surrounding landowners entitled to receive notices pursuant to sections 82-9, 82-85, 82-92, and 82-193 shall include those owners of property within five hundred (500) feet of the property line boundary of the lot or parcel subject to an application for a land use permit unless the director determines that an exception applies pursuant to sub-section (b) below.
- (b) *Exceptions.*
 - (1) For proposed developments subject to chapter 90, notices shall be sent pursuant to section 90-77.
 - (2) For proposed developments subject to article III of chapter 106, surrounding landowners shall be established pursuant to section 106-112(e).
 - (3) For proposed linear developments that cross multiple property lines, surrounding landowners shall include owners of property within two hundred and fifty (250) feet of the proposed development.
 - (4) For proposed developments that the director determines may uniquely impact neighboring properties, surrounding landowners shall include all owners of property that may be uniquely impacted, but, under no circumstances shall the director exclude owners of property less than two hundred and fifty (250) feet from the proposed development.
- (c) *Owners of Record.* Property owners shall be determined pursuant to the listed owner(s) of record according to the county assessor's records as of the date an application is submitted.

Section 82-86 shall be amended as follows:

Sec. 82-86. Submission of application; deadline.

- (a) After the requirements of this division are met, the applicant shall submit a complete application. Applications are due in the planning office ~~department~~ within six months of the preapplication conference. Such application shall include the application fee as set by the county, as well as any review fees charged by agencies for which the county has agreed to collect. Failure to submit the application within six months of the preapplication conference, or failure to pay applicable fees may result in the application being deemed dormant under subsection (b).
- (b) An applicant shall diligently pursue an application or the director may deem the application dormant. In the event that the director deems an application dormant, the director shall immediately notify the applicant in writing of that decision as well as state what steps are necessary to pursue the application to its conclusion and the timeframe for doing so. Applications not completed within the specified timeframe shall be considered automatically withdrawn. The director may extend the specified timeframe should the director determine that circumstances beyond the control of the applicant prevent timely completion of the application. Any re-submittal of an automatically withdrawn application will be treated as a new application for purposes including but not limited to submitting application materials, application review, scheduling meetings or hearings, payment of application fees, and applicability of county, state, or federal regulations, ordinances, statutes and/or any other relevant laws.

Section 82-84 shall be amended as follows:

Sec. 82-84. Advance notification of appropriate agencies.

Upon submission of the required permit application, the applicant shall submit the forms required by the appropriate agencies to those agencies, together with a site plan, vicinity map and narrative, at a minimum, accurately describing the project in detail. Preliminary plats and conceptual development plans shall be submitted to those agencies specified in C.R.S. § 30-28-136, at a minimum, and additionally as specified by the planning staff at the preapplication conference. Final plats, class II, class I, minor exemption subdivision, lot consolidation and boundary adjustment applications shall be submitted to the appropriate agencies, as determined at the preapplication conference. Agencies include, but are not limited to, the following:

- (1) School districts;
- (2) County surveyor;
- (3) Each county or municipality within a two-mile radius of any portion of the proposed subdivision, and any municipality within three miles of the subdivision if the municipality has adopted a major street plan, as provided by state law or an intergovernmental agreement;
- (4) State engineer (state division of water resources);
- (5) State geological survey;
- (6) Fire districts;
- (7) Utility companies, including sewer and water districts, electric and telephone;
- (8) La Plata County Open Space Conservancy;
- (9) State ~~division of w~~Parks and Wildlife;
- (10) State department of transportation;
- (11) State department of natural resources;
- (12) State division of minerals and geology;
- (13) State forest service;

- (14) State department of health;
- (15) San Juan Basin Health Unit;
- (16) U.S. Forest Service;
- (17) Bureau of Land Management;
- (18) Airports;
- (19) Any special district in whose jurisdiction the subdivision may be located;
- (20) Any other public agency with whom an intergovernmental agreement may exist;
- (21) Southern Ute and Ute Mountain Ute Tribes: Tribal governments shall be notified of any development proposed within two miles of their Indian trust land. Indian trust land is any land held by the United States in trust for the benefit of a tribe or individual Indians or is owned by the United States and reserved for use in the administration of Indian affairs;
- (22) County extension agent;
- (23) Soil conservation district;
- (24) U.S. Army Corps of Engineers;
- (25) Any other agency, organization or person who, in the opinion of the planning department, may be affected or can expertly contribute to the review of the proposed development and/or owners of severed mineral rights, tenants or other interested party that has filed a request to receive notice of public hearings.

If no reply is received within 21 days, it shall be deemed that the agency, organization or individual has waived the right to submit comment unless otherwise required by subpart B of this Code or state statute. A necessary extension of up to 30 additional days may be granted by the county planning staff, with the consent of the applicant, which shall not be unreasonably refused.

Section 82-92 shall be amended as follows:

Sec. 82-92. Action by planning department.

- (a) *Review for completeness; accept or reject.* Incomplete applications, as determined by the planning staff, shall not be accepted for review. The planning staff shall review the application for completeness within fourteen (14) calendar days of the receipt of agency review comments. If the application is deemed to be incomplete, the planning staff shall notify the applicant by mail of the deficiencies in the application and how the deficiencies may be remedied. The planning staff has no obligation to place incomplete applications on the planning commission or joint planning commission agenda. Complete applications shall be accepted.
- (b) *Compatibility assessment; special study.* Within ten working days of the acceptance of a complete application, the planning staff shall determine whether a compatibility assessment and/or special study shall be required. (See sections 82-191 and 82-196.)
- (c) *Review compliance with standards.* The planning staff shall review the application in terms of compliance with the required standards, encouraged standards of the permit system, and contents of subpart B of this Code. Within twenty-one (21) working days after acceptance of a complete application, the planning staff shall notify the applicant of the results of the review and how any deficiencies may be mitigated. Any and all variances to required standards shall be obtained prior to the processing of any project to the planning commission, joint planning commission and/or board of county commissioners. Applications shall not be processed subject to obtaining such a variance to any required standard.
- (d) *Staff recommendation and report.* The planning staff shall write a staff report and recommendation. The report and recommendation shall include discussion of the relevant issues pertaining to the

compliance of the application to the standards of this division and a recommendation of approval, denial or continuance for additional information. After the review of the standards is complete, should the applicant so desire, the applicant may request a conference with the director or his designee. The director shall make a decision to recommend approval, approve with conditions or deny the proposal. The director may recommend the attachment of conditions which are reasonably required or necessary to comply with the standards or this division. Such report shall include a copy of the application, the staff's impact analysis for the project, and any other relevant materials. At the public hearing at which the project is presented, the planning commission, joint planning commission or board of county commissioners may, by vote, approve, deny, approve with conditions, continue or remand the project for additional review.

- (e) *Distribution of planning staff report and recommendation.* The planning staff shall send copies of the report and recommendation to the applicant, planning commission, joint planning commission and county attorney. The report and recommendation are also available, upon request, to adjacent property owners. The same process shall be used prior to the board of county commissioners hearing except that the board of county commissioners shall also be sent copies of the recommendation of the planning commission.
- (f) *Notice of hearing distributed and publicized.* The director shall publicize in a local newspaper the planning commission and the joint planning commission's public hearing agenda once within a period of not less than ten (10) nor more than thirty (30) days before the scheduled hearing. The director shall also distribute notice of the public hearing to the applicant, the surrounding landowners pursuant to section 82-83, and the planning commission or the joint planning commission no less than seven (7) days prior to the scheduled hearing. Such notice may be by postcard. The contents of that notice shall be as follows:
 - (1) Time and place of the public hearing;
 - (2) Description of the lot or parcel subject to the application for a land use permit and specific characteristics of the proposed development; and
 - (3) The address and telephone number of the county planning ~~department~~ office where information concerning the proposed development can be obtained.

The director shall follow the same procedure when publicizing and providing postcard notice for the board of county commissioners' agenda prior to the scheduled meeting of the board of county commissioners.

Section 82-95 shall be amended as follows:

Sec. 82-95. Final subdivision plats.

- (a) *Applicant to draft final plat; meet deadline.* After an applicant has received preliminary plat approval from the joint planning commission or board of county commissioners, the applicant may prepare and submit a final plat application. The final plat application shall incorporate all the changes, suggestions, conditions or stipulations required by the joint planning commission or board of county commissioners at preliminary plat approval.
- (b) *Director of planning review.* The director of ~~planning~~ has no obligation to accept a final plat application which is incomplete, incorrect and/or does not include all the conditions or stipulations attached to the preliminary plat and/or conceptual development plan approvals.
- (c) *Conditions of approval.* If the final plat application meets all conditions of approval and required standards, the director of ~~planning~~ may, but shall not be so required, process the final plat directly to the joint planning commission or board of county commissioners for a public hearing. The director of ~~planning~~ shall report to the planning commission those final plats processed directly to the board of county commissioners.
- (d) *Hearings and filings.* The planning commission, if applicable, the joint planning commission and the

board of county commissioners shall hear final plat applications according to procedures outlined in this section. Approved final plats and associated documents shall be filed and recorded with the county clerk and recorder. The county clerk and recorder shall sign the plat and record all the associated documents. Preliminary plats need not be recorded.

Section 82-99 shall be amended as follows:

Sec. 82-99. Fair share reimbursement for improvements.

- (a) *Purpose.* The purpose of this section is to state the conditions and describe the procedures pursuant to which developers who are required by the county to install or construct public improvements as part of the land use permit review process may be reimbursed for a share of the costs of installing or constructing such public improvements by subsequent developers whose property makes use of a share of such improvements.
- (b) *Authority.* Authority to allow and require fair share reimbursement for prior improvements is specifically conferred by C.R.S. § 30-28-133(12) and more generally by C.R.S. §§ 30-28-101 et seq. and C.R.S. §§ 29-20-101, et seq.

(c) Reserved.

~~General definitions.~~ The following definitions shall be used solely for the purposes of this section. All undefined words shall have the same meaning as provided for in subpart B of the Code.

- ~~(1) Original developer.~~ A party who installs or constructs one or more improvements that the county requires to be installed or constructed pursuant to the land use permit review process, or, in the event a developer relinquished control or authority over the governance of the subdivision to a home owners association or other similar organization, that home owners association or other similar organization.
- ~~(2) Secondary developer.~~ A party that owns and is seeking to develop a benefitted property and, pursuant to these regulations, may be required to reimburse an original developer for a fair share of the costs of certain improvements that the original developer was required to install or construct pursuant to the land use permit approval process. For the purposes of this section, the term "develop" shall mean any development that requires land use permit approval from the county.
- ~~(3) Benefitted property.~~ Any property identified in a cost recovery statement approved by the board as being benefitted by improvements installed or constructed by an original developer pursuant to the land use permit approval process.
- ~~(4) Costs.~~ Any county approved monetary expenses actually incurred and paid by an original developer for the installation or construction of an improvement required through the land use permit review process on property adjacent to or outside of the development that is directly related to and necessary for such installation or construction, including design and planning. Costs may include, but are not limited to, land acquisition, materials, labor, engineering, survey, title, management, supervision, consulting, legal, and other professional matters, including any pro rata portion of any expenses incurred in the installation of multiple improvements or facilities. However, under no circumstances may costs include the expenses incurred in preparing and processing a cost recovery statement, including the administrative processing fee, or any impact fee assessed on such original developer as a part of the land use permit review process.
- ~~(5) Date of completion.~~ The date that the county accepts dedication of an improvement or, in the case of an improvement to which the county does not require dedication, the date of the release of the collateral that was retained by the county through a development improvements agreement, the state department of transportation or such other relevant agency to secure the installation or construction of the improvement.
- ~~(6) Developer.~~ The term "developer" shall mean any person, firm, partnership, joint venture, association, corporation or public or governmental entity participating as owner, promoter, developer or sales

~~agent in the planning, platting, development, promotion, sale or lease of the property subject to land use permit, provided that a public or governmental entity may only be deemed to be "developer" for the purposes of this regulation if it otherwise meets the requirements of this section, and, if, in the discretion of the board designation of the entity as a "developer" is in the overall best interest of the county.~~

~~(7) *Improvement.* The term "improvement" includes, but is not limited to, any type of structure, facility or other improvement for public use that the county requires to be installed by an original developer as a condition or requirement of land use permit approval of such development, which also benefits one or more adjacent or other properties.~~

~~(8) *Fair share reimbursement.* A reimbursement of the costs of installing an improvement, paid by a secondary developer to the original developer for that share of the costs related to the capacity of the improvement that is projected to be used by the benefitted property pursuant to that property's development. An improvement may be eligible for fair share reimbursement under these regulations if the costs of such improvement exceed \$100,000.00 or if the director recommends that such improvement be so eligible.~~

(d) *Procedure for applying for fair share reimbursement.*

(1) *Original developer's submission of proposed cost recovery statement.* An original developer desiring to seek fair share reimbursement for the costs of any improvement shall submit to the director a proposed cost recovery statement for each improvement, which shall include all of the submittals required below, at any time prior to or no later than one year after the date of completion of such improvement. This section contemplates the possibility that there may be multiple cost recovery statements per land use permit, but under no circumstances shall an original developer be entitled to submit more than one proposed cost recovery statement for a single improvement. The original developer shall submit the following items as part of the proposed cost recovery statement:

- a. A clear description and drawing of the improvement together with an itemized statement, with supporting documentation for each item, of the estimated or actual costs of the improvement. The estimated costs of an improvement shall be the amount determined by the director necessary to guarantee funds for the completion of the improvement at the time of approval of the final plat for the original developer's subdivision or the issuance of a land use permit, exclusive of any percentage of overage (i.e., contingency) required by the county. For cost recovery statements submitted prior to completion of the improvement, an original developer must amend such statement to include the final and actual costs of an improvement once such improvement is completed and actual costs may be finally calculated. The amended cost recovery statement shall be approved administratively by the director, unless the director deems board review of the amended cost recovery statement is appropriate. As-built drawings and documentation shall be provided for each item to support the actual costs and completed improvement.
- b. A statement, report, or study, including any data in support thereof, prepared and/or certified by a professional engineer, that expresses the maximum capacity of the improvement, as well as the estimated usage of the improvement incurred by the original developer's subdivision or development at its maximum capacity, in quantitative terms generally accepted by professionals in the relevant area of expertise, and consistent with any procedures maintained by the county. In addition, the original developer shall calculate the net remaining capacity of the improvement after subtracting the maximum usage expected to be utilized by original developer's development, from the total maximum capacity of the improvement.
- c. A calculation that relates the quantitative measurement derived per the requirements of the above-stated paragraph b to a dollar cost per said quantitative measurement. For example, in the case of street or road the amount should generally be expressed in terms of dollar cost per average daily trip or similar terms.
- d. A list of all properties, identified by parcel number, to which the original developer proposes

to subject to fair share reimbursement of the costs of the improvement, any of which hereinafter shall be referred to as a potentially benefitted property, together with a scaled drawing or survey establishing the location of the relevant improvement in relation to these properties. For all such properties, original developer shall provide a list of the names and mailing addresses of the owners of such properties. For purposes of determining a property owner's address, the original developer shall use the most current records of the county assessor's office for the property.

- e. For all potentially benefitted properties, original developer shall include an explanation describing or identifying the essential nexus between such property and its potential use of the improvement such that any fair share reimbursement that may be required for the development of such property shall comply with the requirements of C.R.S. § 29-20-203 and the United States and Colorado Constitutions.
 - f. A statement proposing the duration of the proposed reimbursement period for each potentially benefitted property, as well as supporting rational for the proposed duration. The proposed duration shall not exceed 15 years from the date of completion of an improvement.
- (2) *Initial notice to potentially benefitted property owners.* Within ten days after the submission of the proposed cost recovery statement to the director, the original developer shall prepare and deliver by certified mail, a notice of possible inclusion in the benefitted area to all owners of the potentially benefitted properties named in the cost recovery statement, which notice shall include a narrative of the improvement, proposed cost, and statement that a copy of the proposed cost recovery statement may be obtained from the county planning department. Such notice shall also inform the potentially benefitted property owner that they have the right to send written comments on the proposed cost recovery statement to the director and may comment at any hearing on the approval of the cost recovery statement.
- (3) *Director's review.* Prior to any hearing that is scheduled for the consideration of approval of the cost recovery statement, the director shall review the proposed cost recovery statement according to the following criteria:
- a. Confirm the accuracy and veracity of the costs as well as the reasonableness and appropriateness of the costs by way of comparison of the costs to prevailing rates;
 - b. Assure the consistency of the cost recovery statement with technical and professional standards;
 - c. Determine that the cost recovery statement does not disproportionately or inequitably attempt to shift the costs of constructing the relevant improvements to other property owners;
 - d. Determine that all of the potentially benefitted properties are adjacent to or will have presumed use of the improvement when developed;
 - e. Determine the duration of the proposed cost recovery statement and the benefitted properties to which it shall apply; and
 - f. Ensure that the proposed cost recovery statement is in general conformance to the requirements of subsection (d)(1).

At any time during this review, the original developer may amend the proposed cost recovery statement either of its own volition or pursuant to any request from the director. In reviewing the proposed cost recovery statement, the director may request additional information from the original developer so as to enable it to confirm or better understand the information presented therein. Following such review, the director shall issue a written report on the proposed cost recovery statement to the planning commission, and subsequently, the board, no later than seven days prior to the date of each hearing stating whether or not the factors set forth in a. through f. above were satisfied and recommending either the approval, conditional approval, or denial of the proposed cost recovery statement.

- (4) *Hearing notice to potentially benefitted property owners.* No later than 30 days prior to the date set for consideration of the proposed cost recovery statement by the planning commission and the board, the original developer shall prepare and deliver by certified mail a notice of such hearing to all owners of the potentially benefitted properties as determined by the director. Proof of such mailing shall be provided to the planning department. Such notice shall inform the owners of any potentially benefitted property that they have the right to comment on the proposed cost recovery statement at such hearing and that they may request a copy of the report detailing the director's review of the proposed cost recovery statement prior to such hearing, such report to be made available at the planning department office no later than seven days prior to the date of the hearing.
- (5) *Planning commission's review.* Upon completion of review by the director, the proposed cost recovery statement shall be submitted for consideration to the planning commission. At such hearing, the planning commission may consider additional evidence and testimony presented by the original developer, any owner of any potentially benefitted property or any other member of the public. At such hearing, the planning commission shall recommend to the board approval, denial, or conditional approval of the proposed cost recovery statement. In making such decision, the planning commission shall utilize the same criteria set forth above with respect to the director's review to determine whether, in the planning commission's discretion, approval of the proposed cost recovery statement is in the overall best interests of the county.
- (6) *Board of county commissioner's review.* After planning commission review, the proposed cost recovery statement may be submitted to the board for review. The board shall review the proposed cost recovery statement utilizing the standards, procedures and decision making criteria as outlined in subsection (d)(5). The board may decide to approve, deny, conditionally approve or remand to the director for amendment and resubmission to the board by the original developer any proposed cost recovery statement. In the event that the proposed cost recovery statement is conditionally approved by the board or remanded to the director for amendment and resubmission, it shall be the responsibility of the original developer to either achieve compliance with the conditions of the conditional approval or to amend the cost recovery statement in coordination with the director and then to resubmit the cost recovery statement to the board for further consideration and final approval within 90 days of the board's original action. Failure to take such action within such time frame shall be deemed to be the same as if the board had rejected the cost recovery statement initially.
- (7) *Recording of cost recovery statement.* As soon as practicable after the board's issuance of its final determination, the original developer shall prepare and submit to the county clerk and recorder for recording a notice of fair share reimbursement in the chain of title for each benefitted property in the form provided by the director. Recording of the notice of fair share reimbursement is merely a statement that a unique government land use regulation may apply to a property; said notice is not a lien or any other type of encumbrance on the chain of title for said property. Such notice shall include the original developer's mailing address and specify it is valid only for a period of time as approved by the board, but not to exceed 15 years following the date of completion of the improvement and shall automatically expire at such time without filing of a release. If the cost recovery statement is approved prior to completion of the improvement and thereafter amended, the original developer or its successor in interest must re-record a notice in the property records upon amendment. The original developer or its successor in interest shall be obligated to update its address or entity name through amending the notice and re-recording in the property records.
- (8) *Payment of administrative fee for processing of cost recovery statement.* Prior to any hearing that is scheduled for the consideration of final approval of the cost recovery statement by the board, the original developer shall submit to the county an administrative processing fee equal to the actual costs incurred by the county in staff time and consulting fees in evaluating the proposed cost recovery statement. This fee shall be charged to reimburse the county for the costs of administering and processing the proposed cost recovery statement and shall be nonrefundable, regardless of whatever decision the board makes regarding the proposed cost recovery statement.

(e) *Procedure for payment of fair share reimbursement.*

- (1) *Duration of fair share reimbursement obligation.* A secondary developer's obligation to reimburse an original developer for a fair share of the costs of an installed improvement shall exist for a period of time determined by the board, but in no event greater than 15 years beginning on the date of completion of the relevant improvement.
- (2) *Secondary developer's preliminary report and planning director review.* No later than 45 days prior to any hearing on either the final plat or land use permit for a benefitted property, a secondary developer must submit to the director a statement, report, or study, including any data in support thereof, concerning the proposed development's anticipated use of any relevant improvement to which a cost recovery statement was approved and recorded for such property. Such statement, report or study must be prepared and/or certified by a professional engineer, and any proposed use shall be stated in a quantity consistent with the rate established in the cost recovery statement for the relevant improvement. Certification by a professional engineer may be waived by the director at his/her discretion. The director shall review such statement, report or study for several purposes, including, but not limited to:
 - a. Assure the consistency of such statement, report or study with technical and professional standards;
 - b. Determine whether or not the benefitted property will have use of the improvement;
 - c. Determine what proportion of the improvement's maximum capacity the benefitted property will use when developed to its maximum capacity; and
 - d. Determine that requiring fair share reimbursement of the secondary developer would not disproportionately or inequitably shift the costs of constructing the relevant improvements to secondary developer.

Following such review, the director shall issue a written report to the board recommending whether or not fair share reimbursement of such improvement should be required of the secondary developer.

- (3) *Notice to original developer.* At least 15 days before the date of any hearing before the planning commission or board on approval of the proposed development of a benefitted property, the secondary developer shall send notice of such hearing to the original developer by certified mail and provide proof of mailing to the planning department.
- (4) *Final hearing of secondary developer.* At any hearing on approval of the proposed development of a benefitted property, the director shall present to the planning commission or board his or her recommendations pursuant to the fair share reimbursement obligation of the secondary developer. The secondary developer and the original developer shall also have an opportunity to present evidence and comment concerning the proposed development's anticipated use of any relevant improvement. Following the presentation of such evidence, the planning commission or the board shall determine, based upon such evidence, whether the secondary developer's development is likely to use the relevant improvement and the extent of such usage. The extent of this usage shall be multiplied by the dollar cost per rate of such usage as stated in the cost recovery statement to determine the fair share reimbursement obligation of the secondary developer for the costs of the improvement. The board's finding shall be final on the matter.
- (5) *Payment of obligation required before recording of final plat or issuance of development permit.* Once the board's determination in subsection (e)(4) is made, the secondary developer shall not record a final plat or receive a land use permit until the secondary developer:
 - a. Tenders, or attempts in good faith to tender, good funds in full to the original developer in the amount established by the board, and
 - b. Provides adequate proof to the director that such funds have either been paid or that a good faith effort has been made by the secondary developer to deliver funds to the original

developer. For the purposes of attempting to tender such funds, the secondary developer shall be determined to have acted in good faith if they have attempted to contact original developer at the last address listed in the notice recorded in the chain of title of the relevant property.

- (f) *Ineligibility to pursue cost recovery.*
 - (1) An original developer is not eligible to seek fair share reimbursement if the director determines that there is another procedure under this code that enables the original developer to otherwise receive fair share reimbursement for the costs of any otherwise eligible improvement. Whether an original developer may apply for fair share reimbursement under these regulations is an administrative decision to be made by the director.
 - (2) Nothing in this regulation may be construed to prohibit an original developer and a secondary developer from entering into a private agreement for the recovery by the original developer of all or part of the costs for any particular improvement. However, any such agreement renders an original developer ineligible to seek fair share reimbursement from such secondary developer for the benefitted property pursuant to these regulations for the relevant improvement. The original developer shall retain the right to seek fair share reimbursement for the relevant improvement pursuant to these regulations from any other secondary developer with which it has not entered into such a private agreement.
- (g) *Appeal.* The sole and exclusive remedy available to an original developer, secondary developer or benefitted property owner concerning the board's final determination regarding a cost recovery statement or fair share reimbursement obligation shall be to seek judicial review.
- (h) *Notification by mail/burden to keep county informed of current address.* Whenever these regulations require notice or a mailing to any person or entity, said notice shall always be sent by certified mail, postage prepaid. Any such notice shall be deemed received when mailed. In the case of notice to any potentially benefitted property, the notice shall be sent to the address stated in the most current records of the county assessor's office. In the case of notice to any original developer or its successor in interest, the notice shall be sent to the address listed in the notice recorded in the chain of title of the relevant benefitted property. In the case of notice to any secondary developer, the notice shall be sent to the last known address as stated in the files of the planning department for the relevant subdivision or property.

Section 82-141 shall be amended as follows:

Sec. 82-141. Agricultural lands; right to farm.

- (a) *Development that limits existing agricultural use discouraged.* Development which has the potential for limiting the operation of existing agricultural uses is discouraged. Limits to the operations of existing agricultural uses could include potential nuisance or liability issues, predation of stock by domestic dogs, traffic conflicts, interference with irrigation, proliferation of undesirable plants and rodents, erosion and wildlife intrusion.
- (b) *Right to farm.* Colorado is a right to farm state, pursuant to C.R.S. § 35-3.5-101 et seq. In appropriate projects, as determined by the board of county commissioners, a plat note providing notice of same shall be included on residential subdivision or minor exemption subdivision plats.
- (c) *Fence law.* Colorado is a fence law state. An owner of real property shall be required to fence livestock out prior to recovery of damages for trespassing livestock, pursuant to C.R.S. § 35-46-101 et seq. In appropriate projects, as determined by the board of county commissioners, a plat note providing notice of the same may be included in residential subdivision or minor exemption subdivision plats.

Section 82-165 shall be amended as follows:

Sec. 82-165. Buffering.

- (a) *General requirements.* A Buffering is required between development of different intensities and uses when necessary to achieve compatibility or when the development creates noise, glare, traffic, dust, unsightly views or other negative external effects perceptible off the site.
- (b) *Requirements for all development.* All development shall meet the following requirements:
- (1) Storage and service areas used for storage, loading/unloading and refuse shall be oriented away from adjacent development to the maximum extent feasible. Storage and service areas shall be screened from view from adjacent development by providing opaque barriers, or by using architectural or landscaping treatments which reduce adverse impacts. In addition, service areas shall be designed to minimize noise, vibration, and odors to adjacent development.
 - (2) Lighting shall comply with the following standards:
 - a. The maximum pole height shall be: 20 feet in height within 50 feet of a lot boundary; 25 feet in height within 50 to 150 feet of a lot boundary; and 30 feet in height in all other locations; and
 - b. Light sources shall be shielded and directed away from the lot boundary.
 - (3) An increased setback shall be used where appropriate to achieve buffering of the use. A change in the location of the use on the site may allow a use to be moved behind a topographic barrier, such as over a hill. In addition, an increased setback, even on a flat site, may provide sufficient distance to lessen noise and other impacts from the site.
 - (4) If mitigation requirements identified in this subsection conflict with an outside agency's requirement/s, alternative measures may be developed.
 - (5) Ongoing maintenance shall occur for all required landscaping, including the replacement of dead or unhealthy plantings. Landscaping shall be maintained by the property owner or other legal entity responsible for such plant materials as required and/or approved.
- (c) *Requirements for development adjacent to single family residential uses and vacant lots.* Development located on a property adjacent to a lot with an existing residential dwelling unit, or vacant lot, shall comply with the requirements of this subsection (b). A property is considered adjacent even if separated by an alley or road right-of-way
- (1) An opaque wall, fence or similar screening with a minimum height of four (4) feet and a maximum height of eight (8) feet shall be provided to screen nonresidential, mixed-use, and multi-family uses from the residential property, or residential dwelling unit. Such screening alternatives may be approved by the director to meet this requirement, including but not limited to, berms or landscaping. The screening material shall be designed to absorb or block sound. This screening requirement shall not apply to front or street-side yards. An increased setback may be required in addition to any screening.
 - (2) For structures located on a property adjacent to a lot containing an existing dwelling unit or vacant lot, the following standards shall apply:
 - a. The maximum structure height shall not exceed 30 feet within 25 feet of the lot line abutting a lot containing a dwelling unit or vacant lot. Structures may develop to the maximum height permitted, for those portions of the structure 25 feet or more from a lot with a dwelling unit or vacant lot;
 - b. The development's structures shall be oriented so as to reduce views into an existing dwelling unit; and
 - c. Balconies shall be oriented away from the dwelling unit on the adjacent lot(s) or use a screening device to reduce views into the rear or side yards of residential lot(s).
 - (3) Parking areas or areas with noise and outdoor lighting features (e.g., outdoor patio for

restaurant), shall be screened from existing dwelling units by any combination of a wall, fence, and/or landscaping creating an opaque, screened condition. Chain-link fences, and unfinished side, or rough side of fabricated fences must be oriented away from adjacent properties or covered by vegetation.

- (4) Nonresidential uses with outdoor components (e.g., outdoor dining, performance venues) located adjacent to a lot with an existing dwelling unit, or vacant lot, shall cease outdoor activities by 9:00 p.m.. Loading or unloading activities shall take place between the hours of 7:00 a.m. and 8:00 p.m.

(d) *Requirements for all other developments.* Development that is not located on a property adjacent to a lot with an existing residential dwelling unit or vacant lot shall comply with the standards in this subsection (c). A Buffering shall be accomplished through use of a fence, a planted berm, a landscaped area, an increased setback, or a combination of these techniques.

- (1) Fences shall be opaque, non-reflective, and at least six (6) feet, but not more than ten (10) feet high.
- (2) Landscaped berms shall be at least two feet high and appear natural. Berms shall have a gentle transition to surrounding grade. Berms should not exceed a 3:1 side slope. Berms shall be seeded and planted with tree clusters. Tree clusters shall consist of three (3) or more trees. Evergreens shall be at least six (6) feet in height; deciduous trees shall be a minimum two-inch caliper; and fruit trees shall be a minimum 1.75-inch caliper. Tree plantings shall consist of at least 50 % evergreens, in order to accomplish a year-round buffering.
- (3) Landscaped areas shall be of sufficient intensity and width to buffer the use. This will require significant numbers of trees and shrubs, and may be wholly or partly accomplished by the retention of existing vegetation on the site. The use of minimal cosmetic planting strips shall not be deemed sufficient to accomplish a buffering.
- (4) The use of trees or landscaping shall require assurances that these plantings will survive. This obligates the developer to design the buffer to ensure this, and may include an irrigation requirement to accomplish this. A performance guarantee will be required for one (1) year from the time of installation to guarantee the establishment of the vegetation. The planning staff has the option to waive the performance guarantee if a permanent irrigation system is in place or installed. Species which are currently known to survive in the county are required. These include species as recognized to be locally appropriate by the Association of Landscape Contractors.

Section 82-175 shall be amended as follows:

Sec. 82-175. Parking.

(a) *Parking plans.* A scaled parking plan shall be submitted and depict the following:

- (1) *The location and names of buildings, structures, and/or land uses for which the parking spaces shall serve;*
- (2) *General drainage direction and location of detention/retention facilities;*
- (3) *Location of proposed landscaping within and adjacent to parking area;*
- (4) *Vehicular and pedestrian circulation patterns;*
- (5) *Loading/unloading area(s);*
- (6) *Number of parking spaces, stall dimensions, and aisle widths; and*
- (7) *Surface material type.*

(b) *Parking space requirements.* All developments are required to provide off-street parking standards as set forth in this subsection. The parking area shall be on-site with the development, or no more

than 800 feet off-site, as measured along a designed walkway or designated path or roadway. Parking shall be designed so that backing into the public right-of-way is not necessary for all uses other than single family residential.

Single-family residential: 2 spaces/dwelling unit.

Multifamily residential (apartments, condos, townhomes, etc.):

Studio and one bedroom: 1.5 spaces/dwelling unit.

Two bedrooms and larger: 2 spaces/dwelling unit.

Hotels/motels/boardinghouses/resorts: 1 space/room or unit plus 1 space/employee; adequate loading area.

Churches, funeral homes, clubs, places of assembly: 1 space/four (4) seats in main assembly room.

Dancehall, skating rink, or similar amusement enterprise: 1 space/100 square feet of floor area.

Bowling alley: 1 space/200 square feet of floor area.

Retail stores (freestanding): 1 space/300 square feet of floor area; adequate loading area.

Shopping center: 1 space/200 square feet of floor area; adequate loading area.

Banks and offices: 1 space/300 square feet of floor area; adequate loading area.

Medical and dental offices: 1 space/200 square feet.

Restaurants (sit-down) and taverns: 1 space/100 square feet of floor area; adequate loading area.

Restaurants (fast food or drive-in): 1 space/66 square feet of floor area; adequate loading area.

Service shop: 1 space/250 square feet of floor area.

Industrial and wholesale: 1 space/employee; adequate loading area.

Other uses: As determined by the director in accordance with available information.

Waiver: Waivers from the above requirements may be considered along with a parking study review performed by a Colorado-licensed engineer, and submitted by the applicant. The director may grant such waiver in writing, if he or she determines that the study demonstrates sufficient parking for the proposed use.

- (c) **Stall dimensions.** Each standard parking space shall be a minimum of nine (9) feet by eighteen (18) feet. Compact car parking spaces may account for up to twenty (20) % of the required spaces, and shall be a minimum of eight (8) feet by 15 feet. Accessible parking dimensions and design shall be provided in accordance with Americans with Disabilities Act, 43 USC 12101, et seq., and the Fair Housing Act, 43 USC 12101, et seq.
- (d) **Loading/unloading areas.** The standards in this subsection shall apply to loading/unloading areas.
 - (1) Loading and unloading shall not be allowed on county roads unless a revocable right-of-way permit is issued by the ~~P~~ublic ~~W~~orks ~~D~~irector. The county may require special improvements be made to the right-of-way and road agreements made. In no case shall traffic be blocked or a safety hazard created;
 - (2) Loading areas shall be clearly marked to exclude parking and have safe access to public streets or alleys. The minimum dimensions of an off-street loading space shall be 12 feet wide by 40

feet long and a minimum vertical clearance of 14 feet; and be designed with a minimum maneuvering aisle width of 40 feet; and

- (3) Site plans for proposed business, commercial or industrial uses shall include on-site loading/unloading areas.
- (4) Public street parking spaces shall not be used for permanent loading and/or unloading areas.
- (e) *Design of parking areas.* Parking spaces accommodating ten (10) or more vehicles shall have continuous as opposed to dead-end circulation patterns, include adequate drainage (a minimum of 1% and a maximum of 5% slope), have safe ingress/egress to a public street, and be adequately lighted if intended for night use.
- (f) *Surfacing of parking areas.* All internal driving surfaces and parking areas accommodating ten (10) or more vehicles shall be surfaced with all-weather material, such as concrete, asphalt, or other similar surface approved by the director. However, the director may grant a written request to allow alternative surface material for parking areas, provided a licensed engineer can demonstrate the surface adequately serves the intended use of the parking area without adversely impacting the subject site or adjacent properties. Gravel surfaces, including surfaces treated with dust retardants, may only be permitted when air and water quality mitigation measures are sufficiently demonstrated.
- (g) *Landscaping standards.* Landscaping for parking lots (a minimum of 10 spaces) shall be provided as follows:
 - (1) A minimum of one (1) tree (generally planted in tree islands or a landscaped buffer) shall be planted for every ten (10) parking spaces and shall be located within the parking area/lot. The number of spaces shall be rounded up for purposes of calculating the number of required trees (e.g., 25 spaces = 3 trees);
 - (2) Tree islands should be installed intermittently and have a minimum length of four (4) feet from the end of the designed parking space. At a minimum, no more than ten (10) consecutive spaces shall be proposed without a tree island, and at a minimum of five (5) feet in width for each island, to provide sufficient area to protect plantings from vehicles and foot traffic, and to accommodate a tree root system with a clear, unencumbered land/planting area;
 - (3) Parking lots fronting a public street shall provide an eight (8) foot wide landscaped buffer and provide a vegetative screen at least 3.5 feet tall;
 - (4) A five (5) foot wide landscaped buffer is required around the perimeter of all parking lots; and
 - (5) A waiver to the parking lot landscaping requirements in this subsection may be granted by the director if the applicant demonstrates alternative buffering and stormwater mitigation measures, and consolidated tree island areas.
- (h) *Bicycle Parking Facilities.*
 - (1) Bicycle parking facilities (e.g., racks, boxes, etc.) are required for all proposed uses likely to generate significant short-term bicycle demand (e.g., shoppers or visitors) and/or long-term bicycle demand (e.g. employees), as determined by the director. Uses that do not generate bicycle demand are not required to provide bicycle parking facilities;
 - (2) Four (4) bicycle parking spaces may be used to substitute one (1) required standard vehicular parking space; a maximum of 10% reduction in standard vehicular spaces may be applied to required parking areas; and
 - (3) When bicycle parking facilities are provided, the following standards shall apply:
 - a. A minimum of two (2) bicycle parking spaces shall be provided;
 - b. The facilities shall be of sound construction and properly anchored to the ground;
 - c. The facilities shall not impede vehicular or pedestrian access; and
 - d. The facilities shall be located within 50 feet of the building's primary entrance.

Section 82-186 shall be amended as follows:

Sec. 82-186. Water quantity and quality standards.

(a) *Introduction.* State statutes require that no board of county commissioners shall approve a preliminary plan or final plat for a subdivision without evidence "for a water supply that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed..." (C.R.S. § 30-28-133(6)). This document is designed to meet the requirements of state statutes.

Proof of adequate water supply is required for every Class I permit, minor exemption subdivision (MES), preliminary plat, final plat, or Class II land use permit approval. Verification requirements for water supply vary according to the proposed water source and the type of land use approval sought.

These standards do not apply to single-family residential development on existing legal lots of record or agricultural operations which are exempt from this Code.

For projects served by central water from a commercial or municipal water provider, written notice from the water provider of their ability and intent to serve the project is generally sufficient at the time of conceptual development plan approval. However, tap reservations or purchases are required for Class I, minor exemption subdivision (MES), Class II and preliminary and final plat approvals.

For projects served by a private surface water system, legal availability of water is established through the verification of the applicant's water rights and augmentation plan (if necessary) by the Colorado State Engineer's Office Division of Water Resources. In addition, private surface water systems must meet the requirements of subsections (f), (g) and (h).

For Class I and residential administrative land use permits served by domestic wells, legal availability of water is established through verification of the applicant's water rights and/or well permit(s) and augmentation plan (if necessary) by the Colorado State Engineer's Office Division of Water Resources.

For master plans, minor exemption subdivisions, Class II permits, and preliminary and final plats served by domestic wells, legal availability of water is established through the verification of the applicant's water rights and/or well permit(s) and augmentation plan (if necessary) by the Colorado State Engineer's Office Division of Water Resources and adequate supply is established through the execution of the applicable well testing and analysis requirements set forth in subsections (c), (d) and (e) of these regulations. State approval of augmentation plans is not required at the time of conceptual development plan approval or preliminary plat approval, but shall be required prior to final plan approval.

(b) *Water demand criteria.* Water demand for all projects shall be estimated at 350 gallons per day per dwelling unit unless the following criteria (subsections (b)(1) to (b)(4)) for determining indoor and outdoor household water use are utilized. Non-household water demand shall be calculated in addition to household demands using best professional judgment. ^[5]

(1) *In-house water demand.* When calculating in-house water demand for shared well systems, the minimum daily quantity requirement for in-house use is 195 gallons per day per dwelling unit or 75 gallons per capita per day (GPCPD). In-house use refers to the water that is used to satisfy indoor personal uses such as cooking, bathing, clothes and dish washing, etc. ^[6]

(2) *Landscaping (outdoor) water demand.* Outside irrigation requirements for landscaping may be met through the use of groundwater and irrigation water or other suitable water source. When calculating landscaping irrigation demand, the minimum daily quantity requirement is 210 gallons per dwelling unit per day. ^[7]

(3) *Site specific demand study.* Alternatively, a water demand study may be prepared in order to quantify the amount of water that will reasonably be required to serve the development. A water demand study shall contain information concerning the proposed project's water source, quantification and justification of projected in-house water demand, the number of square feet of land surface to be irrigated, plant types and amounts, estimates of plant/crop evapotranspiration and application efficiency of irrigation water.

- (4) *Historical water use data.* In the county's discretion, alternative water demand requirements may be determined for domestic water systems (including governmentally operated systems) based on the actual usage data, provided there is ten consecutive years of reliable data from which to estimate water use per unit. The actual usage data may be the basis for determining the water supply needed for existing homes and any new homes or development proposed to be added to the system.
- (c) *Groundwater quantity standards.* For projects using groundwater, compliance with these regulations shall be demonstrated by submittal of an approved well permit(s) and augmentation plan(s) (if necessary) from the Colorado State Engineer's Office Division of Water Resources and through the analysis of pumping and aquifer test data prepared in accordance with these regulations.
 - (1) *Class I and residential administrative land uses.* For Class I and residential administrative land use permits served by private groundwater wells, water availability is established through the proof of the applicant's water rights and/or well permits and augmentation plan(s) (if necessary) by the Colorado State Engineer's Office Division of Water Resources.
 - (2) *Class II land uses.* For Class II land uses, adequate water supply, well yield and aquifer testing requirements shall be determined by the county's ~~community development~~planning engineer upon review of the project's application. Preparation of indoor and outdoor (landscaping) water demand estimates may be required in order to establish the project's estimated water demand and the ability of the project's water supply system to meet the project's demands. Residential Class II projects with four or fewer units shall meet the standards of subsection (d)(1) and for projects with five or more units shall meet the requirements of subsections (d)(2), (e) et seq., (f) et seq., and (g) et seq. of these standards.
 - (3) *Domestic wells.* For single-family residential projects (subdivisions) served by individual wells, adequate water supply shall be demonstrated through fulfillment of the testing and analysis requirements set forth in subsections (d), (e) and (g) of these standards.
 - (4) *Shared well systems.* For wells serving two or more residential units, a water design and operations plan prepared and certified by a professional engineer or professional geologist who is experienced in the design of domestic water supply systems shall be submitted for approval by the board of county commissioners. Requirements for the submittal are more fully detailed in subsections (d) through (h) of these standards. Shared well systems must have sufficient storage capacity to store a quantity of water sufficient to supply two days of average total daily demand of the water system. Placing an electric power meter and/or water meter on the common well facility to measure power output is suggested. Water demands must be calculated using the water demand criteria in subsection (b).
 - (5) *Cistern and hauled water supply.* Cistern and hauled water will be allowed for administrative or Class I land use permits for second or third dwelling units approved pursuant to subsection 82-3(c), MES and single (two lot) subdivision only.

Allowance will be provided based on compliance in full with the following requirements:

- a. The applicant must prove the unavailability of tap water if the property in question is in a water company's service area or within 400 feet from a water company's water system by providing a letter from the water company indicating that the water cannot be made available to the property due to location and feasibility.
- b. The applicant must demonstrate to the director's satisfaction the impracticality of using well water. The applicant shall provide driller's log, pumping test data, water quality data, or other information satisfactory to the director pertaining to a new or existing production or observation well on the subject property. If information is provided pertaining to a new or existing production or observation well on the subject property, it shall be drilled to a depth within five percent of the depth of the nearest producing well. As an alternative to drilling a new observation or production well on the subject property, the applicant may provide a report from a professional engineer or geologist demonstrating that a new well on the subject property will produce water from the same aquifer as neighboring well(s) based on

the number of neighboring wells, the relative depth of each of the neighboring wells, and the distance of the neighboring wells from the subject property.

Factors the director may consider to determine the impracticality of using well water include, but will not be limited to, the following:

1. The need to purchase augmentation water supplies is either not cost effective or not in the public's best interests. However, failing to successfully adjudicate an augmentation plan when augmentation water supplies are available shall not be grounds for determining that well water is impractical.
 2. An existing observation or production well on the subject property, or neighboring production wells pumping water from the same aquifer, produce a minimum sustainable yield of less than two and one-half gallons per minute.
 3. An existing observation or production well on the subject property, or neighboring production wells pumping water from the same aquifer, produce poor quality water and treatment is not cost effective.
- c. The applicant for any development approved to be served by bulk water must sign a waiver acknowledging: "La Plata County provides no assurance or representation that the use of bulk water and a cistern will be an approved or acceptable long term source of potable water. There is no guarantee that bulk water will always be available for sale and La Plata County has no authority or jurisdiction whatsoever over water suppliers or their decision to sell water in bulk to the general public." The foregoing acknowledgment shall also be included in the covenants and as a plat note.
- d. At which future time water does become available to a development served by cisterns and hauled water (water supply within 400 feet of the development), such development shall be required to hook up to and use water from such central water system within 18 months of its availability.
- (d) *Well and aquifer testing.* In order to estimate the ability of a project's aquifer to supply an adequate and sustainable water supply that meets the water quantity requirements promulgated in subsection (d), production and/or observation well(s) shall be utilized, well logs prepared and pumping tests and analysis performed.
- (1) *Minor exemption subdivision (MES) and preliminary plats (four or less lots).*
- a. *MES and preliminary plats proposing to use existing well.* For MES and preliminary plats for subdivisions creating four or fewer lots that will be served by individual or shared wells and for which an existing well is located on a portion of the project, information on the existing well or pumping test data should be provided. If the existing well has been in production for a minimum of one year, then information satisfactory to the county on the current and historical production rate of the existing well must be provided. The following list illustrates the type of required information: a copy of the well's construction and test report and a written statement from the owner regarding uses served by the well and the well's ability to consistently supply these uses, or a statement describing the well's production capabilities from a licensed well driller, pump installer, professional engineer or geologist who has constructed, serviced, or tested the well. The county will require a constant rate pumping test of the existing well if such information is not available, if such information indicates that the existing well is not capable of producing a minimum sustainable yield of two and one-half gallons per minutes, or if the well has been in operation for less than one year. Testing shall be accomplished through the completion of, at a minimum, a single well constant rate pumping test that shall be conducted for a minimum of eight hours with measurement of water level recovery data for four hours or one-half of the pumping test duration. The gathering of recovery data may be terminated if the static water level recovers 90 percent of the total draw down during the pumping test. The well must maintain a minimum pumping rate of two and one-half gallons per minute average over the duration of the pumping. Pumping rates should not vary more than ten

percent over the duration of the test. A note shall be recorded with the plat and at the county clerk and ~~recorders~~recorder's office indicating that adequate water supply approval was proven on the date of county approval but that these lots may not have a reliable long-term water supply.

- b. *MES and preliminary plats proposing to use new well.* For MES's and preliminary plats for subdivisions plats creating four or fewer lots that will be served by a new individual well, the county will require a constant rate pumping test of the new well using the standards set forth in subsection (d)(1)a.
- (2) *Preliminary plats (five or more lots).* For projects involving the creation of five or more residential lots, a comprehensive hydrogeologic report and water balance estimate must be prepared. In order to collect information for the preparation of the report, constant rate or step pumping tests must be conducted for periods of time long enough to enable the collection of information on the aquifer characteristics, including: the aquifer hydraulic conductivity, transmissivity and storage coefficient (or specific yield). The duration of pumping and recovery tests and the number of production and observation wells and their location shall be determined by the engineer or geologist supervising the test, in coordination with the county's ~~community development~~planning engineer. Factors to be used in determining the number of production and observation wells shall include: aquifer and geological characteristics, project acreage, and anticipated water demands. Estimates of the underlying aquifer's hydraulic conductivity, transmissivity and storage coefficient or specific yield must be developed from the test data.

The hydrogeologic report shall include the following types of information and analysis:

- Geological maps, cross-sections, and descriptions of the aquifer systems proposed for production, including information concerning the probable hydrogeologic boundaries, recharge areas and location of discharge of those aquifers.
 - Maps and cross-sections showing the depth to the water, and the estimated thickness of saturation in the aquifers.
 - Identification of the nature of the aquifer geology (hard-rock formation or alluvial soils).
 - A water budget of the aquifer demonstrating that the overall depletion rate of the aquifer will not exceed the recharge rate, excluding recharge from irrigation. The depletion rate must include current and probable future demands on the aquifer. Probable future demands includes developments with final approval that have not yet been completed.
 - Probable yields of the proposed wells shall be based on aquifer test analysis, description of possible hydrologic boundaries, historic water level changes, and logs and yields of existing wells (on-site proximate).
 - A projection of draw down or flow reductions on properties that may be affected by the proposed withdrawals.
- (e) *Well and construction and testing protocol.*
- (1) *Well construction.* Test wells shall be constructed by a well driller licensed by the Colorado State Board of Examiners of Water Well Construction and Pump Installation Contractors. The licensed driller drilling any well intended to satisfy the provisions of this section shall prepare a well construction and test report for each production and observation well drilled. Detailed completion of Colorado State Engineers Form No. GWS-31 Well Construction and Test Report, or a facsimile thereof, shall be sufficient for the satisfaction of this requirement. In particular, section 5, Geologic Log of the GWS-31 form, shall be completed in detail and the depth(s) at which water is encountered shall be accurately noted in the log. A supplemental county well test data form must be prepared and submitted and the applicant must submit to the ~~community development~~planning engineering department copies of all well construction and testing reports (form GWS-32) and pump installation and test reports (form GWS-31) submitted to the state

engineer's office. Subsequent to the project's approval, observation well(s) may be plugged and abandoned in accordance with the Colorado State Board of Examiners of Water Well Construction and Pump Installation Contractors, or the well(s) may be converted to production well(s) if the appropriate permits are obtained from the state division of water resources.

- (2) *Measuring volumes.* For flows of 30 gallons per minute (gpm) or less, volumetric measurement using a five-gallon minimum sized calibrated bucket and a stopwatch is acceptable. For volumes of water over 30 gpm, a calibrated flow meter, orifice bucket, orifice pate and manometer, or for high capacity well ultra-sonic meters should be used. Cut-throat and Parshall flumes are also acceptable.
- (3) *Prevention of return flow during pumping tests.* The water discharged from a well during a pumping test must be discharged in a manner that minimizes recharge to the source aquifer during the time of testing.
- (4) *Measuring water level.* Water levels must be measured with a device that can measure water levels within one-fourth of an inch. The static water levels in all test wells must be recorded before pumping begins.

The following water level measurement intervals shall be used for eight-hour pump tests. The ~~community development planning~~ engineer may require more extensive testing procedures (i.e., such as a 72-hour aquifer study), if necessary. As a general rule, the faster the water levels are changing, the more often measurements should be taken.

Table (e)(1) Minimum Time Intervals For Water Level Testing In The Production Well During A Pumping Test And When Measuring Recovery Level Data

0 to 5 minutes	Every 1 minute
6 to 10 minutes	Every 2 minutes
11 to 60 minutes	Every 5 minutes
61 to 120 minutes	Every 15 minutes
121 to 240 minutes	Every 30 minutes
241 to 600 minutes	Every 60 minutes
601 to 1440 minutes	Every 120 minutes

- (5) *Recovery test.* Once the constant yield pumping test is completed a recovery test shall be performed. Water level recovery data shall be recorded just like the pumping test data with time and depth measurements taken at intervals similar to the pump test. Recovery test results must be recorded on the same county pump and recovery test data form as the pumping test results. Recovery tests shall be conducted for one-half the duration of the well test (four hours) (please see administrative manual for further detail). The gathering of recovery data may be terminated if the static water level recovers to within ten percent of the initial static water level of the test.
- (f) *Surface water quantity standards.* For projects using private surface water systems, compliance with these regulations shall be demonstrated by submittal of proof of adequate, adjudicated water right(s) and augmentation plan (if necessary) from the Colorado State Engineer's Office Division of Water Resources and by compliance with the provisions of this subsection and subsections (g) and (h).

Multiple lot preliminary plats. For private surface water systems serving two or more lots or residential Class II uses, a water design and operations plan prepared and certified by a professional engineer or hydrologist experienced in the design of domestic water supply systems shall be submitted for approval by the county. The submittal must estimate water demands for the project (see subsection

(b)) and demonstrate that the adjudicated water rights and any water storage are sufficient in terms of quantity and seniority to meet those demands in times of minimum stream flows or reservoir levels. Minimum flows or levels are determined by using the lowest recorded data. If actual historical data is insufficient, estimated data may be utilized using best professional judgment. The water report must also be submitted for review and comment by the state engineer's office of water resources as required by C.R.S. § 30-28-136(h).

(g) *Water quality standards.* All projects must submit water quality data for preliminary plat approval. Projects with nine or more lots are required to contact the State of Colorado Department of Public Health and Environment ("CDPHE") for a determination as to whether a CDPHE permit is required.

(1) *Constituents.* Water quality data shall include, at a minimum, the following basic constituents: coliform bacteria (E. Coli), calcium, magnesium, sodium, pH, potassium, carbonate, bicarbonate, sulfate, nitrate, chloride, boron, hardness, alkalinity, and total dissolved solids. The individual elements that shall be tested are: phosphorus, aluminum, iron, manganese, copper, zinc, molybdenum, nickel, cadmium, chromium, barium, lead, ammonium, fluoride, arsenic, selenium, and mercury. The county's community development planning engineer may add to or delete from the list of constituents to be tested, or require additional testing.

(2) *Recording.* All water quality data submitted to the county along with any applicable federal or state maximum contaminant levels (MCLs), the location of the well tested, and the date samples were taken shall be recorded with the plat and at the county clerk and recorder's office showing current MCLs at the time of recording.

(3) *Mitigation.* If any of the constituents tested exceeds the primary drinking water standards (MCLs) as listed by the Colorado Department of Public Health and Environment, the applicant shall provide a plan to the county which describes the appropriate and sufficient mitigation measures that shall be taken to provide a safe drinking water source within each dwelling unit that does not exceed the aforementioned MCL's. Based upon water quality data, the development engineer may require other mitigation measures to insure water quality is sufficient for drinking and other domestic purposes.

(h) *Water supply operations and maintenance.* All developments using shared water supply systems shall be responsible for creating an appropriate legal entity that shall administer and operate the water supply. Any county development approval shall contain a condition requiring compliance with this section.

(1) *Legal operational structure.* The legal entity shall address the following points:

- Describe and define access to and ownership of the components of water system, the location of the source of supply and authority to operate.
- Establish an organization with a governing board or commission of members comprised of property owners served by the water system having the authority to own and operate the water supply, establish rules and regulations and enforcement of same, and hold regularly scheduled meetings that are noticed in writing to all users of the water system.
- Describe the responsibilities of the governing board or commission including defining the responsibilities of that board or commission, contracting an operator and/or engineer for the system, defining the service area and water users agreements, establishing water quality testing and maintenance schedules for the system, setting fees, assessments and rate schedules and establishing a method for amending and/or granting variances to the rules and regulations as well as expansion of services.

(2) *Operations and maintenance.* Operation of the system shall be described and shall operate within the rules and regulations established by the board or commission, including but not limited to water quality testing, water users agreements, maintenance and repair of supply, service lines and fire hydrants (as applicable), collecting fees and managing the discontinuance of individual services.

- (3) *Responsibilities of property owners.* Responsibilities of the lot owner or homeowner shall be described and at a minimum include the acceptance of the rules and regulations issued by the governing board or commission, maintenance of individual property owners' service lines, notification of change of ownership, notification of damage to the system, installation of an individual stop and waste valve and participation in periodic assessments for system maintenance or upgrades.

(i) *Definitions.*

~~Average total daily consumption/total daily water demand means the average amount of water (indoor and outdoor) required to serve the users of a water system on a daily basis.~~

~~Constant rate pumping test means a well aquifer testing procedure in which a well is pumped for a significant length of time at a constant rate. Data from this test can be analyzed to determine hydraulic characteristics of an aquifer.~~

~~Commercial property means property designated and authorized for commercial use.~~

~~Distribution line means any water line which serves the purpose of providing water from (downstream of) the main or transmission line to a household or series of households but prior to the endpoint device(s).~~

~~Hydraulic conductivity means the capacity of aquifer material to yield or transmit water. Hydraulic conductivity is dependent on the size and amount of interconnections between the pore spaces in an aquifer's rock and soil. It is expressed in terms of the volume of water that would be transmitted in a unit of time through a unit cross-sectional area of rock under a unit hydraulic gradient.~~

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

~~Production wells are the wells that will be outfitted with a pump and water will be withdrawn during a well or aquifer test.~~

~~Professional engineer means a registered professional civil engineer licensed in the state, and experienced and practicing in the field of water resource development.~~

~~Professional geologist means a person who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of 30 semesters (45 quarters) of undergraduate or graduate work in a field of geology and whose post baccalaureate training has been in the field of geology with a specific record of an additional five years of geological experience to include no more than two years of graduate work. (Source C.R.S. § 34-1-201.)~~

~~Public water system means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 persons at least 60 days out of the year.~~

~~Residential property means any real property platted and approved for potential future or existing use.~~

~~Service area means the area legally described as being served by a particular water source and system.~~

~~Service line means generally the portion of the distribution line which transports water from the meter location to the endpoint device (i.e. the faucet).~~

~~Specific yield means the amount of water released by gravitational drainage from an unconfined aquifer. It is analogous to specific capacity except it is used in the analysis of an unconfined aquifer. See "Storage coefficient."~~

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

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

~~Storage coefficient~~ represents the volume of water released from or taken into storage per unit area of an aquifer for a unit change of head in a confined aquifer. This measure is used to estimate the amount of water available for withdrawal from a well. In an unconfined aquifer the coefficient of storage is referred to as the specific yield. See "Specific yield."

~~Supply ownership~~ means that entity which has governing responsibility and authority for a water system and the quality, quantity and dependability of that system.

~~Tap or connection~~ means authorized legal connection to a water system. Physical tap has been installed on a water main, a transmission line, or distribution line and serves one single residence or commercial unit.

~~Transmissivity~~ means the hydraulic conductivity of an aquifer multiplied by the aquifer thickness. It is the rate of flow of groundwater (expressed as gallons per day) through a vertical strip of the gradient of 1 (100 percent). Estimates of an aquifer's transmissivity can be used to determine how much water will move through the aquifer.

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

~~Water supply plan~~ means a report that outlines how water will be collected and supplied to a development. This report must contain detailed information on the parameters of the aquifer and wells intended to serve the proposed project as well as the water system infrastructure.

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

FOOTNOTE(S):

--- (5) ---

75 gpcd x 4 persons + 50 gpd outdoor use in growing season (USEPA Design Manual and CDPHE).

--- (6) ---

A single family dwelling is assumed to house 2.6 persons.

--- (7) ---

This figure is derived using an assumption of 2,000 square feet of irrigable lawn or garden area per dwelling unit. Assuming 2.5 acre-feet per acre for the growing season (180 days), a seasonal consumptive use rate of 1.785 acre-feet per acre and a delivery efficiency of 70 percent.

Section 82-187 shall be amended as follows:

Sec. 82-187. Transition Area Development Standards.

- (a) *Purpose.* To protect the health, safety or welfare of the community through the application of appropriate design and development standards within areas in the county, which are either transitioning or likely to transition from a rural character to a more urbanized character. The standards are intended to better address the higher intensity uses in these transition areas.
- (b) *Applicability.* The area of the county designated by the board through the adoption of the Transition

Area Overlay Zoning Map is subject to the provisions of this section. The standards contained in this Section apply to the development of uses subject to a class II land use application as identified in section 82-4, and subdivisions of land, as defined in section 62-1, including minor exemption subdivisions. The standards identified in this section shall apply in addition to all other applicable standards in subpart B. If the standards identified in this section conflict with any other standards and cannot be read harmoniously with such standards, the standards in this section shall control and apply.

(c) *Roads, Drainage, Access, Surface Material, and Dedications.*

(1) *Roadway Classification and Design Criteria*

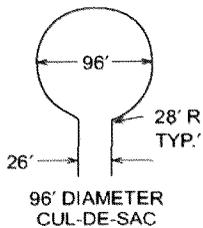
a. Roadways classification and cross-sections shall comply with the standards outlined in Table 82-187.A.

Table 82-187.A: Road Cross-Section Design Criteria										
Classification	Max. ADTS	Travel Lanes (2)	Left-Turn Lane (1)	Paved Shoulders (2)	Curb & Gutter Required	Surface Width	Sidewalk Required	Landscape Buffer (2)	Minimum ROW	Max Grade
Arterial	N/A	12'	11'	5'	Yes	45'	Yes	5'	80'	8%
Collector	2,499	12'	11'	4'	Yes	43'	Yes	5'	70'	8 %
Major Local	999	11'	NA	4'	No	30'	No	NA	60'	8 %
Minor Local	399	11'	NA	2'	No	26'	No	NA	60'	10 %
Low ADT	48	10'	NA	NA	No	20'	No	NA	60'	10 %
Alleys, emergency access	NA	NA	NA	NA	No	20'	No	NA	20'	10%

- b. The public works director may authorize exceptions to the standards identified in Table 82-187.A for roads within the La Posta Road Area District boundaries, so long as the proposed design is consistent with the road design criteria identified in the La Posta Road Area District Plan and does not present potential health, safety, or welfare risks to the public.
- c. Grass swales shall have a maximum 4:1 side slope;
- d. Curbs shall have intermittent cuts to relieve drainage to the grass swales;
- e. Horizontal and vertical alignment shall be in accordance with subpart B;
- f. Roads shall be designed with a cross slope of 2% from the crown to the edge of the surface with a maximum superelevation of 2%;
- g. Turnouts shall be required at fire hydrants for all roads with a surface width of less than 26 feet. Turnouts shall be required every 800 feet for all roads with a surface width of less than 26 feet; however, after receipt of comment from the applicable fire district, the public works director may reduce the number of required turnouts. Required turnouts shall have a surface designed to support 60,000 pound vehicles, be 60 feet in length, and provide 26 feet in surface width with reasonable tapering.
- h. Major Local Roads, Minor Local Roads, and Low ADT Roads may include grades of up to

2% greater than those noted in Table 82-187.A if warranted based on alignment, length of segment, terrain or sun exposure and approved in writing by the public works director. The public works director shall seek comment from the applicable fire district prior to allowing a greater grade and such grade shall not exceed the maximum standard identified in Table 82-187.A. for a consecutive length of no greater than 200 feet;

- i. Roads and alleys shall be constructed and surfaced with an all-weather, paved surface, such as concrete, asphalt, or other similar surface as outlined in the design and construction standards adopted by the nearest incorporated municipality (Durango, Bayfield, or Ignacio). Where the applicable municipality does not have a standard, roads shall be installed and surfaced as outlined in the current CDOT Road Design Manual (M&S) and as approved by the public works director;
- j. Alleys shall have a minimum paved width of 20' and be graded to drain;
- k. Roads, alleys, non-vehicular traffic improvements, required drainage facilities, and traffic signs shall be maintained by the property owner, or other legal entity responsible for such facilities and improvements, in good condition, free of weeds, trash, and debris;
- l. The gradient within 100 feet of any street intersection shall not exceed 5%. Every effort shall be made to keep grades at street intersections as flat as possible. The required sight distances as outlined by subpart B shall be provided in all cases;
- m. The public works director may require more stringent widths and grades upon a determination that such grades or widths are warranted considering safety, topography, cross-section, drainage, snow storage, maintenance, or other site-specific conditions;
- n. An appropriate transitional roadway plan shall be provided where a roadway is proposed to connect to a facility under the jurisdiction of an adjoining municipality and there is variation between the municipality's cross-section and the cross-section outlined herein. The proposed transitional roadway plan shall be reviewed by the adjoining municipality and a determination on the adequacy of the transitional plan shall be made by the public works director. The transitional plan shall be deemed adequate if the transitional cross-section meets the minimum standards provided for herein and allows for a safe and appropriate transition to the municipal facility; and
- o. Dead-end roads shall contain a turnaround that complies with the following design standards:



The public works director may approve an alternative design if it accommodates the safe turnaround of a vehicle that is 30 feet in length. A Colorado licensed engineer shall certify the design and construction of the turnaround area. The applicable fire district and adjacent municipality, if applicable, shall provide comment on the adequacy of the design of the turnaround prior to the public works director's approval.

(2) *Drainage*

- a. Drainage for arterials, collectors and major local roads shall be designed with curb and gutter and intermittent curb cuts to spill street flow into grass swales. Drainage for minor local roads, low ADT, and cul-de-sac, alley, and emergency roads may be designed solely utilizing grass swales;

- b. Grass swales shall be designed based on the current version of *Urban Drainage and Flood Control District Criteria Manual Volume 3* for design of grass swales;
- c. The drainage system (curb and gutter and grass swales, or grass swales alone) shall be designed such that the 10-year storm design event is contained below the top of the curb with all travel lanes remaining open;
- d. The drainage system (curb and gutter and grass swales, or grass swales alone) shall be designed such that the 100-year storm design event can pass with a minimum of one (1) travel lane remaining open;
- e. Grass swales shall be designed with a surface that will remain stable in the 100-year storm event;
- f. When the combined flow from intersecting streets cause the allowable cross-street flows to be exceeded, flows shall be intercepted upstream of the intersection and routed appropriately;
- g. Roads and grass swales shall be designed with continual fall and nominal ponding; and
- h. A storm drain system may be developed in lieu of swales. In such cases, an adjoining municipality or special district must provide written comment that the storm drain plans comply with their respective standards. Connection to the storm drain system shall occur prior to plat recording or permit issuance.

(3) *Road Connectivity and Access.*

- a. New roads or road alignments, including street stubs/stub outs, shall connect to adjacent public roads or public rights-of-way, when such public roads or public rights-of-way exist, or are included in an approved plan;
- b. New development shall have a secondary access or an emergency access from a public road as outlined in the table below. The primary access to a development shall meet the applicable county road standards, including any off-site portions of the road until it intersects the nearest county road or state highway;

Table 82-187.B: Secondary and Emergency Access	
Number of ADT	Access Required
Less than 200	None
200- 800	20' wide emergency access road
Greater than 800	Secondary access road

- c. Upon consideration of written recommendations from the public works director and applicable fire district, exceptions to the requirements in Table 82-187.B may be granted by the board of county commissioners. An exception may be granted upon a finding that: (i) topography challenges or other site-specific constraints prevent compliance with the requirements; (ii) adequate fire mitigation measures exist, such as defensible space, on-site water supply for fire-fighting purposes, internal sprinklers, additional road width, or fire resistant construction materials; and (iii) the granting of the exception would not be detrimental to the health, safety or welfare of the public. The board of county commissioners may limit the extent of the exception to the degree necessary to ensure protection of the public health, safety and welfare.
- d. Maximum length of dead-end roads shall not exceed 500 feet when serving 160 or more ADT, or 1,000 feet when serving fewer than 160 ADT.

- e. Gated subdivision roads and accesses may be considered within a project when both the applicable fire district, and public works director approve their design, specifically considering public safety for pull-outs along travel lanes and effective accessibility for emergency vehicles (via use of Knox Box or other uniform devices/methods).
- (4) *Parking, roadway, and driveway surface material.*
- a. All driving surfaces shall be graded for adequate drainage and surfaced with an all-weather, paved surface, such as concrete, asphalt, or other similar surface approved by the public works director. Permeable pavement is allowed on internal surfaces, subject to written approval by the public works director. Gravel surfaces, including surfaces treated with dust retardants, are not permitted unless used as an acceptable alternative for emergency access roads, with the approval of the public works director.
 - b. Paving requirements may be waived by the public works director for emergency access, when the road is constructed with an all-weather surface material designed to support 60,000 pound vehicles, have a minimum surface width of 20 feet, and include reasonable edge tapering.
- (5) *Dedications.*
- a. *Public Road Dedication.* All roads and rights-of-way shall be dedicated for public use and shall authorize the use of the rights-of-way for all public uses, including but not limited to vehicular, pedestrian, bicycle, and utility use.
 - b. *Right-of-Way Width Dedication.* When required, the applicant shall dedicate rights-of-way for the entire length of the existing rights-of-way frontage or future rights-of-way within the boundaries of the development. The minimum rights-of-way are identified in Table 82-187.A. and the amount of rights-of-way dedicated shall be adequate to address future growth as contemplated in the applicable district plan. The determination of the amount of required dedication shall take into consideration existing topography constraints and road design and may not equally burden adjacent parcels due to such factors. If a governmental entity is responsible for maintenance of the rights-of-way, such rights-of-way shall be deeded in fee to the governmental entity at the time of the project approval or at such time the governmental entity assumes maintenance responsibility.
- (d) *Outside Storage.*
- (1) Movable storage structures, including but not limited to zircons and trailers shall be allowed if they are determined compatible through an approved land use permit. Temporary movable storage structures that are not included in an approved land use permit shall be allowed on a site for up to 30 days without County approval.
 - (2) Outside storage of items such as merchandise, building materials, tools of trade, or inoperable items (e.g., household appliances, vehicles, refuse) shall be allowed for a period of no more than thirty (30) or more consecutive days without County approval. The storage of building materials for on-site construction that is in compliance with the La Plata County Building Code shall be allowed for more than thirty (30) days without County approval.
- (e) *Outdoor Lighting.*
- (1) *Exceptions.* The following shall be exempted from outdoor lighting regulations:
 - a. Lighting for holidays; and
 - b. Lighting required by law.
 - (2) *Light Trespass.* Exterior lighting shall not be the cause of light trespass, as provided below:
 - a. Light that trespasses onto public rights-of-way shall not exceed 1.5 fc as measured from the lot line;
 - b. Light that trespasses onto an adjacent property shall not exceed 0.8 fc as measured from the lot line; and

- c. Light trespass is measured by vertical readings in foot-candles (fc) at the brightest point on the lot line.
 - (3) *Shield against uplight.* Unless otherwise stated in this section, uplighting from all lights (including street lighting) shall be avoided by using shields. Full cutoff shields may be used unless a particular shield is specified for a particular use as stated within this Section;
 - (4) *Glare.* To reduce glare, the point source of light shall not be visible beyond any lot line on which the light is located;
 - (5) *Reduced lighting with reduced activity.* Outdoor lighting, except security lighting and lights illuminating commercial signs, shall be extinguished at the close of business operations, or by 9:00 p.m., whichever is later and shall remain extinguished until two (2) hours prior to resuming business operations;
 - (6) *Replacement of fixtures.* If an existing light fixture is removed, it shall be replaced with a conforming light fixture; and
 - (7) *Maintenance of fixtures.* Lighting shall be maintained by the property owner or other legal entity responsible for such facilities and improvements in functioning condition, as initially approved and intended.
- (f) *Landscaping.* A scaled landscape plan shall be submitted and include the following minimum requirements:
- (1) A 5% minimum area of the total subject parcel(s) associated with a project shall be landscaped. Abutting unimproved portions of public rights-of-way may not be contributed to this minimum area;
 - (2) When located adjacent to an arterial, collector, major local or minor local road, trees must be planted along all frontages a minimum of two (2) feet from any street curb or pavement edge;
 - (3) Planning of any landscaping shall be designed with consideration toward existing or proposed underground utilities;
 - (4) Landscaping may not create visual obstructions to motorists or pedestrians as required in subsection 74-91(7) of subpart b;
 - (5) All unimproved, open areas shall either be planted, or otherwise protected from erosion and dust; and
 - (6) Required plant materials shall meet the following standards:
 - a. *Plant quality.* Plants shall be nursery-grown and adapted to the regional climate, preferably native and drought-tolerant. Grass seed, sod, and other ground cover material must be clean and reasonably free of weeds and noxious pests and insects. Artificial plants or vegetation are prohibited and may not be used to meet any standards of this Section;
 - b. *Tree size.* Trees planted to satisfy the standards of this paragraph must contain a 2-inch minimum caliper, measured 12 inches from the base of trunk or top of planting root ball;
 - c. *Shrub size.* When used for screening purposes, shrubs must have a minimum container size of five (5) gallons;
 - d. *Individual Groundcover plants.* Groundcover plants intended to satisfy the standards of this paragraph must have a minimum container size of one (1) gallon. Ground cover plants used in lieu of grasses, in whole and in part, shall be planted in such a manner as to present a finished appearance and reasonably provide coverage of the entire planted area within one (1) year from initial planting; and
 - e. *Xeriscape.* Xeriscaping may be used to fulfill requirements identified within this subsection. When xeriscaping 75% or more of the landscaped area of a project, landscape irrigation requirements may be reduced. Plant materials, as identified by the Colorado State University Extension Office *Xeriscaping Fact Sheet*, in conjunction with best practices of

Xeriscape principles, shall be accepted for purposes of this subsection.

- (7) Ongoing maintenance shall occur for all required landscaping, including the replacement of dead or unhealthy plantings. Landscaping shall be maintained by the property owner or other legal entity responsible for such plant materials as required and/or approved.
- (g) *Water Supply*. All water facilities shall be installed in accordance with the standard drawings and construction specifications on file with the service provider.
- (h) *Sanitary Sewer*. All wastewater facilities shall be installed in accordance with the standard drawings and construction specifications on file with the service provider.

Section 82-201 shall be amended as follows:

Sec. 82-201. Land use permit conditions and requirements.

The following conditions and requirements shall apply to all permits:

- (1) Construction or commencement of the use must begin within the period of time specified in section 82-202 for the permit to remain valid. If the permit has expired, the applicant must apply for and be granted a new permit to proceed with the project.
- (2) Modifications to a permit are subject to subsection 82-15(1).
- (3) Any development not constructed in accordance with an approved permit shall render the permit void and represent a violation of the permit, unless affirmatively authorized by the department of planning services.
- (4) The board of county commissioners may revoke a permit if the development is not developed and/or used in compliance with the approved permit. Noncompliance with standards, the contents of the permit, and/or the attached permit conditions shall constitute a violation of this division. Failure to fulfill any condition imposed during construction or occupancy of development shall result in the revocation of the permit. Such permit may be revoked after a hearing before the board of county commissioners, which will be held after notification of the permit holder and other interested parties to the extent practicable under the circumstances.
- (5) All representations made in an application for a permit or variance that are necessary for compliance with any standard are binding. All verbal, written and graphic representations made in the course of hearings before the planning commission, board of adjustment and board of county commissioners shall be considered a part of the application. Failure to fulfill any representation during construction or occupancy of a development shall result in suspension or revocation of a permit.
- (6) All development within a subdivision shall be in conformance with this section. An application for a building permit may be denied if the permit application is for an illegally sold or illegally subdivided lot. A permit for any development shall not be granted if the joint planning commission or board of county commissioners determines that a violation exists or is created by issuance of a permit or will continue to exist on the property subject to the permit after the permit is issued. Issuance of a permit does not exempt an applicant or landowner from the standards or regulations of this section.
- (7) The county will not enforce private covenants, nor shall the provisions of this division be superseded by any private covenant.
- (8) Any additional permit conditions and/or information may be required as necessary to ensure that the purposes of this division are carried out. Conditions and/or additional information requirements shall be in written form and attached to the permit.
- (9) Any false or misleading information given in the permit application or in other representations to the planning staff shall render the permit null and void and represent a violation of this division.

- (10) By accepting the benefits of the permit, the applicant acknowledges that he understands the permit conditions, will comply with them, and grants authorized county personnel the right of ingress and egress on such lands for any and all inspection purposes necessary to the exercise of the permit. The applicant, by accepting the benefits of the permit, also certifies, to the best of his knowledge, that the permit application materials are true and correct.
- (11) Notwithstanding any time limit or period within which the board of county commissioners, planning commission, planning department or director of planning services or ~~planning services~~ is required by subpart B of this Code to do any act or thing, such time limit or period shall not be construed as mandatory, but shall only be construed as directory, and no rights whatsoever shall vest in any applicant or other person by reason of the failure of the same to comply with any such time period or limitation.
- (12) If a court of competent jurisdiction in an action brought by the applicant shall find that any condition of approval of any permit shall be invalid for any reason, it is the declared intent of the board of county commissioners that the entire permit shall then become void, and the underlying land use unlawful and prohibited pending a new application approval.

Section 82-210 shall be amended as follows:

Sec. 82-210. Marijuana facilities general standards.

In addition to all applicable standards in subpart b of the La Plata County Code, all marijuana facilities shall meet the following general standards. If the general standards imposed by this section conflict with any other standards and cannot be read harmoniously with such standards, the general standards in this section shall control and apply.

- (1) *Odor.* No marijuana facility shall produce adverse or noxious odors detectable beyond the marijuana facility's property lineboundary.
- (2) *Visual.* Marijuana plants, products, and associated equipment identifying the use as a marijuana facility including, but not limited to all processing, packaging, and business transactions shall be kept from public view and shall not occur on any sidewalk, public street or right-of-way, or any other public place.
- (3) *Lighting.* All grow lights shall be screened to prevent nighttime leakage. Exterior lighting, when required, shall be placed in a manner to minimize offsite glare and visual impacts. Marijuana facilities do not have to comply with any exterior lighting standard that contradicts with industry standards required by the Marijuana Enforcement Division of the Colorado Department of Revenue or the Colorado Code of Regulations.
- (4) *Dwelling units.* No marijuana facility may be located within a dwelling unit or within a building that has any portion of it classified as residential under the La Plata County building code.
- (5) *Compliance with other laws and regulations.* A marijuana facility shall not be in violation of any applicable state or local laws or regulations.
- (6) *Proximity to other uses.* No marijuana facility shall be located within 1,000 feet from any of the following uses whether such uses are inside or outside the unincorporated boundaries of the county: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, or seminary, or a residential child care facility; or (iii) a drug or alcohol treatment center. For purposes of this provision, the distance between the marijuana facility and neighboring land use shall be measured in a direct line between the closest point of the project boundary and the closest point on the lot or parcel of neighboring land upon which any of the above referenced uses are located.
- (7) *Relationship to certain municipalities.* The proposed location of a marijuana facility shall not be within three (3) miles of the nearest incorporated portions of the towns of Bayfield or Ignacio. For purposes of this provision, the distance between the marijuana facility and towns of Bayfield or Ignacio shall be measured in a direct line between the closest point of the project

boundary and the closest point on the closest lot or parcel incorporated in the towns of Ignacio or Bayfield.

Chapter 82 footnotes shall be amended as follows:

Cross reference— Buildings and building regulations, ch. 18; development districts, ch. 70; development standards and specifications, ch. 74; floods, ch. 78; manufactured home, ~~mobile home~~ and recreational vehicle parks, ch. 86; signs, ch. 98; subdivisions, ch. 102; zoning, ch. 106.

Chapter 86 Title shall be amended as follows:

Chapter 86 MANUFACTURED HOME, ~~MOBILE HOME~~ AND RECREATIONAL VEHICLE PARKS

Section 86-1 shall be amended as follows:

Sec. 86-1. Application of chapter provisions.

The standards in this chapter apply to manufactured home, ~~mobile home~~ and recreational vehicle subdivisions and parks. These standards are in addition to the standard requirements for class II land use permit applications and plat requirements, where required in chapter 82 of subpart B of this Code.

Section 86-2 shall be amended as follows:

Sec. 86-2. State standards.

Applications shall meet all state standards governing manufactured home, ~~mobile home~~ and recreational vehicle parks and subdivisions.

Section 86-3 shall be amended as follows:

~~Mobile~~ Manufactured home and recreational vehicle parks are required to provide an area of common, developed recreational space of a size equivalent to at least 200 square feet for each lot in the park or subdivision. The recreational area shall be located on land free of natural and manmade hazards, including adjacent heavy traffic. The recreational land shall also be easily accessible to all residents of the park. Common recreational space shall not include roads, road easements, parking areas, storage areas, service areas or areas required for setbacks.

Section 86-4 shall be amended as follows:

Sec. 86-4. Utilities.

- (a) Each lot shall be provided with hookups for power. Water and sewer facilities, including any proposed sanitary dump stations, shall be provided in accordance with the regulations of the state division of water resources, state department of health, San Juan Basin Health Unit and the county, as appropriate.
- (b) Each ~~mobile~~ manufactured home lot shall be provided with telephone service.
- (c) All new utility installations shall be underground.

Section 86-5 shall be amended as follows:

Sec. 86-5. Floodplain.

Development of ~~mobile~~ manufactured home parks and recreational vehicle parks within the floodplain is not allowed, unless they meet federal floodplain regulations.

Chapter 86 Article II heading shall be amended as follows:

ARTICLE II. MANUFACTURED ~~AND MOBILE~~ HOMES

Section 86-21 shall be amended as follows:

Sec. 86-21. Setbacks.

- (a) *From interior boundaries.* Setbacks are a minimum of 20 feet from the front lot line and ten feet from the sides and rear lot line. Setbacks are measured from the lot line to the foundation of the manufactured ~~or mobile~~ home.
- (b) *From exterior boundaries and easements.*
 - (1) Abutting public right-of-way: 25 feet.
 - (2) Abutting state/federal highway or city arterial: 50 feet.
 - (3) Abutting exterior boundaries other than above: 20 feet.
 - (4) Easements: Ten feet, unless the holder of the easement waives this requirement.

Section 86-23 shall be amended as follows:

Sec. 86-23. Stand area.

All lots shall contain a manufactured ~~or mobile~~ home stand area which is graded and surfaced to provide a stable, well-drained foundation. Grading around the stand shall be positive.

Section 86-24 shall be amended as follows:

Sec. 86-24. Open space for manufactured ~~or mobile~~ home parks.

Within each lot there shall be at least 300 square feet of open space. The open space should be able to contain a geometric square measuring 15 feet by 15 feet. Parking and setback areas shall not be used for the open space requirement.

Section 86-25 shall be amended as follows:

Sec. 86-25. Parking and storage for manufactured ~~or mobile~~ homes.

- (a) Each manufactured ~~or mobile~~ home lot shall have two parking spaces located within that lot.
- (b) Auxiliary parking within the park or subdivision shall be provided at a ratio of one parking space per two lots or spaces.

- (c) Each lot shall be provided with an enclosed storage unit equaling a minimum of 216 cubic feet. Storage facilities may be located on each lot or in a central area.
- (d) All parking areas shall be surfaced with a minimum of four inches of compacted gravel with a maximum aggregate size of two inches.

Section 86-26 shall be amended as follows:

Sec. 86-26. Fire protection.

- | (a) *Parks with fewer than 50 lots.* Manufactured ~~or mobile~~ home parks designed for fewer than 50 units shall provide an onsite fire hydrant suitable for water drafting operations by the local fire district and a water storage facility containing a minimum of 5,000 gallons of water for firefighting purposes at all times. This requirement may be waived if one of the following conditions exist:
 - (1) The local fire chief has determined that a sufficient supply of water is available from a pond, stream, reservoir, hydrant or other source.
 - (2) The park contains fewer than 25 lots, and the spacing between all dwelling units shall be a minimum of 40 feet.
- | (b) *Parks with 50 lots or more.* Manufactured ~~or mobile~~ home parks with 50 or more lots shall contain the following fire protection facilities:
 - | (1) *Storage.* All manufactured ~~or mobile~~ home park water systems shall contain sufficient storage over and above that required for normal domestic use to provide the following minimum supply for fire protection:
 - Fifty to 99 lots: 7,500 gallons; and
 - 100 or more lots: 10,000 gallons.
 - | (2) *Hydrants.* Fire hydrants equipped with national standard threads shall be located throughout the manufactured ~~or mobile~~ home park in sufficient number and of such spacing as to be within 300 feet of each manufactured ~~or mobile~~ home unit.

Section 86-27 shall be amended as follows:

Sec. 86-27. Skirting recommended for manufactured ~~or mobile~~ homes.

- | In order to conserve on heating costs, prevent water and sewer line freezing, avoid overturning and improve general appearance, it is strongly recommended that all manufactured ~~or mobile~~ homes be skirted with durable materials and that they be securely anchored.

Chapter 86 footnotes shall be amended as follows:

- | **Cross reference**— Buildings and building regulations, ch. 18; ~~mobile~~ manufactured home standards, § 18-171 et seq.; development standards and specifications, ch. 74; floods, ch. 78; land use and development permits, ch. 82.
- | **State Law reference**— Mobile homes and manufactured housing, C.R.S. § 39-29-101 et seq.; parks, C.R.S. § 38-12-101.

Section 90-19 shall be amended as follows:

Sec. 90-19. Definitions.

Unless otherwise defined in Section 62-1, all other words used in this article shall be given their usual, customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in the oil and gas industry.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Also, see chapter 62 for additional definitions.

Abandonment means the permanent abandonment of a well and shall be based on the operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC). Presumption of permanent abandonment of a major facility shall be based upon nonuse or nonoperation for one year without notification to the department of the intent to resume operations under specified conditions.

Agent means one authorized to make binding representations on behalf of the applicant.

Agricultural means currently in use for farm or ranch purposes, including pasture, and assessed in the county assessor's records as agricultural land.

Applicant means that person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question.

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

Burden of proof means by a preponderance of the evidence.

Centralized facility means a facility serving multiple well pads consisting of one or more compressors, generators and/or water, gas or oil treatment equipment.

Chemical(s) shall mean any element, chemical compound or mixture of elements and/or compounds.

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

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

Code means the La Plata County Land Use Code.

CDOW means the Colorado Division of Wildlife.

CDOT means the Colorado Department of Transportation.

COGCC means the Colorado Oil and Gas Conservation Commission.

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

Corridor means the tracts of land within which a pipeline right-of-way is located.

County means La Plata County.

Critical use hours means that time of day when disturbance is most likely to increase stress to

and negatively impact wildlife.

Critical use period means that portion of the year (weeks or months) when disturbance is most likely to increase stress to and negatively impact wildlife.

Department means the La Plata County Planning Department or its successor.

Director means the director of the planning department or any member of the director's staff authorized to represent the director.

Drainage plan means a written description and depiction on a site plan for the collection, transport, treatment and discharge of stormwater runoff.

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

Easement means authorization by a property owner for the use of a designated portion of his property by another, for a specified purpose.

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

Facility means a site and the equipment associated with a site used for the production, transportation, treatment, and/or storage of oil and gas and waste products.

Flowline means a pipeline connecting an individual well to production metering equipment.

Gas well means a well capable of producing natural gas.

Gathering line means a pipeline transporting produced gas, oil, or water from multiple intermediate lines.

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

Heavy equipment means drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding five tons.

Improvement means any new construction activity or addition of equipment or materials to a site.

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

Lessee means the entity entitled under an oil or gas lease to drill and operate wells. The lessee may also be the applicant for purposes of this article.

Major oil and gas facilities means:

(1) — Centralized facilities.

(2) — Water injection, centralized water transfer stations, centralized water pump stations and associated facilities serving multiple well pads.

(3) — Storage yards and construction staging yards in place for six months or longer.

(4) — Any permanent equipment facility or structure related to the production of oil and/or gas which contains internal combustion engines with a cumulative horsepower, de-rated for elevation, of 200 BHP or greater.

(5) — Transmission line or any pipeline for which the power of eminent domain is exercised.

(6) — Any oil and gas facility not meeting the definition of minor oil and gas facility.

Minor oil and gas facilities means:

(1) — An individual well pad built with one or more wells and operated to produce liquid

petroleum and/or natural gas, including associated equipment required for such production.

(2) — Intermediate lines which extend beyond one-quarter mile (1,320 feet) from the wellhead, gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.

(3) — Temporary storage and construction staging yards in place for less than six months.

Minor oil and gas facilities requiring special mitigation measures means:

(1) — An individual wellsite built and operated to produce petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements specified in this article for minor facilities.

(2) — Any of the facilities specified under subsection (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.

(3) — Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six weeks.

Nonconforming use means a use that was legally established, but no longer complies with the regulations of this chapter. A non-conforming use is legal if it complies with subsection 90-44(e).

NRCS means the Natural Resource Conservation Service.

Oil well means a well capable of producing crude petroleum oil.

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

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

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

Owner or operator shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for such owner or operator or others.

Permanent equipment means equipment located onsite for a duration of time greater than six months effective one year after the drilling and completion of a well.

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

Planning commission means the La Plata County Planning Commission.

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

Platted subdivision lot means any lot created pursuant to state law, which has received subdivision approval by the board of county commissioners since May 5, 1972.

Residential means a property having an existing residence or platted subdivision lot within one-quarter mile of a site.

Right-of-way means:

(1) — A persons legal right to pass through grounds or property owned by another, or

(2) — Land, property or interest therein usually in a strip, acquired for or devoted to transportation purposes.

Security fencing means a six-foot chain link fence topped by three strands of barbed wire, or the equivalent, with a gate that can be secured.

Setback means the distance between the following, including but not limited to, a wellhead, intermediate line, gathering line or major facility structure boundary and the closest projection of a residential, commercial, or industrial building structure, a lot or property line, a permitted facility, or a platted building envelope in a platted subdivision.

Site means any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease.

Standard operating practices means criteria developed by the county for the protection of wildlife resources in the county during oil and gas development activities. Standard operating practices may be referred to herein as "SOPs."

Surface owner means the owner of the surface property on which the facility will be constructed or the owner of property who receives notice pursuant to section 90-77.

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

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

Trade secret chemical product shall mean a chemical product the composition of which is a trade secret.

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

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

Water transfer station means a facility that receives produced water via surface transportation from one or more well pad locations.

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

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

All other words used in this article shall be given their usual, customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in the oil and gas industry.

(Res. No. 2013-30, § 1(Exh. A), 8-20-2013)

Section 90-77 shall be amended as follows:

Sec. 90-77. Notice.

- (a) Written notice shall be provided to the current surface owner(s) of the parcel(s) of land on which the minor facility is proposed to be located as well as the current surface owners of those parcels of land within 250 feet of the proposed gathering line or one-quarter mile (1,320 feet) of the wellhead, or other proposed minor facility easement boundary. The applicant shall present proof of such notice by submitting a copy of the letter, a list of the land owners notified, and certified mail receipts. This notice shall be mailed no less than ten days prior to the application being submitted to the

department. Notice of the application shall be made as follows:

- (1) To the current surface owners of the parcel(s) of land on which the minor facility is proposed to be located, as well as the current surface owners of those parcels of land within 250 feet of the proposed gathering line or one-quarter mile (1,320 feet) of the wellhead, or other proposed minor facility easement boundary, as such ownership is indicated for tax purposes in the current records of the county assessor's office. For the purposes of notice, the parcel owner shall receive notice if their property ~~boundary line~~ is within a one-quarter mile (1,320 feet) from the point indicated as the wellhead (the wellhead is indicated by feet from section lines), or other proposed minor facility easement boundary or 250 feet from the point indicated as the center of the proposed gathering line.
- (2) The notice of the application for approval of a minor facility shall be in the form prescribed by this subcategory and shall contain the following:
 - a. A description of the proposed facility site location, including a legal description, as well as a street address for the site, if available from the county's rural addressing system. The identification of the applicant and its agent for the application, if any; the current business address and telephone number for the applicant and its agent, if one has been designated, and a vicinity map per the specification of this chapter and brief description of the facilities and equipment proposed to be located at the site when operational.
 - b. The submittal date of the application to the department. A statement that comments from the parties receiving notice shall be submitted to the department within ten business days of the application submittal date.
 - c. A statement concerning the county's need to enter property which is the subject of minor or major facility permit as follows: For the purpose of implementing and enforcing the county's oil and gas regulations, county personnel and its consultant, may, from time to time, need to enter onto the property which is the subject of a minor or major facility application.
 - d. A statement that if there is a private entity or entities that maintain any private road that accesses the proposed facility, that a designated representative contact the applicant or agent.
 - e. A statement informing the surface owner that they may request written notification by the operator of the commencement of construction and commencement of drilling operations (if the application is approved). Those parties requesting notification shall advise the department in writing of such request within 15 days from receipt of the written notice required by this section. The applicant shall provide written notice(s) to the department and those landowners desiring notice no less than ten days prior to the commencement of construction and no less than ten days prior to commencement of drilling operations. One letter may be used by applicant to provide notice of the estimated date of commencement of construction and drilling operations. Notice may be provided by mail or electronic mail. For the purposes of this paragraph, commencement of construction shall mean any activity which disturbs the surface, including vegetation, but not survey work.
 - f. The current mailing address, website address, telephone number for the department and COGCC, as well as a statement that additional information on the application will be available from the department.
- (b) Written notice shall be provided to the current surface owner as well as surface owners of the parcels of land within one-quarter mile (1,320 feet) of the wellhead prior to re-drilling any oil or gas well that does not trigger the requirement to submit a Form 2A to the COGCC. This notice is for informational purposes only and does not confer any right of appeal under this article. The notice shall be mailed no less than ten days prior to commencement of re-drilling activities at the wellhead and shall include the following information:
 - (1) A general description of the work to be performed during the re-drill.
 - (2) A good faith estimate as to the length of time in days it will take to complete the re-drill.

- (3) The anticipated daily hours of operation for the equipment at the wellhead during the re-drill.

Section 90-123 shall be amended as follows:

Sec. 90-123. Environmental quality standards.

- (a) *Location on private property.* Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to determine land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities on private property:
- (1) The siting of a minor and major facility shall adhere to the standards outlined in this section to the maximum extent practical.
 - (2) The standards in this code shall not cause the operator to site the facility in: a geologic hazard area or an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area of special flood hazard governed by chapter 78 of subpart B, or in an area designated as Restricted Surface Occupancy for wildlife resources by CDOPW, unless after consultation with CDOPW, a written waiver is provided by CDOPW.
 - (3) The county recognizes that in some instances, existing minor oil and gas facilities which initially met the setback requirements of this section do not currently meet the requirements due to (i) the encroachment of other development into the setback area, (ii) the facility is a nonconforming uses, as defined in ~~this chapter~~ Section 62-1, due to a failure to meet current setback requirements; or (iii) because a waiver previously was obtained. In those instances, where the setback requirements of this section cannot be met currently, the use of the existing well pad site may be considered for siting of a new well, provided that the placement of the new well's wellhead is not closer to the nearest lot or property line or building structure for human occupancy than the existing well's wellhead.
 - (4) For minor oil and gas facilities not covered by a memorandum of understanding the number of well pads shall not exceed four within any single 640 acre governmental section of real property. Notwithstanding the foregoing, nothing contained in this section shall be construed so as to require the closure or abandonment of any existing oil or gas well. Special exceptions to this section may be granted when one or more of the following factors apply in a manner such that use of only four well pads per governmental section is rendered impractical:
 - a. Topographic characteristics of the site;
 - b. Natural resource constraints (e.g. wetlands);
 - c. The location of utilities or similar services;
 - d. Demonstratively insurmountable technical issues related to the development or management of the mineral resource;
 - e. Other site conditions beyond the control of the applicant; or
 - f. Demonstrable safety concerns.
 - (5) The following standards presented in this subsection shall be used to site an oil and gas facility. The standards are ranked in descending order of importance. Facilities that cannot comply with the siting standards shall be denied according to section 90-74 or 90-75, unless: the impacts created by noncompliance with such standards are mitigated as outlined in subsections (c)(9) and 90-122(d)(4) and (6); the director waives the mitigation requirements based on existing topography and vegetation; or the mitigation required to comply with the siting standard would cause a conflict with a higher ranked standard. During an appeal pursuant to section 90-76, the board of county commissioners may waive compliance with the higher ranked standard in order to meet compliance with one of the lower ranked standards if there is a finding that such waiver would be in the public benefit. The following are the ranked siting standards:

- a. Minor facilities shall be constructed using existing infrastructure, including the use of existing roads, pipeline routes and well pads. This standard shall not apply if the use of existing infrastructure would impact an area 50 percent or greater of the property which is the subject of the minor facility, unless the surface owner provides written consent.
- b. Minor facilities shall adhere to the setback and location requirements found in subsections 90-122(a), (b)(1)—(3), and (c)(1) and (2).
- c. Minor and major facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.
- d. Minor and major facilities shall be sited to minimize the impact to agricultural operations.
- e. Minor and major facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.
- f. Minor and major facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation to screen or background and the construction of the facility in canyons or behind ridges and natural rock formations.
- g. Minor and major facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
- h. Minor and major facilities shall avoid siting on or across hilltops and ridges or silhouetting.
- i. Minor and major facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.
- j. The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a minor or major facility.

(b) *Visual mitigation plan.*

- (1) A visual mitigation plan shall be required for all minor and major facilities. The visual mitigation plan shall be approved or denied based on its adequate mitigation of public visual resource concerns identified during the application review process. The plan shall incorporate the appropriate design elements of subsections (c)(1)—(10) and include the design information in subsection (b)(2). The visual mitigation guidelines for oil and gas facilities in the county (or equivalent guidance document cited by applicant and approved by the department) shall be used for guidance in the creation of the visual mitigation plan.
- (2) The visual mitigation plan minimum requirements are as follows:
 - a. Compliance with the design elements of subsections (c)(1)—(10).
 - b. Scaled drawing.
 - c. Site boundary dimensions and descriptions.
 - d. Existing and proposed contours and pad elevations.
 - e. Existing conditions and site features that incorporate and surround such site to be developed.
 - f. Existing and proposed access.
 - g. Visual mitigation techniques to be employed at the facility.
 - h. Orientation and dimensions of facilities and equipment that will be used once the facility is operational.
 - i. Description of existing and proposed vegetation.
 - j. Location, height and extent of perimeter berms, if applicable.
 - k. Type, location and amount of mulch materials, if applicable.

- l. Type, location and height of fencing, if applicable.
- m. Delineate drainage and runoff patterns and mitigation.
- n. Direction and type of lighting, if applicable.
- o. Written maintenance and irrigation plan for at least one year after revegetation.
- p. Title block:
 - 1. Project name;
 - 2. Name of applicant or developers;
 - 3. Project number;
 - 4. Date of preparation; and
 - 5. Section, township and range.

- (3) Where minor and major facilities reduce or destroy existing vegetation, the applicant, after consultation with NRCS guidance documents as maintained by and available from the county, shall develop a revegetation plan for the remainder of the facility site for approval by the department. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related activities.

(c) *Visual impacts.*

- (1) To the maximum extent possible, the applicant shall use structures and surface equipment of minimal size to satisfy present and future functional requirements.
- (2) When clearing trees and vegetation for construction of minor and major facilities, the applicant shall feather and thin edges of vegetation.
- (3) The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
- (4) To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
- (5) Minor and major facilities shall be colored as follows:
 - a. Uniform or camouflaging, non-contrasting, non-reflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
- (6) The applicant shall minimize damage to existing trees and vegetation.
- (7) Pad dimensions for a minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance. This section may be waived by the department if well pad dimensions are related to a visual mitigation plan proposal to blend with the natural topographical conditions.
- (8) At all times best management practices will be used to prevent stormwater discharges from impacting surface water quality.
- (9) The visual mitigation guidelines for oil and gas facilities in the county (or equivalent guidance document acceptable to the department) shall be used as guidance in the creation of the visual mitigation plan. One or more of the following landscape practices shall be applied, on a site specific basis as required by the Code or a specific permit:
 - a. Establishment of berms, ground covers, shrubs and trees.
 - b. Shaping slopes (cuts and fills) to appear as natural forms.
 - c. Cutting rock areas to create irregular forms.

- d. Designing the facility to utilize natural screens.
 - e. Construction of fences such as woven wood or rock for use with or instead of landscaping.
 - f. Visual mitigation techniques described in the visual mitigation guidelines for oil and gas facilities in the county (or equivalent guidance document).
- (10) Exterior lighting, when required, shall comply with the design standards in this subsection. Facilities do not have to comply with any exterior lighting standard that contradicts required industry safety standards, including drilling and emergency operations.
- a. All outdoor lighting fixtures with an initial output of more than 2,000 lumens (equivalent to a 26 watt compact fluorescent or 100 watt standard incandescent lamp type) shall have a full cutoff fixture (also known as a fully shielded fixture). The fixture shall be designed to shield the source of illumination from view from above or from adjacent property, and to not cast significant light other than straight down from the source.
 - b. Reserved.
- (d) *Wildlife.*
- (1) *Site specific mitigation conditions.* If a state or federal law or regulation does not exist or is not applicable, the owner or operator shall comply with the following. This subsection contains a list of standard operating practices ("SOPs") for the protection of wildlife resources in the county during oil and gas development activities. The SOPs shall provide for a written consent of the surface owner in order to address the agricultural production needs of the surface owner and the timing of oil and gas development activities on the surface owner's agriculturally producing property. Applicant shall mail notice to CDOPW in the form described in section 90-77 no less than ten days prior to the application being submitted to the department. CDOPW shall have 15 days from receipt of the written notice to provide written comment to the department regarding the potential conflicts with wildlife resources during oil and gas development, and potential site-specific wildlife mitigation measures. The director may consider the comments of CDOPW and shall rely on any of the SOPs in the creation of conditions of approval to address site specific wildlife mitigation measures for a minor or major facility. If applicant is unable to comply with the SOPs due to conflicts with other provisions of the county land use code, or the inability to obtain the surface owner's consent, applicant shall identify any conflict(s) and propose alternate site-specific mitigation or best management practices for the protection of wildlife resources. The alternate site-specific mitigation or best management practices, at the discretion of the director, may be included as conditions of approval for a minor or major facility permit. The following is a list of SOPs:
- a. Inform and educate employees and contractors on wildlife conservation practices, including, but not limited to:
 - 1. Driving the speed limit in rural areas to avoid animal-vehicle collisions, especially during the early morning and evening hours.
 - 2. Prohibiting intentionally harassing or frightening wildlife.
 - 3. Removing all food and trash items to avoid attracting wildlife to facility sites.
 - b. Use wildlife appropriate fencing. The Colorado ~~Division of Parks and Wildlife~~'s fencing guidelines found in Fencing with Wildlife in Mind (or equivalent guidance document cited by applicant and approved by the department) shall be used for developing wildlife appropriate fencing.
 - c. Provide to the planning department a list of species identified by the Natural Diversity Information Service as occurring at the facility.
 - d. For minor or major facilities that are not regulated by state or federal law or regulation:
 - 1. To the greatest extent practicable, align pipelines with established roads in order to minimize the construction of new roads and reduce habitat fragmentation and

disturbance.

2. In areas where vegetation is removed, revegetate disturbed areas with native grasses, forbs, and shrubs. To the greatest extent practicable, keep the removal of trees to a minimum.
 3. During pipeline construction for trenches that are left open for more than five days and are greater than five feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of one-quarter mile intervals where the trench parallels well-defined game trails.
 4. To the greatest extent practicable, share and consolidate new corridors for the pipeline rights-of-way and roads to minimize surface disturbance.
 5. Do not place equipment staging, storage, and/or refueling areas within riparian and/or wetland areas.
 6. Mow or brush-hog vegetation where appropriate, leaving root structure intact, instead of scraping the surface, where allowed by the surface owner.
 7. When crossing streams, rivers or irrigation ditches with a pipeline use boring technology or alternative director- approved best management practice so that little of the channel, bank, and riparian vegetation are negatively affected.
- (2) *Multiple sites.* In lieu of a site-specific mitigation review for each facility, the applicant may submit to the department a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under subsection (d)(1). Upon submission and approval by the county, additional facilities may be added to an approved multi-site plan.
- (3) *Non-mitigable impacts.* Impacts from oil and gas facilities which threaten endangered species (as defined by the state division of wildlife Colorado Parks and Wildlife), shall be considered non-mitigable and shall result in denial.

(e) *Water.*

- (1) If fresh or potable water is required for minor and/or major facility operation, the applicant shall identify the proposed source of such water.
- (2) Onsite containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal, state or county requirements.

(f) *Chemical products.*

- (1) Onsite containment, disposal, and disclosure and retention of information related to chemical products associated with minor and major facilities shall be conducted in accordance with applicable state laws or regulation. If however, a state or federal law or regulation does not exist or is not applicable, the owner or operator shall comply with the following.
- (2) All entities holding a permit issued under this chapter shall make and keep appropriate records pertaining to chemical products covering their operations in the county, from which they may be able to make and substantiate the reports required by the COGCC, its director or, in the absence of state laws or regulations on this topic, as may be required by the county.
- (3) Owners or operators shall maintain material safety data sheets for any chemical products brought to a wellsite for use downhole during drilling, completion, and workover operations including fracture stimulation.
- (4) Owners or operators shall maintain a chemical inventory by wellsite for each chemical product used downhole or stored in an amount exceeding 500 pounds during any quarterly reporting period and the maximum capacity of fuel stored on the oil and gas location during drilling, completion, and workover operations including fracture stimulation. Entities maintaining chemical inventories under this section shall update these inventories quarterly throughout the life of the wellsite. These records must be maintained in a readily retrievable format. A county

health department may obtain information provided to the department or director in a chemical inventory upon written request to the director.

- (5) Where the composition of a chemical product is considered trade secret by the vendor or service provider, owners or operators shall only be required to maintain the identity of the trade secret chemical product and shall not be required to maintain information concerning the identity of chemical constituents in a trade secret chemical product or the amounts of such constituents. The vendor or service provider shall provide to the department a list of the chemical constituents contained in a trade secret chemical product upon receipt of a letter from the director stating that such information is necessary to respond to a spill or release of a trade secret chemical product or a complaint from a potentially adversely impacted landowner regarding impacts to public health, safety, welfare or the environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a trade secret chemical product shall be disclosed by the vendor or service provider directly to the county planning engineer or his or her designee. The county planning engineer or designee may disclose information regarding those chemical constituents to additional county staff members to the extent that such disclosure is necessary to allow the staff member receiving the information to assist in responding to the spill, release or complaint, provided that such individuals shall not disseminate the information further. In addition, the county planning engineer may disclose information regarding those chemical constituents to a county public health department's director of environmental programs upon request by that individual. Any information so disclosed to the county planning engineer, a county staff member, or to a county public health department's director of environmental programs shall at all times be considered confidential and shall not become part of the chemical inventory nor shall it be construed as publicly available. The county public health department's director of environmental programs, or his or her designee, may disclose information regarding the chemical constituents contained in a trade secret chemical product to health department staff members under the same terms and conditions as apply to the county planning engineer.
- (6) The vendor or service provider shall also provide the chemical constituents of a chemical product to any health professional as may be provided under state law or regulation. In the event that no state law or regulation so provides, the vendor or service provider shall provide the chemical constituents of a chemical product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and a written confidentiality agreement. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such proprietary chemical product will assist in such diagnosis or treatment. The confidentiality agreement shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a trade secret chemical product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a trade secret chemical product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement of need, and a confidentiality agreement from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit.

Information so disclosed to a health professional shall not become part of the chemical inventory and shall in no way be construed as publicly available.
- (7) Such books, records, inventories, and copies of said reports required by the department or the director shall be kept on file and available for inspection by the department for a period of at

least five years except for the chemical inventory, which shall be kept on file and available for inspection by the department for the life of the applicable oil and gas well or oil and gas location and for five years after plugging and abandonment. Upon the director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the director with the requested information within three business days in a format readily-reviewable by the director, except in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain the confidentiality of said information. The director shall notify the owner, holder, or beneficiary of any such protected information at least one business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the chemical inventory and shall in no way be construed as publicly available.

- (8) In the event that the vendor or service provider does not provide the information required under subsections (6) and (7) directly to the department, the owner or operator is responsible for providing the required information.
- (g) *Pits and pit liners.* All pits shall be constructed in accordance with applicable state or federal laws or regulation. If however, a state or federal law or regulation does not exist or apply, the owner or operator shall comply with the following:
- (1) All pits shall be fenced in order to prevent access by persons, stock or wildlife unless the applicant provides alternate mitigation measures satisfactory to the county, which achieve the goal of protecting against entry into pits by unauthorized persons, stock or wildlife.
 - (2) All pit liners and any materials not meeting the standards set forth in 2 CCR 404-1 Section 910 (inclusive of table 910-1) shall be removed from the property upon completion of construction and disposed of at an approved facility.
- (h) *Geologic hazard areas; floodplains.*
- (1) Major facilities shall not be located in geologic hazard areas (as defined on the adopted county geologic hazard maps).
 - (2) Major facilities shall not be located in an area of special flood hazard governed by chapter 78 of subpart B.

Section 90-124 shall be amended as follows:

Sec. 90-124. Surface disturbance standards.

- (a) *Purpose of section.* The purpose of this section is to minimize damage to surface activities and surface conditions.
- (b) *Minimization of disturbances.* Minor and major facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land or any other vegetated land surface. This standard may be waived if verified written consent is obtained from the surface owner.

- (c) *Roads and access.* Roads and access driveways for all new facilities shall be constructed in compliance with the minimum safety, construction, and maintenance standards provided in subsections 74-97(g)(4)—(17) and 74-91(c)(7) of subpart B. In addition, minor and major facilities must meet the following standards:
- (1) Applicant shall remove or require the removal of chains from its heavy equipment before entering a county road.
 - (2) If mud and/or debris is tracked onto the county road by applicant or its subcontractor's equipment, applicant shall remove same and restore the condition of the road as promptly as is reasonable under the circumstances.
 - (3) All new roads, unless waived by the director, shall have gravel access and well pads with a minimum of six inches of either Class 6 or Class 2 Aggregate Base Course over a stabilized base as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction. The road or access driveway shall be maintained to this standard throughout permanent operations of the facility.
 - (4) For all new access roads, a vehicle tracking pad with a length of 60 feet, or alternative director-approved best management practice, and minimum rock diameter of three inches shall be required for the construction period.
 - (5) Applicant shall provide information demonstrating that it has the right to use access roads located between the parcel on which a facility is to be located and the applicable county road or state highway.
 - (6) Applicant shall obtain a county driveway permit if applicable, and comply with all CDOT access standards as outlined in the CDOT State Highway Access Code. Temporary widening of driveways for the transportation of heavy machinery shall be permissible with a valid county driveway permit for a period of no longer than one year at which time the driveway shall be returned to county standards. The maximum permissible widening along a county road shall be 90 feet.
 - (7) Applicant shall provide a traffic control plan to the county public works department prior to facility pad construction, drill rig movement commencement of construction, mobilization, demobilization, or any other disruption of two-way traffic, unless the requirement is waived by the county public works department director.
 - (8) Dust shall be suppressed throughout construction, drilling and operational activities.
- (d) *Waste disposal.*
- (1) When a minor or major facility becomes operational, all construction-related debris shall be removed from the site for proper disposal, including temporary fencing material. The site shall be maintained free of debris and excess materials at all times during operation.
 - (2) No burning of trash shall occur on the site without prior authorization of the surface owner, fire district, or appropriate entity having jurisdiction over air quality. All burning of trash shall be done within a container such as a wire cage or excavated pit covered with wire. All residual material from burning shall be removed from the site for proper disposal.
- (e) *Weed control.*
- (1) The applicant shall be responsible for ongoing minor and major facility sites and access road weed control during construction and operation of the facility, until abandonment and final reclamation is completed per county or other applicable agency regulations.
 - (2) The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by the county weed office in coordination with the requests of the surface owner.
- (f) *Restoration and re-vegetation standards.* When a well is completed for production, all disturbed areas no longer reasonably needed for production operations or for subsequent drilling operations

will be reseeded and revegetated as soon as practicable in accordance with applicable state laws and regulations. If, however, there is no applicable federal or state law or regulation, the owner or operator shall complete restoration and re-vegetation in accordance with the following:

- (1) Reseeding of disturbed areas shall occur immediately after disturbed areas have been graded to return contours as nearly as practical to their original relative positions, unless extenuating circumstances are present. In any event, seeding shall be completed within 30 days after completion of grading.
- (2) Revegetation of crop lands. All segregated soil horizons removed from crop lands shall be replaced to their original relative positions and contour, and shall be tilled adequately to re-establish a proper seedbed. The area shall be treated if necessary and practicable to prevent invasion of undesirable species and noxious weeds, and to control erosion. Any perennial forage crops that were present before disturbance shall be re-established to the same plant density as undisturbed adjacent cropland, unless otherwise agreed by the surface owner.
- (3) Revegetation of non-crop lands. All segregated soil horizons removed from non-crop lands shall be replaced to their original relative positions and contour as near as practicable to achieve erosion control and long-term stability, and shall be tilled adequately in order to establish a proper seedbed. The disturbed area then shall be reseeded in the first favorable season. Reseeding with species consistent with the adjacent plant community is encouraged. In the absence of an agreement between the operator and the affected surface owner as to what seed mix should be used, the operator shall consult with NRCS guidance documents, as maintained by and available from the county, to determine the proper seed mix to use in revegetating the disturbed area. In an area where an operator has drilled or plans to drill multiple wells, in the absence of an agreement between the operator and the affected surface owner, the operator shall rely upon NRCS guidance documents in determining the proper seed mixes to be used in revegetating each type of terrain upon which operations are to be conducted.

Interim reclamation of all disturbed areas no longer in use shall be considered complete when all ground surface disturbing activities at the site have been completed, and all disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized in such a way as to permanently prevent erosion, or when all of the following criteria have been met:

1. A uniform vegetative cover has been established with total non-noxious percent plant cover of at least 80 percent of average surrounding area levels. Non-noxious plant cover is defined as the vertical projection of non-noxious plant canopies (including herbaceous and shrub species) when viewed from above. Non-noxious plant cover shall be measured or estimated using a valid and reliable method, such as point-intercept. Sufficient data shall be collected to allow the operator to estimate the mean total non-noxious plant cover to within ten percent of the true mean with 80 percent confidence.
2. Vegetative cover is such that disturbed area for shrub and grass cover is expected to develop through plant successional processes. Expectation of plant succession shall be deemed adequate when the number of species having between three and 50 percent of relative plant cover is at least half that of the average surrounding area.
3. The total cover of noxious weeds (including species designated as "undesirable" by the county) is no greater than that which exist in the average surrounding area.

Section 94-17 shall be amended as follows:

Sec. 94-17. Request for sale; procedure.

- (a) Any person may make a request for sale of public property, including appropriate county staff. Each request for sale shall include a statement of intended uses of the property. In no event, however, may a county officer or employee acquire public property in their individual capacity through these

procedures. All requests for sale of county-owned public property shall be first received by, or transferred to, the director of the planning department.

- (b) Upon receipt of a request for the sale of public property, the director of the planning department shall refer the request to the county assessor's office with a request for the following information:
 - (1) The general location and the county assessor's parcel number.
 - (2) A copy of the county assessor's map showing the parcel and contiguous parcels.
 - (3) Legal description of the parcel or tract of land, if available.
 - (4) The address of property owners within 500 feet of the parcel proposed to be purchased.
 - (5) If available, information on how the county acquired the property, and a copy of the applicable deed.
 - (6) An estimate of the fair market value of the property.
- (c) Upon receipt of the requested information, the request shall be reviewed by county staff, the planning commission and the board of county commissioners. All requests for sale or any other transfer of public real property shall be reviewed in general accordance with article III of this chapter.

Section 94-33 shall be amended as follows:

Sec. 94-33. Class II procedure; review by planning commission.

Applications to vacate any right-of-way or for the sale of public property shall be subject to class II procedures under subpart B of this Code, as determined applicable by the director of the planning department, except as specifically modified hereby. In the case of the proposed vacation of rights-of-way, the county road and bridge public works director, or his designee, shall attend the preapplication conference. In addition to the requirements for a class II application, the applicant for vacation of rights-of-way shall provide the following:

- (1) A vicinity map showing the following:
 - a. The location of all adjacent properties and any structures within 150 feet of the boundaries of the proposed abandonment.
 - b. Land uses for those adjacent properties.
 - c. Locations of all existing utilities, in or adjacent to, the proposed vacation.
 - d. Existing rights-of-way within a 500-foot radius of any right-of-way proposed for abandonment.
 - e. A survey and map, as may be requested by the county's engineer, prepared in an original form to be recorded at the office of the county clerk and recorder. The survey/map is to be submitted prior to consideration by the planning commission.
- (2) Any additional materials necessary to adequately review the application as determined by the director of the planning department within five working days following the preapplication conference.
- (3) A written statement addressing the reasons for requesting the vacation or sale.
- (4) A letter from any involved utility company stating the company's position on the proposed vacation.
- (5) Names and addresses of all adjacent property owners within 500 feet of all boundaries of the right-of-way or easement requested for vacation.

Section 94-39 shall be amended as follows:

Sec. 94-39. Reserved Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section. Words used in the present tense shall also include the past or future tense; words used in the singular shall also include the plural; the masculine shall also include the feminine.

~~06CW99 Court Decree~~ means the court decree issued by Division 7 water court case ~~in re La Plata County, 06CW99~~ (filed December 20, 2006) or any subsequent decrees pertaining to La Plata County Water Right No. 1, La Plata County Water Right No. 2, or La Plata County Water Right No. 3.

~~Absolute water right~~ means a water right that has been granted permanent status by a water court because water has been fully diverted and applied to a beneficial use. As opposed to an absolute water right, a conditional water right simply preserves a water user's ability to diligently pursue the perfection of an absolute water right.

~~Administrative processing fee~~ means an amount set forth in Appendix A of the County Code that must be paid in two parts. The minimum administrative processing fee shall be paid when a water user submits an application for an increment, and any remaining amount owed shall be paid along with the water fee.

~~Acre-foot (af)~~ means a volumetric measurement of water used for quantifying water usage, and equaling 325,851 gallons of water or approximately the amount of water that will cover an acre of land at a depth of one foot.

~~Agricultural irrigation increment~~ means an amount of water sized to provide sufficient water to irrigate one acre of pasture grasses.

~~Application~~ means, depending on the context, either the application form or, collectively, the application form, any supporting documentation, and the administrative processing fee.

~~Board of county commissioners~~ means the Board of County Commissioners of La Plata County.

~~Building permit~~ means a permit issued by the county building department pursuant to chapter 18 of the County Code.

~~Business days~~ means days when county offices are open to the public for business.

~~County~~ means La Plata County in the State of Colorado.

~~County Code~~ means the La Plata County Code.

~~Cubic feet per second (cfs)~~ means a flow rate measurement of water taken as a direct diversion from the stream. Water flowing at one cfs will deliver approximately 449 gallons per minute or 1.9835 af per day.

~~Depletion~~ means the amount of water lost to a river system when water is diverted from the river system (opposite of *Return flow*).

~~Depletion point~~ means generally the lowest point within the Animas River, Junction Creek, or Lightner Creek Watersheds where return flows shall return to the applicable river systems and upstream of which diversions shall occur. For the Animas River Watershed, the depletion point is specifically located as follows: 2,540 feet east of the West line and 50 feet south of the North line of Section 16, Township 35 North, Range 9 West of the NMPM, in La Plata County. For the Junction Creek Watershed, the depletion point is specifically located as follows: 2,515 feet east of the West line and 1,360 feet south of the North line of Section 20, Township 35 North, Range 9 West of the NMPM, in La Plata County. For the Lightner Creek Watershed, the depletion point is specifically located as follows: 1,050 feet east of the West line and 200 feet south of the North line of Section 25, Township 35 North, Range 10 West of the NMPM, in La Plata County.

~~Ditch company~~ means a mutual ditch company, a carrier ditch company, and the like, whether or not incorporated and whether or not a for-profit enterprise, in the business of transporting water to individual water users.

Director means the director of the county planning department or his/her designated agent.

Diversion or divert means, depending on the context, the location where water is removed, the structure which removes the water, or the act of removing water from its natural course or location by means of a control structure, ditch, canal, flume, reservoir, bypass, pipeline, conduit, infiltration gallery, ground water well, pump, or other structure or device.

Domestic animal increment means an amount of water sized to provide a large domestic animal 15 gallons per day.

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

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

Land use permit means a permit issued by the county planning department pursuant to Subpart B of the County Code.

Limited commercial increment means an amount of water sized to provide 700 gallons per day assuming the use of a septic system that results in 15 percent depletion to the river system, although the use of septic system is not required.

Limited commercial lawn and garden increment means an amount of water sized to provide sufficient water to irrigate 2,000 ft² of lawn.

Residential increment means an amount of water sized to provide 350 gallons per day assuming the use of a septic system that results in 15 percent depletion to the river system, although the use of septic system is not required.

Residential lawn and garden increment means an amount of water sized to provide sufficient water to irrigate 2,000 ft² of lawn.

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

Water fee means an amount set forth in Appendix A of the County Code that must be paid prior to the director executing a water use agreement.

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

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

Watershed means a geographical area from which water drains and contributes to a given point in a river system.

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

Water use report means a biennial report submitted by water users to the county on a prescribed form documenting what actions were taken to diligently pursue the perfection of a water user's increment.

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

Water service providers means any private water companies, governmental entities or quasi-governmental entities, or the like, whether or not incorporated and whether or not a for-profit enterprise, in the business of providing water service to individual water users.

Section 94-54 shall be amended as follows:

Sec. 94-54. Authority; director authorized to sign; reports.

- (a) *Authority.* This article is authorized by C.R.S. §§ 30-11-101(b) and (c). Transferring increments of the conditional Animas Service Area Water Right decreed to La Plata County and Southwestern Water Conservation District by Division 7 water court case *In re La Plata County and Southwestern Water Conservation District*, 06CW127 (filed December 29, 2006) shall not constitute a "sale" as that term is used in article II of this chapter and shall be specifically excluded from the procedures outlined in article II of this chapter. The process for obtaining an increment does not confer a water right, a land use permit, a building permit, approval of a site specific development plan, or a vested property right pursuant to state statutes or common law.
- (b) *Director authorized to sign.* The director of the county planning department shall be authorized to sign notices of intent and deeds on behalf of the county.
- (c) *Reports to the board of county commissioners.* No later than December 31 of each year, the director shall provide an annual accounting to the board of county commissioners of the following:
 - (1) The number notices of intent filed within the year.
 - (2) The number of deeds signed within the year.
 - (3) The total depletions for each time period for all of the notices of intent and deeds signed within the year.
 - (4) The total depletions for each time period for all of the notices of intent and deeds signed to date.
 - (5) The total amount of water remaining for each time period.

Section 98-4 shall be amended as follows:

Sec. 98-4. Reserved Definitions.

The following definitions shall be used for this article. All undefined terms shall have the same meaning as provided for in subpart B of the Code.

Administrator means the director of the county public works department.

Business plaque means a sign for a specific business or activity that is attached to a directional sign.

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

MUTCD means the most recently published version of the Manual on Uniform Traffic Control Devices.

Trailblazer means a small supplemental guidance sign panel with the type of service offered and the name, direction and distance to the business.

Section 100-2 shall be amended as follows:

Sec. 100-2. Submittal and review process.

- (a) *Pre-application conference and review.* Prior to the submittal of a service plan, the person(s) proposing the organization of a special district (the "applicant") shall meet with planning staff for a

pre-application conference. The purpose of the conference is for staff to provide to the applicant an explanation of the county's special district review process, service plan submittal requirements and to discuss the need for the proposed district. While compliance with the requirements of the Control Act and related statutes is required, the planning director may determine that some of the additional requirements set forth in subsection 100-3(b) are not necessary due to the geographical size of the service area or the complexity of the services to be provided. The applicability of such additional requirements may be decided during the pre-application conference.

- (b) *Draft service plan submittal.* After attending the pre-application conference and at least 45 days prior to the anticipated date for formal service plan submittal, as defined in subsection (c), the applicant shall submit four copies of the draft service plan to planning staff for review.

The planning department, public works, the finance department and the county attorney's office (the "district review committee") shall review the draft service plan for completeness and consistency with the Control Act and the provisions of this chapter. Planning staff shall notify the applicant of deficiencies in the draft service plan and other comments of the district review committee within 30 calendar days of applicant's submittal.

If the proposed special district is being formed in conjunction with a development agreement, the service plan review process and the development agreement process shall be coordinated. The review process should occur concurrently.

- (c) *Service plan submittal.* Issues or comments identified in the review of the district review committee shall be addressed prior to submittal of a final service plan. The applicant shall submit the proposed service plan, a completed service plan application form, and applicable application fees to the planning department. Staff shall have ten days to determine whether the applicant has submitted all the necessary components of the service plan as defined in section 100-3. If staff determines that the submitted service plan or application is incomplete, the applicant shall be notified of such deficiencies in writing within ten days of applicant's submittal to the planning department. If the service plan is deemed complete, the applicant shall formally submit one copy of the service plan to the county clerk and recorder and such additional copies as determined to be appropriate at the preapplication conference, as well as an electronic copy, to the planning department.
- (d) *Referral and review.* No more than five days after the formal submittal of the service plan, the county clerk and recorder, on behalf of the BOCC, shall report to the division of local government in the department of local affairs on forms furnished by said division the name and type of the proposed special district for which the service plan has been filed.

Planning staff shall refer the service plan to all municipalities and existing special districts within a radius of three miles from the boundaries of the proposed special district. In addition, the service plan shall be referred to any municipality whose intergovernmental agreement with the county includes any part of the area proposed to be in the special district and to the appropriate school district(s) for information and comment. All municipalities, existing special districts, and school districts to which the plan is referred shall have 15 days to submit comments to the planning department. All such comments shall then be referred to the district review committee for further review.

Planning staff shall submit all comments, findings and recommendations from the district review committee and the referral agencies in the form of a staff report to the applicant, the PC and the BOCC. The applicant may withdraw the service plan at any time during the referral and review process.

- (e) *Planning commission review of draft service plan.* The planning commission shall review the proposed service plan at a public hearing and shall make a written recommendation to the BOCC. At such hearing, the PC shall consider the service plan utilizing the BOCC's review criteria located in subsection 100-5(b) and recommend denial, conditional approval, or approval to the BOCC. The planning commission shall make its recommendation no more than 30 days after submission of the proposed service plan to the clerk and recorder. The planning commission also may continue the hearing to a set date and time to resolve any outstanding issues but shall not continue the hearing beyond the established recommendation deadline without the consent of the applicant. The applicant's consent to the continuance shall relieve the planning commission from having to make their recommendation within 30 days after submission of the proposed service plan with the clerk

and recorder.

- (f) *BOCC review of and action on service plan.* At the next regular meeting of the BOCC that is held at least ten days after the final PC action on the service plan, the BOCC shall set a date no more than 30 days after such meeting for a public hearing on the service plan. The clerk to the board shall provide written notice of the date, time, and location of such hearing to the division of local government. The board may continue the hearing for a period not to exceed 30 days unless the applicant and the board agree to continue the hearing for a longer period.

The BOCC shall consider the service plan at public hearing and shall deny, conditionally approve, or approve the service plan in accordance with section 100-5. If the BOCC finds that sufficient information has not been presented at the scheduled hearing, the BOCC may deny the service plan or continue the hearing as provided herein.

- (g) *Public notice requirements.* On behalf of the BOCC, planning staff shall provide written notice of the date, time, and location of the planning commission and BOCC public hearing to the applicant and any municipality or special district within a radius of three miles of the proposed special district boundaries. In addition to the notice to municipalities and special districts, publication of the date, time, location, and purpose of the BOCC hearing shall be first made at least 20 days prior to the hearing date. Such publication shall include a general description of the land including a list of all parcels contained within the boundaries of the proposed special district and information outlining methods and procedures pursuant to C.R.S. § 32-1-203(3.5) concerning the filing of a petition for exclusion of territory. Such publications shall constitute constructive notice to the residents and property owners within the proposed special district who shall also be interested parties at the hearing.

Not more than 30 days nor less than 20 days prior to the public hearing before the BOCC, the applicant shall send letter notification of the hearing to the property owners within the boundaries of the proposed special district as listed in the records of the county assessor on the date requested unless the applicant represents 100 percent of the property owners. The notification shall indicate that it is a notice of a hearing for the organization of a special district and shall indicate the date, time, location, and purpose of such hearing, a reference to the type of special district, the maximum mill levy, if any, or stating that there is no maximum that may be imposed by the proposed special district, information as to how the recipient may obtain a copy of the service plan and procedures for the filing of a request for exclusion pursuant to C.R.S. § 32-1-203(3.5).

Section 100-3 shall be amended as follows:

Sec. 100-3. Contents of service plan.

- (a) *Statutory submittal requirements.* The service plan shall contain the following elements as required by C.R.S. § 32-1-202(2):
- (1) A description of the proposed services;
 - (2) A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to C.R.S. § 32-1-207 or C.R.S. § 29-1-302. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued;
 - (3) A preliminary engineering or architectural survey showing how the proposed services are to be provided;
 - (4) A map of the proposed special district boundaries;
 - (5) An estimate of the population and valuation for assessment of the proposed special district;
 - (6) A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district

are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to C.R.S. § 32-1-204(1);

- (7) A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;
- (8) A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision, and, if a form contract is available, it shall be attached to the service plan;
- (9) Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in C.R.S. § 32-1-203 is met, if applicable, (see subsection 100-3(b)); and
- (10) Such additional information as the BOCC may require by resolution on which to base its findings pursuant to C.R.S. § 32-1-203.

(b) *Additional submittal requirements.* Unless waived by the ~~planning~~ director, the service plan shall include the following additional information, which shall assist the BOCC in determining whether each of the criteria set forth in C.R.S. § 32-1-203 are met, if applicable:

- (1) *Description of the district.* The service plan shall include an explanation of the proposed services and a discussion of the criteria, such as build-out rate or market conditions, which would be used to determine when and if certain services are to be supplied.
- (2) *Long term operational and financing plan.* All figures used in the financial plan shall be in current dollars. The long term operational and financing plan shall contain, but is not limited to:
 - a. A letter from the person or organization responsible for the financial plan attesting to the financial and economic presentation and identifying sources and methods used in estimating interest rates, build-out rates, mill levy, and other data included in the plan;
 - b. A pro-forma presentation of all projected expenses to be incurred and revenues to be generated by the proposed special district showing the year-end financial status of the district for each year from the organization of the district until the repayment of all proposed debt. The pro forma shall include a detailed description of all funding mechanisms to be employed by the special district. The pro forma shall list individual yearly totals for debt, debt service, operating and maintenance expenses, legal and administrative expenses, capital expenses, build-out rate, assessed valuation, mill levy, facility fees, other fees, and all other costs and revenues. Any extraordinary or one-time expenses shall be explained, and the assumptions upon which such figures are based shall be set forth;
 - c. Maximum bonded indebtedness proposed to be incurred by the special district and justification for that amount of indebtedness. If phasing of bonding is to be used, the phases and efforts at coordination shall be explained. Because the issuance of bonds by one entity may adversely affect the bond rating of another entity due to overlapping debt, the plan shall contain a list of bonded indebtedness for all cities, counties, and special districts within which the proposed special district will be included;
 - d. A detailed schedule of any other anticipated debt financing;
 - e. The amount of any reserve fund and the expected level of annual debt service coverage that will be maintained for any financing;
 - f. A description of the scheduling and phasing of capital improvements and their relationship to the financial stability of the special district. A long term capital improvement program may be required with a five-year time horizon;
 - g. If the financial plan identifies any contributions by the developer to the special district, any agreement or proposed agreement between the developer and the proposed special

district explaining the developer's financial participation shall be included;

- h. If the financial plan identifies any agreements concerning taxation or financing between or among the special district and other special districts, then a description of such agreements and copies of such agreements shall be included and a narrative shall be provided that establishes how such agreements satisfy the statutory criteria for formation of a special districts;
 - i. A description of the flexibility that has been built into the financial plan, including alternative means of repaying the debt, if the estimated revenue stream is not realized;
 - j. A list of mill levies and other fees for special districts supplying similar services for a similar market located in the region;
 - k. The maximum mill levy proposed by the special district;
 - l. The average and maximum total of all mill levies that are currently imposed on property within the proposed special district;
 - m. A list and written explanation of the potential risks of the district financing;
 - n. A list of items that will be purchased or leased from the developer/applicant (e.g. land, rights of way, water rights, etc);
 - o. Plans to mitigate any shortfalls in the district's ability to meet financial obligations;
 - p. A description of the proposed administrative structure of the special district demonstrating the ability of the special district to meet the administrative requirements of Colorado budget and audit requirements;
 - q. Existing or pending financial difficulties of the applicant, if it is a legal entity, including insolvency, bankruptcy or foreclosure proceedings;
 - r. Background information on the developer/applicant and financial relationships between property owners, developer/applicant and the district;
 - s. If another entity is providing some or all of the services contemplated by the proposed special district, a detailed gap analysis that compares existing services to those of the proposed special district, a detailed explanation of the identified inadequacies of the existing service to meet present and projected needs and the manner in which such needs will be met by the proposed special district;
 - t. Evidence of commitment from a qualified lender or investment banking firm to sell bonds or provide other financing indicated in the plan; and
 - u. Any other information as may reasonably be requested by the county.
- (3) *Map of the proposed district.* There shall be included in the service plan a map of the proposed district and the surrounding area with the following:
- a. A vicinity map, showing the district boundaries, section lines, existing and proposed roads, and jurisdictional boundaries of tribal lands, all municipalities and other special districts within a three-mile radius of the proposed special district, and
 - b. A site plan, showing the district boundaries, any current improvements, the proposed improvements, and any development currently built or planned to be built within the special district. The sheet size of the site plan shall be 18" vertical by 24" horizontal with a scale of 1" = 200' or other scale as approved by staff.

The map(s) shall be legible, shall contain explanatory legends, titles and text. Accompanying the map(s) shall be a list of the services proposed to be supplied by the special district that are provided by each of the municipalities and special districts shown on the map.

- (4) *A complete description of any facilities to be constructed.* Detailed descriptions and cost estimates for all the facilities and improvements shall be included. All materials and labor costs

for each planned facility shall be estimated at that time of construction and the facilities shall be shown to be compatible with the standards of the county and each interested party as defined in C.R.S. § 32-1-204(1).

- (5) *Service agreements.* The applicant shall provide a copy of any signed, proposed, or promised service agreements relating to the proposed or existing services between the special district and any municipality, other special district, or other existing or proposed service provider and shall contact all service providers in a three-mile radius by certified mail in a form to be approved by planning staff.
- (6) *Additional information.*
 - a. An explanation of the proposed special district's policy for inclusion, which shall provide objective procedures for the determination of costs, standards and criteria to allow the orderly extension of services to developable adjacent lands;
 - b. A list of the persons or organizations responsible for each section of the service plan, including the name and telephone numbers of the engineer, the legal counsel, the developer, and the financial analyst;
 - c. A legal description of the area to be included in the proposed special district;
 - d. A list of all persons, corporations, and other private or public entities involved in the formation of the special district and an explanation of the role played by each of those involved, and a discussion of the entities' previous work in the county or the region related to special district and land development;
 - e. A list of owners of real property within and adjacent to the special district and their current address;
 - f. A sunset clause to address dissolution of the district in the event that development activity ceases or the district fails to provide services. Such clause shall make reference to statutorily prescribed dissolution procedures and any such dissolution procedures that would be carried out accordingly;
 - g. Specificity regarding what is to be considered a "material modification" as described in C.R.S. § 32-1-207(2);
 - h. If applicable, provide evidence that the proposal is in compliance with any duly adopted county, tribal, regional, state or federal long-range water quality management plan for the area (C.R.S. § 32-1-203(2.5)(d)).
 - i. If applicable, provide plans for water acquisition and water system development, specifically addressing water rights issues;
 - j. If applicable, describe the status of required tribal, state and/or local reviews of wastewater treatment; and
 - k. If applicable, information on water and wastewater tap fees, user fees, availability of service fees, plant investment fees and other charges.

Section 102-22 shall be amended as follows:

Sec. 102-22. Boundary adjustments and lot consolidations.

The adjustment of lot lines or parcel boundaries without the creation of any additional lots or parcels, or the deletion of existing lot lines or parcel boundaries are subject to the following procedures of the county:

- (1) Boundary adjustments of lots or parcels that result in lots or parcels of less than 35 acres, not located within platted subdivisions, are required to create an amended or new plat in accordance with this Code and state law, and which is subject to review and approval by the

board of county commissioners in accordance with these regulations.

- (2) Boundary adjustments within platted subdivisions are required to create an amended plat in accordance with this Code and state law, which is subject to review and approval by the board of county commissioners in accordance with this chapter.
- (3) Parcel consolidations resulting in lots or parcels of 35 acres or less, outside of platted subdivisions, are subject to administrative review by the planning staff prior to recording of the deeds. Review shall be for purposes of assessing correctness of format, and no formal approval of the action is required.
- (4) Lot consolidations within platted subdivisions are required to create an amended plat, which is subject to review and approval by the board of county commissioners in accordance with this chapter. The amended plat shall depict only the lots which are being consolidated.
- (5) Boundary adjustments or parcel consolidations in which all parcels as existing and as modified are greater than 35 acres in size are not subject to county review and approval.
- (6) Minor boundary adjustments of lots or parcels that result in lots or parcels of less than 35 acres, not located within platted subdivisions, are subject to administrative review by the planning department staff prior to recording of the deeds. Review shall be for purposes of assessing correctness of format, and no formal approval of the action is required. The director of the planning department shall determine if a proposal is a minor boundary adjustment. Minor boundary adjustments, as determined by the planning director, shall be minor lot line adjustments which will not potentially allow for the creation of additional lots as a result of the request.

Section 102-30 shall be amended as follows:

Sec. 102-30. Amendments to approved plats.

- (a) *Survey and drafting errors.* Survey or drafting errors in a recorded plat shall be corrected in the form of an affidavit or, where deemed necessary by the county surveyor, a revised plat. The revised plat shall be certified by a land surveyor registered with the state. All affidavits and revised plats shall be submitted to the board of county commissioners for review and action accompanied by staff review, but without the necessity of public hearing. Approved affidavits and corrected plats shall be filed with the county clerk and recorder.
- (b) *Minor amendments.* Minor amendments to an approved, but not yet recorded final plat, may, in the discretion of the director of the planning department, be processed as a revised final plat pursuant to the procedures set forth in sections 82-78—82-98. Minor amendments may include, but shall not be limited to, minor lot line adjustments, roadway alignments, a decrease in density or increased compliance with encouraged standards. Minor amendments shall not include easement relocations or adjustments, plat note revisions, any increase in density, open space reduction or any revision that would result in a violation of any required standard.

Section 102-54 shall be amended as follows:

Sec. 102-54. Plat notices.

The applicant shall state on the plat, and in all offers and contracts relative to the subdivision, plat notices. The purpose of such notices is to alert owners or potential owners of property within the subdivision of specific land use and site specific limitations or restrictions. Any realtor, agent, owner or applicant, who is in any way offering for sale or lease property as described in the approved plat, shall notify in writing, potential buyers/lessees plat notices which pertain to the subdivision. Any reproduction of the plat or lots therein shall contain the plat notices. All plat notices shall appear under the heading "PLAT NOTICES" printed in bold capital letters. The director of the planning department, or his designee, shall

deem which plat notices pertain to a particular subdivision application. Plat notices are as follows:

- (1) *Lack of common sewer.* If no common sewer is proposed for the subdivision, the following shall be stated, along with any additional constraints upon sewage disposal:

NO PROPOSED PUBLIC SEWAGE DISPOSAL SYSTEM. LOT OWNERS SHALL BE RESPONSIBLE FOR BUILDING THEIR OWN SMALL WASTEWATER DISPOSAL SYSTEM TO MEET STATE STANDARDS, AND MUST OBTAIN AN INDIVIDUAL SEWAGE DISPOSAL SYSTEM PERMIT.

- (2) *Lack of common water.* If no common water system is proposed for the subdivision, the following shall be stated:

NO PROPOSED DOMESTIC WATER SOURCE. LOT OWNERS SHALL BE RESPONSIBLE FOR BUILDING THEIR OWN WELLS WHICH MEET STATE STANDARDS, AND OBTAINING DOMESTIC WATER WELL PERMITS FROM THE STATE ENGINEER.

- (3) *Severe soils limitations.* If any portion of any lot is within an area classified as having severe soil limitations, either by the Soil Conservation Service or by percolation tests, the following shall be stated:

NOTICE: LOTS _____ [appropriate lot numbers are listed] ARE LOCATED IN AREAS OF SEVERE SOIL LIMITATIONS. SITE CONDITIONS MAY PREVENT THE USE OF CONVENTIONAL SEPTIC SYSTEMS AND BUILDING TECHNIQUES.

- (4) *Statement of domestic water availability.* The applicant shall make a statement concerning domestic water availability quality according to section 102-108.

- (5) *Lack of county road maintenance.* As no county road maintenance is accepted in private subdivisions, the following shall be stated:

NO COUNTY MAINTENANCE OF STREETS OR ROADS. THE COUNTY'S ACCEPTANCE OF THIS PLAT CONSTITUTES ACCEPTANCE, ON THE PUBLIC'S BEHALF, OF THE OFFER OF DEDICATION OF RIGHTS-OF-WAY OVER THE SUBDIVISION ROADS, BUT DOES NOT CONSTITUTE ACCEPTANCE OF ROAD MAINTENANCE OBLIGATIONS. OWNER(S) OF PROPERTY IN THE SUBDIVISION AND/OR THE HOMEOWNERS' ASSOCIATION SHALL RETAIN ALL ROAD MAINTENANCE OBLIGATIONS FOR ALL ROADS IN THE SUBDIVISION.

- (6) *Natural gas pipelines.* If any major transportation pipeline containing natural gas or slurry exists in or within 500 feet of the proposed subdivision, the following shall be stated:

NOTICE: NATURAL GAS PIPELINE. [Add a description of the general location of the pipeline].

- (7) *Toxic natural gas pipeline.* If a natural gas pipeline containing hydrogen sulfide or other toxic elements exist in or within one mile of any lot, the following shall be stated:

NOTICE: SOUR GAS PIPELINE; RUPTURE MAY BE EXTREMELY HAZARDOUS TO HEALTH AND SAFETY. [Add a description of the general location of the pipeline.]

- (8) *Hazards/critical lands.* If any hazard which has been identified by the appropriate agency exists on the site of the proposed subdivision, the following shall be stated:

NOTICE: [Name of hazard.] Example: FLOODPLAIN EXIST ON LOT(S). [List lot numbers affected by hazard.]

- (9) *Airport safety zone* If any part of the subdivision is to be located within or adjoining an airport zone, the following shall be stated:

NOTICE: AIRCRAFT NOISE MAY EXIST WITHIN SUBDIVISION.

- (10) *Severed mineral ownerships/split estates.* If a subdivision is located on property in which the surface ownership is split from the subsurface mineral ownership, the following shall be stated:

NOTICE: LOTS IN THIS SUBDIVISION MAY BE SUBJECT TO THE EXPLORATION AND/OR DEVELOPMENT OF MINERALS INCLUDING OIL AND GAS. THIS INCLUDES THE RIGHT TO MAKE SUCH USE OF THE SURFACE AS IS REASONABLY REQUIRED TO DEVELOP THE MINERAL ESTATE.

- (11) *Fire response.* If onsite firefighting facilities are not provided or the subdivision does not fall within a legally formed fire protection district, the following shall be stated:

NOTICE: ONSITE FIREFIGHTING FACILITIES ARE NOT PROPOSED. FIRE ENGINE RESPONSE TIME IS ESTIMATED AS _____ MINUTES IN WINTER MONTHS. [Insert estimated response time as determined by the local fire chief.]

- (12) *Electrical service.* If electrical service is not proposed, the following shall be stated:

ELECTRIC POWER TO INDIVIDUAL LOTS IS NOT PROPOSED.

- (13) *Telephone service.* If telephone service is not proposed the following shall be stated:

TELEPHONE SERVICE TO INDIVIDUAL LOTS IS NOT PROPOSED.

- (14) *Right to farm.* Where a residential subdivision or minor exemption subdivision is located adjacent to agricultural lands, the following shall be stated:

NOTICE: COLORADO IS A RIGHT TO FARM STATE WHICH MAY PRECLUDE NUISANCE LAWSUITS AGAINST EXISTING FARM OPERATIONS. C.R.S. § 35-3.5-101 ET SEQ.

- (15) *Fence law.* Where a residential subdivision or minor exemption subdivision is located adjacent to agricultural lands, the following shall be stated:

NOTICE: COLORADO IS A FENCE LAW STATE. OWNERS OF PROPERTY SHALL BE REQUIRED TO FENCE LIVESTOCK OUT IN ORDER TO RECOVER DAMAGES FOR TRESPASSING LIVESTOCK. C.R.S. § 35-46-101 ET SEQ.

Section 102-73 shall be amended as follows:

Sec. 102-73. Plans for common water and sewer (supporting documents).

If a common water and or sewer system is proposed, all detailed plans and specifications shall be submitted to the planning-office department, which will refer them to the appropriate agencies for review and approval. Applicants are encouraged to submit these to the county's engineer prior to formal submittal for his input and comment. Specific standards relating to these systems are found in section 102-107 of subpart B of this Code.

Section 102-110 shall be amended as follows:

Sec. 102-110. Buffering.

Where proposed subdivisions may be located adjacent to conflicting uses or intensities of use, a buffering shall be required. Where ~~mobile-manufactured~~ homes will be allowed and/or used in a subdivision, buffering between ~~mobile-manufactured~~ homes and conventional homes is required.

Section 106-132 shall be amended as follows:

Sec. 106-132. Purpose of river corridor district.

The purpose of this river corridor district is to provide a safety net for flood damage, protect river

water quality with a filtering vegetative strip, protect the riparian habitat, provide a corridor for wildlife, and promote a scenic corridor in the valley. The river boundary generally respects a 500-foot setback from the bank on the west side, and the 100-year floodplain elevation on the east. The floodplain boundary used here was surveyed in 1977; therefore, it would be wise for a proposed development to resurvey for greater accuracy. The readjusted boundary could well be at a lower elevation than presently mapped. There shall be no net loss of wetlands in the Animas Valley Land Use Plan Area. If a development proposes to fill in an existing wetland, it must bond and construct another wetland of comparable size to the satisfaction of Division of Colorado Parks and Wildlife, Soil Conservation Service, and the Army Corps of Engineers elsewhere in the study area.

Section 106-133 shall be amended as follows:

Sec. 106-333. Uses permitted by special use permit.

Uses permitted by special use permit in the multifamily residential district include multifamily developments including apartments, condominiums, town homes and mobile manufactured home parks. Maximum density shall be six units per net acre, based on a 20 percent open space set aside. Existing multifamily developments may redevelop at 12 units per net acre with 20 percent of total site area dedicated as perpetual landscaped open space. Building and site design shall be compatible with the rural and scenic character of the valley. Intersection improvements along public right-of-way may be required commensurate with the requested intensity of use. Parking shall be as required in section 106-111 of this chapter

Section 106-111 shall be amended as follows:

Sec. 106-111. Reserved.

Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Agriculture-related operations* means the keeping and raising of domestic livestock for personal use, and the raising of crops and produce for personal use or for profit. The sale of goods produced on site is permitted.~~

~~*Commercial livestock* means a business or private operation in which the primary purpose is to raise and sell livestock for profit. For the purposes of the Animas Valley Land Use Plan, this use shall not include cattle or swine feed lots, dairy farms or poultry houses.~~

~~*Day care home* means a child care facility for no more than six children that is usually run out of the director's home.~~

~~*Family* means an indeterminate number of related persons, or no more than five unrelated persons, living and cooking together on the premises as a single dwelling unit.~~

~~*Feedlot* means a lot, yard or corral, or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. The term does not include areas which are used for raising crops or other vegetation and upon which livestock are allowed to graze or feed.~~

~~*Impervious cover* means the roof and pavement areas that cover a lot and impede water infiltration.~~

~~*Granny flat* means a second dwelling unit of no more than 1,000 square feet that is attached to the principle structure.~~

~~*Home occupation (class I)*. Amended into and replaced by accessory use in section 62-1.~~

~~Home occupation (class II).~~ Amended into and replaced by accessory use in section 62-1.

~~Lighting~~ means illumination which shall not spill or glare off site. No business sign shall remain illuminated throughout the night. Security lighting shall be at a minimum. Noise levels shall be maintained so as to minimize the nuisance for nearby residents.

~~Low-intensity, tourist-related recreational uses~~ means golf courses, driving ranges, RV parks, riding stables, fishing ponds, campgrounds, glider ports of no more than six planes (two fixed wing, four gliders). This special use permit classification shall not include amusement parks, firing ranges, miniature golf courses, bowling alleys, video arcade amusements or drive-in theaters.

~~Mini-storage facility~~ means a business that provides storage space for household or commercial goods within an enclosed building or group of buildings with controlled access to individual storage spaces. Outdoor storage shall not be permitted including, but not limited to, equipment, trailers, boats, recreational vehicles and other motor vehicles. Sales shall not be conducted on the premises, including but not limited to, auctions, wholesale or retail sales, garage sales, estate sales and other similar sales events. The maximum floor area of the storage space shall be 20,000 square feet on any one parcel.

~~Neighborhood-oriented businesses~~ means gasoline stations, grocery stores, restaurants serving no alcohol, liquor stores, laundromats, video stores, postal services, hardware stores, retail sale of goods produced on site and plant nurseries.

~~Parking areas~~ means those areas designated for required and auxiliary parking for multifamily residential and business operations. Parking areas shall be landscaped at a ratio equivalent of one parking stall (162 square feet) landscaped to five actual parking spaces. The landscaped area may be placed around the perimeter of the parking lot. Parking lots shall be graveled at a minimum, and otherwise conform to county parking regulations.

~~Public and quasipublic facilities~~ means schools; churches; cemeteries; grange halls; fire stations; utility and transportation facilities; and county, state or federal uses or facilities. All outdoor storage shall be screened from view.

~~Steep slope~~ means slopes with greater than 30 percent grade.

~~Wetlands~~ means those areas that are inundated or saturated by surface water 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 generally include swamps, marshes, bogs and similar areas. This definition shall include ox bow lakes and ponds.

Section 106-112 shall be amended as follows:

Sec. 106-112. Animas Valley Land Use Plan.

- (a) *Use.* This article is to be used in conjunction with the Animas Valley Land Use Map.
- (b) *Basic plan provisions.* The basic plan provisions are as follows:
 - (1) Any preexisting, legal lot of record made nonconforming by this plan shall be entitled to one single-family residence, uses that are customarily secondary to a single-family residence, including accessory use, and other developments that do not require a land use permit as described in section 82-7 and other applicable provisions of this Code.
 - (2) Any preexisting dwelling unit made nonconforming in terms of density shall enjoy the right of replacement unless the entire site is being redeveloped, at which time the entire site shall be made to conform to the plan.
 - (3) Uses made legally nonconforming shall enjoy the right to regular maintenance, repair and to some extent replacement and expansion, as provided in subsection 82-20(4).
 - (4) No new subdivisions shall occur on steep slopes (30 percent or greater). One (1) dwelling unit is permitted on any preexisting, legal lot of record lying on steep slopes. This subsection shall in

no way supersede the county's geologic hazards map regulations.

- (5) Accessory uses shall be allowed in all Animas Valley Land Use Plan Districts so long as meeting the standards established in section 82-5 and/or permitted pursuant to section 82-5.
- (c) *Special use permit.* Special use permits shall only be approved through the class II land use permit procedures.
- (d) *Conformance.* Applications for development which are not in conformance with the Animas Valley Land Use Plan shall not be accepted by the planning department. To be submitted, the plan must first be amended to allow for the intended use or density. The process for considering amendments to the plan shall be the full class II process, with a public hearing before the planning commission, joint planning commission and/or the board of county commissioners.
- (e) *Notification.* Any development requiring a public hearing shall require a notification of surrounding landowners. For purposes of this provision, surrounding landowners shall include those owners of property within one thousand (1,000) feet of the property lineboundary of the lot or parcel subject to the application for a land use permit.

Section 106-432 shall be amended as follows:

Sec. 106-432. Reserved Definitions.

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Accessory building or structure* means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use, including those buildings defined in this section as farm and garden buildings.~~

~~*Accessory use* means a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.~~

~~*Area, minimum lot* means the total area within the property lines of the lot.~~

~~*Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind and not including fences.~~

~~*Commercial livestock operation* means a business or private operation in which the primary purpose is to raise and sell livestock for profit.~~

~~*Dwelling* means any building or portion thereof which is used as the private residence or sleeping place of not more than five unrelated human beings.~~

~~*Dwelling, single-family* means a detached building designed exclusively for, and occupied by one family, excluding manufactured housing not defined in C.R.S. § 30-28-115.~~

~~*Family or household* means no more than five unrelated persons living and cooking together on the premises as a single dwelling unit.~~

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

~~*Home occupation* means any use customarily performed within a dwelling by the inhabitants thereof, but which is incidental to its residential use. Home occupation use shall have no external evidence of a business or industrial nature.~~

~~*Livestock* means cattle, sheep, horses, mules, burros, rabbits, goats, pigs, fowl and all other domesticated animals.~~

~~Lot means a parcel of land occupied or designed to be occupied by a main building and the accessory building or uses customarily incidental to such main building, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not coincide with plots on a subdivision plat.~~

~~Truck garden/fruit or vegetable stands means roadside stands for operation during not more than six months in each year for the sale of farm products raised or produced on the premises.~~

~~Use means the purpose for which land or a building is designed, arranged or intended, or for which either is or may be occupied or maintained.~~

Section 106-533 shall be amended as follows:

Sec. 106-533. Application for expedited administrative review.

In a district designated pursuant to this article, an application for expedited administrative review of an eligible project may be made to the director of the planning department. Applications shall be in the form as prescribed by the director. The director may utilize any procedure identified in this chapter as appropriate for review of the project under this article. Such procedure shall, at a minimum, provide notice to adjacent landowners, together with an opportunity to be heard, and ensure adequate water, sewer, access and compliance with this chapter.

Section 106-534 shall be amended as follows:

Sec. 106-534. Review.

- (a) ~~The director of the planning department shall review the proposed project for compliance with this chapter. If the project complies with all of the regulations of this chapter, the director of the planning department may issue the permit. The director of the planning department may also condition such permit where necessary to achieve compliance with this chapter, or to mitigate any adverse impacts arising from such business or industrial project.~~
- (b) ~~Where, in the discretion of the director of the planning department, there appear to be outstanding issues pertaining to compliance with this chapter, the public health, safety and welfare, or compatibility, the director of the planning department may refer such project to the planning commission and/or board of county commissioners for further review and consideration.~~
- (c) ~~The director of the planning department shall deny all applications which do not meet the substantive standards of this chapter. The director of the planning department shall not have the authority to grant variances or special exceptions to this chapter, nor to authorize the subdivision or any other division of land, boundary adjustment or lot consolidation.~~