

CERTIFICATION OF  
BOARD OF COUNTY COMMISSIONERS

I, Karla Shriver, Chairman of the Board of County Commissioners, of Rio Grande County, Colorado, do hereby certify that the attached Land Development Code was officially adopted by resolution by the Rio Grande County Board of County Commissioners' on the 4th day of December, 2014 after recommendation of the amendments to the Land Development Code by the Rio Grande County Planning Commission and after Public Hearings for which legal published notice was duly given more than thirty days before adoption, in compliance with Title 30, Article 28 of the Colorado Revised Statutes, 1972, as amended.

\_\_\_\_\_  
Karla Shriver, Chairman

ATTEST:

\_\_\_\_\_  
Clerk of the Board

RESOLUTION of BOARD OF COUNTY COMMISSIONERS  
RIO GRANDE COUNTY, COLORADO

WHEREAS, the Rio Grande County Board of County Commissioners has recognized the need for updating and reorganizing the Rio Grande County Zoning and Subdivision Regulations contained in the Rio Grande County land Development code; and,

WHEREAS, the Board of County Commissioners has undertaken a comprehensive review of such regulations, including the holding of a public meeting after publishing public notice of such meeting; and,

WHEREAS, said review resulted in a need to amend such regulations in order to keep up with ongoing maintenance of said regulations; and,

WHEREAS, the Board of County Commissioners did hold a final public hearing after receipt of the certified and recommended Land Development Code from the Rio Grande County Planning Commission; and,

WHEREAS, notice of this public hearing was published for thirty days in newspapers of general circulation in Rio Grande County, specifically the Monte Vista Journal (Official County Newspaper of choice) prior to said hearing held on the 4th day of December 2014; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Rio Grande County, Colorado, that the attached Land Development Code are hereby certified and adopted by said Board in compliance with Title 30, Article 28 of the Colorado Revised Statutes; and,

The foregoing Resolution was offered by Commissioner Pam Bricker, seconded by Commissioner Doug Davie, and approved unanimously on vote of the Board on the 4<sup>th</sup>, day of December, 2014.

\_\_\_\_\_  
Karla Shriver, Chairman Vote

\_\_\_\_\_  
Doug Davie, Commissioner Vote

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Pam Bricker, Commissioner Vote

RIO GRANDE COUNTY, COLORADO  
PLANNING COMMISSION CERTIFICATION

I, Dwight Freeman, Chairman of the Rio Grande County Planning Commission, do hereby certify that the attached zoning regulations and subdivision regulations entitled “The Rio Grande County Land Development Code” including the full text thereof are hereby certified to the Board of County Commissioners pursuant to Title 30, Article 28, of the Colorado Revised Statutes on the 21<sup>st</sup>, day of October 2014.

\_\_\_\_\_  
Dwight Freeman, Chairman  
Rio Grande County Planning Commission

ATTEST:

\_\_\_\_\_  
Secretary

RIO GRANDE, COUNTY  
PLANNING COMMISSION CERTIFICATE RESOLUTION

WHEREAS, the Rio Grande County Planning Commission has recognized the need for updating and reorganizing the Rio Grande County Regulations contained in the Rio Grande County Land Development Code; and,

WHEREAS, the Planning Commission has undertaken a comprehensive review of such regulations, including the holding of public meetings after publishing notice of such meetings; and,

WHEREAS, said review has resulted in recommendations for changes in such regulations; and,

NOW THEREFORE BE IT RESOLVED, by the Planning Commission of Rio Grande County, Colorado, recommend that the attached Land Development Code hereby be approved by the Rio Grande County Board of County Commissioners' Rio Grande County, Colorado and is in compliance with Title 30, Article 28, of the Colorado Revised Statutes; and,

Done and signed this 21st, day of December 2014.

The Rio Grande County Planning and Zoning Commission

\_\_\_\_\_  
Dwight Freeman, Chairman

\_\_\_\_\_  
Grover Hathorn, Board Member

\_\_\_\_\_  
Mike Mitchell, Board Member

\_\_\_\_\_  
Gene Glover, Board Member

\_\_\_\_\_  
Leonard Brown, Vice-Chair

\_\_\_\_\_  
Wesley O'Rourke, Board Member

## Article I. Title

These Regulations shall be cited as the "Rio Grande County Land Development Code".

## Article II. Authority

Title 30, Article 28, C.R.S. 1973 (County Planning)

Title 30, Article 28-201

Title 25, Article 10, C.R.S. 1973 (Sewage Disposal)

## Article III. Jurisdictional Area

The territorial jurisdiction of these Regulations shall include all of the unincorporated land and buildings located within the limits of Rio Grande County, Colorado, excluding any lands owned and administered by the Federal Government.

## Article IV. Purposes

- A. In pursuance of the authority conferred by Title 30, Article 28 of the Colorado Revised Statutes, 1973, as amended, these Regulations are enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the County of Rio Grande, including the lessening of congestion in the streets and roads or reducing the waste of excessive amounts of roads, securing safety from fire, flood waters and other dangers, providing adequate light and air; the classification of land uses and the distribution of land development and utilization, avoiding undue congestion of population, facilitating the adequate provision of transportation, water, schools, sewerage and other public requirements; facilitating protection of the tax base, securing economy in governmental expenditures, fostering the County's agricultural and other industries and the protection of both urban and non-urban development.
- B. The Board of County Commissioners with the recommendations of the Planning Commission, of the County of Rio Grande declares that the Regulations are additionally adopted for the following specific purposes:
  - 1. To promote coordinated and sound development and to encourage innovation in residential development or renewal so that housing demands may be met by a greater variety of types and design of housing units.
  - 2. To provide for higher quality in site and land planning to conserve open space and to provide more efficient and attractive open space.

3. To encourage use of land for purposes that will best meet present and future needs of the County.
4. To minimize conflicts between the various land uses and users.

#### Article V. Administrative Provisions

##### A. Interpretation of Regulations

Whenever the provisions of these Regulations are found to be inconsistent with any other regulations, the regulation imposing the more restrictive standards shall control. The provisions of the regulations are minimum requirements that do not preclude imposition of more restrictive standards by agreement or by law.

##### B. Repeal of Regulations

All County Land Use and Development Regulations in effect at the time of adoption of these regulations are repealed. Such repeal does not revive any other regulation, which had been voided by more recently repealed regulations. Such repeals shall not affect the prosecutions of any person for violation of the repealed regulation prior to its appeal.

##### C. Severability

If Court of Competent Jurisdiction adjudges any section, clause, provision or portion of these Regulations invalid, the remainder of these Regulations shall not be affected.

##### D. Liability

These Regulations shall not be construed to hold the county or its authorized representatives responsible for any damage to persons or property by reason of the inspection of re-inspections authorized herein or for failure to inspect or re-inspect or by reason of issuing a building permit as herein provided.

##### E. Safety Clause

The Rio Grande County Board of County Commissioners hereby finds, determines and declares that these Regulations are necessary for the immediate preservations of the public peace, health and safety of the County of Rio Grande.

##### F. Violations and Penalties

Any person, firm or corporation violating any provisions of these regulations shall be subject to penalties set forth in this Regulation, current Colorado Revised Statutes, as amended, and other legal action provided by law.

- G. Copies of this code shall be available for sale at the Office of the County Commissioner's and Land Use Administration at reasonable fees to be set from time to time by the Board.

#### Article VI. Planning Commission

The Rio Grande County Planning Commission is hereby established. Its operation shall be governed as follows:

- A. Membership

The Commission will consist of six regular members. All members shall be residents of and real property owners in Rio Grande County. They will be appointed by the Board of County Commissioners for a term of three years and until their respective successors have been appointed. The terms of office shall be staggered. The filling of vacancies and the removal of members for non-performance of duty or misconduct shall be provided for by the Board of County Commissioners.

- B. Organization

The Commission shall adopt rules of organization and procedures necessary to conduct its affairs.

- C. Compensation

The members of the Planning Commission shall receive such compensation as may be fixed by the Board of County Commissioners, as well as reimbursement for actual expenses incurred in the performance of their duties.

- D. Duties

In general, the Planning Commission shall be the land use-planning group for the county. It is responsible for preparation of a county master plan, zoning regulations and subdivision regulations. The Commission will serve as an investigative and advisory group to the Board of County Commissioners in the administration of land use regulations, including preparation of needed amendments and additions to the regulations. It may also advise the Board on any other land use decisions when requested to do so by the Board. In addition, the following specific duties are assigned to the Planning Commission:

1. Subdivisions

Study subdivision proposals received by the County pursuant to 1973 C.R.S. 30-28-133 as to policy, criteria and requirements contained in the Rio Grande County Subdivision Regulations and after considering adverse as well as beneficial effects of each subdivision proposed, as related to the present and future productivity of the land and welfare of the people of the County, prepare a resolution to the Board of County Commissioners recommending approval or disapproval, with or without conditions, of the proposed subdivision.

2. Conditional Use Applications

Review applications for Conditional Use, referred to the Commission by the Board of County Commissioners, based on criteria and in accordance with procedures contained in the Rio Grande County Zoning Regulations. After review, make a recommendation to the Board for approval with or without conditions or for disapproval with reasons for recommending disapproval.

3. Amendments to Zoning Regulations

Receive and study proposed amendments to the Zoning Regulations, including the holding of public meetings if determined to be desirable and transmit its recommendation to the Board of County Commissioners.

4. Exempt Division of Land

Review and recommend action on those cases being considered under 1973 C.R.S. 30-28-101 (10) (d) that are referred to it by the County Commissioners.

5. Mobile Home and Recreation Vehicle Parks

Review applications for Mobile Home Parks and Recreation Vehicle Parks for compliance with criteria contained in this code. Make recommendations to the Board for approval with or without changes or for disapproval with reasons for recommending their action.

## Article VII. Definitions

### A. General Interpretations

The words and terms used, defined, interpreted or further described in these Regulations may be construed as follows:

1. The particular controls the general.
2. The word "shall" is always mandatory and not directory. The word "may" is permissive.
3. Words used in the present tense include the future unless the context clearly indicates the contrary.
4. Words used in the singular include the plural and words used in the plural include the singular unless the context clearly indicates the contrary.
5. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
6. In case of any difference of meaning or implication between the text of these Regulations and the caption for each section, the text shall control.

### B. Words and Terms :The following specific words and terms are defined as follows:

**Abutting:** adjoining with a common boundary line except where two or more lots adjoin only at a single point, such as a corner.

**Acre:** a unit or area used in the measurement of land equal to one hundred sixty (160) square rods, four thousand and eight hundred forty (4,840) square yards, or forty three thousand and five hundred sixty (43,560) square feet.

**Access:** the way by which pedestrians and vehicles enter and leave property.

**Accessory Dwelling Unit:** An Accessory Dwelling Unit (hereinafter ADU) is defined as a habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation. ADUs shall be placed on a permanent foundation, and must meet required standards of Rio Grande County.

**Accessory Structures:** a subordinate building structure, the use of which is customarily incidental to that of the main building or to the main use of the land, which is located on the same lot (or on a

contiguous lot in the same ownership) with the main building or use. Accessory buildings are only permitted when they are incidental or accessory to an existing and permitted principal or conditional use.

**Accessory Use:** a subordinate use, clearly incidental and related to the main structure, building, or use of land, and located on the same lot (or on a contiguous lot in the same ownership) as that of the main structure, building or conditional use.

**Addition:** an activity that expands the enclosed footprint or increases the square footage of an existing structure.

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

**Adjacent Property Owner:** An owner of record of any estate, right or interest in real property, abutting and/or within five hundred (500) feet of the subject property.

**Adjoining:** In contact at some point or line, located next to another, bordering or contiguous.

**Administrator:** the Rio Grande County Land Use Administrator.

**Adult-Oriented Use:** a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to “specified sexual activities” or “specified anatomical areas” as the primary attraction to the premises. The term “adult-oriented business” includes but is not limited to bookstores, video stores, gift stores, cabarets, motels, hotels, theaters, nightclubs and similar establishments.

**Agricultural Uses:** those farm or ranch uses which primarily involve raising, harvesting, producing or keeping plants or animals, including agricultural structures which house farm or ranch implements, hay, grain, poultry, livestock or other horticultural products. An agricultural structure shall not be a place of human habitation. Agricultural uses exclude any business whose primary function is to provide on-site services or retail sales of non-agricultural products.

**Airport Influence Area:** an area bounded by imaginary lines parallel to and one (1) mile from each side of every existing or proposed runway centerline and perpendicular to and one (1) mile from every existing or proposed runway end, as shown on the official map on file in the County Land Use Office.

**Alley:** a street that affords only secondary access to property.

**Alteration:** any change, addition or modification in construction, occupancy or use

**Amendment:** a change in the wording, context or substance of an official document, including related maps, illustrations, concepts or plans.

**Animal Hospital, Animal Clinic:** a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-term boarding and shall be only incidental to the hospital or clinic use.

**Animal Feeding Operation:** An animal feeding operation (AFO) is an operation in which animals “are kept and raised in confined situations. AFOs congregate animals, feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.” The Environmental Protection Agency defines an ANIMAL FEEDING OPERATION (AFO) in the Code of Federal Regulations (CFR, Federal Registrar, V. 60 No. 1, page 7265) as a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the facility,

The definition of an AFO was developed by EPA as a regulatory definition to delineate confined feeding of beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock from pasture-based systems (grazing systems were not meant to be regulated by EPA) for enforcement of the clean water act. The AFO classification is meant to apply to all sizes of operations and is the first step in defining an operation as a Concentrated Animal Feeding Operation. Concentrated Animal Feeding Operations are facilities that require Federal National Pollutant Discharge Elimination System (NPDES) water quality permits, irrespective of size. While state regulations differ from the AFO and CAFO designations, and thus the regulatory definition of an AFO is common across the United States.

**Antenna:** a device, dish or array used to transmit or receive signals for telecommunication purposes.

**Apartment:** a dwelling unit within a multi-family building, commonly a rented unit.

**Applicant:** the owner of land or the owner’s authorized representative of the land, as well as mineral owners and lessees.

**Automobile/Motor Vehicle Service Station:** a building or lot having pumps and storage tanks where fuels, oils, or accessories for motor vehicles are dispensed, sold or offered for sale, and where repair service is secondary.

**Automobile, Truck, Boat, Mobile Home Sales or RV Lot:** an open lot used for the display, sale or rental of new or used motor vehicles, boats trucks, trailers, or mobile homes in operative condition and where no repair work is done.

**Auxiliary Parking:** parking functions in a subsidiary or supporting capacity to a use or structure.

**Aviary:** Structure for keeping captive birds, usually spacious enough for the aviculturist to enter; Aviaries range from small enclosures to large flight cages.

**Avalanche:** a mass of snow or ice and other material, which may become incorporated therein as such mass moves rapidly down a mountain slope.

**Bar or Tavern:** an establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary.

**Basement:** any area of the building below the ground level floor of the building.

**Bed and Breakfast:** a building of a residential character other than a hotel or motel compatible with the neighborhood providing:

- a. temporary lodging for less than a month;
- b. twelve or fewer guest rooms;
- c. at least one meal daily for guest; and
- d. a manager residing on the premises, but not providing the accessory uses normally associated with a hotel.

**Bedrock:** a consolidated rock formation of impervious material, which may exhibit a jointed, fractured or cohesive structure.

**Block:** an area of land within a subdivision which area is entirely bounded by street, highways (except alleys) or the exterior boundaries of the subdivision. Usually divided into lots or other small parcels.

**Board of Adjustment:** the officially appointed Board of Adjustment of Rio Grande County, Colorado, a five-member board appointed to act in the manner described Article IV. (D).

**Boarding House or Rooming House:** a building other than a hotel, cafe or restaurant where, for compensation, directly or indirectly, lodging and/or meals are provided for three (3) or more boarders and/or roomers exclusive of the occupant's family.

**Building:** a structure built for the shelter or enclosure of persons, animals, chattels, property or substances of any kind, excluding fences.

**Buffer/Natural Screening:** land, berm, or planted vegetated area and/or naturally vegetated area used to visibly separate one use from another. This area is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

**Building Coverage:** any area or a portion of lot, which is covered by buildings on that lot.

**Building Height:** the vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

**Building Permit:** a permit issued by an authorized agent of the county allowing construction, reconstruction, alteration or installation of a building in accordance with applicable county, state or federal regulations.

**Building, Principle:** the primary building on a parcel intended for principle use as defined herein.

**Business and Professional Office:** the office of an engineer, planner, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional persons and any office used primarily for accounting, correspondence, research, editing or administration.

**Cargo Containers:** used for shipping; a storage of personal property.

**Cemetery:** land used or intended for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

**Centerline:** the linear centerline of a roadway easement right-of-way or other legal description as recorded with the Rio Grande County Clerk.

**Change of Use:** a change from one principal use of a building or land to another principal use of the building or land when there is no increase on the size of the existing building or extent of the use of the land, but one or more of the following factors are present and confirmed for the new use.

- (a) The new use has an off-street parking requirement which is greater than parking availability and necessary per these Regulations; or
- (b) The number of vehicle trips generated by the new use is or will be greater than the number of vehicle trips generated by the previous use as determined by the Colorado Department of Transportation Trip Generation, latest edition, and a building permit is required; or
- (c) The amount of storm water runoff or impervious (to drainage) surface area will be increased with the new use.

**Certiorari:** an action from a superior court to call up for reviews the records of an inferior court or body acting in a quasi-judicial capacity.

**Child Care Center:** a facility, by whatever name known, which is maintained for the whole or part of a day for the care of six (6) or more children under the age of sixteen (16) years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term includes, but not limited to, facilities commonly known as daycare-centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give twenty four (24) hour per day care for dependent and neglected children, but specifically excludes any family child care home as defined in these Regulations. Child Care Centers are also those facilities for children under the age of six (6) years with stated educational purposes which are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades so long as the school system is not also providing extended day services. (CRS 26-6-102 (1.5))

**Church:** a place of public worship containing a hall, auditorium or other suitable room or rooms used for the purpose of conducting religious or other services or meetings of the occupants of such structure. Church shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to commercial motion picture house or stage productions.

**Clinic:** a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**Clubs and Lodges:** organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

**Cluster Development:** the grouping of a development's structures on a portion of the available land, reserving a significant amount (2/3's) of the site as protected open space.

**Commercial:** having to do with commerce; designed for profit or mass appeal.

**Commercial Feedlot:** a feedlot where the owner conducts the feeding operation for another individual or firm for a profit.

**Commercial Mass Gathering:** an event or activity that are conducted for purposes of gaining revenue that attracts or has in attendance in excess of 500 persons.

**Commercial Vehicle:** a motor vehicle used regularly in conjunction with trade or gainful employment that may or may not have the name of a corporation or logo on the exterior of the vehicle.

**Common Open Space:** a parcel of land or an area of water or a combination of both land and water within any site designated. Common open space does not include street, alleys, parks, off-street parking and loading areas, public open space or other facilities dedicated by the developer for public use. Common open space shall be substantially free of structures, but may contain such improvements that are approved by the Board of County Commissioners.

**Conditional Use:** a use allowed in the indicated zoning district only upon satisfactory demonstration that the particular use can be conducted in a manner compatible with surrounding land uses.

**Condominium:** a single-dwelling unit in a multi-unit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

**Concentrated Animal Feeding Operation:** CAFO is a designation by the United States Environmental Protection Agency and has a very specific meaning. A CAFO is an Animal Feeding Operation that meets certain criteria set by the EPA. Small and medium AFO's can be designated as Concentrated Animal Feeding Operations based on their risk to surface water. There are two conditions EPA and state regulatory authorities consider, that if either are met the designation could change:

1. Pollutants are discharged into waters of the United States through a man-made flushing, or other similar device; or,
2. Pollutants are discharged directly into waters of the United States, which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

This is often interpreted by regulators to mean that water runoff, manure, or process wastewater that can leave a facility and can come into contact with surface water, such as a road ditch, stream, river, pond, dam or similar watercourse, meets this definition, and thus pull medium AFO's into the permit program, EPA means for a medium AFO that meets this contact with surface water criteria to apply for coverage under the NPDES permit program (then designated a medium CAFO). However, for small AFO's the state regulatory authority must designate the operation as a CAFO in order to meet the definition of a small CAFO.

**Conservation Easement:** a restriction placed on the permitted use of land in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance. (NOTE: For a conservation easement to create tax benefits for the donor at the federal or state level, it must meet either or both of the Internal Revenue Service or State of Colorado definitions.)

**Consolidation:** the combining of two (2) or more lots, tracts or parcels within the same unit of a platted subdivision, which actually deletes the common boundary lines, and results in fewer lots remaining than were started with.

**Construction:** any and all activity incidental to the erection, demolition, assembling, altering, installation or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

**Contiguous:** sharing of a common edge or boundary between two or more separate tracts of land.

**Contractors Equipment Storage:** a parcel of land, or portion thereof, used for the purpose(s) of storing construction materials, equipment, vehicles or machinery.

**Convalescent Home:** a facility for short or long term care, etc. of individuals.

**Convenience Retail; Store:** a retail store containing less than five thousand (5,000) square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the county drugs and sundries.

**Corner Lot:** a lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street and where, in either case, the interior angle formed by the intersection of street lines does not exceed one hundred thirty five (135) degrees.

**County:** a territorial division of a country or state for purposes of local government.

**County Board of County Commissioners:** an official in charge of a department of public service of Rio Grande County, Colorado.

**Covenants:** a formal bonding agreement; recorded written agreements specific to the approved use outlining regulations within any given tract of land.

**Day Care Center:** see Child Care Center or Family Child Care Home.

**Dedicated to public use:** a legal action that typically occurs as a note on a subdivision plat or through a recorded document that conveys permanent public use to an area of land.

**Density:** the number of dwelling units per acre of land devoted to housing and usable open space.

**Developer:** any person, firm, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer, seller or agent in the planning, platting, development, promotion, sale or lease of a development.

**Development:** 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, land fill or land disturbance; any new use or extension of a permitted use; or the extension or alteration of the scope of a use.

**Development Plan:** the written and graphical documents that detail the provisions for development of a PUD. (Planned Unit Development) These provisions may include and need not be limited to easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities; common open space, and other public facilities.

**Disposition:** a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing,

**District:** An area or areas within the unincorporated part of the county for which the regulations and requirements governing use, lot, and bulk of building and premises are uniform.

**Drive in Establishment:** an establishment, such as a drive-in theater or drive-in facility, which is designed to provide, wholly or in part, service to customers while they remain in their automobiles parked upon the premises.

**Driveway:** a constructed vehicular access serving one (1) or more properties and abutting a public or private road.

**Dwelling:** a structure used exclusively for residential occupancy for one or more persons or families and including facilities for living, sleeping, cooking, eating, or any combination thereof.

**Dwelling, Single-Family:** a structure containing one dwelling unit. The term single family dwelling shall not include a mobile home, which is defined separately.

**Dwelling Unit:** one or more rooms in a dwelling occupied by one family living independently of any other family, and having not more than one indoor kitchen facility which is limited to the use of the one family. The term dwelling unit shall not include hotels, motels, clubs, boarding houses, bed and breakfasts or any institution such as an asylum, hospital or jail where human beings are housed by reason of illness or under legal restraint.

**Dwelling-Multi-Family:** a dwelling containing three or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.

**Dwelling-Two-Family:** a building occupied by two (2) families living independently of each other.

**Dwelling Single Family Attached:** a residential building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

**Dwelling Single Family Detached:** a single-family dwelling, which is not attached to any other dwelling or building by any means, excluding mobile homes and manufactured housing situated on a permanent foundation.

**Easement:** the recorded right to use a specific tract of land for a particular purpose.

**Entertainment Facilities, Theaters, and Amphitheater:** a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.

**Environmentally Sensitive Areas:** aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, and ridgelines.

**Equitable Title:** a term as used in C.R.S. Section 30-28-110 that refers to a form of property ownership meaning a controlling financial interest in a piece of property.

**Evidence:** any map, table, chart, contract or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained.

**Expansive Soil and Rock:** soil and rock that contains clay and which expands to a significant degree upon wetting and shrinks upon drying.

**Family Child Care Home:** a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four (24) hour care for children under the age of eighteen (18) years who are not related to the head of such home. Family Child Care Home may include infant-toddler childcare homes, large childcare homes, experienced provider childcare homes, and such other types of family childcare homes designated by rules of the Colorado Department of Human Services.

**Farm/Ranch Stand:** a structure used for the display and sale of primarily raw farm or ranch products, produced principally upon the farm or ranch on which the stand is located.

**Farm Use:** the use of land for the purpose of obtaining a profit from the production and sale of agricultural products, animals or animal products, including accessory uses.

**Family:** a single individual or a collective body of persons in a domestic relationship based upon blood, marriage, adoption or legal custody, living as a separate, independent housekeeping unit, or a group of not more than five unrelated persons, all living together as a separate housekeeping unit. Five people over the age of sixty years sharing one housekeeping unit shall also be deemed to be a family. Notwithstanding the foregoing, a family shall be deemed to include five or more persons (but not in excess of twelve persons) that are not related by blood, marriage, adoption, or legal custody occupying a dwelling unit and living as a single housekeeping unit if the occupants

are handicapped persons as defined in title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by (§ 24-34-301, C.R.S.) A household that includes five or more persons identified above shall not be excluded from the definition of "family" by the residence in the household of additional necessary persons (and their families) employed in the care and supervision of such handicapped or disabled persons.

**Fence:** a structure, which serves as a barrier intended to prevent escape or intrusion, to mark a boundary, to shield or screen view, or to serve any similar purpose constructed of materials other than vegetation. Fence, Sight-Obscuring: sight-obscuring fence means a fence constructed in such a manner or of such materials as to obstruct vision.

**Feedlot:** a tract of land devoted to concentrated and intensive feeding of processed feeds to animals within more or less permanent corrals, pens or yards; except transient populations of animals used to clean fields of any available forage on thirty-five acres or more.

**Fixture:** the assembly that houses the lamp or lamps, which can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**Fixture, Fully Shielded FFS:** projects light downward only

**Fixture, Partially Shielded** (or partial cut-off): a fixture that does not project light in an upward direction, and in which shielding is provided to (or below) the plane of the centerline of the light-producing portion of the light bulb (lamp). Fixtures constructed in this manner will not allow more than (10%) of the light produced be directed above the horizontal plane at the lowest point of the light emission source (which is the light bulb or lamp). The shielding that extends to or beyond the centerline plane of the lamp may be opaque (no light passes through) or translucent (only diffused light passes through.)

**Floor Area:** the area including within the outside walls of a building or portion thereof including attic space, but not including vent shafts, courts or uninhabitable areas below ground level or in attics.

**Frontage:** that portion of a lot, parcel, tract or block abutting upon a street.

**Garage Private:** an accessory building or accessory portion of the main building designed for the shelter or storage of motor vehicles owned or operated by occupants of the main building only.

**Garage Public:** a garage, other than a private garage, used for the housing or care of motor vehicles or where such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

**Geologic Hazard:** a geologic phenomenon, which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to: avalanches, landslides, rock falls, mudflows, unstable or potentially unstable slopes, seismic effect, radioactivity and ground subsidence.

**Geologic Hazard Prone Area:** an area, which may contain or may be directly affected by a geologic hazard. **Governmental Services, Public Services or Public Utilities:** the erection, construction, alteration or maintenance by public utilities or municipal departments of underground or overhead gas, electrical, steam or water transmission distribution systems, collection, communication, supplier-disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate services by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

**Ground Subsidence:** a process characterized by the downward displacement of surface materials caused by natural phenomena such as removal of underground minerals or by manmade phenomena such as underground mining.

**Ground Water Table:** the upper surface of groundwater in the zone of saturation of a geologic formation.

**Guesthouse:** an accessory building designed and used for the purpose of providing temporary living accommodations for guests or for members of the same family as that occupying the main building.

**Guest Room:** a room in a hotel, apartment hotel, motel or tourist home offered to the public for compensation in which room no provision is made for cooking and which room is used only for transient occupancy.

**Habitation:** the act of using an area for dwelling purposes.

**Habitat Conservation Plan: (HCP);** is a community-based plan designed to conserve endangered species habitat while allowing private land use and management to continue as mandated by the U.S Fish and Wildlife Service.

**Highest Adjacent Grade:** the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Home Occupation:** a lawful activity commonly carried on within a dwelling or an accessory structure by a member or members of the family who occupy the dwelling, and up to one full time employee, where the occupation is secondary to the use of the dwelling for living purposes and the residential character of the dwelling is maintained. Auto Repair Shop is excluded.

**Hospital:** any building or portion thereof used for diagnosis and treatment and care of human ailments but not including medical clinics, rest homes, convalescent homes, nursing homes and retirement homes.

**Hotel:** an establishment that provides temporary lodging in guest rooms and in which meals, entertainment, and various personal services for the public may or may not be provided.

**Improvements Agreement:** an agreement including a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Board of County Commissioners to ensure that all improvements will be completed in a timely, quality and cost-effective manner. Improvement agreements shall run with and be a burden upon the land.

**Individual Sewage Disposal System and the term system:** (When the context so indicates). A system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which is not a part of or connected to a sewage treatment works.

**Industrial Heavy:** uses engaged in the basic processing and manufacturing of materials or products predominately extracted from raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. Heavy industrial shall also mean those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, and transport terminals (truck terminals, public works yard, container storage). Industrial, Light: uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, light industrial shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like.

**Junk:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, trucks, tractors, trailers, machinery, appliances, or parts thereof, iron, steel, or other old or scrap ferrous or non-ferrous material.

**Junkyard or Salvage Yard:** an industrial use contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collection, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof. (Storage of inoperable machinery or equipment on the farm, ranch or business on which such machinery or equipment had been used does not constitute a junkyard.)

**Kennel:** a lot or building in which four (4) or more household pets at least six (6) months of age or older are kept commercially for board, propagation or sale, not including veterinary clinic and animal hospitals.

**Landscaping:** any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains or the like. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, re-vegetation or the reservation, protection and replacement of existing trees.

**Land Use Change:** any substantial change in the historical use of land.

**Landslide:** The spontaneous movement of land down a slope where the surface material separates and slides away from the more stable underlying material.

**License:** a written authorization issued by the Board of County Commissioners or their authorized representative to conduct a specific business, operation or activity.

**Light Pollution:** any adverse effect of man-made light including sky-glow, glare, light trespass, and light clutter.

**Limited Impact Use:** land uses that are generally compatible with adjacent uses and have limited potential for causing adverse impacts on other adjacent or adjoining uses. Limited Impact Uses would require a Conditional Use review.

**Limited Indoor Recreation Facility:** a place where recreation activities occur completely within an enclosed structure including but not limited to bowling alleys, skating rinks, pool halls, video and pinball parlors.

**Lodging Establishment:** a building intended and used for occupancy as temporary abode for individuals who are lodged with or without meals, in which there are five (5) or more guest rooms.

**Logging Operation:** lands owned, leased or managed by commodity producing for the primary purpose of generating profit through the processing and sale of forest products.

**Lot:** a designated parcel, tract, or area of land established by plat or subdivision of sufficient size to meet minimum requirements for use, street frontage coverage and area, and to provide required yards and other open spaces in the zoning district in which the lot is located, and which has direct access onto a public or private street

**Lot Area:** the total area within the boundary lines of a lot, exclusive of any street, road or alley rights-of-way.

**Lot, Corner:** see corner lot.

**Lot, Depth:** the average horizontal distance between front and rear lot line.

**Lot, Interior:** a lot other than a corner lot.

**Lot Line:** the property line bounding a lot.

**Lot Line, Front:** the property line dividing a lot from the right-of-way of the street. For a corner lot, the shortest street right-of-way line shall be considered as the front line.

**Lot Line Rear:** the property line opposite the front lot line.

**Lot Line Side:** any lot line other than a front or rear lot line.

**Lot Width:** the distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing building setback lines.

**Lowest Floor:** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program Regulations.

**Maintain:** To cause or allow to continue in existence; when the context indicates, the word means, "to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable and carries out the purpose for which it was installed, constructed or required."

**Manufactured Home:** A structure constructed according to a code administered by the U.S. Department of Housing and Urban Development (HUD Code.) Such a structure designed to be transported after fabrication and exceeding either (8) feet in body width or thirty-two (32) feet

in body length is built on a chassis and retains the chassis on which it was built, whether or not such a structure is placed on a permanent foundation. Manufactured homes are suitable for human habitation on a year round basis when provided with the required plumbing, heating and electrical facilities. Manufactured home shall not include any camping unit such as travel trailer, camper, or recreational vehicle. All manufactured homes placed in Rio Grande County must be newer than 1976 must be HUD approved and Colorado coded and meet Rio Grande County Building Department Guidelines for manufactured homes. All manufactured homes placed in Rio Grande County are subject to local zoning regulations and require a Certificate of Occupancy.

**Manufacturing:** a business, which makes products by hand or by machinery.

**Master Plan:** the Rio Grande County Master Plan, adopted in accordance with C.R.S. 30-28-107.

**Mean Sea Level:** for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

**Mile:** A unit of length equal to five thousand and two hundred eighty feet or one thousand and seven hundred sixty (1,760) yards (1,609 meters).

**Mini-Storage Warehouse:** A building or a group of buildings containing separate, individual self-storage units divided from the floor to ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage or personal goods, materials and equipment.

**Minor Boundary Adjustments:** A change in the legal boundary between two adjacent properties that does not substantially alter the size shape or acreage of either tract.

**Mixed Use Development:** the development of a lot or parcel into two or more different types of uses including but not limited to residential, office, manufacturing, retail, public or entertainment.

**Mineral Resource:** coal, oil and natural gas, sulfur, sand and gravel, quarry aggregate, limestone, gypsum and any other inanimate constituent of the earth, in either solid, liquid, or gaseous state which, when extracted from the earth is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing or construction materials. This definition does include geothermal resources, but does not include existing water rights for domestic, agricultural or industrial purposes.

**Mineral Resource Area:** an area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise, as to be capable of economic

recovery. The term includes a new find of mineral resources in any location, reopening of a previously existing operation that had been closed, an old find that has not previously been developed and an area into which an existing and ongoing mining operation expands.

**Mobile Home:** a structure or vehicle exceeding either eight feet in width or thirty-two feet in length, without motor power, capable of being drawn by a motor vehicle, built on a permanent chassis designed for long term residential occupancy or temporary office use and containing electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner. "Mobile home" shall not include any recreation vehicles including camping units, travel trailers, park model trailers, campers or self-contained motor homes.

**Mobile Home Park:** an area under single ownership or control designed primarily for the rental of portions of the area as spaces for occupied mobile homes.

**Mobile Home Space:** a plot of ground within a mobile home park designed for the accommodation of one mobile home.

**Mobile Home Subdivision:** a residential subdivision designed for mobile homes, in which the occupants own the homes and the land.

**Modular Home:** a type of manufactured home that is assembled on site as a permanent structure.

**Monuments:** The actual points set on the ground to locate, delineate or describe tracts of land and/or points set to define a legal description of a tract of land.

**Mudflow:** a flowing mass of predominately fine grained earth material possessing a high degree of fluidity during movement.

**Natural Areas:** floodplains and floodways, natural drainage and waterways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, and any wetland greater than one-quarter (1/4) acre in size; any tract of land undeveloped unimproved that remains in its natural state.

**New Construction:** for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Non-Conforming Structure:** a use that does not conform to these Regulations, but has been lawfully established under the Regulations in force at the time the use was established and has been in regular use since that time.

**Nuisance:** an annoying troublesome person, thing, junk, noise, smell or animals.

**Off-Street Parking Area:** all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a “recreational” vehicle, boat or truck storage; use, storage areas of landscaping and other bulk items or public streets and rights-of-way.

**Owners Association:** the association set up to enforce the covenants and maintain all common areas and buildings for development.

**Outdoor Storage:** the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more that twenty-four hours. (Cargo containers, semi-tractor trailers or singlewide trailers may not be used for residential or storage uses except on construction sites).

**Out Lot:** a measured piece of land contained within subdivided land that is not a building lot. An out lot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision, or be conveyed to an owners association.

**Parapet:** a low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall fire wall, or party wall that rises above the roof.

**Park:** areas open to the general public and reserved for recreational, educational or scenic purposes.

**Parking Lot:** off-street parking area of vehicular use area.

**Parcel:** a lot or tract, or contiguous groups or portions of such lots or tracts.

**Parking Space:** a rectangular area containing not less than two hundred (200) square feet and measuring a minimum width of nine (9) feet, which is utilized for the parking of motor vehicles.

**Permanent Residence:** a building; individual mobile home or recreation vehicle that is connected to the permanent masonry with a foundation.

**Permit:** a written authorization made by the Board of County Commissioners or its authorized agent.

**Permitted Use:** a use allowed by right in conformance with the particular District Zoning Regulations.

**Person:** any individual, firm, partnership, corporation, joint venture, company or association.

**Phase:** a portion of property that is being platted and engineered for development at the same time.

**Planning Commission:** officially appointed Planning and Zoning Commission of Rio Grande County, Colorado.

**Plan, Preliminary:** the plat and/or maps of a proposed subdivision or planned unit development and specified supporting materials, drawn and submitted in accordance with the requirements of adopted regulations, including detailed engineering and design.

**Plan, Sketch:** a map of a proposed subdivision or planned unit development, drawn and submitted in accordance with the requirements of these Regulations, to evaluate feasibility and design characteristics at an early stage in the planning.

**Planned Unit Development (PUD):** any land development project that is designed to concentrate the area to be occupied or inhabited into smaller areas within the total project and designating the surrounding area as open space shared by common utilities.

**Planned Unit Development-ED (PUD-ED):** an economic development PUD that includes a land parcel of 40 acres or more and are approved in accordance with the provisions of (Article XIX. pg. 164-179)

**Planned Unit Development-LS (PUD-LS):** a large scale PUD that includes a land parcel of 640 acres or more and is approved in accordance with the provisions of Article XIX.

**Plant Nursery and Greenhouse:** any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting.

**Plat, Final:** a map and supporting materials of certain described land prepared in accordance with subdivision and planned unit development regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

**Plot Plan:** the map or maps of a proposed site specific development plan drawn and submitted in accordance with the requirements of adopted regulations.

**Principal Use:** the primary use to which a tract of land is utilized.

**Prime Agriculture Land:** this is land upon which the best and most significant use is production of common food and fiber crops. Significant agricultural land is irrigated land classified as Site III or better by the Soil Conservation Service Soil Survey for Rio Grande County and other lands which may be determined to be of vital importance to agricultural production.

**Private Central Collection and Treatment System:** a private sewage collection and treatment system subject to review requirements of Rio Grande County and/or the Colorado State Department of Health.

**Private School:** any school or educational institution that is licensed by the state but is not publicly funded.

**Professional Office:** any commercial office used by licensed professionals such as; physicians, lawyers and others etc.

**Proof of Ownership:** any documentary evidence, usually issued by a governmental agency that establishes the ownership of any real or personal property.

**Property Line:** the boundary of any lot, parcel or tract as the same is described in the conveyance to the owner, and shall not include the public streets or alleys upon which the said lot, parcel or tract may abut.

**Public Hearing:** a meeting called by a public body for which public notice has been given and which is held in a place in which the general public may attend to hear issues and express their opinions. Testimony is taken under oath and a transcript of the hearing is taken.

**Radio Activity:** a condition related to various types of radiation emitted by natural radioactive minerals that occur in natural and man-made deposits of rock, soils and water.

**Recreation Facility:** any structure or location designed or intended for recreational activities, relaxation or to promote physical or emotional well-being.

**Recreation Vehicle (R.V.):** a motor home, travel trailer, truck camper, camping trailer or van conversion with or without motive power, designed for human occupancy, which meets all of the following criteria:

- a. It contains less than four hundred square feet of internal living room, (excluding built-in equipment) including but not limited to wardrobe, closets, cabinets, kitchen units or fixtures and bath or toilet rooms.
- b. It shall not exceed eight and one-half feet in width as measured at maximum horizontal projections, with the exception of two slide-outs not exceeding forty square feet in area.
- c. It is built on a single chassis
- d. It is either self-propelled, truck mounted or permanently tow-able on the highways without a special highway movement permit.
- e. It is constructed in accordance with Standard No. A119.2 of the American National Standards Institute.

**Recreation Vehicle Lot:** a parcel of land as legally defined in a recreation vehicle subdivision.

**Recreation Vehicle Park:** an area developed for the parking and use of recreation vehicles in an arrangement subject to County regulations and review.

**Recreational Vehicle Space:** a parcel of land as defined in a recreation vehicle park.

**Recycling:** Scrap metal, aluminum, materials that are of monetary value; not to be sold on site.

**Registered Professional Engineer:** a professional engineer means a person who is qualified to perform engineering work and who is registered in conformance with Title 12, Article 25 of the Colorado Revised Statutes.

**Replat:** changing the boundaries of a platted subdivision or changing the property lines within a platted subdivision.

**Resources Extraction, Processes and Sales:** the surface mining, dredging, or extraction by any means of sand, gravel, etc.

**Retail Use:** space within any structure or portion thereof intended or primarily suitable for occupancy by persons or utilities which supply commodities to customers on the premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses, etc.

**Right-of-Way, Public:** all streets, roadways, sidewalks, alleys and all other areas reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel.

**River Corridor:** The area on either side of the Rio Grande river or within the 100 year floodplain or fifty feet (50) of the river that would adversely affect the natural character of the river if developed.

**Road, County:** a public road where the county either owns the right of-way or holds an easement to the right-of-way and may or may not be maintained by the County.

**Road Profile:** a drawing reflecting a proposed or existing vertical section of a road, alley or other public way.

**Road, Public:** a road right-of-way or easement acquired by the public by dedication, prescription or other legal means, but which may not have been accepted by a public government or agency for care and maintenance.

**Roadside Stand:** a temporary commercial establishment operating not more than 120 days per year with a building enclosure not to exceed 1,000 square feet in area, typically involved in the sale of locally produced fruits, vegetables or products.

**Rock fall:** the rapid bounding or sliding or rolling of large masses of rocks or individual rocks.

**Screening:** opaque fencing, evergreen vegetation or earth berms maintained for the purpose of concealing from view the area behind such screening.

**Section:** An area of land one mile square containing 640 acres and constituting one thirty-sixth of a township.

**Seismic Effect:** direct and indirect effects caused by a natural earthquake or a manmade phenomenon.

**Service Building:** a building which may house a toilet, bathing facilities, laundry facilities and such other facilities as may be required by these and other Regulations.

**Setback:** Front, Side and Rear Yard; The horizontal distance measured at right angles to the boundary of the parcel, lot or block of land, between the building and the property line. On corner lots, that portion of a lot contiguous to a public right-of-way or private street shall be considered as a front yard area for the purpose of applying setback regulations.

Setback, Front Yard: the distance a building or structure must be placed from the front lot line.

**Setback, Rear Yard:** the distance a building or structure must be placed from the rear lot line.

**Setback, Side Yard:** the distance a building or structure must be placed from the side lot line.

**Sewage:** a combination of liquid wastes that may include chemicals, house wastes, human excreta, animal or vegetable matter in suspension or solution, other solids in suspension or solution and which is discharged from a dwelling, building, processing or manufacturing plant, institution, industrial plant or other establishment.

**Sewage Treatment Works:** a system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than two thousand gallons of sewage per day. Their term "sewage treatment works" includes appurtenances such as interceptors, collection lines, outfalls and outlet sewers, pumping stations and related equipment.

**Sign:** a sign is any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination, or projected images. If for any reason it cannot be readily determined whether or not an object is a sign, the Land use Administrator shall make such determination.

**Significant Wildlife Habitat and Migration Corridors:** Areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information source ([www.ndis.nrel.coloradostate.edu](http://www.ndis.nrel.coloradostate.edu)) AS AREAS OF LANDSCAPE THAT PROVIDE FOOD, COVER AND WATER DUSSICIENT TO MEET THE NEEDS OF A GIVEN SPECIES TO SURVIVE AND REPRODUCE.

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

**Skirting:** metal, wood, or other suitable building materials used to fully screen the area located between the surface of the ground and the frame of a mobile home or recreation vehicle.

**Special Event:** a gathering of human beings, generally lasting from a few hours to a few days, designed to celebrate, honor, discuss, sell, teach about, observe, or influence human endeavors.

**Spot Zoning:** zoning of a particular piece of land without regard for the zoning of the larger area surrounding the land. Zoning inconsistent with the Rio Grande County Development Code/Master Plan and that would benefit single landowners rather than the community at large can be considered spot zoning.

**Street:** the term "Street" means a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, and place or however otherwise designated.

- a) Alley--A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which also, may be used for public utility purposes.
- b) Arterial Highway--Right-of-way used primarily for fast or heavy traffic volumes for long distances and usually is or would be designated as a State or Federal Highway.
- c) Major Thoroughfare--Right-of-way which generally carries traffic throughout the County or across urban communities.
- d) Collector--Right-of-way which collects traffic from minor streets and serves as the most direct route to a major street or community facility.
- e) Minor Street--Right-of-way that is to provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged.
- f) Cul-De-Sac--A minor street having one end open to vehicular traffic and having one closed and terminated by a turnaround.
- g) Marginal Access or Frontage Street--A minor street auxiliary to and located on the side of a major thoroughfare or arterial highway for providing and controlling access to abutting properties and adjacent areas.

**Structure:** anything constructed or erected with a fixed location on the ground above grade but not including fence posts, poles, lines, cables, or other transmission or other distribution facilities of public utilities as well as a manufactured home.

**Subdivision or Developer:** any person, partnership, joint venture, association, firm or corporation, who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision or planned unit development.

**Subdivision:** the term "subdivision" or "subdivided land" shall be defined in these regulations in the same manner that such terms are defined in C.R.S. 1973 30-28-101, as amended or in any subsequent amendment to said statute.

**Subdivision, Minor:** five or less lots of less than thirty-five acres each that do not require improvements at county expense (sewer, water works, roads, etc. are the developers responsibility).

**Substantial Damage:** damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Telecommunication Facility:** an unmanned facility consisting of equipment for the reception, switching and transmission of wireless telecommunications, including, but not limited to, personal communication service (PCS), enhanced specialized mobile radio (ESMR), paging, cellular telephone and similar technologies.

**Temporary Uses:** uses established for limited duration at a specific location, with the intent to discontinue such use upon the expiration of a set time period established by these Regulations; temporary uses are land uses that do not require any new permanent structures or improvements for their operation, may use existing buildings or improvements, shall not include continuing a nonconforming use or building, and do not result in any long-term impact on surrounding properties.

**Title Commitment:** formal documentation from a title company listing the name of the owner of the property under consideration, the legal description of the property and any legal holdings on the property such as easements, rights-of-way or liens.

**Townhouse:** a single family, attached residence with individual exterior entries that will never have units above or below, and does not have more than two walls in common.

**Tract:** a portion of land, usually not platted, delineated by a metes and bounds description.

**Unlisted Uses:** land uses that are not identified in the land use tables for any zone districts are termed "unlisted uses". (Article IX. Pg. 43-47)

**Unstable or Potentially Unstable Slope:** an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

**Useable Building Site:** a land area not located under lakes or streams, with no gullies or other topographic features that would limit construction and with suitable drainage for building construction.

**Use:** the purpose of which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

**Use, Accessory:** a subordinate use, which is customarily incidental to the principal use of the lot; **use, conditional:** a use, which may be permitted in a zone district upon favorable action by the Board of County Commissioners.

**Use, Non-Conforming:** a use which lawfully occupies a building or land at the time these Regulations or an amendment hereto became effective and which does not now conform to the use regulations applicable in the zone district in which it is located.

**Use, Permitted:** a use permitted by right in a zone district. Permitted uses are not required to show need for their location.

**Use, Principal:** the main use of land or structures as distinguished from a subordinate or accessory

**Usable Open Space:** land, including outdoor recreation areas, driveways that do not serve three or more parking spaces, and underground facilities, which is free of building, structure and other substantial improvements, but excluding public or private rights-of-way for street or highways, roofs, open parking areas, parking garages and slopes in excess of twenty-five percent.

**Vacation:** a legal action, granted by the Board of County Commissioners that formally removes a road, or easement, or lot(s) from an approved plat or property. As used herein, the terms "road" and "easement" shall be deemed to include any and all parcels upon which there has been legally sufficient acceptance of said dedication by the public or authorized agents, representatives, or officials thereof.

**Variance:** a grant of relief from the requirements of these Regulations, which permits development in a manner that, would otherwise be prohibited by these Regulations.

**Vested Property Right:** the right to undertake and complete the development and use of the property under the terms and conditions of a Site Specific Development Plan, Including any approved amendments thereto, pursuant to Article XXIV., (pg. 198-202) of these regulations.

**Vision Clearance Area:** a triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the plot lines to a distance specified in the Regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the plot lines and intersections have rounded corners, the plot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures or temporary or permanent obstructions exceeding three and one-half (3 1/2) feet in height measured from the top of the curb or existing grade.

**Water Body:** a perennial or intermittent river, stream, lake, reservoir, or pond, whether natural or artificial, but does not include irrigation or roadway drainage ditches, or artificial lakes or ponds which are created and used for the primary purpose of agricultural activities. A "perennial" river, stream, lake, reservoir, or pond is one that normally holds water or flows continuously for least sixty days of the calendar year as a result of ground-water discharge or surface runoff.

**Wildfire Hazard:** a wildfire phenomenon, which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property.

**Wildfire Hazard Prone Area:** an area containing or directly affected by a wildfire hazard, and which is identified and mapped by the Colorado State Forest Service.

**Yard:** that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zoning district in which the lot is located.

**Yard, Front:** a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

**Yard, Rear:** a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

**Yard, Rear Setback:** the distance a building or structure must be placed from the back of the rear property line.

**Yard, Side:** a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

**Yard, Side Setback:** the distance a building or structure must be placed from the back of the side property line which, when extracted the earth is useable in its natural form as a metal, a metallic compound, a chemical.

Article VIII. Zoning Regulations

A. Title

These Regulations shall be cited as the "Amended Zoning Regulations of the County of Rio Grande, 2010."

B. Authority

The Rio Grande County Zoning Regulations and Maps are authorized by Title 30, Article 28 of the Colorado Revised Statutes, 1973, as amended and are hereby declared to be in accordance with all provisions of these statutes.

C. Classification of Districts

For the purpose of these Regulations, the County is divided into zoning districts designated as follows:

District Designations

Abbreviated

A. Agricultural Forestry

AF 35 acres +

The AF Zoning District is intended to provide for permitted regulation of land uses on Federal and/or State lands. The AF district includes the majority of public lands within the county. Land Use in the AF district is encouraged to conserve forest resources, protect the natural environment, and preserve uninhabited areas.

B. Agricultural/Ranching

AR 35 acres +

The AR Zoning District is intended to be generally consistent with the Very Low Density Residential land use within the county and provide areas where continued agriculture or grazing use is practiced on a large scale. The AR district includes the majority of the rural agricultural land within the county that is in private ownership, with residential density a minimum of thirty five (35) acres per two (2) dwelling units. Land use in the AR district is encouraged to provide for the maintenance of agricultural production and preservation of associated life styles, with new residential development encouraged to proceed through the Cluster Development Rural Land Use Subdivision Process. Commercial uses are generally limited to those associated with agricultural uses.

C. Agricultural Estate

AE 5-35 acres

The AE Zoning District is intended to be generally consistent with the Low Density Residential land use within the county, and provide areas where continued agriculture or grazing use is practiced on a smaller scale. Residential densities in this district range from one (1) dwelling unit per two (2) acre lot, to two (2) dwelling units per thirty five (35)

acre lots. An accessory dwelling unit 800 minimum -1000 maximum square foot may be allowed, if setbacks and on-site wastewater system can be met. This (ADU) shall be deed restricted and cannot be severed from the land or sold as a separate parcel. Residential development in the AE District is encouraged to be designed in a way that provides for the preservation and protection of irrigated croplands, range lands, watershed and wildlife habitats. Commercial uses are generally limited to Home Occupations and those associated with non-intensive agricultural operations.

D. Rural Residential RR 2-5 acres

The RR Zoning District is intended to be generally consistent with the Medium Density Residential land use within the county, and provide for orderly residential development where water and/or sanitary sewer services may not be available. Residential densities in this district range from one (1) dwelling unit per one (1) acre or less if water and sanitation services are available. Two (2) acre minimum is required where both well and septic systems are necessary. An accessory dwelling unit 800 minimum -1000 maximum square foot may be allowed if setbacks and on-site wastewater system can be met. This (ADU) shall be deed restricted and cannot be severed from the land or sold as a separate parcel. Commercial uses considered as low impact **may** be allowed, under a home occupation approval.

E. Residential R 0-2 Acres

The R Zoning District is intended to be generally consistent with the High Density Residential land use within the county where adequate services and facilities are available and such densities do not negatively impact the essential character of the district or adjacent districts. Residential densities in this district range from one (1) dwelling unit per seven thousand (7000) square foot lot, to one (1) dwelling unit per two (2) acre lots. Residential development may be permitted in building configurations of single-family, two-family and multi-family dwellings, home occupations **may** be allowed.

F. Mobile Home Park MH

The MH Zoning District is intended to provide residential areas specifically for mobile home parks and mobile homes on individually owned lots. The integration of mobile homes is encouraged in areas where adequate services and facilities are available and such development does not impact the essential character of the district or adjacent districts. Commercial development other than home occupations is generally not permitted unless it is approved in conjunction with the original application request.

G. Commercial Business CB

The CB District is intended to provide a full range of retail sales and services. The permitted land uses within this district promote and encourage a suitable environment for commercial services to area residents, while prohibiting industrial use and other activities that would discourage or reduce the quality of the shopping environment. Residential uses in a CB District are limited; a special review to allow residential whether adjacent to or within the structure will require a

special use review to determine the acceptability. The focus of a CB will be a series of performance related issues including the adequacy of design to mitigate the negative impacts of traffic, noise, air pollution and nighttime activities.

District Designations

Abbreviated

H. Commercial Resort/Tourist

CRT

The CRT District is intended to provide recreation, resort, tourist and limited commercial oriented uses that provide the lodging and activity area for resort visitors and tourists. CRT Districts are mostly located along the major highway corridors; this district is intended to provide limited orientation to the highways and to provide a highway treatment that compliments the local interest in furthering tourism. In general, permitted uses in this district are identified based upon a consideration of highway frontage and convenience to tourists, but the establishment of new highway-oriented commercial uses is not the intention. Residential uses are limited but may include multifamily, single family and resort cabins under the review process.

I. Light Industrial

LI

The LI District is intended to provide an area of any activity which is not likely to become a nuisance to surrounding areas; including but not limited to scientific research, manufacturing, compounding, assembling or treatment of products, distribution centers, food and beverage processing. The LI District are identified in anticipation of the need and demand for areas of non-offensive industrial use, where non-offensive uses may be conducted outside a building and the offensive impacts of industry can generally be confined within an enclosed building.

J. Heavy Industrial

HI

The HI District identifies areas where manufacturing or storage with external impacts are occurring or are anticipated. HI is also contemplated in areas where oil and gas drilling and production operations occur. In HI Districts, the zoning will require a conditional use review of a number of uses. These reviews will focus on a full range of analysis to ensure that the use does not negatively impact the environment

Zoning District Standards

Table 4 lists the height, setback and other zone district standards for each of the zone districts listed.

**TABLES 4: ZONE DISTRICT STANDARDS**

<b>DIMENSION</b>	<b>AF</b>	<b>AR</b>	<b>AE</b>	<b>RR</b>	<b>R</b>	<b>MH</b>	<b>CRT</b>	<b>C</b>	<b>LI</b>	<b>HI</b>
Minimum Lot Size	160 acres	35 acres	5 acres	2 acres	7,000 ft Corner Lot 9,000	2,500 ft	7000 ft	10,000 ft	35,000 ft.	35,000 ft.
Minimum Lot Width	500 ft.	200 ft.	100 ft.	80 ft.	60 ft.	150 ft or 100 ft facing a cul-de-sac or curve/loop	150 ft.	150 ft.	150 ft.	600 ft.
Minimum front setback	100 ft.	25 ft.	25 ft.	25 ft.	25 ft.	10 ft.	25 ft.	50 ft 25 ft for lots facing minor streets, marginal access, frontage street rights of way	50 ft.	100 ft.
Minimum side Setback	100 ft.	25 ft.	25 ft.	25 ft.	8 ft.	10 ft.	10 ft.	10 ft.	10ft. except On corner Lots where The setback For all Buildings Shall be 20	100 ft.

<b>Minimum Corner Setback (street side)</b>	<b>150 ft.</b>	<b>50 ft.</b>	<b>50 ft.</b>	<b>50 ft.</b>	<b>50 ft.</b>	<b>8 ft. except corner lots shall be 25 ft.</b>	<b>25 ft.</b>	<b>25 ft.</b>		<b>100 ft.</b>
<b>Minimum Rear Setback</b>	<b>100 feet</b>	<b>25 feet</b>	<b>25 feet</b>	<b>20 feet</b>	<b>15 feet</b>	<b>15 feet (The entrance side of a garage/carport shall be setback at least 25 feet from the access street, except in case of an alley. The entrance shall be setback at least 15 feet from the rear lot line.)</b>	<b>20 feet</b>	<b>20 feet</b>	<b>20 ft.</b>	<b>100 feet</b>
<b>Maximum Height</b>	<b>45 feet</b>	<b>45 feet</b>	<b>45 feet</b>	<b>35 feet</b>	<b>35 feet, accessory bldg. 25 feet</b>	<b>16 feet principal 16 feet accessory</b>	<b>Maximum height 40 feet</b>	<b>60 feet principal, 40 feet accessory</b>	<b>40 ft.</b>	<b>60 feet primary 40 ft.</b>

- All loading and unloading facilities in a LI, HI or Commercial zone facing a public road shall maintain a one hundred (100) foot setback from a public road and/or major highway.

<b>Maximum Density</b>	<b>n/a</b>	<b>2 DU/35 Ac</b>	<b>1 DU/5 /5 Ac</b>	<b>1 DU/2 Ac.</b>	<b>1 DU/lot</b>	<b>1 DU/space</b>	<b>1 DU/Space/lot</b>	<b>n/a</b>	<b>n/a</b>
<b>Minimum District</b>	<b>500 acres</b>	<b>100 ac</b>	<b>20 ac</b>	<b>12 ac</b>	<b>2 ac</b>	<b>5 acres</b>	<b>5 acres</b>	<b>5 acre</b>	<b>5 acre</b>

**DU= Dwelling Unit Ac. = Acre**

Article IX. List of Uses Zoning Regulations

Zoning District Uses:

The table identifies Uses-By-Right and Conditional Uses that may be required in each of the zoning districts listed in Article IX. (pg. 43-47). Any unlisted use shall require a pre-meeting with the Land Use Staff to determine how to proceed.

- A Allowed
- 1 Allowed when incidental to resort or recreational use, otherwise conditional
- 2 Allowed when incidental to principal use
- C Conditional Use

Note: The Land Use Administrator is authorized to interpret the meaning and scope of the uses listed herein. The Administrator/staff interpretation may be appealed to the Board of County Commissioners.

TABLE: USES BY ZONING DESIGNATION

	USE	AF	AR	AE	RR	R	MH	CRT	C	HI	LI
1.	Accessory bldgs./structures (accessory to principle use in existence) & shall meet size/acreage requirements/setbacks	A	A	A	A			A1			
2.	Accessory dwelling unit	A2	A2	A2	A2			A1			
3.	Adult Oriented Use/Entertainment								C		
4.	Agricultural implement sales and service	C	C	C					A2	A2	A2
5.	Agriculture products, retailing, receiving, storage, distribution and/or processing provided appropriate setback, parking and produces no nuisances. Conditional if the above criteria cannot be met	A2	A2	A2					A2		
6.	Airport, airstrip, helipad	2	2	2					2		
7.	Animal feeding operation (AFO) <100 permitted	C	C	C							
8.	Animal Shelter/kennel/hospital/boarding	C	C						C		
9.	Art gallery or studio, museum		C						A2		

	USE	AF	AR	AE	RR	R	MH	CRT	C	LI	HI
10.	Asphalt batch plant	C	C						C	A2	A2
11.	Auction yards	C	C						A2	A2	A2
12.	Auto parking lot (as principal use)								A	A2	A2
13.	Aquaculture and/or processing	C	C	C					A2	A2	A2
14.	Automotive service & repair		C						A2	A2	A2
15.	Bar or Tavern							A1	A2		
16.	Bed and Breakfast		C	C	C			A1	A2		
17.	Boarding house, rooming house	C	C	C	C			A1	A2		
18.	Building or structure mounted CMRS facilities	C	C	C					C	C	C
19.	Building supplies, hardware store								A2	A2	A2
20.	Bulk Cleaning/Laundry Dry Cleaning								A2	A2	A2
21.	Cemetery/Mausoleum		C	C					C	C	C
22.	Church, chapel, temple or synagogue		C	C	C	C			A2	A2	A2
23.	Clubs/Lodges	C	C	C				A1	A2		
24.	Commercial Feedlot	C	C								
	Commercial firewood/tree farm sales 35 acres >	C	C	C					A2	A2	A2
25.	Commercial stables or horse boarding, equestrian	C	C	C				A1	A1		
26.	Concrete/cement plants								C	A2	A2
27.	Contractors equipment storage/stockpiling	C	C						A2	A2	A2
28.	Confined animal feeding operation (CAFO) Poultry, hatchery, rabbit farm < 100-allowed >100 conditional use	C	C	C							
29.	Disposal truck storage								A2	A2	A2
30.	Drive-In Theater		C					A1	A2		
31.	Dude Ranch or Wilderness Lodging	C	C	C	C			A1			
32.	Dwelling, multi-family (apartments, condo, townhomes)	C	C	C	C	C			C		
33.	Dwelling, single-family attached duplex	A	A	A	A	A			C		
34.	Electric power generation facilities	C	C	C	C	C	C	C	C	C	C
35.	Entertainment facility or theater	C	C	C	C				C		

	USE	AF	AR	AE	RR	R	MH	CRT	C	LI	HI
36.	Equipment & supply dealer	C	C						A2	A2	A2
37.	Equipment storage and repair	A2	A2	A2					A2	A2	A2
38.	Facility to manufacture/fabricate/ process/assemble product	C	C						A2	A2	A2
39.	Family child care home		C	C	C	C	C		C		
40.	Feedlot/Dairy	C	C	C							
41.	Financial Institution								A2		
42.	Fish culture/processing/aqua culture	C	C	C						A2	A2
43.	Firewood related wood product sales	C	C						A2	A2	A2
44.	Fuel distribution outlets & storage								A2	A2	A2
45.	Furniture and/or carpet warehouse	C	C	C					A2	A2	A2
46.	Gasoline distribution outlets/storage/station								C	A2	A2
47.	General farming and ranching	A2	A2	A2							
48.	Golf Course and driving range		C	C	C			A1			
49.	Greenhouse/ plant nursery <500 SF personal use	A	A	A	A	A	A	A1			
50.	Greenhouse/plant nursery >500 SF for retail/wholesale/aquaponic/aquaculture	C	C	C	C				A2	A2	A2
51.	Group Home		C	C	C	C		C	C		
52.	Grocery Store small country/large	C	C	C	C			C	A2		
53.	Gun clubs, outdoor shooting/archery	C	C					C	A2	C	C
54.	Health/athletic club (Commercial)	C	C	C	C			A1	A2	A2	A2
55.	Heavy equipment sale/repair/rental	C	C						A2	A2	A2
56.	Home Occupation (See Art. XII. (Pg. 87-88) (3) Staff review and fee required	C	C	C	C	C	C	C			
57.	Horses, Shetland, miniature pet 1-head per acre	A	A	A	A						
58.	Hot mix plant, rock crusher, & similar uses temporary less than one year	C	C	C					A2	A2	A2
59.	Hotel/Motel/lodging establishment							A1	A2		
60.	Household equipment & appliance repair	C	C	C	C				A2	A2	A2
61.	Indoor amusement & entertainment							A1	A2	A2	A2

62.	USE	AF	AR	AE	RR	R	MH	CRT	C	LI	HI
63.	Junk yard (*See Article XII.) (8) (pg. 97)								A2	A2	A2
64.	Logging operation	C	C						A2	A2	A2
65.	Lumber hardware sales, outdoor storage/lumber yard	C	C						A2	A2	A2
66.	Medical & dental offices, clinic, drug store/office general, professional								A2		
67.	Medical Marijuana Dispensaries										
68.	Mobile Home (1976) or newer	C	C	C	C	C	A				
69.	Mortuary/Funeral Home		C	C					A2	C	C
70.	Motor freight shipping center or trucking service								C	A2	A2
71.	Oil & Gas drilling operation	C	C	C	C	C	C	C	C	C	C
72.	Parks, playfields or playgrounds	A2	C	C	C						
73.	Personal & Business Service Shops	C	C	C	C	C			A2		
74.	Printing & Publishing								C	C	C
75.	Recharge Pond (See Article XII. (pg. 97) (12) must meet setbacks		P								
76.	Recreational Vehicle Park/Mobile Home							A1			
77.	Recycling facility	C	C	C					C	C	C
78.	Rental Cabins/short term	C	C					A1	C		
79.	Research Facility Center	C	C	C					A2	A2	A2
80.	Resource extraction, processes & sales; precious metals, gravel	C	C	C						C	C
81.	Restaurant/eating & drinking establishment							A1	A2	A2	A2
82.	Retail Convenience Store								A2		
83.	Retail Establishment < 25,000 SF								A2	A2	A2
84.	Retail Establishment > 25,000 SF								C	C	C
85.	Roadside stands/farmers market, Seasonal	A2	A2	A2				A2	A		
86.	Sales, service, storage of mobile home/camper/boat	C	C	C					A2	A2	A2

	USE	AF	AR	AE	RR	R	MH	CRT	C	LI	HI
87.	Sawmill/planning mill	C	C						C	A2	A2
88.	Truck stop								A2	A2	A2
89.	Tow Service/auto repair/service/maint.	C	C	C					A2	A2	A2
90.	Veterinary clinic/hospital	C	C						A2	A2	A2
91.	Warehouse & Distribution (pertains to current use)	C	C						C	A2	A2
92.	Mini storage/storage cargo units <400A/more than 2 review is required	C	C						A2	A2	A2
93.	Wholesale operations	C	C	C					A2	A2	A2
94.	Workshop & small custom industry	C	C	C					A2	A2	A2
OTHER											
1.	Electric power transmission lines	C	C	C	C	C	C	C	C	C	C
2.	Fire or police station (EMS)	C	C	C	C	C	C	C	C	C	C
3.	Hospital, rest home, nursing/convalescent home	C	C	C	C	C	C	C	C	C	C
4.	Library			C	C	C					
5.	Public facilities owned operated by public	C	C	C	C	C					
6.	Schools public/private state requirements/vocational, business	C	C	C	C	C	C	C	C	C	C
7.	Sewage system/treatment	C	C	C	C	C	C	C	C	C	C
8.	Water system/storage facility	C	C	C	C	C	C	C	C	C	C
9.	Water impoundments/dikes, reservoir, dams or levees	C	C	C	C	C	C	C	C	C	C
10.	Sanitary landfills, solid waste transfer stations	C	C	C					C	C	C
11.	Special event will require a permit per event										

\*HOA's, POA's or Covenants may be more restrictive than the permitted uses of Rio Grande County, but not less restrictive.

D. Zoning Maps

1. The location and boundaries of the districts designations in Article VIII. (C) (pg. 38-40) (A)(B)(C)(D)(E)(F)(G)(H)(I)(J); are hereby established as shown on the maps entitled Rio Grande County Zoning Maps of the County of Rio Grande and signed by the Chairman of the Board of County Commissioners’.
2. The Zoning Maps and all notations thereon are hereby made a part of these Regulations. All plat maps are deposited with the Clerk and Records Office of Rio Grande County
3. Zoning Maps are on file in the Land Use Office.

## ARTICLE X. Mobile Home Parks

### A. General Provisions

#### 1. Purpose

The purpose of these regulations shall be: To establish minimum standards governing the construction and maintenance of mobile home parks ("M.H. parks"), and Recreational Vehicle Parks ("R.V. parks") to establish minimum standards governing the provided utilities and facilities, and other physical improvements to make M.H. parks, and R.V. parks safe, sanitary, and fit for human habitation; fixing the responsibilities and duties of owners and operators of M.H. parks, and R.V. parks; and providing variance schedules for all nonconforming M.H. parks, and R.V. parks.

#### 2. Enforcement

It shall be unlawful for any person to construct, maintain, operate or alter any M.H. park, or R.V. park within the unincorporated area of Rio Grande County, unless he holds a valid permit issued by the Board of County Commissioners or their authorized representatives in the name of such person for the specific M.H. park, or R.V. park. All applications for permits shall be made to the Board of County Commissioners or their authorized representative, who shall issue a permit upon compliance by the applicant with provisions of these regulations.

#### 3. Application for Permit

Application for approval of a M.H. Park or R.V. Park shall be made to the Land Use Administrator prior to the commencement of any construction of a new M.H. Park, or R.V. Park, or extension of any existing M.H. Park, or R.V. Park, and shall be accompanied by the following:

- a. A written statement of compliance with the current Rio Grande County Master Plan.
- b. A site plan at a minimum scale of 1 inch = 100 feet. The site plan shall contain and address the additional requirements in b. through p.
- c. Typical plot plans for individual mobile home and recreation vehicle spaces and lots at a scale at a minimum of one (1) inch = 10 feet.

- d. The location of existing and proposed utilities.
- e. Grading and drainage plans.
- f. Topography with contour intervals of two feet.
- g. The number, location and size of all mobile home and recreational vehicle spaces.
- h. The location and width of roadways, sidewalks and pedestrian ways.
- i. The location and size of automobile parking lots and parking areas.
- j. The location of service buildings and any other proposed structures.
- k. Source of water supply and methods to be used for sewage and refuse disposal.
- l. Plans and specifications of all buildings, utilities and other improvements constructed or to be constructed within the M.H. park, or R.V. park.
- m. The location of proposed landscaping features or plantings.
- n. The type and size of all screening and fencing.
- o. Such further information as may be requested by the Board of County Commissioners or Planning Commission to enable them to determine that the proposed M.H. Park, or R.V. Park will comply with the legal requirements. A mobile home park must also comply with Rio Grande County Subdivision Regulations.
- p. Original application fee in the amount currently in effect as set by the Board of County Commissioners.
- q. Upon receipt of an application, the County Land Use Administrator will review the application for completeness and for obvious conflicts with the regulations. If the application is found to be satisfactory the application will be forwarded on to the County Planning Commission for their recommendation. Such recommendation by the Planning Commission shall include holding a public meeting. Such public meeting shall be preceded by publishing a notice of said meeting in a newspaper of general circulation in the County at least fifteen days

prior to the meeting date and written notification to property owners within fifteen hundred feet in a rural or agricultural zoned district and three hundred feet in all other zoned districts. The Planning Commission will forward their recommendation with or without conditions to the Board of County Commissioners within forty-five days after receipt of the application by the County. The Board of County Commissioners shall, within thirty days after receipt of the recommendation from the Planning Commission, or within such time as is mutually agreed by the Board and the applicant, either grant the application in whole or in part, with or without modifications and conditions, or deny the application.

4. Requirements and Procedures

a. Site Use and Occupation

No mobile home, recreational vehicle or camping unit shall be occupied on any site within a M.H. Park, or R.V. Park until all improvements have been made as submitted in the approved site plan, and until inspection by the Board of County Commissioners or their authorized representative has been made.

b. Zoning

The site for a M.H. Park, or R.V. Park shall be subject to all applicable zoning regulations of Rio Grande County.

c. Permits

Upon approval of a M.H. Park/R.V. Park application by the Board of County Commissioners, a permit shall be issued to the applicant. Such permit will specify the use authorized together with stipulations and conditions under which the use shall be conducted.

d. Revocation

The Rio Grande Board of County Commissioners may revoke any permit to maintain and operate a M.H. Park or R.V. Park when the permittee has not complied with any provision of these regulations. The permit may be reissued if the circumstances have been remedied and the park is being maintained and operated in full compliance with the regulations.

B. Mobile Home Parks

1. Site Selection and Application Review Criteria

The following criteria will be used in M.H. park sites selection and application approval:

- a. Compliance with zoning and health regulations.
- b. Suitability of the site for construction and maintenance of planned improvements includes such things as, soil, topography and drainage.
- c. Existence of safety hazards, including such hazards as fire, flooding, avalanches and landslides.
- d. Existence of chronic nuisances such as noise, smoke, fumes, odors and insects.
- e. HUD certified June 1976 or newer

2. Permitted Zone Districts:

A mobile home park is allowed in the following zone districts:

- a. Permitted in a Mobile Home District.
- b. Conditional in Rural, Medium Density Residential and Commercial Resort/Tourist Zone Districts.

3. Lot Size

Minimum lot area for a mobile home park is two acres.

4. Density

The M.H. Park shall have a gross density of not more than eight units per acre of seeable building area (see definition of useable building site).

5. Setbacks

- a. Each M.H. Park shall set aside along the perimeter of the park the following setbacks that shall be landscaped according to the plan submitted for permit review, except for those portions used for ingress and egress.

The minimum setback requirements shall be as follows:

- (1) abutting a state or federally designated highway or county designated major arterial - fifty feet;
  - (2) abutting any public right-of-way other than (1) above, including alleys - twenty-five feet.
  - (3) abutting any exterior boundary other than (1) or (2) above - fifteen feet.
- b. All mobile homes shall be parked in such spaces to sustain a minimum of twenty feet between mobile homes. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than ten feet and ten feet from all streets. The tongue or hitch and enclosed additions to the mobile home structure shall be considered a part of the mobile home in measuring required setback distances.  
The required area for each mobile home space shall not include additional area required for access roads, off-street parking, service buildings, recreation areas, office and similar mobile home park needs.
- c. It shall be unlawful to park a mobile home so that any part of such mobile home would obstruct any roadway or walkway in a mobile home park.
- d. It shall be unlawful to allow any mobile home to be occupied in a mobile home park unless the mobile home is situated on a mobile home space.

## 6. Mobile Home Space Requirements

The following minimum area requirements shall apply to mobile home spaces:

- a. The minimum area of a mobile home space shall be three thousand five hundred square feet.
- b. Groups or clusters of mobile homes may be placed on a combined lot where the area of the combined lot is equal to the minimum lot area required for an equal number of mobile homes on standard spaces and where the minimum setbacks are honored on the combined spaces perimeter line, and minimum spacing requirements are complied with.

7. Access and Interior Roadways

- a. The park shall have at least one direct access to a public street by a roadway at least thirty-two feet in width.
- b. Access shall be provided to each mobile home space by interior roadways not less than thirty-two feet in width.
- c. The mobile home park shall be so designed that all mobile home spaces have access to an interior road.
- d. Roadways shall be surfaced with one and one half (1 1/2) minus gravel.

8. Public Sites, Open Space and Recreation Areas

A Mobile Home park shall provide an amount not less than eight percent of the gross mobile home park area for private recreational areas. The area allowed for recreation shall not include any area designated as a roadway, mobile home space, storage area or any area required for setbacks.

9. Off-Street and On-Street Parking Areas shall be provided for the parking of motor vehicles.

- a. A minimum of two off-street parking spaces for each mobile home shall be provided for each mobile home space. The minimum size of each such off-street parking space shall be a minimum of two hundred (200) square feet and measuring a minimum of nine (9) feet wide.
- b. On-street parking may be permitted in a place of required off-street parking by widening roadways. On-street parking shall be equal to the minimum area required for an equal number of off-street parking spaces. Minimum width of on- street parking spaces shall be nine feet.

10. Storage Areas

- a. An outdoor storage area for boats, boat trailers, camping units and horse trailers shall be provided for within the mobile home park in an amount equal to fifty square (50) feet per mobile home space.
- b. An indoor storage area, either individual or common, for the personal use of mobile home occupants shall be provided in an amount equal to fifty square feet per mobile home space. (Space beneath the mobile home shall not fulfill this requirement.)

11. Skirting

- a. All mobile homes shall have a skirting of a rigid type material. Such skirting must be in place within sixty days after the mobile home is set on the mobile home space.
- b. It shall be the duty of the person to whom the permit for the mobile home park is issued to see that the skirting is in place in compliance with these regulations.

12. Fire Protection

Every mobile home park shall be provided at all times with fire extinguishing equipment in good working order of such type, size and number and so located as prescribed by the local fire prevention authority, or to satisfy reasonable fire regulations.

13. Utilities

a. Water Supply

An accessible, adequate, safe and potable supply of water under pressure shall be provided in each mobile home park, capable of furnishing a minimum of five hundred gallons per day per mobile home space. The number of mobile home spaces to be occupied in a mobile home park shall be limited to the quantity of water available to supply each such mobile home space with the minimum requirements. Where a public supply of water of such quality is available connection shall be made thereto and its supply may be used exclusively. The development of an independent water supply to serve the mobile home park shall meet all state and local requirements. All plumbing in the mobile home park shall comply with state and local plumbing regulations.

b. Sewage Disposal

Mobile home parks shall be served by either: (1) public sewer system which shall be reviewed by Rio Grande County according to an engineered plan, (2) a private central collection and treatment system which produces less than two thousand gallons of raw sewage per day which shall be reviewed and permitted by Rio Grande County according to an engineered plan prepared by a registered professional engineer, and (3) a private central collection and treatment system which produces more than two thousand gallons of raw sewage per day. The development of a private central collection and treatment system which produces two thousand or more gallons of raw sewage per day to serve the mobile home park shall be made only after plans and specifications for the central collection and treatment system have been approved by the State Department of Health. All sewage disposal apparatus, including appurtenances thereto, shall be provided,

maintained and operated so as not to create a nuisance or health hazard. All plumbing in the mobile home park shall comply with state and local plumbing laws and regulations. Each mobile home space shall be provided with at least a four inch sewer connection. The sewer connection shall be closed when not linked to a mobile home and shall be capped so as to prevent escape of odors.

The mobile home drain shall be water tight and self- draining. This drain shall be constructed of smooth plastic pipe or of other material approved by the state or local plumbing laws and regulations.

c. Electricity

An electrical outlet supplying at least one hundred and ten (110) volts, or 110/220 volts, shall be provided for each mobile home space. The installation shall comply with all state and local electrical regulations.

d. Underground Utilities

All electrical and communication utility lines and services and all street lighting circuits, except as hereinafter provided, shall be installed underground, and street lighting may be provided by means of the utilities standard ornamental facilities

Exceptions from the requirements of the foregoing and this section shall be following:

- (1) Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities may be placed above ground within the utility easement provided therefore, or within the street or other public place as appropriate;
- (2) All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or above-ground facilities;
- (3) Overhead electric transmission and distribution feeder lines and overhead communication long distance, trunk and feeder lines, existing or new; and
- (4) It shall not be necessary to remove or replace existing utility facilities used or useful in serving the mobile home park.

e. Refuse Disposal

The storage, collection and disposal of refuse in the mobile home park shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse shall be stored in fly-tight, water- tight, rodent-proof

containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing or blowing away. Satisfactory container racks or holders shall be provided at permanent locations convenient to mobile home spaces, in areas screened by appropriate landscaping or fencing.

Methods of storage, collection and disposal are subject to compliance with any local laws or regulations. Collection shall be at least weekly.

#### 14. Registration of Occupants

It shall be the duty of each permittee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- a. The name and address of the owner of each mobile home;
- b. The name and address of the occupant of each mobile home, if different from the owner;
- c. The make, model, and year of each mobile home;
- d. The date of arrival and of departure of each mobile home.

The mobile home park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of one year following the date of departure of the registrant from the mobile home park.

#### C. Recreational Vehicle Park/Subdivision

##### 1. Purpose

This division is to define various types of recreational vehicle parks ("R.V. Parks") and to provide for their proper development, as opposed to mobile home parks, and to provide a reasonable compatibility with adjoining properties while allowing a diversity of uses. Furthermore, these provisions provide for the continuance of existing recreational vehicle parks not in compliance with this code.

##### 2. Permitted Zone Districts

A recreational vehicle park is allowed in the following zone districts:

- a. Permitted in Mobile Home and Commercial Resort/Tourist Zone Districts.
- b. Amendment of Zoning in Rural and a Conditional Use in Commercial Business Zoned Districts. (Must follow all applicable subdivision regulations)

3. Lot Size

Minimum lot area for a recreational vehicle park is two acres.

4. Permitted zone districts and lot size

The following use provisions are applicable to all recreational vehicle parks:

- a. Placement of recreational vehicles for **non-permanent residency/seasonal use (April 30<sup>th</sup> to Nov 1<sup>st</sup>)** is permitted in **all recreational vehicle parks**.

Note: per county definition, a recreational vehicle does not include mobile homes or park models.

- b. Permanent residency for manager or other employees managing the operation of the park, provided, they are not housed in a recreational vehicle.

- c. Delicatessen, snack bar and food store, provided this use is fully contained in a social or recreational center of the recreational vehicle park and serving park guests.

- d. Similar Uses: The Board of County Commissioners may, by the R.V. Park permit approval, permit any other uses which it may determine to be similar to those listed above, operated exclusively for the convenience of recreational vehicle park residents, and not more obnoxious or detrimental to the public health, safety and welfare, or to other uses permitted in the park, as provided in this code. All uses shall be subject to the property development standards contained herein.

5. Occupancy

**Recreational vehicle parks are intended for seasonal intermittent use not to be used as permanent residences. May 1<sup>st</sup> to Oct 1<sup>st</sup>.**

6. Prohibited Uses

- a. Permanent residency: Except for park management and maintenance personnel, there shall be no permanent residency in a recreational vehicle park. (One month prior to opening of the park and one month after closing of park.)
- b. Non-residential uses: Except as otherwise expressly provided herein, no part of the park shall be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or similar purpose or any other purpose unrelated to a recreational vehicle park.

7. Accessory Structures

General: The following structures and their uses are permitted in all recreational vehicle parks:

- a. Mobile homes: Not more than one mobile home lot for every fifty R.V. spaces may be placed in a recreational vehicle park. The mobile home is to be occupied only by the owner, the manager, or employee in the operation of the park. Such mobile home space and mobile home shall comply with all requirements and definitions set forth in Mobile Home Park Standards (Division B., of this part).
- b. One single family residence is allowed for the owner or manager of a recreational vehicle park. The setback requirements for this single-family residence in this zone shall be the same as provided in the Residential District. The minimum site area requirement for this residence shall be six thousand square feet. The residence may include office space for use in connection with the park operation.
- c. Social and recreational center or facilities, for the use by the occupants of the park and their guests is allowed.
- d. Common laundry facilities are allowed. Dry-cleaning equipment or outdoor laundry drying is not acceptable.
- e. Common shower, bath and locker room facilities.
- f. Structures to assist the handicapped.

8. Prohibited Accessory Structures

The following structures are prohibited within all recreational vehicle spaces:

- a. Any enclosed buildings used for any dwelling purposes (habitation).
- b. Garages and carports, except carports built as part of a patio cover.
- c. Fences greater than three feet in height.
- d. Free-standing mailboxes.

9. Area of Spaces

Minimum area of a recreational vehicle space shall be sixteen hundred square feet.

10. Density

The maximum net density in a recreational vehicle park shall not exceed twenty recreational vehicle spaces per acre of useable building area (see definition of useable building site.)

11. Setbacks

- a. Each R.V. Park shall set aside along the perimeter of the park the following setbacks that shall be landscaped according to the plan submitted for permit review, except for those portions used for ingress and egress.

The minimum setback requirements shall be as follows:

- (1) abutting a state or federally designated highway or county designated major arterial - fifty feet, the Board of County Commissioners may reduce this setback depending on the landscaping either existing or proposed:
  - (2) abutting any public right-of-way other than (1) above, including alleys - twenty-five feet.
  - (3) abutting any exterior boundary other than (1) or (2) above - fifteen feet.
- b. Separations: The minimum distance between any recreational vehicle and any other recreational vehicle and interior road shall be ten feet.

12. Landscaping

Recommend all required setbacks and common open areas within a recreational vehicle park should be landscaped.

13. Common Recreation Area:

Common recreation area shall be required for all recreational vehicle parks. The recreation area may contain social halls, swimming pools, game courts, open areas, a trail system, fishing areas and etc. Open areas may be either designed for active or passive recreation, provided that the slope of the land does not exceed a gradient of ten percent.

Grades above ten percent shall be common area, but not counted as recreation area. The minimum amount of common recreation area shall be two hundred square feet per recreational vehicle space.

14. Lighting

- a. Lighting shall be indirect, hooded and positioned so as not to reflect onto the roadway and away from the recreational vehicle space and adjoining property.
- b. Lighting standards shall not exceed ten feet in height. The height of all light standards shall be measured from the elevation of the adjoining pavement of the roadway. Lighting standards in recreational areas may be higher than ten feet if specifically approved by the Board of County Commissioners.

15. Automobile Parking

Minimum parking spaces for automobiles shall be as follows:

- a. Recreational vehicle space: One graveled parking space to be provided on each recreational vehicle space.
- b. The visitor parking spaces shall be located to provide direct access and convenient use by visitors.

16. Roads

- a. Entry Roads: All main entry roads to the park shall have a minimum width of twenty - eight feet and have a clear and unobstructed access to a public right-of- way. The entry roads shall be paved or surfaced with gravel. No vehicular parking shall be permitted within the roadway unless specifically designated for parking pursuant to County approved plans.

b. Roadways

- (1) Roadways within a recreational vehicle park shall be a width of not less than thirty feet for one-way and two-way traffic. The roadways shall be paved or surfaced with gravel.
- (2) Each recreational vehicle space shall front on a roadway. No recreational vehicle space shall take access from a public street or alley.
- (3) No vehicular parking shall be permitted within the roadway unless specifically designated for parking pursuant to County approved plans.

17. Outdoor Storage

No construction or flammable material, or vehicle other than a recreational vehicle shall be stored within a recreational vehicle space, road, or common areas except in special storage areas. Storage areas shall be screened by a living hedge or an opaque fence or wall not less than five feet in height and shall be clearly designated on the approved plans.

18. Drainage

Drainage plans shall be submitted with the application to address at least the following three criteria:

- a. The recreational vehicle park shall be so graded that there will be no depressions in which surface water will accumulate.
- b. The ground shall be sloped to provide storm drainage runoff, by means of surface or subsurface drainage structures.
- c. The recreational vehicle space shall be sloped to provide drainage from beneath the recreational vehicle to an outside surface drainage structure.

19. Utilities

a. Water Supply

An accessible, adequate, safe and potable supply of water under pressure shall be provided in each recreational vehicle park, capable of furnishing a minimum of

one hundred and twenty-five gallons per day per R.V. space. The number of recreational vehicle spaces to be occupied in an R.V. park shall be limited to the quantity of water available to supply each such recreational vehicle space with the minimum requirements. Where a public supply of water of such quality is available, connection shall be made thereto and its supply may be used exclusively. The development of an independent water supply to serve the recreational vehicle park shall meet all state and local requirements. All plumbing in the recreational vehicle park shall comply with state and local plumbing regulations.

b. Sewage Disposal

Recreational vehicle parks shall be served by either:

- (1) a public sewer system which shall be reviewed by Rio Grande County according to an engineered plan,
- (2) a private central collection and treatment system which produces less than two thousand gallons of raw sewage per day which shall be reviewed and permitted by Rio Grande County according to an engineered plan prepared by a registered professional engineer and the development of a private central collection and treatment system which produces two thousand gallons or more of raw sewage per day to serve the recreational vehicle park shall be made only after plans and specifications for the central collection and treatment system have been approved by the State Department of Health. All sewage disposal apparatus, including appurtenances thereto, shall be provided, maintained and operated so as not to create a nuisance or health hazard. All plumbing in the recreational vehicle park shall comply with state and local plumbing laws and regulations. Each recreational vehicle space shall be provided with at least a four (4) inch sewer connection. The sewer connection shall be closed when not linked to a recreational vehicle and shall be capped so as to prevent escape of odors. The recreational vehicle drain shall be water tight and self-draining. This drain shall be constructed of smooth plastic pipe or of other material approved by the state or local plumbing laws and regulations.

c. Electricity

An electrical outlet supplying at least one hundred ten (110) volts, or 110/220 volts, shall be provided for each recreational vehicle space. The installation shall comply with all state and local electrical regulations.

d. Underground Utilities

All electrical and communication utility lines and services, and all street lighting circuits, except as hereinafter provided, shall be installed underground, and street lighting may be

provided by means of the utilities standard ornamental facilities. Exceptions from the requirements of the foregoing and this section shall be the following:

- (1) Transformers, switching boxes, terminal boxes meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities may be placed above ground within the utility easement provided therefore, or within the street or other public place as appropriate;
- (2) All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or above-ground facilities;
- (3) Overhead electric transmission and distribution feeder lines and overhead communication long distance, trunk and feeder lines, existing, and
- (4) It shall not be necessary to remove or replace existing utility facilities used or useful in serving the recreational vehicle park.

e. Refuse Disposal

The storage, collection and disposal of refuse in the recreational vehicle park shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse shall first be bagged in a trash bag and shall then be stored in fly-tight, water-tight, rodent-proof containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing or blowing away. Satisfactory container racks or holders shall be provided at permanent locations convenient to recreation spaces, in areas screened by appropriate landscaping or fencing. Methods of storage, collection and disposal are subject to compliance with any local regulations. Collection shall be at least weekly.

20. Movement of Recreational Vehicles

- a. Wheels and/or similar devices shall not be neither removed from recreational vehicles or park trailers, nor shall any fixture be added or barrier be placed which will prevent the recreational vehicle from being moved under its own power or by a passenger vehicle.
- b. Skirting is permitted, provided it can easily be removed and there are proper openings for ventilation.

21. Fire Protection

Every recreational vehicle park shall be provided at all times with fire extinguishing equipment in good working order of such type, size, and number and so located as prescribed by the local fire prevention authority, or to satisfy reasonable fire regulations.

22. Registration of Occupants

It shall be the duty of each permittee to keep a register containing a record of all recreational vehicle owners and occupants located within the park. The register shall contain the following information:

- a. The name and address of the owner of each recreational vehicle.
- b. The date of arrival and of departure of each recreational vehicle.

The recreational vehicle park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of one year following the date of departure of the registrant from the recreational vehicle park.

D. Individual Mobile Homes/Recreational Vehicles

1. On Public Rights-of-Way

No mobile home or recreational vehicle shall be parked or permitted to stand upon any public street, highway, road, alley or other such right-of-way for more than a twenty-four hour period. It shall be parallel to the edge of the right-of-way safely out of the flow of moving traffic.

2. Recreational Vehicle Storage in Mobile Home and Residential Zone Districts No recreational vehicle shall be stored in any required front or side setback as specified for principal buildings by applicable zoning regulations.

3. Occupied on Private Property

- a. Where an individual mobile home is proposed to be parked on a private lot, and used for living quarters, it shall be considered as a "dwelling" and, as such, shall comply with applicable zoning, housing, safety and health regulations. Such a mobile home shall be converted to a permanent improvement or structure supported on a permanent masonry foundation and completely enclosed beneath or skirted with masonry or other rigid material, except for necessary openings for access and ventilation, not to exceed percent of the skirt wall.
- b. Recreational vehicles and/or camping units placed on a legally identified lot/parcel are not allowed as permanent living quarters in any zone district except for districts zoned for that particular use. A recreational vehicle and/or camping unit may be allowed on a legally identified lot/parcel with the primary use already established (i.e. residential dwelling) that has an approved functioning septic system for thirty (30) days. (Recreational Vehicles are not allowed to be occupied permanent or temporary on vacant land). If the use is to continue for a period longer than specified during the winter months (Nov 1 to April 30) a conditional use permit shall be applied for and be granted, before placement of such use. Recreational vehicles may be occupied while constructing a new residence for that time period as allowed per the Building Department.
- c. Any plot of ground upon which the density exceeds the minimum lot size requirements for the particular zone district, parked and occupied by mobile homes, shall constitute a Mobile Home Park and all provisions of these regulations in regard to Mobile Home Parks shall be complied with.

4. On Public Property

Parking of mobile homes, recreational vehicle or camping units on public property in any National Forest, City Park or in public roadside parks shall be in accordance with posted signs and instructions in such parking areas, and with existing regulations of the federal agencies and local governing agencies.

Article XI. Outdoor Signing and Advertising Devices

A. Purpose

The purpose of this Article is to define the kinds of signs and advertising devices that will be permitted in the various zoning districts and the conditions and requirements under which they are permitted and maintained.

B. Permits

1. No person shall erect, alter or maintain any advertising device (sign) which is for the purpose of authorized agent on an application form provided. A processing fee in an amount set by the Board of County Commissioners shall accompany the application.
2. A permit may be denied or revoked for false or misleading information given in the application, or for the erection or maintenance of the advertising device in violation of the provisions of these Regulations. Signs for which a permit has been revoked shall be removed as provided in C.R.S. 1973 43-1-417.

C. Placement of Signs

1. No sign shall be maintained at a location where by reason of its position, illumination, size, shape or color, may obstruct the view, or be confused with any traffic control sign or device or where it may otherwise confuse traffic.
2. Setbacks
  - a. Signs greater than six square feet in size shall be fifteen feet from any property line.
  - b. Signs six square feet or less in size shall be five feet from any property line.

D. Other Requirements and Conditions

1. No permit shall be issued nor shall any advertising device be erected which simulates any official, directional, or warning sign erected or maintained by the United States, State of Colorado, or the County or which involves lights simulating or resembling traffic signals or traffic control signs.
2. No permit shall be issued, nor shall any advertising device be nailed, tacked, posted or attached, in any manner on trees, rocks or other natural objects, nor shall any such advertising device be attached to any post or pole maintained or owned by public utilities.
3. The person owning, leasing or controlling any advertising device for which a permit has been issued, shall have the right to change the advertising copy, ornamentation or trim on the structure and shall have the right and obligation to repair, replace and maintain in good condition any sign structure, unless such device is nonconforming.
4. Signs to be located along a State or Federal road right-of-way are not considered to be under the control or responsibility of these Regulations but rather the responsibility of the State.

## E. Exemptions

The following signs shall comply with all provisions of this Article, but may be erected and maintained on County roads and streets in all districts without a permit:

1. Address Numerals: Address numerals and other signs that are required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulation.
2. Agricultural Signs: Business signs not exceeding twenty square feet in area when located on property used for agricultural purposes and pertaining to the sale of agricultural products and livestock produced on the premise.
3. Bulletin Boards: Bulletin Boards not over twenty square feet in area for public, charitable, or religious institutions where the same are located on the premises.
4. Contractor Signs: Not more than twenty square feet in area naming the contractors engaged in the construction on the property.
5. Flags and Emblems: Flags or emblems of a government or of a political, civic, philanthropic, educational, or religious organization displayed on private property.
6. Home Occupation Signs on the Location of the Home: One home occupation sign shall be allowed on the lot, it shall be setback at least twenty-five feet from the property line, and shall not exceed six square feet in sign area. A home occupation sign with an area larger than six square feet shall be permitted in a Rural Zone District if approved by the Board of County Commissioners through the sign permit process.
7. Holiday Decorations: Signs in the nature of decorations, clearly incidental and customary and commonly associated with any national, local or religious holiday; provided that such sign shall be displayed for a period of not more than sixty days in any one year; and may be of any type, number, area, height, location, illumination or animation.
8. Identification Signs: Identification signs not exceeding fifteen square feet in gross surface area accessory to a multiple-unit dwelling.
9. Memorial Signs: Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface, permanently attached to, or inlaid so as to be part of the building or when constructed of bronze or other noncombustible material.

10. Nameplate Signs: Nameplate signs not exceeding two square feet in gross surface area accessory to a one-unit or two-unit dwelling.
11. Occupant Signs: Signs limited in content to name of occupant, address of premises, and signs of danger or a cautionary nature which are limited to: wall and ground signs; no more than two per street front; no more than four square feet per sign in area; no more than ten feet in height above grade; signs which may be illuminated only from a concealed light source which does not flash, blink or fluctuate; and signs which are not animated.
12. On-Site Information Signs: Signs commonly associated with and limited to information and directions relating to the permitted use on the lot on which the sign located, provided that each such sign is only for the convenience of the public and is limited to: wall, window and ground signs; not more than five feet in height above grade; may be illuminated only from a concealed light source which does not flash, blink or fluctuate; shall not be animated except that gauges and dials may be animated to the extent necessary to display correct measurement.
13. Professional Signs: Nameplate signs not more than two square feet in area, which are of a wall or window type.
14. Public Signs: Signs required or specifically authorized for a public purpose by any law, statute or ordinance; which may be of any type, number, area, height above grade, location, illumination, or animation authorized by the law, statute or ordinance under which the signs are erected.
15. Real Estate Signs: Signs not extending outside the property line and not more than sixteen square feet per face in area, which advertise the sale, rental, or lease of the premises upon which said signs are located.
16. Score Boards: Score boards in athletic stadiums.
17. Signs in Display Window: Signs in display window of a business use, which is incorporated with a display of merchandise or a display relating to services offered.
18. Signs within Buildings: Signs within buildings that complies with State and local building codes.
19. Portable units such as, cargo containers, port-a-potties or rental equipment that have the logo/business name painted on the equipment or portable Units are exempt from signage requirements. Portable units placed on a legally identified parcel which would be leased from the property owner shall meet setbacks as

applicable in all zone districts and shall be used as accessory to principal use in existence. Cargo containers shall not be placed off-premise for advertising purposes only. One cargo container per parcel is allowed, more than one will require a review from the Land Use Office to determine whether or not conditional use approval is needed.

- F. Nonconforming Advertising Devices: For the purpose of this section, a "nonconforming advertising device" shall mean: Any legally existing advertising device which does not conform to the regulations of this section or any other section of these zoning regulations either at the effective date of the regulation establishing this section or as result of subsequent amendments which may be incorporated into these zoning regulations.

The right to maintain any nonconforming advertising device shall be terminated by:

1. Abandonment of the nonconforming advertising device for a continuous period of one year;
2. Increase of any dimensions of the nonconforming advertising device over its dimensions on the date that the device became nonconforming;
4. Damage to or destruction of the nonconforming advertising device from any cause whatsoever, except by willful destruction, where the cost of repairing the damage or destruction exceeds fifty percent of the replacement cost of such device on the date of damage or destruction. In determining the replacement cost of any nonconforming advertising device there shall not be included the cost of the land, or the cost of renting land, or any factor other than the device itself.
4. Failure of the nonconforming advertising device to comply with the existing regulations at time of construction.

- G. Regulations Specific to Zoning Districts

1. Agricultural Forest and Agricultural Ranching
  - a. Outdoor general advertising (off premise) signs are not permitted.
  - b. On premise signs: Nonexempt signs meeting the requirements of this Article are permitted upon issuance of a County Sign Permit.
  - c. Permitted sign area shall not exceed thirty-five square feet.

- d. Permitted maximum height above grade shall not exceed twelve feet.
  - e. Setbacks: Signs shall be a minimum of fifteen feet from any property line, except that sign not exceeding six square feet in area and not exceeding five feet in height shall be a minimum of five feet from any property line.
2. Agricultural Estate, Residential, Medium Density Residential, and Mobile Home
- a. Outdoor general advertising (off premise) signs not permitted.
  - b. On premise signs: Nonexempt signs meeting the requirements of this Article are permitted upon issuance of a County Sign Permit.
  - c. Permitted sign area shall not exceed twenty square feet.
  - d. Permitted maximum height above grade shall not exceed ten feet.
  - e. Signs that are illuminated by or include a flashing or intermittent or moving lights are prohibited.
3. Commercial Business, Commercial Resort/Tourist, Heavy Industrial, and Light Industrial
- a. On premise signs are permitted when in compliance with the requirement of this Article. A non-exempt sign must be covered by a county sign permit.
  - b. Permitted number and area of signs: A maximum of two signs totaling not more than two hundred square feet in area shall be permitted for each lot of street frontage on which the permitted use is located.
  - c. Setbacks: Minimum of ten feet from any property line for free standing signs. Wall signs may not extend more than two feet from the wall on which they are attached.

## Article XII. Zoning Administration

### A. Conditional Use Review

#### 1. Purpose and Intent:

Conditional Uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Rio Grande County at large. Conditional Uses may be permitted subject to such conditions and limitations as Rio Grande County may prescribe. The intent is to ensure that the location and operation of the Conditional Use is in accordance with the development objectives of the County (Per the Rio Grande County Master Plan) and will not be detrimental to other uses or properties. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for conditional use permits shall not be approved. All conditional uses shall meet the environmental, infrastructure, and site development standards as detailed in these regulations.

#### 2. Application Procedures:

An application for approval of a conditional use shall be filed by a person who owns a legal or equitable interest in the property for which the conditional use is requested and shall be made on a form provided by the County. Such application shall be filed in the Office of the Land Use Administrator.

- a. The applicant shall submit a minimum of ten complete copies of the application in packet or bound form, a nonrefundable processing fee and any supplemental data for the proposed conditional use permit to the Land Use Office. The conditional use permit application shall include: A vicinity map, locating the subject parcel within Rio Grande County on a sheet not smaller than 8 1/2 by 11 inches.
- b. A detailed site development plan, drawn to scale appropriate to the size of the project. All sheet sizes shall be eleven by seventeen inches (11X17). The site development plan shall indicate existing and proposed topography, all existing natural and man-made features, and the proposed development for the property (including but not limited to) location of buildings and structures; usable open space, landscaped areas, exterior lighting locations and utilities and drainage features; off street parking area; off street loading areas; service and refuse areas; means of ingress and egress; major landscaping or screening proposals; pedestrian areas; location of well and septic system; proposed setbacks; and pertinent dimensions. (Operation Plan)

Topography shall be indicated as follows:

Contour intervals of two feet on land sloping less than ten percent.

Contour intervals of five feet on land sloping ten percent to twenty percent.

Contour intervals of ten feet on land sloping greater than twenty percent.

- c. A time schedule for construction;
  - d. How the use will be operated;
  - e. How ongoing maintenance of the use and site will be provided;
  - f. How its impacts on surrounding properties will be minimized and mitigated and any other information the applicant believes will support his request.
  - g. Restoration or reclamation plans shall be required for all uses proposing extensive grading or for extractive-type uses.
  - h. Any additional materials, as may be required by the Planning Department or the Planning Commission or the Board of County Commissioners.
  - i. The Land Use Office will compile the list of property owners located within fifteen hundred feet of the outside boundaries of the subject property of the proposed conditional use in a rural zone district and within three hundred feet of the outside boundaries of the subject property of the proposed conditional use in all other zone districts, along with the current addresses as recorded with the County Assessor of all such owners. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.
3. Review Procedure
- a. The Land Use Administrator will review the application to determine if it is complete and eligible for consideration under existing regulations, once determined that the application is complete and is in packet or bound form, the application will be scheduled for the next available meeting of the County Planning Commission for review. (Ten copies)

- b. Within five working days after receipt of the application, notification shall be sent to the owners listed in the application by first class mail with a certificate of mailing. Such notification shall include information that a conditional use application has been filed and the nature of the conditional use, that such application may be reviewed during regular office hours of the Courthouse and the time that the Planning Commission or Board of County Commissioners will consider oral or written statements regarding the application. If the application lies in part or wholly within the Monte Vista, Del Norte, Center or South Fork planning areas as outlined on the zoning maps, like notice will be sent to the applicable planning commission, board of trustees, or town council.
- c. Within fifteen days after the Planning Commission receives a completed application at its regular meeting or within such time as is mutually agreed by the Planning Commission and the applicant, the Planning Commission shall either recommend approval of the application, in whole or in part, with or without modification and conditions or recommend denial of the application to the Board of County Commissioners. The recommendation of the Planning Commission shall be transmitted to the Board of County Commissioners and to the applicant.
- d. The Board of County Commissioners may hold a public hearing on any proposed conditional use application within forty-five days after receiving the written report of recommendations from the Planning Commission. A notice of such hearings shall be published in a newspaper of general circulation within the county at least thirty days prior to the hearing date, or in the manner and form required by statute for a zoning resolution or amendment. An adequate record of the hearing shall be maintained.
- e. The Board of County Commissioners shall within thirty days after the public hearing, or receipt of the written recommendation from the Planning Commission when a public hearing is not held, or within such time as is mutually agreed by the Board and the applicant either grant the application in whole or in part, with or without modifications and conditions, or deny the application. The decision of the Board of County Commissioners shall be transmitted in writing to the Planning Commission and to the applicant.
- f. All approved site plans for conditional uses including modifications and conditions, shall be certified by the Board of County Commissioners and recorded by the County Clerk at the applicant's expense.
- g. Any person applying to the courts for a review of any decision made under the terms of this Section shall apply for a review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of

proceedings and the application for review shall be in the nature of certiorari under Rule 106 (a) (4) of the Colorado Rules of Civil Procedure. The County shall be entitled to appeal any decision of the District Court under Rule 106 proceedings.

4. General Criteria, Conditions and Modifications

- a. Conditional uses existing at the time of the adoption of the original Regulation, March 29, 1977, shall be allowed to continue as a conditional use as long as the use is not discontinued for a period of more than one year.
- b. No conditional use shall be approved unless the Board of County Commissioners finds that the application complies with all requirements imposed by this Section; with all applicable laws and regulations; is consistent with all objectives and purposes of these Regulations as declared in Section A.1., of this Article; and is consistent with the Rio Grande County Master Plan.
- c. Decisions on conditional use applications shall be based upon policy and guidelines set forth in this section and the Rio Grande County Master Plan, including but not limited to the following:
  - (1) That the proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
  - (2) Will the proposed use be compatible with surrounding land users and uses? Reasonable suggestions and objections from persons in the neighborhood are a measure of compatibility and should be utilized.
  - (3) Will the use result in undue traffic congestion or traffic hazards?
  - (4) Will the use be unreasonably detrimental to the public health, safety, or welfare?
  - (5) Will the use adversely affect soil, water, air, value and aesthetics, and if so to what extent, can these adverse effects be reasonably mitigated in the particular area?
  - (6) Approval will be based on current ownership, upon transfer, the new owner of record will need to apply for and be granted a conditional use

modification application. If there are any changes from the original application a new conditional use application shall be applied for.

- d. It will be the policy to accommodate conditional uses applied for, and conditions and modifications will be offered as a means of mitigating the adverse effects of the use when they will make it possible to approve rather than deny the application.
  - e. Issuance of a conditional use permit shall authorize only the particular use for which it is issued.
  - f. A conditional use that has been approved is not in perpetuity, you must be in operation within one year from the date of the approval by the Board of County Commissioners, or the conditional use approval becomes null and void and must be resubmitted for review and approval. An extension may be applied for and shall be reviewed by the Board of County Commissioners. A twenty-five percent fee (25%) of the original application fee shall be required. The conditional use permit is non-transferable. If the conditional use is discontinued for a period of twelve months, regardless of any intent to resume operation of use shall not be allowed to resume thereafter. Any future use of the site or structures thereon shall conform to all the provisions and procedures of this section or revert back to the original state.
  - g. If the conditions of approval are not maintained, it shall be considered a violation of these regulations and subject to the provisions of Article XXIII. (pg. 194-197) (Enforcement)
  - h. When a non-conforming use is discontinued for a period of one year, such use of the area shall be discontinued, and further use of the property shall be in compliance with the Land Development Code.
5. Minor Amendments:
- a. An application must be submitted to the Land Use Administrator along with applicable fees for review to determine if the request would require Planning Commission review. If the application is deemed sufficient and non-controversial the application will be forwarded to the Rio Grande County Commissioners. Authorized Minor Amendments include those that do not alter the basic intent and character of the approved conditional use and are deemed necessary in light of technical or engineering considerations not first discovered during actual construction; or could not have been reasonably anticipated during the initial review process.

- b. Minor amendments must comply with all relevant Rio Grande County Regulations. Minor Amendments may include, but are not limited to, variations to the location of an approved building footprint of not more than five feet; minor deviations in the location of infrastructure (roads and utilities); pedestrian or vehicular circulation throughout or adjacent to the project; or changes to the gross floor area of not more than ten percent of the approved square footage; modifications to include necessary operations to enhance the area or clear site.

Minor Amendments shall not include changes in use or changes in the percentage of required open space. Any change not qualifying as a Minor Amendment shall be considered a Major Amendment.

- c. Major Amendments: unless the application qualifies as a Minor Amendment. A conditional use permit may be amended, extended, varied or altered only as a new application for approval of a conditional use permit.

## B. Off-Street Parking and Loading

### 1. Off-Street Parking-General Provisions

The provisions and maintenance of adequate off-street parking and loading spaces is a continuing obligation of the property owner. No building permit or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by these Regulations. Use of property in violation hereof shall be a violation of these Regulations. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of these Regulations to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.

- a. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

## 2. Off-Street Parking

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the County, off-street parking spaces shall be provided as required in this Section. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Section. Where square feet are specified, the area measured shall be the floor area primary to the functioning of the particular use of the property and shall exclude stairwells; elevator shafts; hallways; ornamental balconies; space occupied by heating, air conditioning or other utility equipment; and space devoted to off-street parking or loading.

### a. Residential Uses: Minimum Standards

- (1) One unit dwellings: Two spaces per dwelling unit.
- (2) Multi-family dwellings (containing two or more dwelling units): One and one-half space per dwelling unit.
- (3) Housing restricted to age, disabled, etc.: One space per dwelling unit.
- (4) Dormitories and other lodging facilities and rooms for unmarried students: A total number of spaces equal to seventy-five percent of the designed occupancy.

### b. Commercial Residential Uses: Minimum Standards

- (1) Motel or Hotel: One space per guest room or suite plus one additional space for owner or manager.
- (2) Club or Lodge: Spaces to meet the combined requirements of the uses being conducted at any one time.

### c. Institutions: Minimum Standards

- (1) Rest Home, nursing home, retirement home and hospital: Three spaces per two beds which includes employees parking.

### d. Places of Public Assembly: Minimum Standards

- (1) Church: One space per four seats or per eight (8) feet of bench length in the main auditorium.
- (2) Library or Reading Room: One space per four hundred square feet of floor area plus one space per employee.
- (3) Preschool nursery, day care school or kindergarten: Two spaces per employee.
- (4) Elementary, intermediate or junior high school:  
One space per classroom plus one space per administrative employee or one space per four seats or per eight feet of bench length in the auditorium or assembly room, whichever is greater.
- (5) High school: One space per classroom plus one (1) space per administrative employee plus one space per four seats or per eight feet of bench length in the main auditorium.
- (6) Vocational or commercial school: One space per four seats in classrooms.
- (7) Other auditoriums or meeting rooms: One space per four seats or eight feet of bench length.

e. Commercial Amusements: Minimum Standards

- (1) Stadium, arena or theater: One space per four seats or per eight feet of bench length.
- (2) Bowling alley: Five spaces per alley plus one space per employee.
- (3) Dance hall or skating rink: One space per one hundred square feet of floor area plus one space per employee.

f. Commercial, Commercial Business and Commercial Resort/Tourist: Minimum Standards

- (1) Retail store: One and one-half space per four hundred square feet of patron serving area.
- (2) Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture: One space per four hundred square feet of patron serving area.

- (3) Offices (except medical and dental): One space per three hundred square feet of floor area, plus one space per employee.
- (4) Medical and dental clinic: One space per two hundred square feet of floor area, plus one space per employee.
- (5) Eating and/or drinking establishments: One space per one hundred square feet of floor area.
- (6) Mortuaries: One space per four seats or per eight feet of bench length in chapels.

3. Off-Street Loading

- a. Passenger: A driveway designated for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five students.
- b. Merchandise, materials, or supplies: Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of these Regulations shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

4. Drive-In Facilities

Any use permitted in a zone district which intends to conduct a portion or all of its business with persons desiring to remain in their automobiles, or which allows products to be consumed on the premises outside the principal building and which is not subject to the conditional use review provisions of Section A. or is not part of a planned unit development, must submit a site plan to be reviewed and approved by the Board of County Commissioners. In reviewing and approving the site plan for such a use, the Board of County Commissioners must be satisfied that the traffic circulation on and adjacent to the site conforms to the following criteria:

- Adverse effects on adjacent sites and streets.

5. Storage of Commercial Vehicles:

Commercial vehicles shall not be parked or stored on any lot in any residential district except in accordance with the following provisions:

- a. Not more than two commercial vehicles shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
- b. Recreational vehicles shall not be parked or stored unless located behind the front and side setback lines. A recreational vehicle or travel trailer shall not be occupied permanently while it is parked or stored in any area within the county, except in a Recreational Vehicle Park or Subdivision. (See Article X pg. 49-66.)

6. Nonconforming Uses, Structures, Lots

1. Definition: A lawful structure or lawful existing use at the time these Regulations or any amendments thereto, become effective, which does not conform to the requirements of the zone in which it is located. Any use, which is unlawful prior to the adoption of these Regulations, shall remain an unlawful use and be subject to enforcement contained in these Regulations.
2. Continuance of Nonconforming Uses or Structures
  - a. A nonconforming use lawfully in existence prior to the adoption of these Regulations shall be exempted from this Regulation and be allowed to continue as a nonconforming use. Such use shall be allowed to continue as a nonconforming use upon transfer of ownership.
  - b. Structures lawfully existing prior to adoption of these Regulations may be maintained in reasonable repair still retain their exempt status.
  - c. A structure conforming as to use but nonconforming as to height and setback may be altered or extended providing the alteration or extension does not result in further violation of these Regulations.

3. Discontinuance of Nonconforming Uses or Structures

- a. When a nonconforming use is discontinued for a period of one year, such use of the area shall be discontinued, and use of the property shall be in compliance with the current Land Development Code.
- b. An existing use, including a salvage junk yard which is nonconforming with respect to provisions for screening shall be discontinued if such screening is not provided within such time as prescribed or later adjusted by the Board of County Commissioners.
- c. A nonconforming use may not be changed to another nonconforming use.
- d. If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, flood, wind, explosion or act of God the owner shall be allowed to rebuild the structure to the exact same size and retain the nonconforming use. Restoration must be started within 12 months of such calamity and completed within twenty-four months of initiating restoration.

4. Completion of Structure or Building

Nothing contained in these Regulations shall require any change in the plans, construction, alteration, or designated use of a building for which construction work has commenced prior to the adoption of these Regulations, except that if the designated use will be nonconforming, it shall, for the purposes of (3) (a). of this section is discontinued use if not in operation within one (1) year.

5. Nonconforming Lots of Record

In any district in which one-unit dwellings are permitted, a single family residence and customary accessory buildings may be erected on any single lot of record which exists as such at the time of adoption of these Regulations, (March 29, 1977). This provision shall apply even though such lots fail to meet the requirements of the district in which it is located for area, or width, or both, provided, however, that the requirements of the district for minimum setback dimensions shall be met unless a variance to said requirements has been granted by the Board of Adjustments.

D. Board of Adjustments

Establishment and Organization: The Board of Adjustments is hereby established. The word "Board" when used in this section shall be construed to mean "Board of Adjustment".

1. The Board of Adjustment shall consist of five members and a nonvoting secretary appointed by the Board of County Commissioners. Not more than two members may be current members of the Planning Commission.
2. Appointments to the Board of Adjustments shall be for a period of three years, except when vacancies occur prior to the expiration of a regular term, they shall be filled in the same manner as regular appointments, but shall serve only until the expiration of the term in which the vacancy occurred. In addition to the regular members of the Board, the Board of County Commissioners may appoint two alternate members for staggered three year term. In the event that any regular member is temporarily unable to act owing to the absence from the County, illness, interest in a case before the Board or any other cause, an associate member who shall enjoy full voting privileges may take his place during such temporary disability.
3. Members of the Board of Adjustments shall elect from among their members a Chairman to serve for a term of one year.
5. The concurring vote of three members of the board shall be necessary to revoke any order, requirement, decision or determination of any administrative official charged with the enforcement of this Regulation or to decide in favor of the applicant any matter upon which it is required to pass under this Regulation or to effect any variation in this Regulation.
5. The Board of County Commissioners shall have the power to remove any member of the Board of Adjustments for cause after official public hearing in which the member shall have the right to counsel and to confront hostile witnesses.
6. Proceedings of the Board of Adjustment
  - a. The Board of Adjustment shall adopt rules necessary to conduct its affairs and in keeping with the provisions of this Regulation that rule shall also provide for meetings of the Board. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings shall be open to the public
  - b. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision, or if absent, or failing to vote, indicating such fact, all of which shall be a public record and immediately filed in the Office of the County Commissioners.

c. The procedure for applying for review by the Board of Adjustment shall be as follows:

- (1) Complete the application form available through Rio Grande County.
- (2) Pay the required fee set by the Board of County Commissioners for review and processing.
- (3) The applicant shall include with the application a list of owners within fifteen hundred feet of the outside boundaries of the site of the proposed use to be reviewed by the Board of Adjustment in a Rural Zone District and three hundred feet of the outside boundaries of the proposed site in all other zone districts, along with the current addresses, as recorded with the County Assessor, of all such owners.

7. Hearings, Appeals and Notices

a. Appeals to the Board of Adjustment may be taken by any person aggrieved by any administrative decision based upon or made in the course of the administration or enforcement of the provisions of these Zoning Regulations. Any officer may also take appeals to the Board of Adjustment, department, board or bureau of Rio Grande County affected by any decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of these Zoning Regulations. The time within which such an appeal must be made and the form or other procedure relating thereto, shall be as specified in the rules of procedure adopted by such Board.

b. No such appeal to the Board of Adjustment shall be allowed for building use violations that may be prosecuted pursuant to Section 30-28-124 (1)(b) C.R.S. 1973, as amended.

8. Powers of the Board

The Board of Adjustment shall have the following powers:

a. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Regulation. The Board may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from.

- b. To grant or deny variances from the provisions of this Regulation when the strict application of these Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property. The Board may authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these regulations. In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Regulation. However, the Board may not grant variances from the provisions of these Zoning Regulations covering the use of the land or building or the provisions governing planned unit development. In granting or denying variances the Board shall consider the following criteria and standards:
    - (1) Whether there are unique physical circumstances or conditions such as exceptional irregularity, narrowness or shallowness of a piece of property, or whether there are exceptional topographic or other physical conditions or other extraordinary and exceptional situations or conditions peculiar to the affected property.
    - (2) Whether the unusual circumstances or conditions exist through the neighborhood or district in which the property is located.
    - (3) Whether such unnecessary hardship has not been created by the applicant.
  - c. To grant or deny special exception to zoning regulations for the purpose of providing access to sunlight for solar energy devices.
  - d. To interpret the zoning maps and pass upon disputed questions of lot lines, district boundary lines, or similar questions as may arise in the administration of zoning regulations.
- E. Building Permits (An access permit; if accessing off of a county road, the use must first be approved by the Road and Bridge supervisor before a building permit will be issued).
- 1. Requirement for Building Permits: It shall be unlawful to add on to existing an building or construct a new building including prefabricated buildings moved on site or other structures and developments including roads, dams, canals, electronic devices without first obtaining a Rio Grande Zoning Building Permit, except as follows:
    - a. The addition of solar collectors, air conditioning and like appurtenances to existing buildings.

- b. Construction and maintenance of dikes, irrigation ditches, land leveling, and like activities, which are a part of accepted farming practices.
  - c. Maintenance of existing buildings, painting, residing, etc.).
- 2. Administration of Building Permits
  - a. Building permits will be issued by the County Building Department.
  - b. The Board of County Commissioners will fix a schedule of fees for the issuance of such permits.
  - c. Inspections will be conducted by the Building Department or other person authorized by the Board of County Commissioners to the extent necessary to assure compliance with Building Code regulations.

F. Building Violations

- 1. Failing to obtain Building Permits prior to construction of any type will result in additional fees added to the building permit fees as set by the Board of County Commissioners.

G. Supplementary Provisions

1. Zone District Boundaries

Unless otherwise specified, zone district boundaries are the center line of streets, alleys, railroads right-of-way, or such lines extended. Where a district boundary divides a land parcel under a single ownership into two districts, then the entire parcel may be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than one hundred feet. The procedures for a zoning district amendment shall be followed.

2. Temporary Uses Permitted

The following uses of land are permitted in each zone district (unless restricted to particular zone district) subject to the specific regulations and time limits that follow, and to the other applicable regulations of the district in which the use is permitted. No formal permit is required.

- a. Christmas tree sales shall be allowed in all zone districts except in Residential Zone Districts on lots of one acre or less for a period not to exceed sixty days. Display of Christmas trees need not comply with the setback requirements of these Regulations provided that no tree shall be displayed within thirty feet of the intersection of the right-of-way line of any two streets.
  - b. Contractors' office/living quarters and equipment sheds accessory to a construction project, and to continue only during the duration of such project.
  - c. Real estate offices incidental to a new housing development shall be permitted.
  - d. Seasonal sale of farm produce grown on the premises, to continue for not more than four months per year. Structures incidental to such sale need not comply with the applicable front setback requirements if the structures are removed or moved back of the required front setback at the end of the season during which they are used; however, all required side setbacks shall be met.
  - e. Auctions, flea markets, carnivals, circuses and bazaars provided they do not continue more than ten consecutive days and obtain any permits required by law.
3. Standards Governing Home Occupation

a. The purpose and objective of the home occupation provisions are to provide for the operation of commercial activities on lots, parcels or tracts of land used for residential purposes under certain conditions. Such home occupation shall be clearly secondary to the use of the lot, parcel or tract of land for residential purposes and shall not change the character thereof. The intent of these Regulations is to allow the reasonable and complementary use of premises for non-residential purposes that do not negatively impact the residential character of an area. It is not to encourage the expansion or proliferation of commercial areas throughout the County.

b. Criteria

Home occupation shall be governed by the following regulations:

- (1) Home occupation shall be operated **entirely within** a residential structure or permitted accessory structure and cannot exceed twenty –five percent of the primary residence. Where a permitted accessory structure is used, additional off-street parking shall be provided in a manner not detracting from the character of the surrounding area.

- (2) Home occupation shall require no remodeling of the exterior of the dwelling or the accessory structure that changes the residential character.
- (3) The external evidence of a home occupation shall be limited to one identification sign not to exceed six square feet in all zone districts except agricultural where a thirty two- square feet sign of total sign area is permitted.
- (4) A home occupation shall not generate vehicular traffic in excess of that typically generated by residential dwellings. No parking or storage of commercial vehicles shall be permitted on the site
- (5) A home occupation shall produce no noise or obnoxious odors, vibrations, glare, fumes or electrical interference detectable by normal sensory perception outside the structure.
- (6) A home occupation shall employ no more than one person in addition to those who are permanent residents of the dwelling unit.
- (7) A home occupation shall comply with State regulations regarding food - like production to sell to the public. The County without documentation or approval by the State Health Inspector will not issue a permit. A review of the application will be done by the Land Use Administrator, if approved the Home Occupation is subject to yearly review from the date it was approved. Auto Repair Shops or any other type of business that would detract from the residential character is prohibited.

#### 4. Projections from Buildings

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, solar collectors, and other similar architectural features may project not more than three feet into a required setback or into required open space as established by coverage standards. The above listed architectural features shall not be permitted to project into a public right-of-way.

#### 5. General Exceptions to Building Height Limitations

The following type of structures or structural parts are not subject to the building height limitations of these regulations: Chimneys, storage tanks, water towers, church spires, belfries, domes, monuments, fire and hose towers, observation towers, utility poles, transmission towers, flag poles, radio and television towers, masts, aerials, cooling

towers, elevator shafts, grain elevators, ranch and farm accessory uses, silos, outdoor movie screens, solar collectors, and other similar projections.

6. Vision Clearance

Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area:

- a. In Agricultural Districts, the minimum distance shall be fifty feet.
- b. In the Rural Residential Estate, Residential, Mobile Home and Medium Density Residential districts, the minimum distance shall be thirty feet. At alley intersections in a Rural Residential Estate, Residential, Mobile Home and Medium Density Residential district, the minimum distance shall be ten (10) feet.
- c. In the Commercial Business, Commercial Resort/Tourist, Light Industrial, and Heavy Industrial districts, the minimum distance shall be fifteen feet or at intersections, including an alley, ten feet, except that when the angle of the intersection between streets is less than thirty degrees, the distance shall be twenty-five feet.

7. Fences, Walls and Hedges

- a. Fences, walls and hedges may be permitted in any required setback, or along the edge of any setback, provided that within any required vision clearance areas established in Section 8, no fence, wall or hedge shall be over three and one half feet in height closer than twenty-five feet to a public intersection. The only exception to the foregoing shall be that fences of a woven wire type, or at least eight percent open, may be erected closer than twenty-five feet to any property line parallel or perpendicular to a public intersection.
- b. Fences, walls and hedges shall not exceed seven feet in height in residential districts (areas excluded above) except for approved conditional uses related to major utility facilities (also see requirements of 8.)

8. Junk or Salvage Yards, Commercial Feedlots, Kennels and Animal Hospitals require a conditional use unless already appropriately zoned for the above-described use. (See Article IX. Table A. List of Uses-(pg. 43-47)

Junk or salvage yards, commercial feedlots, kennels and animal hospitals shall be located a minimum of six hundred sixty feet from any Rural Residential Estate, Residential, Mobile Home or Medium Density Residential district. In addition, junk or salvage yards

shall be screened with an eight foot high opaque, solid fence so as to provide visual and aural separation between such use and adjacent areas. The fencing must not aesthetically be intrusive as to color or materials used. Materials used shall be consistent with surrounding area and shall be complimentary. Scrap metal, pallets or other intrusive materials are not acceptable. Any of the above is subject to approval by Rio Grande County.

9. Animal Feeding Operation: A concentrated Animal Feeding Operation (CAFO) is an animal feeding operation that is either defined as a large or medium CAFO, or that is designated a CAFO by the Environmental Agriculture Program pursuant to Water Quality Control Commission. The following regulations are to guide the county in balancing alternative farm and ranching practices. While the following guidelines may work for one, they may not work for all. Each request shall be considered case by case, using the tables below in determining the total number, as well as the size of parcel needed to efficiently operate an animal feeding operation.

a. Animal Feeding Operation (AFO) is defined as a small AFO and which has minimal impact to the waters of the state.

b. Criteria to consider for a laying hen operation are as follows:

(1) 1.5 square feet per bird with an additional 5 square foot per bird of outdoor access. This will determine the amount of acreage needed to handle the operation, along with the size of the structure; this will also define whether the operation is considered a CFAO or AFO.

(2) the perimeter of the structure and the outside boundaries of open-space will adhere to the following setbacks:

Minimum setback (feet) from any property line:

Residence	400
Schools, churches, parks, public areas	1500
Incorporated city limits	1500
Public roadways	150
Streams, canals, reservoirs	100
Private wells	100
Public wells	500
Flood plains, sinkholes, wetlands	100

#head	Bldg 1.5/sf	Open space 5.sf	Total space b+c	Total space sq dimensions	Setback	Total setback x2	Sq size e+g	Sq ft hxxh	Acres 43560sq ft/ac
5000	7500	25000	32500	184	400	800	984	968256	22.22
10000	17500	50000	67500	260	400	800	1060	1123600	25.78
20000	35000	100000	135000	367	400	800	1167	1361889	31.26

2. a Colorado Division of Water Resources or other agencies permits or agreements:

b. Engineered On-site Waste Water Disposal design and plan (System). A new system shall not be constructed closer than four-hundred feet of any occupied residence, place of public business or established place of public assembly; provided further however, this limitation will not apply if the waste treatment facility is constructed within four-hundred feet of the residence, place of business or place of public assembly owned or controlled by an undersigned owner/applicant or as determined by the Building/Septic Inspector.

c. Detailed design plans for the structure and all components for adequate operation and mitigation. (i.e. dead animal disposal, dust, odors, noise etc).

3. Personal use: Any buildings, pens, aviary or structure used to house or contain such fowl/animals shall maintain a 25- foot setback from any boundary property line.

#### 10. Sand, Soil and Gravel Mining.

1. Purpose: It is the intent of Rio Grande County to ensure that sand, soil, and gravel are available to the public and that mining and related uses for sand, soil, and gravel occur without compromising the goals and objectives of the Rio Grande County Land Use Code. It is the intent of Rio Grande County to assure that these requirements are addressed without duplication of, or contradiction with, pertinent state or federal requirements for such mining. Rio Grande County reserves the right to assume the functions of external agencies involved with sand, soil and gravel mining if such agencies are eliminated or their operations are curtailed.

2. Application Process: All projects that have one or more of the following characteristics are subject to:

- a. Project includes the mining of sand, soil or gravel.
- b. Temporary borrow pits to extract sand, soil or gravel.
- c. Project includes the following related issues:

1. Accessory uses and structures associated with mineral extraction
2. Crushing, screening, stockpiling of extracted Materials
3. Processing or batching of materials into other products such as asphalt and concrete
4. Outdoor storage of equipment and materials used for mineral extraction
5. Extraction of material for resale

3. Mining Operations that do not require a permit:

- a. The use is for an agricultural operation where no material is exported from the site, including land leveling or sand and gravel excavation operated for landowner's use on his own property;
- b. The activity is approved by the County under a separate permit, such as landfill sites, foundation excavations, building or subdivision developments, or water or road tunnel developments;
- c. If for an approved building or subdivision, the disturbed area is located within and immediately surrounding the footprint of an approved building, road, or recreational facility;
- d. There will be no use of public roads to haul the materials; or
- e. The operation is not subject to a permit from the Division of Reclamation and Mining.

4. Minor Sand and Gravel permits:

The following mining operations shall be reviewed and approved administratively, with conditions, or denied by the Planning Department, the applicant must provide engineered plans with comments.

- a. The extraction site is adjacent to the project area and is owned or controlled by the same person, company or agency.
- b. The operation serves a specific one-time major construction project.
- c. The site will be limited to a maximum of ten acres.

- d. The operation is located in an area where there are no existing mining operations which could serve the project without creating significant impacts on the road system or to surrounding areas.
- e. The operation will serve only the project for which it was intended under this permit.
- f. The operation will be reclaimed within one year of completion of all mining activities. In the case of a multi-cell operation, reclamation of each cell will be made within one year of completion of mining activities in said cell.
- g. The project site will not be visible from adjacent residences, or will be mitigated to have reduced visibility from adjacent residences.
- h. The mine will be located in proximity to the construction project which it is intended to serve, and will cause minimum impacts to the roads used from the mine to the project site.
- i. Roads used to access the construction site from the mine will be upgraded to withstand the additional traffic, and the permittee will prevent toad damage and mitigate dust, under the supervision of the County Road and Bridge Supervisor.
- j. Flagmen and traffic control signs will be used during the construction project to assure safe traffic detours and to minimize conflicts with truck traffic serving the project.
- k. Crushers and/or batch berms will be allowed at a site permitted under this Article XII only under a separate Conditional Use Permit approved by the Board.

9. Major Sand & Gravel Permit:

Unless exempt under Article XII, or allowed as a minor sand and gravel administrative permit under Article 9.4 all sand, soil and gravel mining operations must obtain a Conditional Use Permit as a Major Sand & Gravel Operation.

10. Performance Standards for All Operations:

- 1. Compatibility of sand, soil, or gravel mining operations with surrounding uses shall be determined by review of the following criteria:
  - a. Surrounding uses are primarily agricultural, forestry, or industrial.

- b. Truck traffic will not access the mining operation through residential, recreational or commercial areas, or such traffic will be mitigated.
- c. The mining site will not be visible to adjacent surrounding residences or will be mitigated to the extent reasonably possible, to have reduced visibility. Placement of the operation a sufficient distance from public roadways, behind natural landforms and existing major vegetation, and/or away from growth centers will minimize visual contact.
- d. Equipment used for the operation will not be visible from adjacent surrounding residences or will be mitigated to reduce visual impact.
- e. The operation will not generate noise or vibration apparent to surrounding residences, or such impacts will be effectively mitigated to the extent required by the performance standards at Article XII (10) (pg.) (93-94)
- f. The Board of County Commissioners may approve a mining operation for a specific period of time, not to exceed twenty (20) years, with a five (5) year review by the Planning Commission and the Board. The compatibility and size of the project will be considered in determining the appropriate length of time for the mining operation. Renewals of the permit may be granted upon a new permit review, and subject to new and additional conditions.
- g. The Board of County Commissioners will require a performance guarantee in addition to the bond required by the Colorado Division of Minerals and Geology (CDMG) to insure that certain conditions of a permit will be complied with. The County will require a certified copy of the bond required by CDMG.

11. Submittals for Sand, Soil, and Gravel Mining Operations:

- 1. Copy of application submitted to: The Division of Reclamation, Mining and Safety.
  - a. Site Plan
  - b. Operations Plan
  - c. Road Use Plan
  - d. Reclamation Plan
  - e. Copy of Bond
  - f. Wildlife, soils, geology, hydrology, and other environmental information.
- 2. The application shall include (by reference to information submitted as part of other permit application and copies of ( same) the following items:
  - a. Maps and Sketches

- b. Quadrangle Map of site and surrounding areas within a one (1) mile radius, including:
- c. An outline of the proposed site
- d. Location of adjacent residences and other buildings
- e. Property lines, water wells, irrigation ditches, oil/gas wells, other
- f. Gravel mines, and County and private access roads.
- g. Site plan of all proposed equipment and facilities, stockpiles, and other features of the exploration operation.
- h. Grading Plan to show grading during and after the extraction operations, pre-and post-disturbance drainage, and final grading.
- i. Two foot contour map of the existing site and final contours.
- j. Site Description: Written description of location of the existing site, including:
  - a. Existing vegetative types
  - b. Existing land use of the site and surrounding areas
  - c. Location of extraction areas, stockpiles, topsoil and overburden piles, nearest waterways, nearest residences, proposed or existing fencing.
  
- k. Written description of access roads to be used, including:
  - a. Surface type, width, geometry, structure, bridges and intersections
  - b. Anticipated impacts, existing and proposed traffic volumes
  - c. Residential, recreational, commercial areas along the proposed route
  - d. Location of internal haul roads
  
- l. Project Description: Written description of proposed operation, including:
  - a. Size and timing of phased extraction areas
  - b. Depth of topsoil and overburden
  - c. Maximum area to be disturbed at any one time, including stripping of topsoil
  
  - d. Methods of extraction, dates, days and hours of operation, number of employees
  - e. Expected volume of mineable gravel and annual volume of materials to be removed
  - f. Outdoor storage and weed control plan
  
- m. Blasting plan and information to include:
  - a. Type and kind of explosives to be used amounts of explosives per shot
  - b. Number of Shots per blast
  - c. Location of explosives storage magazine
  - d. Name and address of person or company in charge of blasting (if other than permittee)

- n. Reclamation Plan describing:
  - a. Proposed final land use
  - b. Timing of reclamation
  - c. Topsoil salvage, overburden salvage, topsoil and overburden redistribution and/or disposal
  - d. Soil Conservation Service and/or Mined Land Reclamation Board recommendations for seeding and re-vegetation
  - e. Weed control plan
  
- o. Environmental and vicinity impact analysis to include:
  - a. Soils information
  - b. Visual impacts, including distances, areas, neighborhoods, and public roads from which the project will be visible wildlife habitat and population information,
  - c. Site-specific geologic, floodplain, wildfire hazards
  - d. Potential air pollution, water pollution, noise, surrounding drainages, and water rights.
  - e. Climatological data
  - f. Surrounding property uses and land values
  
- p. Proposed impact mitigation plan to include:
  - a. Visual impact mitigation plan
  - b. Wildlife mitigation plan
  - c. Plan to address geologic hazards, floodplains, hydrologic hazards
  - d. Air pollution emissions permit
  - e. Water quality and quantity protection and water augmentation plan
  - f. Methods of preservation of significant vegetation
  
- q. A fugitive Dust Control Plan shall be submitted which shall:
  - a. Comply with requirements of the Colorado Air Quality Control Planning Commission and be approved by the Colorado Air Quality Control Division
  - b. Address site-specific areas of concern, such as stockpiles and wind breaks.
  - c.. Be implemented by the operator and/or hauling contractor at the mine and on all haul roads established in Section 8, no fence, wall or hedge shall be over three and one half Rio Grande County does not supersede State and

Federal Laws. It is the responsibility of the operator to comply with all State and Federal Regulations.

10. Swimming Pools

A swimming pool may be permitted as an accessory use subject to the following additional requirements:

- a. No swimming pool will be located in a front or side setback abutting a street.
- b. Swimming pools will be provided with safeguards to prevent children from uncontrolled access to any pool containing water.
- c. All swimming pools must comply with the State Electrical Code.

11. Accessory Storage Buildings and Containers

Storage buildings and containers are permitted as an accessory use in certain residential/agricultural zoning districts subject to the following limitations:

- a. No accessory storage building or container shall exceed 400 square feet and shall blend in with main structures and surrounding area. All accessory storage buildings shall meet applicable setback regulations. (Site permit is required)
- b. Mobile homes shall not be used as an accessory storage building, container or parked on a parcel without approval of the Rio Grande County (Conditional Use)

12. Recharge Pond.

Recharge ponds shall be a maximum of five acres and no greater than ten feet deep. No equipment is permitted on site. If larger or deeper than described, a conditional use permit is required. Setbacks will be enforced pertinent to the zoned area. (Requires a Site Permit)

13. Junk Vehicles

It shall be illegal to keep or store upon any premises any motor vehicle which is inoperable, unlicensed or which is being junked, dismantled or wrecked unless said vehicle is located within an enclosed building or behind a totally sight obscure enclosed fence. (If adequate proof of insurance and current registration of vehicle this may be waived).

14. Telecommunication Facilities

- a. All proposed telecommunication facilities shall be reviewed pursuant to the following procedures:
- (1) Prior to the issuance of any building or electrical permit, a site development plan including a horizontal and birds-eye view of purposed construction which should depict the items as listed below in binder form are as follows:
  - (2)
    - a. Type of structure (guyed tower, self-support, or monopole.
    - b. Height of structure.
    - c. Setback from the perimeter of the tower or monopole to any residence/structure and property line within a distance equal to the fall zone plus 10 foot as engineered, stamped plan.
    - d. Vicinity map showing fifteen hundred (1500) foot radius.
    - e. Location and configuration of all accessory buildings and/or external equipment cabinets.
    - f. Paving and curb cuts –if applicable
    - g. Fencing and proposed landscaping
    - h. Submission of drainage impact study (Colorado Certified Engineer)
  - (3)
    - a. All sites shall have a lease and or title with legal description tied by metes and bounds.
    - b. All elevations shall be based on the 2011 Flood Base Maps for Rio Grande County and Elevation Certificate shall be required if applicable.
    - c. Construction plans shall be stamped by an independent registered civil engineer licensed by the State of Colorado.
    - d. A statement from the same civil engineer shall be submitted with the plans, which through rational engineering analysis certifies that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222 latest revision standards; and shall describe the towers capacity including an example of the number and type of antennas it can accommodate.
      - (1) No tower shall be permitted beyond its loading capacity; for all towers attached to an existing structure, the statement shall include certification that the structure can support the load superimposed from the tower and that the tower has the capacity for single use or multiple use
      - (2) Before a final inspection or before a certificate of occupancy/operation will be issued for a permanent tower a letter from the engineer who stamped the construction plans must be submitted to the

permit office, affirming that the design and structure meet the engineered plans as submitted.

(3) The height of the telecommunication tower shall not exceed two hundred (200) feet. Tower height shall be measured from the ground level. If the request is within the 3-mile Inter-governmental Agreement (IGA) the application shall be forwarded to the applicable entity for review and comment.

(4) Equipment storage and/or any structures on the site shall obtain a building permit from the Rio Grande County Building Department and conform to all building codes, Land Use Regulations.

(5) Mobile or immobile equipment not used in direct support of a tower, or in the housing of equipment needed to operate the tower, shall not be stored or parked on the site, unless new construction or repairs are being made.

(6) All abandoned or unused telecommunication tower facilities shall be removed by the tower owner/operator within ninety (90) days of the cessation of use.

(7) The use of any portion of a tower for sign or advertising purposes, including company name, banners, streamers etc., shall be strictly prohibited, except as required by any federal agency.

(8) Towers or monopoles shall be constructed of galvanized or unpainted metal or shall be painted in neutral colors designed to blend into the surrounding environment, except as required by any federal agency.

(9) Each application, to allow construction of a telecommunication tower, shall include a statement that the construction and placement of the tower:

a. is in compliance with the Federal Aviation Administration (FAA)

b. Is in compliance with the rules and regulations of other federal or state agencies that may regulate telecommunications tower siting, design and construction

c. This tower will not unnecessarily interfere with public safety communications and the usual customary transmission or reception of radio

and television service enjoyed by adjacent residential and non-residential properties

(10) Notwithstanding the above provisions of this section: antennas shall be allowed to be placed on existing towers (co-locate) or structures with sufficient loading capacity. (As demonstrated in engineered plans) This requires approval from the Land Use Department prior to any changes to the original approval. The request shall include a site plan, which depicts all proposed ancillary buildings and/or equipment cabinets stamped by a licensed Colorado Engineer. The permit fee for placing antennas on existing towers or other structures shall be Two-hundred dollars review fee per antenna.

(11) Notwithstanding the above provisions of this section, towers in existence as of December 31, 2013 may be maintained/replaced with a tower of equal or less visual impact; this shall be reviewed by the Land Use Office prior to any changes being made.

(12) An approved telecommunication tower may be transferred to a successor who must adhere to and assigns all of the conditions, which apply, to the initial application and any amendments. Changes of ownership must be submitted to the Land Use Office to ensure all interested parties are in agreement of the conditions of approval.

(13) Fees for telecommunication towers shall be the amount as set by Rio Grande County and shall be collected by the Land Use Office.

(14) Any application requiring a deviation from the above reference provisions may be considered and granted by the county if good reason therefore is demonstrated by the applicant and/or a variance may be needed.

(15) Public Notification: Upon submission of an application to the county for construction of a telecommunication tower, a 1x8 foot black and white sign is to be posted, with no obstructions, within 25-foot of the nearest public right-of-way leading to the proposed site. The bottom of the sign shall be at least 4 foot from the ground. The heading of the sign shall read: "PUBLIC NOTICE: written in 6-inch letters. The remainder of the sign shall be written in 4-inch letter and include the "CONSTRUCTION OF A TELECOMMUNICATION IS PROPOSED AT THIS SITE:" with the date, time and place of hearing.

(16) Permit denial/appeal: The County Commissioners or designated staff, has the right to require additional information or documentation as deemed necessary and may deny the issuance of a permit in the interest of the health, safety and general welfare of the public of the county and/or surrounding areas.

(17) Rio Grande County understand pursuant to the Federal Communications Act 1996: that no state or local government may prohibit any entity from providing telecommunication services. It is however, the county's responsibility to administer fair and reasonable decisions taking into consideration height restrictions, setbacks, proximity to residential areas, placement, construction and modification of wireless/cellular telecommunication towers and facilities.

## 15. Alternate Energy Sources

### A. Intent and Purpose

This section is intended to establish regulations for the location, design, and appearance of alternate energy sources and energy conversion systems (ECS), to promote the research and development of sustainable alternative energy sources, and to encourage the preservation of the environment through the use of alternate energy sources.

### B. General Provisions

#### 1. Applicability

- a. New ECS and associated equipment. All new ECS in Rio Grande County shall be subject to these regulations.
- b. Energy conversion systems include but are not limited to wind energy conversion systems (WECS) and solar energy conversion systems.
- c. Preexisting energy conversions systems (ECS): Preexisting ECS, for which a permit has been properly issued prior to date of enactment of this resolution, shall not be required to meet the requirements of this section; changes, alterations, modifications and additions to pre-existing systems not specifically allowed by previous zoning permits shall meet the applicable requirements of this section.

- d. An ECS shall be considered abandoned if the use is discontinued (no energy production) for a period of 12 consecutive months or more unless a plan has been submitted and approved by the Zoning Administrator outlining steps and a schedule for return the system to service.

## 2. Regulation

- a. It shall be unlawful for any person, firm, or corporation to erect, construct, change, alter, modify or add ECS or accessory structure without first obtaining a permit from Planning and Zoning.
- b. Nothing in this section precludes compliance with the specific zone district regulations, other regulations within this Zoning Resolution or other County regulations, or with State and Federal standards and regulations as they may exist, if such State and Federal standards and regulations are changed, then the owners of the ECS facility governed by this section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling State or Federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the ECS facility at the owner's expense.
- c. The provisions of this section are not intended to prevent the use of any design, material or method of installation proscribed by this section provided any such alternate has been approved by the Planning Director or his/her appointed designee. An alternate may be approved if the proposed design, material or method is equal to or better than the specific requirements of this section and complies with the intent of this section and such modifications are consistent with the overall intent of the Zoning Resolution, the Land Development Regulation Plat and Exemption from Platting restrictions, Site Development Plan, and zoning conditions, and do not result in adverse impacts that were not previously considered.

## 3. Procedure

- a. Administrative Review

General: The following provisions shall govern the issuance of administrative approval of ECS and associated facilities and equipment.

- (1) The following uses may be approved by the Zoning Administrator or his/her appointed designee after conducting an administrative review:
  - (a) Placement of any commercial ECS, or associated equipment as allowed in Table of Listed Uses. (Article IX.) Pg. 43-47
  - (b) Placement of any non-commercial ECS, or associated equipment as allowed in Table of Listed Uses. (Article IX.) Pg. 43-47
- (2) Each applicant for administrative review shall apply to the Land Use Administrator or his/her appointed designee providing the information set forth in the Regulation and a nonrefundable fee as established by resolution of the Board of County Commissioners.
- (3) The Land Use Administrator or his/her appointed designee shall review the application for ECS and determine if the proposed uses (s) complies with this Regulation.
- (4) The land Use Administrator or his/her appointed designee shall respond to each such application within 30 calendar days after receiving a complete application by approving, conditionally approving, or denying the application, or requesting additional information necessary to evaluate the application.
- (5) Applicants may appeal a denial of an application

## H. Amendments to the Zoning Regulations

### 1. Authorization to Initiate Amendments

Any amendment to the text of these Regulations or to the Zoning Map may be initiated by the Board of County Commissioners, the Planning Commission, or by application of a property owner or his authorized agent and only at the regularly scheduled meetings of the Planning Commission.

### 2. General Procedure:

Amendments to these Regulations shall be in accordance with the laws of the State of Colorado which require the following action before adoption of any such amendment:

- a. Study and recommendation on the proposed amendment by the Planning Commission.
  - b. Completion of a public hearing before the Board of County Commissioners after at least thirty day notice of the time and place of such hearing shall have been given by at least one publication in a newspaper of general circulation within the County.
3. Zoning Amendment Procedure
- a. An application for an amendment to the Zoning Regulations or Zoning Maps may be filed by an owner of an equitable or legal interest in the property within the County and shall be made on a form provided by the County. The application must be accompanied by the following:
    - (1) A minimum nonrefundable processing fee in the amount currently in effect as set by the Board of County Commissioners; provided however, the applicant shall also pay the total actual cost in excess of current processing fee.
    - (2) A list of owners of properties located within fifteen hundred feet of the subject property in Rural Zone Districts and within three-hundred feet in all other Zone Districts, along with the current addresses of all such owners as listed with the County Assessor.
    - (3) Failure to provide accurate information as required on the application and by established administrative procedure shall invalidate the application.
  - b. **THE PLANNING COMMISSION MAY HOLD A PUBLIC MEETING ON THE PROPOSED AMENDMENT WITH THE FOLLOWING SPECIAL CONDITIONS REQUIRED:**
    - (1) A notice of said meeting shall be published in a newspaper of general circulation within the County at least fifteen days prior to the meeting date, or in the manner and form required by statute for a zoning resolution or amendment.
    - (2) A written notice of said meeting shall be sent by first class mail with a certificate of mailing, at least fifteen days prior to the hearing date, to the property owners listed in 3.,a.,(2) above.

- (3) If the application lies in part or totally within the Monte Vista, Center, Del Norte, or South Fork Planning Area as outlined on the zoning maps, a notice shall be sent to the applicable planning commission, board of trustees, or town council indicating the date, time and place of such public meeting.
- c. The Planning Commission shall within thirty days after the public meeting or within thirty days after receipt of application if no public meeting is held or within such time as is mutually agreed by the Planning Commission and the applicant, either recommend approval of the application, in whole or in part, with or without modifications and conditions, or recommend denial of the application to the Board of County Commissioners. The recommendation of the Planning Commission shall be transmitted to the Board of County Commissioners and to the applicant.
- d. **THE BOARD OF COUNTY COMMISSIONERS SHALL HOLD A PUBLIC HEARING ON ALL PROPOSED ZONING AMENDMENTS AFTER RECEIVING A WRITTEN REPORT OF RECOMMENDATIONS FROM THE PLANNING COMMISSION:**
- (1) A notice of said hearing shall be published in a newspaper of general circulation within the County at least thirty days prior to the hearing date, or in the manner and form required by statute for a zoning resolution or amendment. An adequate record of the hearings shall be maintained.
  - (2) A written notice of said public hearing before the County Commissioners shall be sent by first class mail with a certificate of mailing, at least days prior to the hearing date, to the property owners listed in 3., A., (2) of this Section.
  - (3) If the application lies in part or totally within the Monte Vista, Center, Del Norte, or Town of South Fork as outlined on the zoning maps, a notice shall be sent to the applicable planning commission, board of trustees or town council indicating the date, time and place of such public hearing.
- e. The Board of County Commissioners shall within thirty days after the public hearing or within such time as is mutually agreed by the Board of County Commissioners and the applicant, either grant the application, in whole or in part, with or without modifications and conditions, or deny the application. The decision of the Board of County Commissioners shall be transmitted in writing to the Planning Commission and to the applicant

- f. All approved amendments to the Zoning Map shall be made a permanent part of said map.
- g. Any person applying to the courts for a review of any decision made under the terms of this section shall apply for review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings and the application for review shall be in the nature of certiorari under Rule 106 (a) (4) of the Colorado Rules of Civil Procedure. The County shall be entitled to appeal any decision of the District Court under said Rule 106 proceedings.

4. Declaration of Policy for Rezoning

FOR THE PURPOSE OF ESTABLISHING AND MAINTAINING SOUND, STABLE AND DESIRABLE DEVELOPMENT WITHIN THE COUNTY, THE REZONING OF SOME PARCELS OF LAND IS ENCOURAGED BUT AS A STATEMENT OF POLICY THE REZONING OF LAND IS TO BE DISCOURAGED. REZONINGS SHOULD BE CONSIDERED IF:

- a. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Rio Grande County Master Plan; or,
- b. The area for which rezoning is requested has changed or is changing to such a degree that it is in THE PUBLIC INTEREST to encourage a redevelopment of the area; or,
- c. The proposed rezoning is necessary in order to provide land for a use which was not anticipated at the time of the adoption of the Rio Grande County Master Plan, and that such rezoning will be consistent with the policies and goals of the Rio Grande County Master Plan; or
- d. The area for which rezoning is requested is of such a nature and so located that the proposed zone change will not adversely affect existing or anticipated uses or property values in the vicinity, and the proposed zone change will not result in land uses that are incompatible with the Rio Grande County Master Plan.

5. Minimum Size of Parcel

No amendment changing the zoning classification of any lot, parcel or tract of land shall be adopted unless such lot, parcel or tract has a minimum of one hundred fifty feet of frontage on a public street, or has a minimum of two acres of area, or abuts on a lot, parcel

or tract of land that has the same zoning classification as that which is proposed for the property that is the subject of the proposed amendment.

At the discretion of the Board of County Commissioners, the applicant may enjoin one or more adjacent property owners to the rezoning application.

6. Approval of Amendment to Zoning Map

In granting an amendment to the zoning map upon application by a property owner or his authorized agent, the Board of County Commissioners may require the dedication of additional street rights-of-way where an officially adopted street plan indicates need for increased width or where the nature of the proposed development warrants increased street width, and the Board of County Commissioners may require permanent screen strips or other devices to minimize conflict with residential land use.

7. Records of Amendments

The Board of County Commissioners shall maintain a record of amendments to the text and map of these Regulations in a form convenient for the use of the public.

## SUBDIVISION REGULATIONS

### Article XIII. Subdivision General Provisions

A. Purpose

These regulations are designed and enacted for the purpose of protecting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Rio Grande County, Colorado, by:

1. Ensuring that proposed developments adequately mitigate potential hazards to protect the rights, health, safety and well-being of citizens of Rio Grande County and are in conformance with the Rio Grande County Master Plan.
2. Assuring that valuable resources whose anticipated value to the citizens, county, state and nation exceeds the value of the proposed development are protected. Mineral resources shall be protected to allow extraction or exploration of minerals unless extraction and/or exploration would cause significant danger to the public health and safety. Land determined by the county to be highly productive for agriculture purposes shall normally be retained in agriculture use.

3. Recognizing the rights of the developer, the citizens and the communities and to assure that any proposed development does not create an excessive burden on the county taxpayers.
4. Performance bond requirement at 120% of proposed expenses, or other form of surety suitable to the Board of County Commissioners.
5. Providing for the proper arrangement, width and design of streets, in order to minimize traffic hazards and to provide for safe and convenient vehicular movement.
6. Ensuring for the provision of adequate and convenient open spaces for traffic, utilities, access for firefighting apparatus, drainage, recreation, sites for schools and educational facilities, and related structures, light and air.
7. Avoiding congested use, by ensuring that land is subdivided into lots, which are of adequate size and configuration for the purpose for which they are intended to be used.
8. Protecting soil, water, aesthetics and other natural resources of the County from waste or degradation.
9. Regulating such other matters as the County Planning Commission and Board of County Commissioners may deem necessary in order to protect the best interests of the public.

B. Controls over Subdividing Land

1. Access to State Highways

No person may submit an application for subdivision approval unless the subdivision plan assures, pursuant to Section 43-2-147 C.R.S. 1973 as amended, that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the State Highway Access Code.

2. Access to Public Roads. All lots within a subdivision will have legal access to public roads. All lots shall have adequate egress and ingress to each lot/parcel from any road whether a county road or a private road.

3. County Approval of Lands to be dedicated to Public Use

All plans for streets, roads, parks, open space and any other area in a subdivision to be dedicated to public use shall be reviewed by the Planning Commission and approved by the Board of County Commissioners before being recorded.

4. Acceptance of Public Roads to the County Road System

Approval of a subdivision by the Board of County Commissioners shall not constitute an acceptance by the County of the roads, streets, and alleys to the County Road System for maintenance, snow removal or any other responsibilities. Such acceptance may be made only after the roads, streets, and alleys have been constructed to County specifications (contained in Article XVII, Design Standards; (pg.) (146-153) and through other specific actions of the Commissioners.

5. Subdivision approval prior to building construction

No building shall be constructed, or building permits issued for building in any subdivision prior to final approval of the subdivision by the Board of County Commissioners'.

6. Transfer of Land Prior to Final Plat Approval

As stated in C.R.S. 30-28-110(4)(a): "Any Subdivider, or agent of a Subdivider, who transfers legal or equitable title or sells any subdivided land before a Final Plat for such subdivided land has been approved by the Board of County Commissioners and recorded or filed in the Office of the County Clerk and Recorder is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars for each parcel of or interest in subdivided which it sold."

7. Subdivision Approval Review Requirements

No subdivision shall be approved under 1973 C.R.S. 30-28-110 as amended, until such data, surveys, analyses, studies, plans and designs as may be required by this section and by the County Planning Commission or the Board of County Commissioners have been submitted, reviewed and found to meet all sound planning and engineering requirements of the County contained in these Subdivision Regulations.

8. Common, corporate, syndicated or other similar ownership, which creates multiple building sites shall not be used as a means of avoiding these regulations.

9. Any division of land described in (Article XX (pg.) 180-185) and which is not accepted but is a division of land by metes and bounds description, shall constitute a subdivision of land and shall require compliance with these regulations.

C. Exemptions

1. Unless the method of disposition is adopted for the purpose of evading these Regulations, these Regulations shall not apply to any division of land:
  - a. Which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owner's;
  - b. Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;
  - c. That could be created by any court in the state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the Board of County Commissioners of the county in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this part 1 prior to entry of the court order; and, if the board does not file an appropriate pleading within twenty days after receipt of such notice by the court, then such action may proceed before the court;
  - d. Which is created by a lien, mortgage, deed of trust, or any other security instrument;
  - e. that is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;
  - f. Which creates cemetery lots;
  - g. Which creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
  - h. Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this subsection as only one interest;
  - i. Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph.

- j. Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this article and any applicable county regulations, the land that he is to acquire pursuant to the contract.
2. The Board of County Commissioners may pursuant to rules and regulations or resolution, exempt from this definition of terms "subdivision" and "subdivided land" any division of land if the Board of County Commissioners determines that such division is not within the purposes of 1973 C.R.S. 30-28-101 (10)(d).

D. Land Features Limiting Subdivision

No land shall be subdivided for any use where the Board of County Commissioners finds that the land has severe or very severe limitations unless proper mitigation procedures are sufficiently followed to satisfy the evaluation criteria contained in the Rio Grande County Master Plan. This would apply to all areas containing or suspected of containing:

1. Natural hazards which include, but shall not be limited to: flooding; concentrated runoff; inadequate drainage; wildfire hazard areas; geologic hazard areas, including avalanches, landslides, rock falls, mudflows and debris fans, unstable or potentially unstable slopes, seismic effects, radioactivity, ground subsidence and expansive soils and rock.
2. If in a floodplain a detailed flood plan map, as to how the development will affect the floodplain/floodway.
3. Other limiting natural features such as slow permeability, erosion susceptibility, high ground water table and evidence of a lack of adequate potable water supply.
4. Important county resource areas whose anticipated value to the county, state and nation exceeds the value of the proposed development such as areas containing or having significant impact on mineral resource areas.
5. Other features likely to be harmful to the health, safety, prosperity, esthetic and general welfare of the future and present inhabitants or users of the proposed development on Rio Grande County.

The Board of County Commissioners in applying the provisions of this section shall, in writing, recite the particular facts upon which it bases its conclusions that the land is not suitable for certain uses.

The subdivider shall have an opportunity to present evidence contesting such findings. Thereafter, the Board of County Commissioners may affirm, modify, or withdraw its determination that the land is not suitable for certain uses.

## Article XIV. Subdivision and Platting Procedures

### A. Sketch Plan

Prior to the preparation of a preliminary plan for presentation to the county Planning Commission, the subdivider shall make known his intentions to the Board of County Commissioners, County Planning Commission, and the County Land Use Office by submitting a sketch plan and discussing informally any county plans or standards which would affect the proposed development. Along with the sketch plan, relevant site characteristics and analyses applicable to the proposed subdivision will be required to be submitted which will include the following:

1. Reports concerning streams, lakes, topography and vegetation;
2. Reports concerning any natural hazards which may exist in the area such as FLOOD PRONE AREAS, CONCENTRATED RUNOFF AREAS, INADEQUATE DRAINAGE AREAS, WILDFIRE HAZARD AREAS, GEOLOGIC HAZARD AREAS, including AVALANCHES, LANDSLIDES, ROCK FALLS, MUDFLOW, and DEBRIS FANS, UNSTABLE OR POTENTIALLY UNSTABLE SLOPES, SEISMIC EFFECTS, RADIO ACTIVITY, GROUND SUBSIDENCE and EXPANSIVE SOIL AND ROCK which could significantly affect the land use and determine the impact of such characteristics on the proposed subdivision.
3. Reports concerning other limiting characteristics in the area and a determination of the potential impact of these limiting characteristics on the proposed subdivision. These limiting characteristics shall include such features as SOILS SUITABILITY, EROSION SUSCEPTIBILITY, HIGH GROUND WATER TABLE, STEEP SLOPES UNSUITABLE FOR CONSTRUCTION and LACK OF EVIDENCE OF ADEQUATE POTABLE WATER SUPPLY;
4. Maps and tables concerning suitability of types of soil in the proposed subdivision, in accordance with the National Cooperative Soil Survey. If in a flood plain, a detailed flood plain map as to how the development will affect the flood plain.
5. Reports identifying any important resource area, which could significantly affect or be affected by the proposed subdivision, such as mineral resource areas, endangered species.

To assist the developer in identifying potential problems or limitations on the proposed development area, the County Land Use Office shall keep on file a set of maps, which show the potential natural hazard, important resource area and areas with other limiting

characteristics within the County. The Land Use Office should indicate to the developer any potential problems, which must be mitigated before the preliminary plan is submitted.

After review and discussion of the proposed subdivision, the Planning Commission and Board of County Commissioners will give preliminary approval or disapproval to the plan in general, giving the developer the benefit of their opinions as to the various strengths and weaknesses of the plan as to its overall feasibility.

A determination will also be made as to whether the proposal qualifies for processing as a minor subdivision or simple division of land. If the proposal does not so qualify, the developer may then with the benefit of the opinions offered on the Sketch Plan, proceed with preparation of the Preliminary Plan at the option of the developer.

## B. Preliminary Plan

After the Subdivider has reached preliminary conclusions concerning the feasibility and design of his proposed subdivision, the preliminary plan will be prepared for the consideration of the Planning Commission and the Board of County Commissioners. The purpose of this plan is to check it against the design standards, evaluation criteria and improvement requirements that have been established for the County to expedite approval of the final plan. The plan will consist of a preliminary plat and a narrative section containing supplemental information needed to evaluate the proposal. The design standards, Improvements Requirements, shall guide all planning and Evaluation Criteria contained in these Regulations.

1. Application (Form provided by County)
  - a. Name of subdivision
  - b. Date
  - c. Location of subdivision
  - d. Landowner (Surface and mineral rights)
  - e. Subdivider
  - f. Lien holder and names of others holding encumbrances against property with a condition for release from the same so roads, streets, alleys and easements can be dedicated to the public on the recorded plat.
  - g. Existing zoning

- h. Assurance of an adequate water supply
- i. Sewage system plans
- j. Current filing fee, established by the Board of County Commissioners and any additional review fees set by the reviewing agencies.
- k. Written statement stating how the proposed subdivision complies with the Rio Grande County Master Plan.
- l. Signature of applicant.
- m. Letters

In addition to the above, a letter of intent, stating the following:

- (1) Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution systems, storm drainage facilities and such other utilities as may be required of the Subdivider by the County; receipt of Performance Bond 120%.
- (2) Scope and time element of each stage of construction;
- (3) Beginning and completion dates of all construction;
- (4) Statement indicating party or parties responsible for construction;
- (5) A letter shall be submitted from the ditch company stating their approval and minimum requirements for any structure constructed within their right-of-way.

## 2. Preliminary Plat

The following information will be shown on the plat:

- a. Name of subdivision, date of preparation.
- b. Location of subdivision (County, State and legal description) and number of acres to be subdivided.
- c. Vicinity map, drawn to scale, to locate the subdivision in relation to nearest town(s) and road(s).

- d. Location of the subdivision as a part of some larger subdivision or tract of land, and by reference to permanent survey monuments, with a tie to section or quarter corners. Show approximate boundary lines and dimensions of subdivision.
- e. Scale and north sign, with an indication of the written and graphic scale used. Use scale of 1"=50' or 1"=100' when the proposed density is greater than one dwelling unit per acre and 1"=100', 1"=200' or 1"=400' when the proposed density is one dwelling unit per acre or less.
- f. Name of address of landowners including both surface land and mineral rights.
- g. Names and addresses of the Subdivider, the designer of the subdivision and the surveyor (who shall be licensed by the Colorado State Board of Examiners for surveyors).
- h. Names and location of abutting subdivisions.
- i. Topography at vertical intervals of two feet where the average slope of the subdivision is less than ten percent and at vertical intervals of five feet where the average slope of the subdivision is ten percent or greater. If the proposed density of the subdivision is one dwelling unit per acre or less, the respective vertical intervals required shall be five and ten feet. U.S.G.S. datum may be used if it meets the foregoing interval requirements.
- j. Location of section lines and approximate location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, and lot lines, areas to be reserved for public use and other important features within and adjacent to the tract to be subdivided.
- k. Proposed sites, if any, for multiple family residential use, business areas, churches, industrial areas and other nonpublic use exclusive of one family residential areas.
- l. Location of existing and/or proposed water and sewer utilities and suppression.
- m. Estimated total number of gallons per day of sewage to be treated where a central sewage treatment facility is proposed, or sewage disposal means and suitability where no central treatment system is proposed.

- n. Estimated total number of gallons of water system requirements where a distribution system is proposed.
  - o. Location by preliminary survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes, or other water features, including direction of flow, water level elevations and typical depths and location and extent of areas subject to flooding at the 100-year frequency, if not provided separately.
  - p. Location of existing and planned storm drains or show justification why drainage is not needed by a licensed Colorado Engineer.
  - q. Location of representative soil percolation tests for each major soil type in subdivisions where septic systems are proposed.
  - r. Total number of proposed dwelling units.
  - s. Location of sites and land areas reserved for acquisition by the county or dedicated to the County for schools, parks, or other public purposes when applicable to the subdivision.
2. Preliminary Plan Supplementary Information (when determined by the County to be applicable)
- a. Environmental Reports:
 

FLOOD HAZARDS: A detailed flood Plain map showing the boundaries of the 100 year and 500 year floods, the possible depth of flood waters in the subdivision, and the improvements planned for location within the boundaries, including buildings, utilities and roads. All information in Article XXIX., (pg.223-249) pertaining to subdivisions shall be pertinent, including base flood elevation data shall be provided for subdivision proposals that contain at least fifty lots or five acres (whichever is less). A professional engineer must certify all information.

GEOLOGIC HAZARD: A map portraying the geologic conditions that present a geologic hazard to the subdivision together with a report explaining the potential dangers from the hazardous condition and the measures that may be taken, if any, to mitigate the condition.

FIRE HAZARD: A map showing the location of fire hazards and the reason for the hazard; i.e. slope, aspect, topography and fuel. A narrative setting up

procedure for preventing fires and reducing their danger and information on planned fire suppression for the subdivision. The above information will be certified by a professional forester or experienced fire marshal.

The Subdivider shall indicate a procedure whereby notification to potential purchasers in identified environmental hazard prone areas will be made through covenants, within sales contracts and through plat notes. The Subdivider shall indicate that continued compliance with notification procedures will occur.

SOIL SUITABILITY: Maps and tables concerning suitability of types of soil in the proposed subdivision, in accordance with National Cooperation Soil Survey.

Evidence that a water supply is sufficient in terms of quality, quantity and dependability will be available to insure an adequate supply of water for the type of subdivision proposed including fire protection. Including evidence of ownership or right of acquisition of or use of existing and proposed water rights, historic use and estimated yield of claimed water rights and amenability of existing rights to change in use.

- c. Where a water distribution (central water system) system is proposed; the plans, design and specifications shall be reviewed by the Colorado Department of Health, Water Quality Control Division to insure compliance with adopted drinking water standards pursuant to 25-1-107 (x)(II)(A), C.R.S. 1973 as amended.
- d. Letters from energy (utility) suppliers indicating availability of services.
- e. Evidence that there will be suitable and legal ingress and egress to the subdivision, "cul-de-sacs are discourage" available to the lot owners in the subdivision. If the subdivision accesses onto a State Highway, an access permit will be required from the State Department of Highways. In the event the subdivision accesses onto a County Road, which eventually impacts a State Highway, phasing of the improvements might be required by the Subdivider to handle the increase in volume over time at that intersection.
- f. Proof of financial responsibility in relation to proposed development costs, i.e. a certified financial statement or letter of available credit from a financial institution.
- g. Plans for facilities to prevent storm waters in excess of historic runoff, caused by the subdivision, from damaging any ditches, roads or other structures or lands.

- h. Proposed covenants and restrictions to be placed on the subdivided lots. The covenants and restrictions shall be equal to or more restrictive than the Rio Grande County Land Development Code.
2. Procedure for Processing the Preliminary Plan
- a. Receipt of Preliminary Plan. The preliminary plan consisting of the application, the preliminary plat and preliminary plan supplementary information will be received by the Land Use Administrator and reviewed for completeness. When complete, the Subdivider will assemble THIRTY- FIVE copies of the plan and required supplemental material into packet form with one copy of each required item included in each packet and submit them to the County Land Use Administrator, who will issue a receipt of submission to the Subdivider.
  - b. Notice to Public
    - (1) A date and place for a public hearing before the County Planning Commission will be set. The public hearing will be held no later than forty - five days after receipt of the Preliminary Plan and no sooner than thirty days after its receipt. Notice of the public hearing shall be published for three successive weeks prior to the hearing in the official County newspaper and if appropriate, one other newspaper local to the subdivision. This notice shall be the responsibility of the County.
    - (2) The Subdivider shall include with the application a list of owners of properties located within fifteen hundred feet of the outside boundaries of the subject property of the proposed subdivision in a agricultural zoned district and within three hundred feet of the outside boundaries of the proposed subdivision in all other zone districts, along with the current addresses as recorded with the County Assessor of all such owners. The county will send a letter and the letter shall state the property owners may appear in person at the Planning Commission Hearing, or if unable to attend, submit a statement further expressing his or her opinions. Comments, other than opinions, of a scientific or technical nature must be supported by documentation prepared by qualified professionals. **Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice. (By virtue of attendance, contact or a statement in writing constitutes notice).**
  - c. Preliminary Plan Review

- (1) A packet of the preliminary plan and supporting information shall be referred to the following offices within five days after they have been received from the Subdivider:
  - (a) Board of County Commissioners
  - (b) San Luis Valley Regional Development and Planning Commission
  - (c) San Luis Valley Rural Electric Cooperative
  - (d) Excel Public Service of Colorado
  - (e) Telephone service Provider
  - (f) Colorado Division of Wildlife
  - (g) The Div. Of Reclamation, Mining & Safety
  - (a) Colorado State Health Department, Colorado Water Quality Control Commission
  - (i) Colorado State Engineer's Office
  - (j) Colorado State Highway Department
  - (k) Appropriate school district(s)
  - (l) The local soil conservation district board or boards within the county (NRCS)
  - (m) Each county or municipality within a three-mile radius of any portion of the proposed subdivision
  - (n) Where applicable; to special utility districts, the U.S. Forest Service, the Colorado State Forest Service, the Bureau of Land Management
  - (o) Colorado Water Conservation Board, Rio Grande Water Conservation District, San Luis Valley Water Conservancy District
  - (p) Appropriate ditch companies

- (q) Fire Protection Districts
  - (r) Division of Water (Do not send them an entire packet just the intent and the water supply information) they would like a copy of the approved plat.
  - (s) County Road Supervisor
- (2) The Land Use Administrator will furnish a copy of all comments received to the Subdivider as they are received. The failure of any agency or office to respond at least within 21 days prior to the public hearing shall be for the purpose of the hearing on the plan be deemed an approval of such plan that day.
- (3) The preliminary plan, along with available comments from the above listed offices, agencies, notified property owners and governmental bodies, shall be presented at a public hearing before the county Planning Commission. The Planning Commission shall fully review the preliminary plan and make its recommendation to the Board of County Commissioners the day of the hearing or table the matter and shall make a recommendation within forty five days after the public hearing to approve or deny the plan with or without conditions. The review shall include:

Criteria considered in delivering the recommendation shall be based on:

- (a) A check for completeness of information required by County Subdivision Regulations, as set forth in requirements for improvements, the evaluation criteria and design standards contained in Articles XIV., XVI., and XVII., of the Land Development Code.
- (b) Consideration of input received from the public hearing and from the preceding listed offices, agencies, property owners and governmental bodies.
- (c) The compatibility of the proposed subdivision with the Rio Grande County Master Plan.
- (d) Evidence presented of a factual nature documented by a qualified professional.

The recommendation to the Board of County Commissioners shall include specific reasons for the decision. A copy of said recommendation shall be forwarded to the Subdivider.

d. Preliminary Plan Approval

Within thirty days after the Planning Commission recommendations has been received, the Board of County Commissioners will act to approve the plan with or without conditions or deny. If denied the board will recite specific reasons for the denial and the application will be not be further considered.

(1) Time Limitations: Approval of a preliminary plan shall be effective for a period of twelve consecutive months. The County Planning Commission upon application may grant one or more extensions for same, except that such extension shall not waive conformance to interim amendments to this Regulation. The County Planning Commission shall furnish notice of the granting of such application in writing. If a final plat is not submitted within the granted time, a preliminary plan must again be submitted before action may be taken on a final plat. Any fees that have previously been paid are forfeited. The development may be done in phases with each phase receiving preliminary and final approval. The Board of County Commissioners shall determine the number of lots in each phase. A twenty-five percent fee of the original application fee shall be paid prior to an approval for an extension. If a second extension is requested fifty percent of original application fee is required.

C. Final Plat

The Final Plat shall conform to the preliminary plan as approved, except that if desired by the subdivider, the final plat may constitute only a portion of the approved preliminary plan. The Board of County Commissioners shall determine the number of lots for final plat approval. If only a portion of the preliminary plan is included on the final plat, the subdivider shall obtain letters of acknowledgment from all public utility companies involved in the subdivision and copies of such letters shall be submitted with the final plat. However, Section B. of this Part will apply on the remainder of the preliminary plan. Two Mylar copies shall be supplied.

1. Final Plat Contents

- a. The final plat shall be drafted at a scale of 1"=50' (feet) or 1"=100' (feet) when the proposed density of the subdivision is greater than one dwelling unit per acre and at 1"-100' (feet), 1'=200' (feet), or 1"=400' (feet) when the proposed density is one dwelling per acre or less. The final plat shall be drafted by the use of permanent black ink, on linen or mylar drafting media with outer dimensions of thirty two inches by thirty six inches. A minimum eight inch margin will be left on the left side of the plat and a four inch margin on the bottom leaving the remaining 28 by 28 inch area for drafting of the plat. Good draftsmanship shall be required in order for all of the following information to be shown accurately and legibly.
- b. Titles, including name of subdivision, name of county and state and name of owner of record.
- c. North sign, scale graphic and written, and date of preparation.
- d. Location and description of the subdivision referenced by legal land survey description.
- e. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way and property lines or residential lots and other sites, with accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves.
- f. Name of each street and right-of-way width of each street or other right-of-way.
- g. Any easements granted to public utility companies or required by the County Planning Commission shall be included and the location, dimensions and purpose of all easements shall be given.
- h. Number to identify each lot or site and each block and the area of each lot.
- i. Location and description of monuments.
- j. Certificate of Acceptance as outlined below:

NOTICE

PUBLIC NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THIS PLATTED SUBDIVISION BY THE COUNTY OF RIO GRANDE DOES NOT CONSTITUTE AN ACCEPTANCE OF THE ROAD AND RIGHT-OF-WAY REFLECTED FOR MAINTENANCE BY SAID COUNTY UNTIL SUCH ROADS AND RIGHTS-OF-WAY MEET COUNTY STREET STANDARDS AND ARE SPECIFICALLY ACCEPTED BY THIS COUNTY BY RECORDING WITH THE CLERK AND RECORDER OF THIS COUNTY AN OFFICIAL "ACCEPTANCE", THE MAINTENANCE, CONSTRUCTION AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING SAID ROADS AND RIGHTS-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE OWNERS OF THE LAND EMBRACED WITHIN THIS SUBDIVISION.

NOTICE IS FURTHER GIVEN THAT NO BUILDING PERMIT WILL BE ISSUED BY OFFICIALS OF THIS COUNTY FOR IMPROVEMENTS OF ANY NATURE ON ANY PROPERTY REFLECTED ON THIS PLATTED SUBDIVISION UNTIL SUCH TIME AS THE "ACCEPTANCE" OF THIS SUBDIVISION AS HEREINABOVE DESCRIBED HAS BEEN FILED OR RECORDED WITH THE CLERK AND RECORDER OF THIS COUNTY AND APPLICABLE UTILITIES ARE INSTALLED.

k. Certification of Final Plat, as outlined below:

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

THAT \_\_\_\_\_ (a Colorado Corporation,) IS THE OWNER OF THAT REAL PROPERTY SITUATED IN RIO GRANDE COUNTY, COLORADO AND LYING WITHIN THE EXTERIOR BOUNDARY OF (Subdivision Name)

THAT IT HAS CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED AS \_\_\_\_\_ (Subdivision Name), AND DOES HEREBY DEDICATE AND SET APART ALL OF THE STREETS, ALLEYS AND OTHER PUBLIC WAYS AND PLACES AS SHOWN ON THE ACCOMPANYING PLAT TO THE USE OF THE PUBLIC FOREVER AND HEREBY DEDICATE THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE INDICATED AS EASEMENTS ON THE ACCOMPANYING PLAT AS EASEMENTS FOR PURPOSES SHOWN ON SAID PLAT.

IN WITNESS WHEREOF

\_\_\_\_\_ (Corporation Name) has caused its name to be hereunto subscribed by its President and its Corporate Seal to be hereunto affixed, attested by its Secretary, this day of \_\_\_\_\_ A.D., 20 .

(Corporation Name)  
(President)

ATTEST: \_\_\_\_\_  
Secretary

STATE OF COLORADO )  
COUNTY OF RIO GRANDE )SS

The foregoing instrument was acknowledged before me \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20 . by (President's Name) , (a Colorado Corporation).

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**SURVEYOR'S CERTIFICATE**

I, (Surveyor's Name) , a duly registered land surveyor in the State of Colorado, do hereby certify that this plat of (Subdivision Name) truly and correctly represents the results of a survey made by me or under my direct supervision.

\_\_\_\_\_  
Surveyor  
Surveyor's stamp shall appear  
with this certificate.)

**PLANNING COMMISSION CERTIFICATE**

Approved this day of \_\_\_ A.D., 20 , County Planning Commission, Rio Grande County, Colorado.

\_\_\_\_\_  
Chairman

COMMISSIONERS' CERTIFICATE

Approved this \_\_\_ day of \_\_\_\_\_ A.D., 20 \_\_, Board of County Commissioners, Rio Grande County, Colorado. This approval does not guarantee that the size or soil conditions of any lot shown hereon are such that a building permit may be issued. This approval is with the understanding that all expenses involving necessary improvements for all utility services, paving, grading, landscaping, curbs, gutters, street lights, street signs and sidewalks shall be financed by others and not the County of Rio Grande.

Attest: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Chairman

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO )  
COUNTY OF RIO GRANDE) SS

I hereby certify that this instrument was filed in my office at \_\_\_ o'clock, \_\_\_\_\_ A.D., 20 \_\_ and is duly recorded in Book No. \_\_\_\_, Page No. \_\_\_\_.

Fees \_\_\_\_\_ paid.

\_\_\_\_\_  
Recorder

\_\_\_\_\_  
Deputy

- 2. Final Plat Supplementary Information
  - a. Submit plan and centerline profiles for all streets and roads;
  - b. Submit plan and profiles for sanitary and storm sewers and for water distribution systems;
  - c. Show stationing on plan and profile (one hundred foot intervals);
  - d. Define and locate horizontal and vertical curves both on plan and profile (Length, PC, PI, PT, Radius, Tangent, Delta);

- e. Show existing grade by a dashed line on profile;
- f. Show new or proposed grade by a heavy solid line on profile
- g. Show percent of grade from PI to PI on profile;
- h. Draw typical cross-section;
- i. Show and dimension roads, curbs and gutters, sidewalks, water and sewer utility lines and structures within rights-of-way on plan;
- j. Locate and size culverts, including CSP, RCP, Box, etc. on both plan and profile;
- k. Show direction of water flow on plans;
- l. Show street names on profile plans;
- m. Show minimum twenty foot radius at shoulder or curb line at all intersections on plans;
- n. Show design benchmarks data on plans;
- o. Submit one set of traverse closure computations and Solar or Polaris computations of the exterior boundary of the subdivision;
- p. Submit final construction plans for all structures, e.g. box culverts, bridges, etc. All structure plans must bear the seal of a registered professional engineer and must be approved by the Board of County Commissioners or their designated representative.
- q. Submit drainage plans as required by Article XVII., (pg. 156) (3)(a) of this Part;
- r. Submit erosion control plan containing measures required during and after development to control soil erosion from wind and water;
- s. Any accompanying deed restrictions shall be a recorded document for all lots and shall be referenced on the Final Plat.

- t. An official signed deed dedicating or reserving certain tracts or the development rights to such tracts for public use as may have been agreed to at the time the preliminary plan was approved or cash payment in lieu thereof in the specified amount.
- u. Locations of fire hydrants and fire well locations as per the water supply standards found in the subdivision packet.

3. Procedure

- a. Not more than twelve months, or any extension thereof, after approval of the Preliminary Plan, and at least fifteen days prior to a regular County Planning Commission meeting, the original tracing and ten prints of the final plat together with the required supplemental material shall be submitted by the subdivider to the County Land Use Administrator
- b. At the next regular meeting of the County Planning Commission, the Planning Commission shall check the final plat for conformity with the approved preliminary plan and other requirements of these Regulations, and if the Planning Commission finds that the final plat substantially conforms to the approved preliminary plan and other requirements of these regulations the Planning Commission shall recommend approval of the final plat to the County Commissioners. If the Planning Commission finds that the final plat does not substantially conform to the approved preliminary plan and other requirements of these regulations, the Planning Commission shall recommend denial of the final plat, and shall give written notice of such recommendation to the subdivider stating specifically the reasons therefore.
- c. Upon recommended denial by the Planning Commission, the subdivider may appeal to the Board of County Commissioners within thirty days. The appeal shall be submitted to the Board of County Commissioners stating reasons and facts supporting the request. By a majority vote, the Board of County Commissioners in writing shall affirm, reverse, or remand to the Planning Commission for further proceedings.
- d. If the final plat is approved by the County Planning Commission, the County Land Use Administrator shall hold the original until such time as all required conditions related to final processing of the plat are satisfactorily completed.
- e. Once all the required supplemental conditions are met (such as dedicating certain land to public use, etc.) the County Land Use Administrator shall present the

original of the Final Plat to the Board of County Commissioners for their review and action.

- f. The Board of County Commissioners shall check the final plat for conformity with the approved preliminary plan and other requirements of these regulations especially with regard to required improvements, the acceptance of the areas dedicated for public use and easements. The Commissioners shall approve the final plat within ten days after the meeting at which it was presented. If the plat substantially conforms to the approved preliminary plan and other requirements of these regulations. If, the Board of County Commissioners finds that the final plat does not substantially conform to the approved preliminary plan and other requirements of these regulations it shall give written notice to the subdivider of such nonconformities, the Subdivider, shall be given a reasonable time to be determined by the Board of County Commissioners to bring the final plat into conformity with the approved preliminary plan and other requirements of these regulations.
- g. The Board of County Commissioners upon final plat approval shall sign a Resolution stating such which will be sent to the Subdivider and the Planning Commission. The final plat shall be signed upon Board of County Commissioner approval of the completion of all required improvements (streets, water and sewer systems and etc.), including survey monumentation of the subdivision following the procedure in Article XVIII., C. (pg. 154-163)
- h. Not more than six days after the final plat is signed by the Board of County Commissioners, the County Clerk shall record the final plat in the office of the County Clerk. The recording fee shall be paid by the Subdivider and shall be submitted at the time final application is made.

Article XV. Cluster Development Rural Land Use Process

A. BACKGROUND

1. Rio Grande County has determined that it is in the public interest to include clustering of residential dwellings on tracts of land that are exempt from subdivision regulation by county government pursuant to State Statute 30-28-101(10)(c)(X), C.R.S. thereby providing a means of preserving common open space, of reducing the extension of roads and utilities to serve the residential development and to provide an alternative to the traditional 35 acre interests described in State Statute 30-28-101(10)(c)(I), C.R.S.
2. This rural land use process will authorize the use of clustering, water augmentation, density bonuses or other incentives and the transfer of development rights in order to fulfill the goals of Rio Grande County to preserve open space, protect wildlife habitat and critical areas, and to enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long range farming and ranching operations.
3. Definition - a cluster development as defined by State Statute 30-28-403(1), C.R.S. is any division of land that creates parcels that contains less than 35 acres each for single family residential purposes only, where the tract is being divided pursuant to a Rural land use process and reserves at least two-thirds of the total area of the tract for the preservation of contiguous open space.

B. PURPOSES AND OBJECTIVES

The purposes and objectives of the rural land use process are:

1. To recognize the current thirty-five acre exemption law and implement the provisions of State Statute 30-28-401, ET. seq., C.R.S. and amendments to State Statute 37-92-602, C.R.S., concerning cluster developments and domestic water permits for cluster developments.
2. To preserve and protect critical areas in Rio Grande County by designating and recognizing distinctions in the land such as agricultural land, open lands, regional reserves, parks and trails, as well as distinct landscapes, forest land, ecosystems, water sheds, ridge lines, wildlife, wet lands, hazardous areas, view corridors, historic and archeological sites and urban areas, and to encourage development that will respect these critical areas.
3. To encourage development which fosters continued agricultural land uses and protects the county's rural character, open space, and the character of existing communities while recognizing current zoning.

4. To promote the goal of contiguous agricultural lands.
5. To develop new methods, which with incentives, encourage the retention of agricultural and forest land as a productive, non-renewable resource.
6. To give priority consideration for protection to parcels containing areas designated as critical areas through the use of incentives or outright purchase, and to conclude this process and negotiation in a timely manner consistent with other 35-acre development applications. Such parcels containing critical areas will not be precluded from rural land use process.
7. To facilitate cooperation among neighboring landowners to create a single proposal for the clustering of development on adjacent properties with appropriate economic incentives for both landowners.
8. To provide development guidelines and incentives that are flexible, and that encourage land use designs that optimize preservation of environmental resources and/or lessen the public costs of infrastructure.
9. To encourage transfer of development units within large parcels or between and among cooperating landowners for large parcel planning.
10. To encourage alternatives in methods of development of large tracts of land that will allow maximum retention of characteristics considered special to Rio Grande County and most valued by the community.
11. To encourage and promote good utilization of the land while responding to lifestyle choices.
12. To encourage community involvement in future growth patterns within the county and to promote early identification and resolution of potential development conflicts.

#### C. APPLICABILITY

1. This Rural land use process may be applied to any parcel in Rio Grande County that is at least 70 acres in size for which the development of single family dwellings are proposed. The Rio Grande County rural land use process shall be a voluntary process designed to be beneficial to the landowner, the neighboring community and the county. There shall be no requirement that any landowner participate and neither the county nor the landowner can be forced to accept a final development plan with which they do not agree. In the event that a final

development cannot be mutually agreed upon by the parties, it shall not be the basis for any legal action to compel performance or further negotiations between the parties.

#### D. PROCEDURAL STEPS OF THE RURAL LAND USE PROCESS

1. The process may be initiated by contact between the landowner and the Rio Grande County Land Use Administrator to discuss the landowner's objectives to preserve, sell, or subdivide previously undeveloped land within the county.
2. After a preliminary evaluation of the nature and character of the land, and of the development and conservation alternatives permitted under the county land development code, including the potential for cluster development as permitted by these regulations, the Land Use Administrator accompanied by the landowner shall do an on-site inspection of the property to better appreciate the character of the land, its attributes, the landowner's objectives, as well as the potential for cluster development of the land pursuant to the county land use process.
3. The landowner and the County Land Use Administrator may then decide to meet to discuss all aspects of the various alternatives for the potential development of the land including the number, size and layout of single family residential sites, locations of roads, access to public highways, provisions for utilities, water supply requirements, including evidence that sufficient ground water exists which can be appropriated through a court approved water augmentation plan, wastewater treatment, proposed open space, protected areas or other areas intended to be excluded from development, possible density incentives, whether a homeowners' association will be necessary or desirable, as well as the types of fees which the landowner may be required to pay prior to development. The Land Use Administrator and landowner should also discuss joint development planning among neighboring landowners, if applicable. The Land Use Administrator may wish to seek input from the neighboring community at an early design phase of a potential cluster development project.
4. A written memorandum will be prepared by the County Land Use Administrator based on the preliminary discussions with the landowner and other interested parties. This memorandum will describe the nature of the potential development project and will identify important information concerning both the potential development and the property to be preserved as open space. The memorandum will then be forwarded to the landowner who will then proceed to develop a Preliminary Rural Land Use Plan if he wishes to proceed.
5. The Preliminary Rural Land Use Plan, which is discussed more fully in Section XV, will be developed by the landowner with the assistance of the County Land Use

Administrator. The preliminary plan will include a map with sufficient detail to allow all interested parties and the public to determine if the proposed plan is in conformance with the purposes and objectives with the rural land use process.

6. After the Preliminary Rural Land Use Plan has been accepted by the County Land use Administrator as conforming to the purposes and objectives of the county rural land use process, the developer shall be requested to sign a written authorization to permit the developer's Preliminary Rural Land Use Plan to be made available to the general public and to all appropriate governmental entities, including the following: neighboring landowners and the general public, who will be invited to review the plan and forward their comments and suggestions to the County Land Use Administrator.
7. Comments and recommendations from all governmental agencies and the general public shall be discussed by the landowner and the County Land Use Administrator and the potential cost/benefits of suggested changes will be evaluated and negotiated in terms of the incentives available through the rural land use process. To the extent that suggestions are achievable and accepted by the landowner, they will be incorporated into the Preliminary Rural Land Use Plan. The County Land Use Administrator will then inform the interested agencies and individuals who responded to the proposed preliminary plan of the extent to which the suggested changes or revisions were accepted by the landowner and incorporated into the Preliminary Rural Land Use Plan.
  8. The County Land Use Administrator will next schedule a public hearing with the County Planning Commission. The public hearing will be held no sooner than thirty days or later than forty-five days after receipt of the Preliminary Land Use Plan. The County will publish notice of public hearing for 3 successive weeks prior to the hearing in the official county newspaper. The developer shall provide the County with a list of all owners and their addresses or property located within fifteen hundred feet of the outside boundaries of the proposed development in a rural zone district and within three hundred feet of the outside boundaries of the proposed development in all other zoned districts. The County will notify and inform all owners of record of the time, date and place of the Planning Commission hearing and that they may attend and testify or submit a written statement of their opinions and comments of the proposed development.
9. At the public hearing with the Rio Grande County Planning Commission, the developer shall present his Preliminary Land Use Plan, which shall be reviewed by the County Planning Commission after consideration of all public testimony, exhibits, letters, and other input from all interested parties. Within five days following the public hearing with the County Planning Commission, the Commission shall recommend either approval, conditional approval with

recommended modifications to the proposed plan, or denial of the plan to the Board of County Commissioners.

10. Within thirty days after receiving the recommendation of the County Planning Commission, the Rio Grande Board of County Commissioners shall hold a public hearing to consider the Preliminary Rural Land Use Plan. Written notification of the time, date and place of the meeting shall be given to all affected governmental agencies and interested landowners who requested notification of the hearings.
11. At the public hearing, the Rio Grande Board of County Commissioners the landowner shall again present his Preliminary Rural Land Use Plan as well as all other testimony and exhibits in support of the plan. The Board of County Commissioners shall also review all other responses, comments and suggestions from interested governmental agencies, the neighboring community and the general public concerning the plan. Within thirty days of the conclusion of the hearing, the Board of County Commissioners shall issue written findings and a resolution stating its reasons for approval, disapproval, or conditional approval of the Preliminary Rural Land Use Plan. If the Board of County Commissioners seeks to impose additional conditions not previously discussed and agreed to by the landowner, the Board shall allow the landowner and the general public an opportunity to comment about the proposed additional conditions for approval.
12. Upon approval of the Board of County Commissioners of the Preliminary Rural Land Use Plan and acceptance of the landowner of any additional conditions for approval, the landowner shall have eighteen- months from the date of the Board findings and resolution approving the Preliminary rural Land Use Plan in which to submit to the County Land Use Administrator a final plat, a final development agreement and all other required documents, if any, which may be necessary to carry out the final development agreement, and shall pay all applicable fees.

The final development agreement shall contain all the terms and conditions previously discussed, negotiated and agreed to during the Rural land use process to ensure that the development is completed in accordance with the Preliminary Rural Land Use Plan as approved by the County Commissioners. The final development agreement shall conform to all applicable Rio Grande County subdivision regulations. The requirements for these documents may be modified, if necessary, in order to conform with the conditions of approval of the Board of County Commissioners of any particular rural land use plan.

Upon written request by the landowner prior to expiration of the time allowed for submission of the final plat and final development agreement or other

required documents, the landowner may request to the County Land Use Administrator to grant one extension of time of not more than ninety days. The written request for extension shall include the reasons for an extension as to why they cannot comply within the eighteen-month deadline.

Approval of the Preliminary Rural Land Use Plan shall be deemed revoked if the final plat and final development agreement as well as all other necessary documents are not submitted for review to the County Land Use Administrator within the time for submittal including any extension thereof.

13. Within thirty calendar days of receipt of a complete final development agreement, the County Land Use Administrator shall review the documents for compliance. If all documents are determined to be in compliance, the County Land Use Administrator shall present the documents to the Board of County Commissioners for administrative review and signature by the Chairman of the Board. Upon approval by the Board of County Commissioners, the County Land Use Administrator shall submit the final plat and development agreement and other appropriate documents to the Rio Grande County Clerk and Recorder's Office for recording. No on-site improvements can begin until the Rio Grande County Board of County Commissioners has approved the final plat and final development agreement.
14. Within ten days after approval of the plat and final development agreement by the Rio Grande County Board of County Commissioners, the County Land use Administrator shall provide a copy of the approved final plat and approved final development agreement to the state engineer as required by State Statute 30-28-40, C.R.S.
15. If the Rio Grande Board of County Commissioners disapproves the Preliminary Rural Land Use Plan, the landowner shall have the right to either revise the plan to meet the reasons for disapproval as indicated by the Board, or the landowner may voluntarily withdraw the Plan from the rural land use process.

E. ELEMENTS OF PRELIMINARY Agricultural Ranching Land use Plan.

1. Design standards - the following criteria shall be considered by the Rio Grande County Land Use Administrator in review of the Preliminary Agricultural Ranching Land Use Plan.

- a. The proposed development design and site layout shall minimize development on ridgelines and in highway corridor view sheds as identified in the county master plan.
  - b. The disturbance of trees, vegetation and soil shall be minimized to avoid unnecessary visual scarring of hillsides with roads and utilities.
  - c. All wetland and riparian areas critical to wildlife habitats and natural features and landmarks shall be protected and preserved. **A study done by the appropriate agency (s) to determine if any habitats or endangered species are present.**
  - d. All significant archeological and historical features or structures shall be preserved and provided adaptive reuse where feasible.
  - e. All roads, drainage, grading, and erosion control plans must be reviewed and approved by the County Land use Administrator and the design of all roads which are proposed for dedication to Rio Grande County shall be reviewed by the county road department.
  - f. A water supply plan must be approved by the state engineer's office and if approved, the Board of County Commissioners may impose such additional conditions and safeguards as they deem necessary in order to assure the existence of adequate potable water for residential purposes.
2. Parcel size - the size and number of individual residential sites shall be determined after an evaluation of the characteristics of the tract to be developed, compatibility with adjacent land uses, health department requirements and other design criteria.

In reaching agreements as to lot sizes, lot separations, and contiguity, each parcel of land shall be considered individually with attention to its unique qualities and characteristics. Each project shall also be considered in the context of its historical use and the uses of other properties in the immediate vicinity. Residences should be sited in areas deemed compatible with the special characteristics of the specific parcel under consideration as well as the surrounding area. Additional factors which should be considered with regard to the number and size of residential sites should include the type of development currently existing in the surrounding area, the amount of land being set aside as open space, potential environmental impacts, the agricultural productivity of the area, possible community or county value of the parcel, community opinion

regarding development of the area, the number and location of roads required to serve the proposed development, the landowner's financial objectives and desires for utilization of the land, impact on infrastructure, water supply requirements, wastewater, surface and ground water quality, and trail easements and public open space.

3. Critical areas to be considered in the evaluation of a Preliminary Rural Land Use Plan include, but are not limited to: **wildlife habitats and migration corridors, threatened and endangered species, unique vegetation and critical planned communities, wetlands/riparian land/waterways, unique geologic features, agricultural lands, view-scape, areas prone to natural disturbances**, wildfire hazard areas, and groundwater and geologic hazards.
4. Building envelopes - a building envelope shall be required when necessary to protect environmentally or visually sensitive areas.
5. Fencing - fencing standards shall be noted on the Rural Site Plan and all fencing shall be designed to blend with the natural environment and allow unrestricted wildlife movement.
6. Building design - dwellings and other structures shall be compatible with and shall not dominate the natural environment.
7. Landscaping - landscaping may be required in order to buffer the development from adjacent land uses or to protect the highway corridor view sheds. Areas of vegetation proposed to be protected, planted, or removed in limited areas for irrigated lawns and gardens shall also be shown on the Preliminary Land Use Plan.

#### F. INITIAL SUBMITTAL REQUIREMENTS

1. Duplicate originals of the preliminary Rural Land Use Plan shall be submitted to the Rio Grande County Land use Administrator and shall include:
  - a. Boundary survey including a written metes and bounds description. Topographic lines at ten (10) foot contour intervals.
  - b. North arrow.
  - c. Scale of 1 inch = 200 feet

- d. All easements shall be drawn to scale and accompanied by a statement of their use, dimensions and ownership.
2. Proof of Ownership - The Preliminary Rural Land Use Plan shall include an updated or current title commitment or Owner's Title Insurance Policy. If the applicant is other than the actual landowner, the Preliminary Rural Land use Plan shall include a notarized letter or authorization from the actual landowner.
3. Adequate Water Supply - evidence that an adequate water supply is available to supply the development in terms of quantity, quality, and dependability, together with an approved augmentation plan as required by the state engineer's office. A detailed one hundred year flood plain study will be required if one has not been compiled.

In an effort to preserve open space and water resources and pursuant to State Statute 37- 90-105 and State Statute 37-92-602, C.R.S., a cluster development may obtain only one well permit for each single family residential lot and unless un-appropriated water is available for withdrawal and the vested water rights of other owners will not be materially injured and except inside designated ground water basins, a water court approved plan for augmentation shall be required when the water usage in the cluster development would exceed an annual withdrawal rate of one acre foot for each thirty-five acres within the cluster development. There should be a re-but able presumption that there will not be material injury to the vested water rights of others where the ratio of water usage in the cluster development does not exceed one acre foot of annual withdrawal of each 35 acres within the cluster development and the water will be used solely for the purposes permitted under State Statute 37-92-602(3)(b)(II)(A), C.R.S., including ordinary household purposes inside a single family dwelling and for the watering of the users domestic animals, not to be used for commercial purposes and not to be used for irrigation or will be the only well on a tract of 35 acres or more and will be used solely for domestic purposes as defined under State Statute 37-92-601(1)(b), C.R.S., and the return flow from such usage shall be returned to the same stream systems from which the well is located.

#### G. OPEN SPACE

1. All Rural Land Use Plans shall include a proposal for dedication of at least two thirds of the total area of the tract for the preservation of contiguous, undeveloped land which shall be protected from future development for a period of not less than forty years by deed restrictions, conservation easements, or other appropriate legal process.

2. In the event it is decided that the open space will remain undeveloped through the use of a conservation easement, Rio Grande County or an acceptable alternate such as a land trust, homeowners' association, etc., shall be designated as the Grantee of the easement. The Grantee shall then be responsible for monitoring the easement.
3. At the expiration of the time period for which the open land must remain undeveloped, the person or entity owning or controlling the undeveloped land may propose to change the use of the land in a manner consistent with all applicable laws, regulations and policies then in effect. A public process shall be required and all governmental interests affected by the proposed use change shall be notified and allowed to participate in the process. The exact procedure to be followed shall be determined at the time of the proposed use change based on the circumstances that exist at that time.

#### Article XVI. Land and Resource Evaluation Criteria

##### A. Purpose and Intent

The primary purpose and intent of this article is to provide criteria to evaluate subdivision proposals for land which lies within or is impacted by natural hazards or which contains resources of major importance.

##### B. Natural Hazard Prone Areas

The Rio Grande County Land Use Administrator shall keep on file and available to the public a set of maps clearly showing all known and identified flood prone areas, geological hazard prone areas and wildfire hazard prone areas in Rio Grande County.

##### 1. Flood Prone Areas

The County shall not approve any subdivision plan if the proposed subdivision is either in one of these identified flood prone areas or in the absence of maps, is in an area suspected by the County to be a flood prone area, unless the developer can submit adequate evidence prepared by a registered professional engineer that the proposed subdivision is not in a flood plain or unless the proposed subdivision meets the following criteria contained in Article XXIX., (pg. 223-249) of these Regulations:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;

- b. All subdivision proposals, which have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development that contains at least fifty lots or five acres (whichever is less);
- e. All construction and placement of mobile homes must be in full compliance with the Rio Grande County Flood Damage Prevention Regulations contained in Article XXIX. (pg. 241 (4), of these Regulations; and,
- f. Provision is made for disclosure, prior to sales, of all flood plan areas, within the subdivision and for attaching a delineation of the flood plain to all deeds, titles and recorded documents involving a transfer of ownership on the subject lot.
- g. Any new structure within a floodplain shall be certified by a registered professional engineer that the structure will not alter stream flow or create a flood hazard for downstream properties.
- h. Any subdivision within a River Corridor Area shown on the Rio Grande County Master Plan shall be a minimum of five acres in size (unless central water and sewer is provided).

2. Floodway

Located within flood plains are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. No encroachments, including fill, new construction, substantial improvements and other development, shall be permitted unless certified by a registered professional engineer that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

- b. If approved, any new construction, substantial improvements and other development in a floodway shall comply with all applicable flood hazard reduction provisions required by the Federal Emergency Management Agency, and be certified by a registered professional engineer.

3. Geologic Hazard Prone Areas

The County shall not approve any subdivision plan if the subdivision is either in one of these identified geologic hazard prone areas or in the absence of maps, is in an area suspected by the County to be geologic hazard prone, unless the developer can submit adequate evidence prepared by a professional geologist that the proposed subdivision meets the following criteria:

- a. Provision is made for disclosure, prior to sales, of all geologic hazards and mitigation procedures undertaken and for attaching a delineation and description of the geologic hazard and mitigation measures to all deeds, titles and recorded documents involving a transfer of ownership on the subject land.
- b. Provisions are made for the long-term health, welfare and safety of the public from geologic hazards to life, property and associated investments.
- c. The proposed development will not create an undue financial burden on existing or future residents of the area or community.
- d. Structures designed for human occupancy and sites designed for human use shall be constructed so as to prevent danger to human life or property.
- e. Permitted land uses, including public facilities, which serve such uses shall avoid or mitigate geologic hazards at the time of initial construction.
- f. Man made changes shall not initiate or intensify adverse natural conditions within a geologic hazard area.
- g. Any development either identified or suspected to be within a geologic hazard prone area must be designed or reviewed by a professional geologist.

4. Wildfire Hazard Prone Areas

The County shall not approve any subdivision plan if the proposed subdivision is either in one of these identified wildfire hazard prone areas, or in the absence of maps, is in an area suspected by the County to be wildfire hazard prone, unless the developer can submit adequate evidence that the proposed subdivision meets the following criteria:

- a. Any development in which residential activity is to take place will be designed so as to minimize significant hazards to public health and safety or to property.
- b. Any authorized developments will have adequate roads for service by fire trucks; firefighting personnel and other safety equipment, such developments will also have firebreaks and other means of reducing conditions conducive to fire.
- c. All precautions required to reduce or eliminate wildfire hazards will be provided for at the time of the initial development.
- d. The development will adhere to the guidelines and criteria for Wildfire Hazard Areas promulgated by the Colorado State Forest Service.
- e. The County has considered the recommendations of the Colorado State Forest Service upon review of a proposed development in wildfire hazard area.

C. Important Resource Areas

1. Potential Mineral Resources Areas

The Rio Grande County Land Use Administrator shall keep on file and available for public inspection a set of maps clearly showing all known and identified potential mineral resource areas in the County. These maps shall be reviewed and updated annually by the Land Use Administrator based upon the best information on mineral resources in Rio Grande County and as funds permit. The County shall not approve any subdivision plan if the proposed subdivision is either in one of these identified potentially important mineral resource areas or in the absence of maps, is in an area suspected by the County to be a mineral resource area, unless the developer can submit adequate evidence prepared by a professional geologist that the proposed subdivision is not in a potentially important mineral resource area or unless the proposed subdivision meets the following criteria:

- a. That the development shall not obstruct the extraction of a valuable commercially extractable mineral resource or that the anticipated value of the development will exceed the value of the minerals under the development; or,
- b. That potential health and safety hazards are reasonably mitigated.

2. Historically Significant or Archaeologically Important Areas

Consideration will be given to the protection and/or retention of identified sites of historical and archaeological importance. Alteration of such sites shall be avoided. Emphasis should be put on reuse of historical structures and the incorporation of these sites into parks or open space. If disturbance of such sites is unavoidable, the Subdivider shall contact the State Historical Society or other applicable agency or organization and allow them an opportunity to preserve the site or move the improvements or artifacts before alteration takes place.

3. Wildlife Habitat

The Rio Grande County Land Use Administrator shall keep on file and available for public inspection a map of critical wildlife habitat and important fisheries on county nonexempt lands. This map shall have been prepared by or with the advice of the Colorado Division of Wildlife.

When planning and approving subdivisions plats located in or affecting critical habitat and fisheries, consideration will be given to the anticipated effects of the subdivision on wildlife, fisheries and critical wildlife habitat. As a minimum the following criteria will be considered:

- a. Significant and lasting pollutants or poisons will not be introduced into fisheries.
- b. The social and/or economic benefits of the subdivision will be sufficient to offset economic and social benefits of wildlife and fish that will be forgone.
- c. All practical measures shall be taken to prevent or mitigate the adverse effects of the development to wildlife.

#### 4. Habitat

##### Conservation Plan

##### Purpose and Intent

1. To provide legal protection to typical and routine agricultural, infrastructure, and conservation activities in Rio Grande County through the implementation of the San Luis Valley Regional Habitat Conservation Plan (HCP).
2. To provide a mechanism for HCP implementation by defining county land use authority over typical and routine activities within riparian habitat areas.
3. To protect riparian habitat areas that support the southwestern willow flycatcher and other wildlife species that depends on riparian habitat.
4. To establish a process for resolving the impacts of land management activities whose impacts are outside the scope of HCP overage and may be in violation of the Federal Endangered Species Act.
5. Authority
6. This ordinance is authorized pursuant to the following laws and regulations:
7. Local Government Land Use Control Enabling Act (C.R. S. 29-20-101) which grants counties and municipalities broad authority to plan for and regulate the use of land, which includes “protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species.”
8. 1041 powers (C.R.S. 24-65.1-101) which allows local governments to identify, designate, and regulate “activities of state interest” which include significant wildlife habitats.
9. Endangered Species Act (16-U.S.C. § 1539) which prohibits the unauthorized “take” of a federally-listed threatened or endangered species or its habitat, including the endangered southwestern willow flycatcher. Section 10(a)(1)(B) of the ESA allows the Service to permit the incidental take of a listed species with the approval of a Habitat Conservation Plan.
10. Transfer of Incidental Take Permits (50 CFR 13.25d), which requires that an individual who is covered by an Incidental Take Permit is under the direct control of the permittee (the county) where the person is under the jurisdiction of the permittee and the permit provides that such person (s) may carry out the authorized activity.

##### Definitions

“Covered Activities” – typical and routine agricultural, infrastructure, and conservation activities that occur within riparian habitat areas, have the potential to impact the covered species, and whose impacts are specifically covered by the San Luis Regional habitat Conservation Plan (HCP). The covered activities, described in detail in the HCP, are:

- a. livestock grazing
- b. fence construction and maintenance
- c. ditch clearing and maintenance
- d. water facility construction and maintenance
- e. water management and administration
- f. floodway and levee construction and maintenance
- g. utility infrastructure maintenance
- h. road and bridge maintenance
- i. mosquito assessment and control
- j. stream channel shaping and stabilization for restoration
- k. habitat creation and restoration
- l. weed management
- m. wetland creation and management
- n. wildlife surveys

Activities related to land development, large-scale water projects, and major highway construction are not covered by HCP.

“Covered species” - Federally-protected bird species that have the potential to occur in riparian habitat in the San Luis Valley; southwestern willow flycatcher, bald eagle, and yellow-billed cuckoo.

“Riparian habitat” - The mosaic of woody trees and shrubs, wetlands, meadows, and open water associated with river corridors. This includes lands within 300 feet of woody riparian habitat identified and mapped in the HCP and/or the defined 100-year floodplain.

“Typical and routine” – Practices that are usual, customary, and necessary for the continuation of agricultural operations. The maintenance and improvement of existing infrastructure, and the conservation and management of riparian habitat. These practices are conducted in a manner and a scope that is consistent with historical management and/or are consistent with management methods that are commonly accepted within the San Luis valley and the surrounding region.

#### Allowance of typical and Routine Land Management

Typical and routine land management activities in support of and related to agricultural, infrastructure, and conservation uses will be permitted to continue

with no restrictions under the Federal Endangered Species Act. These activities, and their impacts to riparian habitat, are covered by an Incidental Take Permit held by the County, which is supported by the San Luis Valley Regional Habitat Conservation Plan and its related Implementing Agreement. The County will rely on the monitoring and mitigation measures in the HCP to cover typical and routine land management activities, and the impacts of those activities on riparian habitat. The HCP will be administered by the Rio Grande Water Conservation District, in partnership with Rio Grande County and the State of Colorado.

5. Prime Agriculture Land

The Rio Grande County Land Use Administrator shall keep on file and available for public inspection a map of prime agriculture land as defined by the Soil Conservation Service.

When planning and approving subdivision plats located in or affecting prime agricultural land, consideration shall be given to the anticipated impacts of the subdivision on prime agricultural land. As a minimum the following criteria will be considered:

- a. Economic conditions affecting the agricultural operations on the land;
- b. Size and location of the acreage; and
- c. Availability of water to ensure continued viable agricultural use.

Article XVII. Design Standards

A. General Requirements

1. Consideration shall be given to the influence of topography insofar as it affects street pattern, proper drainage and maintenance of scenic views.
2. Where railroads are abutting or contained within a proposed subdivision, provisions for buffer strips and other protective treatments shall be made.
3. Trees and shrubs shall only be planted within property lines and are prohibited within street right-of-way lines, except upon written approval by the Board of County Commissioners.

B. Alleys

1. Alleys shall be provided in commercial and industrial developments, except that the County Planning Commission may waive this requirement where other definite provision is made for service access and off street parking adequate for the uses proposed.
2. The minimum width of an alley shall be twenty feet.
3. Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the County Planning Commission.

C. Easements

1. Easements shall be a minimum of sixteen feet wide, a minimum of eight feet of which shall be on each side of common rear lot lines where said lines abut. On perimeter rear lots, easements width shall be ten feet or more. Side lot easements, where necessary, shall be at least five feet in width. The slope off the County road must be a minimum 3% slope for drainage and snow removal.
2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be a storm water easement or drainage right-of-way conforming substantially to the lines of such water course and such further width as may be required by the County Planning Commission for necessary flood control measures. The minimum requirements for such easements shall be based on the one hundred year flood plain.

D. Blocks

1. The lengths, widths and shapes of blocks shall be determined with due regard to:
  - a. Provisions of adequate building sites suitable to the special needs of the type of use contemplated;
  - b. Zoning requirements as to lot size, useable building site and dimensions;
  - c. Needs for convenient access, circulation, control and safety of street traffic; and
  - d. Limitations and opportunities of topography.

2. Pedestrian crosswalks, not less than fourteen feet wide, shall be required where deemed essential to provide access to schools, playgrounds, shopping centers, or other community facilities.

E. Lots

1. Lot dimensions and areas shall conform to the requirements of the Zoning Regulations.
2. Depth and width of properties shall be adequate to provide for the off street service and parking facilities required by the type of use and development contemplated.
3. Lot frontage shall conform to the Zoning Regulations.
4. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.
5. Side lot lines shall be substantially at right angles or radial to street lines.
6. The subdividing of the land shall be such as to provide each lot with satisfactory access to an existing public street.

F. Streets

The arrangement, character, extent, width, grade and location of all streets shall conform to existing topographical conditions to enhance public convenience and safety and such streets shall be designed in accordance with the following provisions:

1. All streets must provide for the continuation of appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding tracts.
2. Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the Planning Commission may require marginal access or frontage streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of arterial and local traffic.

3. Minor streets shall be laid out so that their use by arterial traffic will be discouraged.
4. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission and Board of County Commissioners may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures.
5. Reserve strips controlling access to streets shall be prohibited except where their control is placed in the County under conditions approved by the Planning Commission and Board of County Commissioners.
6. Where the plat to be submitted includes only part of the tract owned or intended for development by the Subdivider, a tentative plan of a proposed future street system for the unsubdivided portion may be required of the Subdivider.
7. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged to permit the logical location and opening of future streets and appropriate re-subdivision, with provision for adequate utility easement.
8. A tangent at least four hundred feet long shall be introduced between reverse curves on major thoroughfares.
9. Cul-de-sacs or dead end streets, designed to be so permanently, shall not be longer than six hundred feet measured from the entrance to the rear of the turn around and shall be provided at the closed end with a turnaround having an outside right-of-way diameter of at least one hundred feet (length requirement may be waived by the Board of County Commissioners when the proposed density of the subdivision is one dwelling unit per acre or less). The appropriate Fire District/Marshall must approve cul-de-sacs.
10. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Board of County Commissioners.
11. Intersections
  - a. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than seventy degrees.

- b. Street jogs with centerline offsets of less than one hundred twenty five feet shall not be permitted.
- 12. All minimum street right-of-way widths, minimum roadbed widths and allowable grades are indicated on Tables 1 and 1A (inserts) located at the end of Article XVIII.
- 13. The roadway shall be centered in the right-of-way.
- 14. Private streets within any subdivision shall be engineered to ensure adequate ingress, egress, and compaction, curvature for the public health and safety and width to accommodate emergency vehicles. A sign-off from the appropriate Fire District and from the Road & Bridge Supervisor is required. If applicable, a letter shall be submitted from the Colorado Department of Transportation concerning the impact of the purposed project on the applicable state highway.

G. Hillside Development

Construction on slopes less than fifteen percent shall be encouraged. When a subdivision or development is proposed, any lot or lots which have an average slope of each such lot or lots of fifteen percent or greater, the following provisions shall apply to such lot or lots supplementary to all other provisions of these Regulations:

- 1. The Subdivider shall submit detailed information with the preliminary plat regarding geologic conditions, soil types and other pertinent information in order that a determination can be made as to the appropriateness of development on the site.
- 2. All individual lots shall be adequate in size for a building site so designated on the final plat.
- 3. The Subdivider shall submit with the preliminary plat detailed plans for any proposed cut and fill operations.
- 4. Maintenance easements shall be provided for access to any cut and fill slopes outside street right-of-way.
- 5. Special attention shall be given to lot design in order to accommodate adequate space for sewage disposal facilities.

6. Special attention shall be given to the drainage system in order to avoid erosion and slippage.

Construction on slopes greater than thirty three percent is prohibited.

#### H. Outdoor Lighting

- a. All fixtures, exclusive of those exempt under paragraph E and F below, shall be directed downward fully shielded. For purposes of this Section, fully shielded shall mean fixtures constructed so that light rays emitted are projected below, and not above, the horizontal plane of the fixture.
- b. Lighting shall be so placed as to prevent their light rays or illumination from being cast beyond property lines. High or low-pressure sodium bulbs may be a maximum of 75 watts. Mercury vapor lamps are prohibited. Mast mounted lights must be kept to a minimum number and a maximum height of twenty feet.
- c. All metal halide and fluorescent fixtures shall be filtered with glass, acrylic or translucent enclosures.
- d. Only high-pressure sodium (HPS), low-pressure sodium (LPS) or incandescent fixtures shall be permitted in commercial and multifamily residential parking areas. In addition, the level of illumination shall be consistent with minimum industry standards adopted by the Illuminating Engineering Society.
- e. All non-conforming outdoor light fixtures in existence prior to January 2005 shall be deemed a legal nonconforming use and may be continued subject to the requirements of a and b., if, electrical service has been abandoned for one year or more, all lighting must be brought up to current Rio Grande Building Code Standards.
- f. Gas fired fixtures, and lights used for holiday decorations are exempt from the requirements of this Section.

#### I. Dedication of Public Sites and Open Spaces.

1. General Requirement. The Planning Commission and the County Commissioners, upon consideration of the Master Plan, the necessity of public buildings and facilities in the area, and the particular type of site development

proposed shall require the dedication of areas or sites of a character, extent and location suitable for public use for schools, parks, greenbelts or other necessary public purposes (other than subdivision streets) according to one or more of the alternatives set forth below.

2. Procedure. Prior to final approval for all site developments, the applicant shall:
  - a. Dedicate land, interest in land, improvements or arrange for the construction of public facilities made necessary as a consequence of the site development, or Make a payment to the County of a sum of money, to be determined by the County in accordance with the criteria set out below, based upon either the fair market value of a percentage of the acreage, a flat fee per lot or tract or, in the case of any other method, such basis as may be agreed upon between the County and the developer; such in-lieu payment is to be applied against expenses incurred by the County in the provision of off-site municipal services or facilities made necessary or desirable by the immediate or future increase in population caused by or attributable to the site development, or
  - b. Provide property by private covenant where such property will fulfill the needed recreational or amenity purposes.
  - c. Fulfill such other arrangements or conditions, memorialized in the property subdivision agreement, as may be desirable or necessary to alleviate the effects of or increase the benefits caused by the site development and to promote the public health, safety and welfare of the present and future site development residents and inhabitants of the County as a whole.
3. Purpose. The purpose of the dedication and/or payment is to provide the public facilities and/or services made necessary as a consequence of the site development, in an amount roughly proportional to the impact of the site development upon such facilities and/or services or the increased need for them brought about by the site development. The developer shall have the option, in its sole discretion, to accept the County's calculation of the required dedication, or to perform such studies as are necessary to demonstrate the actual impact of the site development upon public services and facilities, and the resulting appropriate dedication or other contribution.
4. Criteria. The County and, in certain cases as outlined above, the developer, in formulating the appropriate combination of the options set forth above, shall take into consideration the following criteria:

- a. The size of the proposed site development.
  - b. The projected additional population associated with the proposed site development.
  - c. The projected need generated by the site development for municipal services and facilities, particularly recreational, educational and protective, the provision of which is not covered by other requirements herein.
  - d. The impact of the proposed site development on the implementation of the Master Plan and its component parts, including transportation and parks and recreation.
5. All moneys collected by the county under this article shall be deposited in an interest-bearing account which clearly identifies the category, amount or fund of capital expenditure for which the moneys were collected. Each such category, account or fund shall be accounted for separately. Any interest or other income earned on such moneys shall be credited to the account.
6. The location of all public or quasi-public land intended to be conveyed or reserved in the deed for use of all property owners shall be shown on the preliminary and final plats or site plans, as appropriate, together with the proposed method of ownership, management, maintenance and such other information as is necessary for the Planning Commission and County Commissioners to evaluate the proposal.
7. At the time of presentation of the final plat for approval by the Planning Commission and County Commissioners, a warranty deed shall be presented for all land to be conveyed to the County, school district or other governmental entity. A title insurance policy or other evidence that the land is free and clear from all encumbrances shall accompany the deed.
8. Reservation. Reservation by covenant, in lieu of dedication, may be permitted where land is to be used for recreational or amenity purposes by the property owners.

## Article XVIII. Improvements

### A. Plan Preparation

Plans for a qualified engineer shall prepare the public improvements herein required, registered in the State of Colorado. Two sets of prints of the plans and specifications for all public improvements shall be filed with the Land Use Administrator at the time of submission of the Preliminary Plat. One set of "as built" plans and specifications, certified and signed by an engineer registered in the State of Colorado shall be filed with the County Clerk prior to the acceptance by the Board of County Commissioners of any public improvements installed by the Subdivider.

### B. Completion of Public Improvements

No final plat shall be recorded until the subdivider has completed installation and construction of all public improvements as approved in the final plat documents including survey monumentation and they have been inspected and approved by the Board of County Commissioners.

### C. Monuments

Affixed securely to the top of each monument shall be the Colorado registration number of the land surveyor responsible for the establishment of said monument. Permanent external boundary survey monuments shall be set at locations approved by the Board of County Commissioners, provided that such monuments shall be set not more than fourteen hundred feet apart along any straight boundary line, at all angle points, at the beginning, end and points of change of direction or change or radius of any curved boundary. In addition, half-inch (1/2) steel pins (or larger) shall be set at all lot corners and shall identify lot and block numbers so that each lot can be readily identified

### D. Street Improvements

1. All streets and roads shall be constructed and surfaced in compliance with the Streets and Roads Technical Specifications located at the end of this Section.
2. Where streets are to be constructed through timberland, the trees must be cleared from the entire sixty feet of right-of-way for all streets and satisfactorily disposed of. In no case will streets be accepted where timber or debris has not been cleared to the sides of the roadway.

3. Curbs, gutters and sidewalks shall be required where a majority of lot widths are less one hundred feet and where the Board of County Commissioners deems them necessary for the proper drainage of storm water or for the protection of public safety and welfare.
4. All sidewalks, where required, shall be of concrete or bituminous material and shall be at least thirty-six inches in width.
5. Where bridges and culverts are necessary as part of the improvements in a subdivision, the Subdivider shall be responsible for their construction.
6. Street name signs shall be installed at all intersections in the subdivision according to the approval by the Board of County Commissioners. The signs must meet Road and Bridge sign standards and must be reflective.
7. Should the subdivider or the lot owners in a subdivision request paving of the streets by the County, the requesting parties shall be assessed the said cost as negotiated if accepted or requested.
8. Mail Boxes – The front of the mailbox and newspaper holders shall be a minimum of five (5) feet from the edge of the pavement or gravel road with a maximum four (4) inch wood post (s).
9. Water valves or manholes located within traveled portions of the roadway shall meet Rio Grande Road & Bridge specifications prior to installation.

E. Utilities

1. Water System

- a. The plans, design and specifications of all water distribution systems and individual wells shall be subject to applicable standards, review, technical procedures and requirements of the Colorado Department of Health, Water Quality Control Division and the Colorado Division of Water Resources.
- b. Fire protection shall meet local fire protection codes.

2. Sanitary Sewer System

- a. All sewage disposal and treatment systems, whether individual or public, shall comply with all regulations and specifications of the State Health Department and shall be located and constructed in such a manner that will not pollute or endanger wells or water sources.

- b. A public sanitary sewer central collection system and treatment facility shall be required in all subdivisions with a proposed density of greater than one (1) dwelling unit per acre.
- c. Where a central collection and treatment system is not required, the use of septic tanks and leach fields is the least desirable alternative. If septic tank-absorption systems are used initially, provisions should be made for a future central collection and treatment system. **SUBDIVIDERS AND OTHERS INTERESTED IN LAND DEVELOPMENT SHOULD INVESTIGATE SEWAGE DISPOSAL ASPECTS PRIOR TO LAND ACQUISITION.**

3. Storm Drainage

Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the State of Colorado and qualified to perform such work, and shall be shown graphically. All existing drainage features that are to be incorporated in the design shall be so identified. If the final plat is to be presented in stages, a general drainage master plan for the entire area shall be presented with the first section and appropriate development stages for the drainage system for each section shall be indicated. The drainage and flood plain systems shall be designed to permit the unimpeded flow of natural watercourses and to insure adequate drainage of all low points.

4. Electric, Gas and Telephone Services

- a. The Subdivider shall meet with the appropriate utility service prior to the public hearing on the preliminary plat in order to resolve problems of servicing the proposed subdivision with electric, gas, and telephone utilities.
- b. The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend applicable public utilities to the boundary line of all lots in the proposed subdivision. The installation of all public utilities shall be under ground a minimum of thirty inches of cover through the right-of-way and a minimum of thirty inches below any structure. Bridges may require special review. They are also subject to all other applicable county and state regulations. Such facilities shall be placed within easements or public streets, as herein provided or upon private easements or rights-of-way provided for particular facilities.
- c. In the event that the location of utility easements adjacent to property lines is unsuitable for use by utility companies due to drainage, irrigation ditches, timbered areas or other obstructions, suitable easement will be provided adjacent

to said areas or obstruction. Modification of easement width requirement may be granted only when approved by both the Planning Commission and the public utility or utilities concerned.

F. Other Improvements

The Planning Commission shall require other improvements not specifically mentioned herein but found necessary due to conditions peculiar to the site.

G. Streets and Roads Technical Specifications

1. Scope of Work

The contractor, subdivider, owner or their agent shall submit to the county, a plan with drawings showing right-of-way and roadbed, ground contours and also a profile plan of the roadway. The roadway shall be centered in the right-of-way. The work includes, but is not limited to, preparation of sub grade including minor cut and fill, procuring, hauling, placement and furnishing all tools, equipment, labor and transportation to complete the work in accordance with the foregoing specifications and accompanying plans.

The contract, subdivider, owner or their agent shall assume full responsibility and expense for the protection of all public and private property, structures, utilities both above and below the ground, at or near the site, or sites, of the work being performed under the contract, or which are in any manner affected by the prosecution of the work or the transportation of men or materials in connection therewith. The contractor, subdivider, owner or their agent shall give reasonable written notice in advance to the department, agency, county, or municipality having charge of any property or utilities owned by them and to any other owner, or owners, of public or private property or utilities when they will be affected by the work to be performed under the contract and shall make all necessary arrangements with such department, departments, owner or owners for moving, removing and replacing or protecting in place such property or utilities. The department, departments, owner or owners of the property or utilities shall make the determination of whether such property or utilities shall be moved, removed and replaced, or protected in place. If the contractor or subdivider, owner or their agent damages any utility which has been properly located by the owner, the contractor, Subdivider or their agent shall be responsible for the immediate repair of the utility.

2. Deviations Necessitated by Other Structures

Whenever obstructions not shown on the plans are encountered during the progress of the work and interfere to such an extent that an alteration of the line or grade is required, the County shall have the authority to change the line or grade.

3. Quality of Work

All work shall be conducted in a skilled workman like manner and finished line and grades shall conform to the drawings related thereto.

4. Water

The owner shall provide all water required for and in connection with the work. It shall be the contractor's, sub divider's, owner's or their agent's responsibility to supply all pumps, pipeline, other appurtenances and labor required to transport the water to the site of work.

5. Drawings and Specifications

Reference to the standards of any technical society, organization, or association, or codes of local or state authorities, shall mean the latest standard, code, specification or tentative standard adopted and published at the date the contract is executed, unless specifically stated otherwise. Should any standard, code, specification, or tentative standard be in conflict with these specifications, the provisions of these specifications shall govern.

6. Easement and Right-of-Way

The owner prior to the construction of any facilities will obtain all land, rights-of-way and easements required for this project thereon. When the contractor, Subdivider, owner, or their agent, carries on work outside of the lines designated for such easements, he shall make his own arrangements with the adjacent property owner and shall keep the county free from any claim resulting from his work.

7. Preparation of Subgrade and Excavation of Roadside Ditches

a. Scope

This work shall consist of removal of organic material along the proposed roadway, excavation of roadside ditches, shaping, grading and compaction of the on-site subgrade material if suitable, in the proposed roadway to the lines and grades shown on the plans.

b. Material

Material used for subgrade shall consist of soil excavated from roadside ditches and roadway areas where excavation is required rather than filling. The material used, if suitable, shall be free from vegetable matter and other deleterious substances and shall not contain clods.

c. Construction of Sub grades

As the first step in preparation of the subgrade, an inspection will be conducted by the County Road and Bridge Supervisor to determine how much topsoil containing organic material shall be removed from the construction zone of the roadway. This material shall be disposed of at a site designated by the owner.

After removal of organic material, suitable roadway cuts and roadside ditches shall be excavated to the required dimensions as shown on the plans. Soil excavated from the roadway and roadside ditches, if suitable sub base material, shall be spread uniformly across the proposed roadway in layers not exceeding six (6) inches until properly compacted. The moisture content of each layer of subgrade shall be maintained near optimum and sufficient compaction effort shall be exerted to achieve ninety-five percent of Standard Proctor Density (A.A.S.H.T.O. T-99).

Compaction shall be by means of sheep foot rollers, pneumatic tired rollers or other types of rollers or equivalent that will compact the subgrade to the required density.

In the event that excessively spongy or unstable materials are encountered, they shall be removed and/or the area filled with large rock and gravel in accordance with the instructions of the County.

No subgrade material shall be placed on frozen or muddy foundation material, nor shall snow, ice or frozen material be incorporated in the subgrade material.

8. Aggregate Sub base Course

a. Scope

This item shall consist of furnishing and placing aggregate sub base material on top of the subgrade as shown on the plans.

b. Material

Material used for sub base shall be pit run gravel free from vegetable matter and lumps or balls of clay and shall meet the gradation requirements in the following table and/or be approved by the County.

<u>Sieve Size or Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieve</u>
4 inch	100
3/4 inch	30-50
No. 200	5-12

c. Construction of Sub base

The sub base material shall be spread uniformly across the roadbed as shown in the plans in lifts not exceeding six inches in depth and then thoroughly compacted. The moisture content of each layer of sub base shall be maintained near optimum and sufficient compaction effort shall be exerted to achieve ninety percent of Modified Proctor Density (A.A.S.H.T.O. T-99). Compaction shall be by means of vibrating wheel roller, sheep foot roller, pneumatic tired roller or other types of rollers or equivalent that will compact the sub base to the required density. The top of the final layer of sub base shall be leveled and smoothed by means of power-driven grader to within +/- 0.1 foot of finished grade. If the sub base material contains a sufficient amount of large rock that final grading is difficult, select material, with rocks larger than +/- 1 1/2 inches removed, shall be imported and used in the final layer of sub base.

No sub base material shall be placed on frozen or muddy subgrade material nor shall snow, ice or frozen material be incorporated in the sub base material.

9. Crushed Rock or Gravel Surfacing Base Course

a. Scope

This specification applies to the procurement, hauling, and placement of crushed rock or gravel to provide a driving surface on the roadway. Surfacing materials

shall be placed on top of the sub base and to the dimensions as indicated on the plans.

b. Material

Material proposed for use as crushed rock or gravel surfacing shall be composed of sand and hard, durable fragments of rock together with filler material, which, when combined with the balance of the surfacing material will result in a product which will conform with the mechanical analysis of these specifications. The material supplied shall be a well graded mixture containing sufficient soil mortar, crusher dust or other proper quality binding material which, when placed and compacted on the roadway, will result in a firm, dense, stable surface. The material supplied shall be free of organic matter.

The material supplied shall be uniformly graded from coarse to fine and shall meet the following graduation requirements.

<u>Sieve Size or Designation</u>	<u>Percentage by weight Passing Square Mesh Sieve</u>
1"	100
3/4"	50-90
No. 4	30-60
No. 10	20-45
No. 200	5-12

c. Placement

The surfacing material shall be placed on the roadway in such quantities that it will form a layer of four (4) inches in depth after compaction. The placing of material on the roadway shall be done in such a manner that non-uniformity in the grading of the material from load to load will be adjusted or eliminated as far as practicable.

After surfacing material is placed, it shall be spread to the width and thickness required in these specifications and as indicated on the plans. Surfacing material that does not contain sufficient moisture to avoid segregation of particle sizes during placing operations shall be wetted prior to and during placement. After the material has been properly spread and wetted, it shall be compacted to ninety (90%) percent of optimum density as determined by laboratory tests. The use of water in an amount that results in the accumulation of a mulch of fines at the surface under the action of compacting equipment shall be avoided. Field density

may be checked in accordance with A.A.S.H.O. Method T-146, or other approved and practical tests.

All irregularities and depressions that may develop shall be immediately corrected with surfacing material of the type specified for the course being constructed. Ruts formed by traffic moving over the surfacing course shall be corrected prior to the final compaction of the material.

10. Corrugated Metal Pipe

a. Scope

This specification covers the furnishing and installation of circular corrugated metal pipe and necessary fittings to be used in the construction of drainage culverts. Drainage culverts shall be constructed in accordance with these specifications and in conformity with lines grades and slopes as shown on the plans or as established by the County in the field. In some instances a culvert may not be necessary. The County will determine if a culvert is deemed necessary and, if so, the size needed.

b. Material

All corrugated metal pins shall be of the size shown on the plans, galvanized, a minimum thickness of 16 gauge and may be helically or circumferentially corrugated. The pipe fittings and galvanizing shall conform to A.A.S.H.O. Specifications M-36. Damage to galvanizing shall be repaired by the owner prior to acceptance of the installation. Watertight connection bands shall be used on all installations.

c. Installation

Installation of corrugated metal pipe shall be in accordance with the manufacturer's recommendations unless otherwise specified herein or shown on the plans. All corrugated metal pipe shall be laid with the outside laps of circumferential joints pointing upstream and with longitudinal laps on the side.

Corrugated metal pipe shall be installed in trenches that have a firm, stable bottom. If the foundation is good firm earth, the trench bottom shall be shaped to give full support to the lower third of the pipe, or a layer of fine gravel or other suitable material can be placed in the trench bottom. In any case, the trench bottom along the entire length of the pipe shall be properly graded to assure adequate bearing of the pipe along its entire length.

Each section of pipe shall rest upon the pipe bed for its full length. Any pipe that is disturbed after laying shall be taken up and re-laid. The subgrade upon which

the pipe is placed shall consist of material suitable for supporting the pipe without excessive settlement or stress development. In the event that rock or excessively spongy or unstable materials are encountered, they shall be removed to a depth of not less than six (6) inches below the bottom of the pipe grade and replaced with approved material and mechanically compacted to grade.

Preparation of the trench bottom and placement of the pipe shall be carefully made so that, when in final position, the pipe is true to line and grade.

Backfill material shall be of the type and quality conforming to the specified for the adjoining fill material and shall be compacted with power tampers to the same density and moisture requirements as specified for the adjoining sections of compacted material.

After the culvert is in place, backfill material shall be placed and spread in layers not exceeding four (4) inches in depth prior to compaction. Backfill over and around the pipe shall be brought up uniformly on all sides in order to avoid distortional stress in the pipe. Particular care shall be taken to thoroughly compact the backfill materials under and around the pipe.

Drainage culverts shall be so placed that the minimum vertical distance from the finished road grade to the top of the pipe shall be not less than one (1) foot.

Where necessary to prevent damage to drainage culverts, culverts shall be installed after roadway compaction operations are completed. The invert of the culvert shall conform as nearly as possible to the bottom of existing drainage ways.

#### 11. Maximum Street Grades

Maximum road grade shall be no more than eight (8) percent unless otherwise approved by the Board of County Commissioners.

(Please see inserts)

Article XIX. Planned Unit Development

A. Purpose and Objectives

This article is enacted to encourage innovations in residential, commercial and industrial developments which:

1. Provide a greater variety in type, design and layout of buildings and open space;
2. Utilize land and public services more efficiently;
3. Benefit those who need lower cost homes;
4. Relate type, design and layout to the particular site, thereby encouraging preservation of the site's natural characteristics.

The use of the planned unit development (PUD) provisions is dependent upon the submission of an acceptable plan, and satisfactory assurances that the plan will be carried out. A PUD Plan must be in accord with the Rio Grande County Master Plan as may be currently adopted for the County.

B. Scope

1. Application for a planned unit development (PUD) may be made for land located in any zoning district.
2. A PUD IS NOT PERMITTED ON A PARCEL OF LAND LESS THAN 5 ACRES IN AREA.
3. The setback and lot width requirements stated in Article VIII (pg.) (38-42) shall not apply to planned unit developments. In specific cases, the off-street parking requirements stated in Article XI., (B) (pg. 66-71) and the minimum lot area as referenced, may be reduced. These requirements shall be controlled by the criteria and standards of this Article and as shown on the approved planned unit development plan.

C. Establishment of Planned Unit Development (PUD)

A planned unit development may be established by overlaying a PUD development plan over the applicable existing zoning district or districts. A zone change is not required: however, each planned unit development, requires a public hearing, and the development plan, must be approved by the Board of County Commissioners.

It is the intent of these zoning regulations that any property may be developed as a PUD provided it meets minimum size and other applicable requirements. Within a PUD the following uses and densities will be permitted subject to the approval of the Board of County Commissioners:

1. Permitted Uses

- a. Uses permitted by right or permitted by conditional use review in the underlying zoning district or districts. (Unless otherwise noted in HOA/POA or Covenants)
- b. In the AF;AE;RR; and MH ZONES, commercial and commercial resort/tourist uses are permitted subject to approval of the PUD plan and provided they do not occupy more than three and one-half percent (3 1/2%) of the net total (total area of the PUD minus roads) PUD area. In no PUD shall commercial uses exceed a total of sixty thousand (60,000) gross square feet of building area.
- c. Approved commercial uses, including parking, shall be included as an integral part of the PUD.
- d. Commercial and Commercial Resort/Tourist uses are limited to three and one-half percent (3-1/2%) of the net land area in any one development stage or phase and shall not be open to use prior to the completion of construction of fifty percent (50%) of the dwelling units in that stage.

2. Density

The total number of dwelling units permitted in a PUD shall be determined by dividing the net (total area - roads) area devoted to housing and usable open space by the minimum lot area requirements of each of the underlying district or districts as stated in Article VIII or as approved by the Board of County Commissioners, as provided for in Article VIII.

D. PUD Standards

The following provisions apply to all planned unit developments

1. The setback and lot width requirements as stated in Article IX. Shall not apply to planned unit development.

2. The number of off-street parking spaces in each planned unit development must not be less than the requirements as stated in Article XI pg. (66-71) (B)(1); (2) and (3) as it applies except that the Board of County Commissioners may increase or decrease the required number of off-street parking spaces, taking into consideration the following factors:
  - a. Probable number of cars owned by occupants of dwellings in the planned unit development.
  - b. Parking needs of any non-dwelling uses.
  - c. Varying time periods of use and whatever joint use of common parking areas are proposed.
  - d. Whenever the numbers of off-street parking spaces are reduced because of the nature of the occupancy, the Board of County Commissioners shall obtain assurance that the nature of the occupancy will not change.
3. The minimum lot area requirements as stated in Article VIII pg. 38-42 shall apply to the planned unit development except that the Board of County Commissioners may reduce such requirements if common and/or dedicated open space is provided or if design of amenities provided in the planned unit development warrant an increase in density or a reduction of lot size. Through clustering or other similar building configurations, densities may exceed the underlying zoning within sub-areas of the PUD; provided however, the minimum lot area per dwelling unit, minus building coverage, calculated for the entire PUD may not be reduced by more than one-fourth (1/4). A reduction in lot area per dwelling unit shall not be permitted if such reduction would be detrimental to the character of the proposed planned unit development or the character of the surrounding area.
4. Signs shall conform to the signing requirements in effect for the underlying zone, except that variances may be approved or required by the Board of County Commissioners when it is determined that such variances will result in better conformity of signs to or relationship of the signs to the general layout and design of the area. Variances will also be approved to promote public safety and welfare in the development.
5. All other requirements applicable to the underlying zone district or districts shall apply.
6. The Board of County Commissioners must be satisfied that the development plan has met with each of the following criteria or can demonstrate that one or more of them is not applicable and that a practical solution consistent with public interest has been achieved for each of these elements:

- a. There is an appropriate relationship to the surrounding area.
- b. Internal street circulation system is designed for the type of traffic generated, safety, separation from living areas, convenience, access and noise and exhaust control. Proper circulation in parking areas in terms of safety, convenience, separation and screening is provided for.
- c. Functional open space in terms of optimum preservation of natural features including trees and drainage areas, areas of exclusive slope, recreation, views, density relief, convenience and function.
- d. Variety and privacy in terms of needs of individuals, families and neighbors.
- e. Pedestrian and bicycle traffic in terms of safety, separation, convenience, access points of destination and attractiveness.
- f. Building types in terms of appropriateness to density, site relationship and bulk.
- g. Building types in terms of orientation, spacing, materials, color and texture, storage, signs and lighting.
- h. Landscaping of total site in terms of purpose such as screening, ornamental types used and materials used, if any; maintenance, suitability and effect on the neighborhood.
- i. If in a floodplain a detailed flood plain map, as well as how development will affect the floodway.
- j. **THE PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS SHALL CONSIDER THE FOLLOWING FACTORS, CRITERIA AND STANDARDS IN MAKING THEIR DETERMINATION WHETHER TO APPROVE A PRELIMINARY AND FINAL APPLICATION FOR A PUD AND RELATED DEVELOPMENT PLAN AND DEVELOPMENT GUIDE:**
  - (1) Need for the proposed development.
  - (2) The effect of the proposed PUD upon the immediate area, including employee-housing requirements.

- (3) Whether or not an exception from the zoning resolution requirements and limitations and from the subdivision regulations requirements and limitations is warranted by virtue of the design and amenities incorporated in the development plan and development guide.
  - (4) That land surrounding the proposed PUD can be planned in coordination with the proposed PUD.
  - (5) That the proposed change to PUD is in conformance with the general intent of the County Master Plan.
  - (6) That existing and proposed utility services are adequate for the proposed development and that the methods of financing, construction and maintenance are acceptable.
  - (7) That the PUD creates a desirable and stable environment, and does not cause unacceptable air, water or noise pollution.
  - (8) The suitability of both the overall PUD design concept as well as the general phasing scheme.
  - (9) Other relevant matters related to the PUD as determined by the Board of County Commissioners.
- k. All applications must include a proposed development guide that will be applicable only to that particular PUD and not to any other zone category or development. The development guide shall formally establish the standards and requirements for development with the entire PUD. The standards and requirements for development in the approved development guide may be different from the standards and practices established by the County Zoning and Subdivision Regulations, and any other applicable State and County Land Use Regulations for standard single zone districts, if the requested variations from those regulations are, in the opinion of the Board of County Commissioners, reasonable as well as necessary to the overall project development, and not detrimental to the County or the residents thereof. The regulations contained within the Rio Grande County Zoning and Subdivision Regulations, and any other applicable State and County Land use Regulations, existing or as may be amended, shall be applicable to any matter which is not addressed in the approved development guide. Each PUD owner as well as his heirs, successors, or assigns shall be bound by all matters, covenants, restrictions, terms and conditions contained in the approved and recorded final development plan and development guide, and the same shall run with the land.

- l. Landscaping design guidelines, which shall include design criteria for the construction of parks, water area, trails, rights-of-way (where applicable) and all land held in common, shall be contained in the development guide.
- m. The development guide shall further public health safety, and the general welfare; facilitate the efficient utilization of land; insure that there shall be an appropriate relationship with surrounding land and generally encourage compatibility with overall county planning objectives.

E. Coordination with Subdivision Regulations

1. It is the intent of these Regulations that subdivision hearings and review under the County Subdivision Regulations may cover only a portion of the entire project when the development is built in stages or phases.
2. At the discretion of the applicant and subject to approval by the County Commissioners as a part of the PUD review, the applicant may choose to delay initiation of subdivision review until final approval of the PUD is obtained.
3. At the discretion of the applicant, the development plans submitted under Sections k. may be submitted in a form which will satisfy the requirements of the Subdivision regulations for content of preliminary plans and final plats.
4. The requirements of this Article and those of the Subdivision Regulations shall apply to all planned unit developments EXCEPT TO THE EXTENT OTHERWISE GOVERNED BY SPECIFIC PROVISIONS IN AN APPROVED DEVELOPMENT GUIDE FOR A PUD.

F. Pre-application Conference

A pre-application conference shall be held with the Planning Commission in order for the applicant to present his Sketch Plan of the proposed PUD AS REQUESTED BY THE COUNTY SUBDIVISION REGULATIONS.

G. Preliminary Development Plan

1. An applicant seeking approval of a planned unit development shall submit to the Planning Commission a complete preliminary development plan, AND DEVELOPMENT GUIDE, showing the major details of the proposed planned unit.

The same shall be submitted in sufficient detail to evaluate the land planning, building design and other features of the planned unit.

2. The preliminary development plan and development guide for all PUD applications must contain, insofar as applicable, the following information and the Planning Commission and Board of County Commissioners shall consider the following criteria and standards in making their determination to approve a preliminary and final application for a PUD and related development plan and development guide.
  - a. Provided, that the application is for simultaneous subdivision review, all requirements of the county subdivision regulations applicable to a preliminary plan along with all required supplemental information in compliance with said regulations, subject to the provision that such information is only required for the initial phase(s) or stage(s) of the entire PUD, as requested.
  - b. The location and size of all existing and proposed LAND USES.
  - c. The character and density of dwellings.
  - d. The maximum height of all buildings associated with each Land Use planning area.
  - e. The Arterial traffic and circulation systems, off-street parking areas, service areas, loading areas and major points of access to public rights-of-way.
  - f. The location, size and character of proposed signs, lighting and advertising devices associated with each Land Use planning area.
  - g. Areas that are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas, and as sites for schools or other public buildings.
  - h. Areas within potential flood plain, or where geologic hazard, mineral resources, or wildfire hazards MAY EXIST.
  - i. A general landscape plan including a provision for more detailed information regarding the spacing, sizes and specific types of landscaping material in subsequent submittals.
  - j. A general plan regarding public facilities including a statement concerning proposed financing and, where appropriate, types of security anticipated to assure installation of such facilities.

- k. A general statement including graphic representation, where appropriate, of architectural intent and the means by which the intent will be achieved.
  - l. A general plan-addressing employee housing needs associated with the proposed development including the relationship of employee housing to the expected schedule and phasing of development.
3. A written statement to accompany the development plan must contain the following information:
- a. An explanation of the character of the planned unit development and the manner in which it has been planned to take advantage of the planned unit development regulations.
  - b. A statement of proposed financing.
  - c. A statement of the present ownership and legal description of all the land included within the planned development.
  - d. A list of the owners of abutting properties and properties located within three hundred feet of the property lines of the land included in the planned unit development complete with their addresses as listed with the County Assessor.
  - e. A general indication of the expected schedule and phasing of development including an indication that such phasing reasonably assures that the means to satisfy basic needs of residents are present or will be present within a time frame that is deemed acceptable, when occupancy occurs.
4. The development guide for all PUD applications must contain, as a minimum, provisions regarding the following development features:
- a. objective, purpose and intent
  - b. authority
  - c. definitions
  - d. land use planning areas

- e. utilities and services (including water, sewer, roads, electric, gas, telephone, police, fire, medical, solid waste, schools and snow storage and removal) and the financing construction and maintenance thereof.
  - f. signs
  - g. parking
  - h. landscaping
  - i. accessory structure and uses
  - j. general development schedule
  - k. appropriate exhibits
5. A separate statement describing specifically those variations from the existing subdivision zoning and land use regulations of Rio Grande County that are requested by the developer, including but not by way of limitation, variations with respect to density, setback, height, open space and public ways.
  6. Additionally, copies of any special agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continued protection of the planned unit and any of its common park areas must accompany the preliminary development plan.
  7. The applicant may submit any other information or exhibits he deems pertinent in evaluating his proposed planned unit development.
  8. Accompanying the application will be a non-refundable filing fee in the amount currently in effect by the Board of County Commissioners.
  9. Within forty-five days after a completed application is submitted to the County, the Planning Commission may hold a public meeting to consider the application. Notice of the public meeting shall be published in a newspaper of local circulation and the adjacent landowners identified in 3. d. above will be notified at least ten days prior to the public meeting. If the Planning Commission holds a public meeting, it shall give due consideration to all input presented at the public meeting and shall recommend to the Board of County Commissioners either approval of the preliminary development plan, in whole or in part, with or without modifications and conditions, or shall recommend denial of the plan. The Planning Commission shall advise the Board of County Commissioners of such recommendation in writing within thirty days after the public meeting or within forty-five days after the submission of the application if no public

meeting is held, giving all reasons for said action. The applicant will receive a copy of the report.

10. The Planning Commission may recess a meeting in order to obtain additional information pertaining to the preliminary development plan, but shall set a reasonable date and time to re-open said meeting before it is recessed.
11. The Board of County Commissioners, after receiving the written recommendation from the Planning Commission, shall hold a public hearing on the preliminary development plan with the following conditions required:
  - a. A notice of the date, time and place of said hearings shall be published in a newspaper of general circulation within the County at least thirty days prior to the hearing date.
  - b. A written notice of said hearing shall be sent by first class mail with a certificate of mailing, at least fifteen days prior to the hearing date, to property owners as listed with the County Assessor of abutting properties and properties within three hundred feet of the boundary of the subject property as shown on the list submitted by the applicant.
  - c. An adequate record of the hearing shall be maintained.
  - d. The Board of County Commissioners shall, within thirty days of the public hearing or within such time as is mutually agreed by the Board of County Commissioners and the applicant; either approves the preliminary development plan, in whole or in part, with or without modifications and conditions, or shall deny the plan. The decision of the Board of County Commissioners shall be transmitted in writing to the Planning Commission and to the applicant.
12. Any person applying to the courts for a review of any decision made under the terms of this article shall apply for a review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings, and the application for review shall be in the nature of certiorari under Rule 106(a) (4) of the Colorado Rules of Civil Procedure. The County shall be entitled to appeal any decision of the District Court under said Rule 106 proceedings.

#### H. Final Development Plan

1. Within twelve months following the approval of the preliminary development plan and development guide, where required, and at least fifteen days before a regular meeting

date of the planning commission, the applicant shall submit a final development plan containing in final form the information required in the preliminary plan and development guide. In addition, the final development plan will conform in all respects to the contents, supplementary information, notice and all other procedural requirements of the preliminary development plan and development guide review under this article and all of the provisions of the final plat section of the county subdivision regulations, except to the extent that variances thereto were approved in the development guide at the preliminary development plan approval. Such information, which shall be in final form, shall be in compliance with all approvals for the preliminary development plan, development guide, as well as any related terms or conditions; and further, such information shall be a requirement for and the basis of final development plan approval. In such cases where this article conflicts with the subdivision regulations, the more restrictive provision shall apply. At its discretion and for good cause, the planning commission may extend the period for filing the final development plan.

2. All final development plans for all PUD projects must be in substantial compliance with the approved preliminary development plan, and development guide when required, as well as any terms or conditions imposed by the Board of County Commissioners as part of the preliminary development plan and development guide approval. All matters contained in general plan form at the preliminary plan approval stage shall be in specific form at the final development plan state unless otherwise approved by the Board.
3. A final development plan for a PUD project may be submitted in phases. If a PUD is developed in phases, each phase must be in substantial compliance with the approved preliminary development plan, and development guide, as well as any terms or conditions imposed by the Board of County Commissioners as part of the preliminary development plan approval.
4. Approval of a PUD project shall be final after the Board of County Commissioners approves a final development plan, and development guide when required, for that PUD. If the PUD is developed in stages, approval by the Board of County Commissioners of a final development plan for the first phase shall constitute final PUD approval for the first phase only, provided, however, that the twelve month requirement of section L1 shall be deemed to have been met. All subsequent phases shall be subject to final development plan approval as set forth in (1), (2), and (3), above. No portion of a final development plan, project phase or plat filing shall be sold to another developer without the approval of the Board of County Commissioners.

#### I. Construction Procedures and Building Permits

Provided the time limit established by the approved development schedule as specified in section J., 3., e. has not passed, the official designated by the County shall issue building permits for buildings and structures in the area covered by an approved final development plan and approved development guide, provided that the plan and development guide have been recorded, if the applications for building permits are in conformity with the approved final development plan and approved development guide and with all other applicable regulations. If the time limit established by the development schedule has passed, no building permits shall be issued until after the Board of County Commissioners have reviewed the development plan and a new development schedule has been established.

J. Amendments of the Final Plan

No changes may be made in the approved final plan and/or approved development guide during the construction of the planned development except upon application to the Board of County Commissioners under the procedures provided below:

1. Minor changes in the location, siting and height of buildings and structures, may be authorized by the LAND USE ADMINISTRATOR, if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this section may alter the dimensions of any building or structure by more than ten percent.
2. All changes in use or changes in density and all other changes in the approved final development plan and/or development guide not covered in item 1 above, must be made by the Board of County Commissioners under the procedures authorized for the final development plan approval, and subject to the following:
  - a. No modifications, removal, or releases of the provisions of the final development plan and/or development guide by the county shall affect the rights of the residents, occupants and owners of the planned unit development to maintain and enforce all provisions at law or in equity, except as to those lawfully modified, removed or released.
  - b. No substantial modification, removal, or release of the provisions of the final development plan and/or development guide by the county shall be permitted except upon a finding by the county following a public hearing called and held in accordance with the provisions of this article that the modification, removal, or release is consistent with the efficient development and preservation of the entire planned unit development, does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the Planned Unit Development or the public interest.

- c. Residents and owners of the Planned Unit Development may, to the extent and in the manner expressly authorized by the provisions of the final development and/or development guide, modify, remove, or release their rights to enforce the provisions of the final development plan and/or development guide, but no such action shall affect the right of the county to enforce the provisions of the final development plan and/or development guide.
3. Any changes, which are approved for the final development plan and/or development guide must be recorded as amendments to the recorded copy of the final development plan and approved development guide

K. Enforcing elements of the final development plan and development guide

1. To further the mutual interest of the residents, occupants, and owners of a planned unit development and of the public in the preservation of the integrity of the final development plan and development guide, the provisions of the plan and guide relating to the use of land and the location of common open space shall run in favor of the county and shall be enforced at law or in equity by the county, in its discretion, without limitation on any power or regulation otherwise granted by law.
2. All provisions of the final development plan and/or development guide shall run in favor of the residents, occupants and owners of the planned unit development, but only to the extent expressly provided in the plan and/or guide and in accordance with the terms of the plan and/or guide, and, to that extent, said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly, or through an organization designated in the plan and/or guide to act on their behalf. However, no provisions of the plan and/or guide shall be implied to exist in favor of residents, occupants, and owners except as to those portions of the plan and guide which have been finally approved.
3. The Board of County Commissioners may require that the applicant provides for and establishes an organization for the ownership and maintenance of any common open space or other adequate arrangements for the ownership and maintenance thereof is made.
4. In the event that the organization to own and maintain common open space, or any successor organization, fails at any time after establishment of the planned unit development to maintain the common open space in reasonable order and condition in accordance with the final development plan and/or development guide, the county may serve written notice upon such organization or upon the residents of the planned unit development setting forth the manner in which the organization has failed to maintain

the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty days thereof and shall state the date and place of a hearing thereon which shall be held within fourteen days of notice. At such hearing the county may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said thirty days or any extension thereof, the county, in order to preserve the taxable values of the properties within the planned unit development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any right to use the common open space except when the same is voluntarily dedicated to the public by the owners and accepted by the county. Before the expiration of said year, the county shall, upon its initiative or upon the written request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice of such organization or to the residents of the planned unit development to be held by the Board designated by the county at which hearing such organization or the residents of the planned unit development shall show cause why such maintenance by the county shall not, at the election of the county continue for a succeeding year. If the Board designated by the County Determines that such organization is ready and able to maintain said common open space in reasonable condition, the County shall cease to maintain said common open space at the end of said year. If the Board designated by the county determines that such organization is not ready and able to maintain said common open space in a reasonable condition, the county may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination in each year thereafter.

5. The cost of such maintenance by the county shall be assessed to and paid by the owners of properties within the planned unit development that have a right of enjoyment of the common open space, and any unpaid assessments shall become a tax lien on said properties. The county shall file a notice of such lien in the office of the county clerk and recorder upon the properties affected by such lien within the planned unit development and shall certify such unpaid assessments to the Board of County Commissioners and County Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.

L. Enforcing the Development Schedule

1. It shall be the responsibility of the developer to submit quarterly progress reports to the Planning Commission to demonstrate compliance with the approved development schedule. If the developer of property in the planned unit development has failed to meet

the approved development schedule, the Commission may initiate proceedings to revoke the approved final development plan. It shall be the duty of the Planning Commissioners to notify the Board of County Commissioners of any substantial noncompliance with the development schedule. Upon application of the developer and upon recommendation of the Planning Commission and for good cause shown by the property owner, the Board of County Commissioners may extend the limits of the development schedule.

2. If the PUD is proposed to be developed in stages, no final development plan of any such stage shall be approved by the Board of County Commissioners unless said final development plan contains a proportionate share of the full range of planned facilities for the PUD to serve the projected population of said stage of the development.
3. All matters concerning staging of development, and the establishment and administration of a general development schedule for PUD projects shall be governed by an appropriate provision in an approved development guide suitable for each project.
4. The Board of County Commissioners SHALL require adequate assurance, in the form and manner which it approves, that the common open space and all services described in J.,2., HEREOF, and related features shown in the final development plan and development guide will be provided, developed and maintained.

M. Control of Planned Unit Development Following Completion

1. The Board of County Commissioners shall issue a certificate certifying the completion of the planned unit development and the County Clerk shall note the issuance of the certificate on the recorded final development plan.
2. After the certificate of completion has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned unit development will be in substantial compliance with the approved final development plan rather than by any other provisions of these regulations.
3. After the certificate of completion has been issued, no changes may be made in the approved final development plan except upon application to the Board of County Commissioners under the procedures provided below:
  - a. Any major extension, alteration "lot lines", or modification of existing buildings or structures may be authorized by the Board of County Commissioners if they are consistent with the purposes and intent of the final plan. No change authorized by this section may alter the dimensions of any building or structure more than ten (10%) percent.

- b. Any use not authorized by the approved final plan, but permitted in the PUD as a use by right under the provisions of the zoning regulations or as a use permitted by a conditional use review in the district in which the planned development is located, may be added to the final development plan under the procedures as stated in Article IX.
  - c. A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan.
  - d. All other changes in the final development plan must be made by the Board of County Commissioners under the procedures authorized by these Regulations for the amendment of the zoning map. No changes may be made in the final development plan unless they are required for the continued successful functioning of the planned unit development or unless they are required by changes in the development policy of the county.
4. No changes in the final development plan, which are approved under this Article, are to be considered as a waiver of the covenants limiting the use of land, buildings, structures and improvements with the area of the planned unit development.

Article XX. Exempt Division of Land

A. Regulation: The Planning Commission Board and the Board of County Commissioners may pursuant to rules and regulations, or Resolution, within the purposes of Part I, Article 28, Title 30, C.R.S. 1973, exempt from subdivision regulations any division of land if the Board determines that unusual or compelling circumstances are present; such as:

1. Terrain (if there is a natural split, such as a road, railroad or a canal/ditch.
2. A copy of a legal court order for a separation of land from a ranch or farmland.
3. All parcels must be two acres minimum.
  - a. "River Corridor" area per the Rio Grande County Master Plan, parcels along a river must be five acres.

**The Planning Commission and/or the Board of County Commissioners may allow one exempt division. If a request is made for a subsequent exempt division on the same parcel a previous division was approved a second division request may not be approved.**

B. Purpose: To provide procedures for use by the Board of County Commissioners and an applicant for exempt division of land normally involving the separation of a single parcel of land from a parent parcel of land.

C. Controls on Exempt Division of Land

1. Applications for exempt division of land shall not be approved for the purpose of circumventing the intent and purpose of subdivision regulations or in the absence of unusual or compelling circumstances. A landowner shall be required to comply with the requirements of a minor subdivision unless the board of County Commissioners determines that unusual circumstances are present that renders the land unusable if the requirements of a minor subdivision are applied.
2. Parcels of land created by an exempt division of land shall not be considered for any subsequent exempt division unless the Board of County Commissioners determines that unusual circumstances are present that a subsequent division of land should therefore be allowed.
3. Parcels of land created by an exempt division of land shall not be less than two acres and forming no more than two parcels of less than thirty-five acres each, and all parcels must have proof of water availability. (An application is necessary for each division formed). All parcels created shall place utilities underground except for parcels where a residence already exists.

4. If there are any structures on the parcel or parcels the setbacks for that zone district must be shown on survey. Transfers of ownership of part of a parcel of land to the owner of an adjoining parcel shall be exempt from the subdivision regulations if the party to whom such land is transferred records a deed describing all of his previously owned parcel and the parcel he is acquiring simultaneously with the recording of the deed for the parcel he is acquiring. (The purpose and intent of this requirement is to avoid creation of a third separately described parcel resulting from such transfers.)

D. Procedure for Making Application

Only the **owner** of a legal or equitable interest in the land where the division is proposed may file an application for exempt division of land, such application will be made on a **completed** form provided by the County and accompanied by:

1. A non-refundable processing fee in the amount currently in effect as set by the Board of County Commissioners. Where more than one parcel of land is applied for exempt division, the processing fee will be required for each parcel.
2. Notification of neighbors within fifteen hundred (1500) feet of the outside boundaries of the subject property of the proposed (Exempt Division of Land) in a rural zone district. This notification will include the date, time and place of hearing or meeting for consideration of the application. You can obtain a current listing of property owners in the Assessor's Office.
3. A preliminary plat or map of the property, which portrays:
  - a. The location and description and approximate size (2-acre minimum) of the land from which the proposed severed parcel (s) will be taken.
  - b. A Buffer Zone adequate to ensure that the pivot sprinkler/ end gun will not cause disturbance to any structure and/or access easements. Setbacks of all existing and/or proposed new structures must be depicted on survey maps. If approval is obtained, and the survey shows not have the depictions noted on the survey, the approval shall not be recorded until the corrections are made.

- c. House Bill 01-1088. The General Assembly further recognizes that if the surface estate and mineral estate are severed, the owners of these estates shall be entitled to notification C.R.S.24-65.5-103. NOTICE REQUIREMENTS. (1) NOT LESS THAN THIRTY DAYS (30) BEFORE THE DATE SCHEDULED FOR THE INITIAL PUBLIC HEARING/MEETING BY A LOCAL GOVERNMENT ON AN APPLICATION FOR DEVELOPMENT, THE APPLICANT SHALL PROVIDE THE NAME (S) AND ADDRESSES OF THE SEVERED

## MINERAL ESTATE.

- d. The location of public roads, existing and proposed easements, utilities, well, buildings, ditches, streams and other improvements located on or in the immediate vicinity of the parcel proposed to be severed needs to be drafted on the survey. It is required that the application is supported by a preliminary survey and then final survey (accurate metes and bounds survey) approval shall be deposited with the Rio Grande County Clerk and Recorder and after such; the Land Use Administrator will draft a Resolution with a copy of the survey attached, which will also be recorded by the Clerks' Office.

### E. Processing the Application

The application will be received and reviewed by the Land Use Administrator for completeness, obvious conflicts of the proposal with law or regulation and to determine if the proposal involves any potential conflicts or problems. Incomplete applications will be returned to the applicant.

The applicant will be advised when the proposal is in obvious conflict with law or regulation, with the suggestion that the application be withdrawn. Applications not withdrawn and other wise in order will be forwarded to the Planning Commission and the Board of County of Commissioners. (The Land Use Administrator is not responsible for completing the application for you, all questions, or required documents need to be attached to the application or it will be deemed incomplete and will not be scheduled until ALL required documents are attached.)

#### 1. Planning Commission Review and Recommendation

Applications received by the Planning Commission will be reviewed, any necessary investigations shall be included in their recommendation for approval, with or without conditions, or disapproval, and shall be forwarded to the Board of County Commissioners within forty-five days after receipt of the application by the Land Use Administrator.

#### 2. Action by the Board of County Commissioners

Applications received by the County Commissioners, either from the Planning Commission or the Land Use Administrator will be considered and a preliminary decision made to approve or disapprove the application with or without change within thirty days after receipt of the application, or at such other date as is mutually agreeable to the Board and the applicant.

Final action on the application by the Board of County Commissioners will not be made until such survey and accompanying plat needed to adequately identify the parcels of land formed for the purpose of recording such division in public records and for transferring title to the parcel formed is received

3. Final action to approve or disapprove the application in whole or in part will be by resolution of the Board of County Commissioners. Resolutions granting applications will be recorded in the Office of the County Clerk and Recorder, after which, notice of the division of land will be sent to the State Division of Water Resources. The Land Use Administrator will maintain a record of all actions on exempt divisions of land.

F. Approval Criteria

1. Determine the proposed use of the parcels resulting from the division and analyze the proposal based on use as follows:
  - a. Does the proposed use seriously conflict with surrounding uses or landowners? Secure information and advice of such users and landowners if deemed available.
  - b. Is the proposed use going to benefit the community now and in the future as much or more than the existing use?
  - c. Is the land adequate, suitable and capable of meeting the proposed use?
  - d. Will the proposed use have a serious adverse effect on soil, water, air or aesthetics of the area?
  - e. Should the land in question be included with adjacent lands to form a larger, properly planned subdivision?
  - f. Will the proposed division of land result in parcels large enough to properly handle sewage disposal and other needs inherent to the proposed use? Likewise, are they so large that land in excess of the needs of the proposed use will go to waste?
  - g. Does the proposed use comply with existing zoning regulations?
  - h. Will the division proposed contribute to undesirable encroachment of prime agricultural land? If it does, are water rights available for the division?

- i. Is the division proposed, a corner of a parcel of land, irrigated by center pivot systems? If it is, does it constitute an undesirable encroachment of prime agricultural land?

#### Article XXI. Minor Subdivision

- A. Definition: A Minor Subdivision shall consist of five or less lots of less than thirty five acres each which do not require improvements at county expense (sewer, water works, roads, etc.).
- B. Purpose: To provide a relatively simple procedure for dividing small tracts of land for development where such development and use have only minor impacts to other lands in the vicinity.
- C. Application:

The applicant will make application to the County Land Use Administrator on a form provided by the County. The application will be accompanied by:

1. A non-refundable processing fee in the amount set by the Board of County Commissioners and on file in the office of said Board. The fee will include a flat fee for each application plus an additional fee for each parcel and other cost in
2. The Board of County Commissioners pursuant to the Rio Grande County Master Plan and the particular type of development proposed shall require the Subdivider or developer to make a cash contribution to the County calculated at a maximum of five percent of the appraised value of the land prior to development. The Board of County Commissioners shall state the use or uses of the cash contribution. The cash contribution shall be used for schools, parks, historic sites, scenic areas or other necessary public purposes as determined by the Board of County Commissioners.
3. A preliminary plat of the property, showing proposed property division lines, size of resulting parcels, location of existing structures (if any) and including existing and proposed roads.
4. A brief summary of proposal to include information that will aid in clarifying the various facets of the proposal and that are not included on the application form.

5. A list of owners of properties located within fifteen hundred feet of the subject property in Rural Zone Districts and within three hundred feet in all other zone districts, along with the current addresses of all such owners as listed with the County Assessor.
6. A statement of compatibility with the Rio Grande County Master Plan.
7. Notify Fire Districts for suggestions on a fire mitigation plan and review ingress and egress.
8. If in a flood plain a detailed flood plain map as well as how the development will affect the flood plain

D. Processing of Application

1. The application will be referred to the Planning Commission, where they will then:
  - a. Hold a public hearing at least thirty (30) days after receipt of the application with a written notice of said public hearing sent by first class mail with a certificate of mailing, at least fifteen (15) days prior to the hearing date, to the property owners as required in C.,5., of this section. If the application lies in part or totally within the Monte Vista, Del Norte, Center, or South Fork Joint Consultation Area as outlined on the Rio Grande County Master Plan, a notice shall be sent to the applicable planning commission, board of trustees, or town council indicating the date, time and place of such public hearing.
  - b. Review the proposal to determine its conformance with Rio Grande County Subdivision and Zoning Regulations and the Rio Grande County Master Plan as well as to identify any other desirable and undesirable effects of the proposal.
  - c. Suggest changes that are determined to be desirable and obtain additional information needed to make a recommendation.
  - d. Make recommendation for or against approval of the application to the Board of County Commissioners, stating conditions (if any) upon which the recommendation is based. The recommendation will also be made available to the applicant. If the County Planning Commission approves the Final Plat, the County Land Use Administrator shall hold the original until such time as all required conditions related to final processing of the plat are satisfactorily completed.

- e. Once all the required supplemental conditions are met (such as dedicating certain land to public use, etc.) the County Land Use Administrator shall present the original of the Final Plat to the Board of County Commissioners for their review and action.
2. After receiving a recommendation from the Planning Commission, the Board of County Commissioners will hold a public meeting. The Board of County Commissioners will make a decision to approve, modify or deny the application within thirty days after a recommendation has been received from the Planning Commission, unless further time is mutually agreed to by the applicant and the Board or after the public hearing.
3. Upon approval by the Board of County Commissioners the applicant will have a final plat prepared to include:
  - a. Appropriate heading to include title, date, scale, north designation, name of Subdivider and registered surveyor.
  - b. Outside boundary of the whole area proposed for subdivision, showing ties to the local land survey and including a legal or metes and bounds description of the land.
  - c. Exact location of the proposed property division (tract) lines, including length and bearings of such lines and acreages of resulting tracts.
  - d. Tract or lot designations by name, number or letter.
  - e. Location of roads, easements, existing structures.
  - f. Location of ditches and streams.
  - g. If in a floodplain a detailed flood plain map as how said development will affect the floodplain.
3. The Board of County Commissioners upon final plat approval shall sign a Resolution stating such, which will be sent to the Subdivider and the Planning Commission. The Final Plat shall be signed upon Board of County Commissioner approval upon the completion of all required improvements (streets, water and sewer systems and etc.) including survey documentation of the subdivision following the procedures as set forth in the Subdivision Platting procedures

4. A copy of the signed final plat prepared according to the regulations in Article XIV., C. together with a copy of the covenants shall be recorded not more than six days after the Final Plat is signed by the Board of County Commissioners, in the office of the County Clerk. The recording fee shall be paid by the Subdivider and shall be submitted at the time application is made.

E. Criteria for Approval of Minor Subdivision

1. Completed preliminary plan application and checklist.
2. Does not seriously conflict with the policy and guidelines of the Rio Grande County Master Plan.
3. Adequate, suitable water must be available for the use intended (water well permit or certificate).
4. Site must be suitable and plans adequate to assure proper disposal of sewage and other wastes.
5. All lots must have legal access to a public road.
6. The proposed use of the lots must conform to the Zoning Regulations for the district on which the minor subdivision is located.
7. Determine if the area should be included with adjacent lands to form a properly planned larger subdivision to prevent piecemeal area planning.
8. The area or land has no other significant physical limitations affecting the use proposed.
9. Adequate erosion control measures planned.

Article XXII. Supplementary Provisions

A. Replats

Replats of existing subdivisions shall conform to the procedures for planning and reviewing original subdivision proposals, unless the Planning Commission finds that the changes to the original plat would not materially or substantially alter the comments, recommendations and considerations involved in the original subdivision process. When the applicant requests that such a finding be made by the Planning Commission, the replat may be allowed pursuant to the following procedure:

1. Submission to the Land Use Administrator by the applicant of a completed application for Replat of Subdivision form accompanied by:
  - a. A copy of the recorded plat of the subdivision.
  - b. Copies of the recorded deeds or deeds showing present ownership by the applicant of all property in the subdivision that is materially affected by the replat. If the applicant is not the owner of all such property, the applicant must provide notarized statements signed by the owners of all such property showing that they do not object to the requested replat, along with copies of recorded deeds showing present ownership by such persons of such property.
2. Upon receipt by the Land Use Administrator of the Application for Replat of Subdivision, the Land Use Administrator will present the application to the Planning Commission at its next regularly scheduled meeting. The Planning Commission shall first determine whether the replat would materially or substantially alter the comments, recommendations and considerations involved in the original subdivision process. If the Planning Commission determines that the replat would materially or substantially alter the comments, recommendations and considerations involved in the original subdivision process, the applicant will be required to go through the original subdivision procedure.

If the Planning Commission finds the replat would not materially or substantially alter the comments, recommendations and considerations involved in the original subdivision process, the Planning Commission will recommend approval of the Application for Replat of Subdivision to the Board of County Commissioners if the Planning Commission finds that:

  - a. The replat would not adversely affect any of the purposes listed in Article XIII. Paragraph A., (pg. 107-112)

- b. The replat would not result in significantly impaired access of any lots to public roads.
  - c. The replat would not result in significantly impaired access of any lots to public utilities, including water, sewer, natural gas and electricity.
  - d. The replat would not create lots that would not be allowed by Rio Grande County Subdivision Regulations in an original subdivision application.
  - e. The replat would result in some benefit to the public or the owners of property affected by the replat.
3. The Planning Commission shall forward its findings and recommendations to the Board of County Commissioners within sixty days after receipt of the application by the Land Use Administrator. If the Planning Commission makes affirmative findings in regards to Paragraphs 2. a. through e. above, the Planning Commission shall recommend approval of the application to the Board of County Commissioners with its findings. If it does not make such findings, the Planning Commission shall recommend disapproval of the application to the Board of County Commissioners, with its findings in regard to the criteria in Paragraph 2. a. through e. above. The Board of County Commissioners shall review the Planning Commission's finding and recommendations and shall make a final decision on the application within thirty (30) days after receipt from the Planning Commission.

## B. Vacations

Vacations or partial vacation of a subdivision shall be subject to the following procedure:

1. Submission to the Land Use Administrator by the applicant of a completed request for total or partial vacation of a subdivision form accompanied by:
  - a. A copy of the recorded plat of the subdivision.
  - b. A copy of the plat showing the area to be vacated (if a partial vacation is requested).
  - c. Copies of the recorded deed or deeds showing present ownership by the applicant of all property in the subdivision that is materially affected by the vacation. If the applicant is not the owner of all such property, the applicant must provide notarized statements signed by the owners of all such property showing that they do not object to the requested vacation, along with copies of recorded deeds showing present ownership by such persons of such property.

2. Upon receipt by the Land Use Administrator of the Application for Total or Partial Vacation of a Subdivision, the Land Use Administrator will present the application to the Planning Commission at its next regularly scheduled meeting. The Planning Commission shall review the application and shall recommend approval of the application to the Board of County Commissioners if the Planning Commission finds that:
  - a. The requested vacation would not result in any detrimental effect to the property to be vacated or to any other property, with special attention to be given to property remaining in the subdivision if the request is for a partial vacation of a subdivision.
  - b. The vacation would result in some benefit to the public or to the owners of the property affected by the vacation.
3. The Planning Commission shall forward its findings and recommendations to the Board of County Commissioners within sixty days after receipt of the application by the Land Use Administrator. If the Planning Commission makes affirmative findings in regard to Paragraphs 2. a. and b. above, the Planning Commission shall recommend approval of the application. If it does not make such findings, the Planning Commission shall recommend disapproval of the application. The Board of County Commissioners shall review the Planning Commission's findings and recommendations and shall make a final decision on the application within thirty days after receipt from the Planning Commission.
4. Fees:
  - a. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, conditional-use permits, special-use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be established by resolution of the Board of County Commissioners. There may be additional fees not set forth by Rio Grande County by other listed regulatory agencies for their time for review and recommendations.

- b. The County will bill developers for any and all costs of professional or consulting services that the County incurs as a result of a developer of his or other project. Professional or consulting services include but are not limited to: legal, engineering or hydrological services
  
- c. Fees established in accordance with Subsection (a) shall be paid upon submission of a completed land use application or notice of appeal. All an application for which, there is a fee shall be accompanied by the appropriate fee. Applications that are not accompanied by the appropriate fee shall be considered incomplete and shall not be processed nor shall any permit be issued unless the appropriate fee accompanies the application. The applicant shall pay the County the actual cost to the County for engineering, planning, surveying, inspection and legal services rendered in connection with the County. The review of the proposed development application plus fifteen percent to cover administrative costs.

The County will send the applicant a statement to the actual and administrative costs incurred by the County for the services rendered by the County. The applicant shall pay the County the amount due on the statement within fifteen (15) days of the date of the issuance of such statement. In the event the applicant fails to pay the amount due on the statement within the time period specified above, the County shall immediately stop the review process for the proposed development. The application will be deemed withdrawn if the statement is not paid in full with thirty days of the date of the issuance of the statement.

If statement is not paid in full with thirty days after issuance of the statement, in addition to the application being withdrawn, the County shall impose interest on the amount due and outstanding at the rate of one and one-half percent (1.5%)per month from the date when due.

In addition to the County remedies to stop the review process upon nonpayment of such statement, and to impose penalty interest, the County shall additionally possess the right to initiate an enforcement action against the applicant for nonpayment of fees. Such enforcement action may be initiated either in the Rio Grande County Court. In the event such collection action is determined, in favor of the County the County shall be awarded its attorneys' fees and court costs in addition to the unpaid fees as part of any judgment.

The payment of fees of the costs of professional and consulting services under this Section shall be due and payable as set forth within this section, regardless of whether the project is completed, approved and/or regardless of whether the owner/developer chooses to complete the County's Land review process under the County's Land Development Code.

The applicant shall pay any impact fees as established by County Resolutions in effect at the time the development application is approved by the Board of County Commissioners. The impact fees shall be paid at the time of issuance of a building permit.

5. Basic use, location and bulk,
  - a. The permitted uses, basic location and bulk regulations for the various zoning districts are hereby adopted and declared to be parts of this Title, and may be amended in the same manner as any other part of this Title.
  - b. Control over location and bulk. Subject to the provisions of this Title dealing with nonconforming uses and buildings, the location and bulk of all buildings and other structures that are currently existing or hereafter constructed shall after the effective date of the ordinance codified herein be in conformity with:
    - (1) All regulations set forth or referred to in the regulations for the district in which such buildings and other structures are located; and
    - (2) Any other applicable regulations of this title. Article XXII. Supplementary Provisions.

Article XXIII. Enforcement

A. Enforcement

1. Zoning

- a. The Board may provide for the enforcement of the zoning or supplementary regulations by means of the withholding of building permits. It shall be unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the unincorporated territory covered by such zoning or general regulations without obtaining a building permit from Rio Grande County. Such Land Use Administrator shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning and general regulations then in effect.
- b. It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in, or of any provisions of, any zoning or general regulations of this Land Development Code, or any amendments thereto.

Any person, firm or corporation violating any such regulation, provision or amendment shall be subject to actions and penalties set forth in CRS 30-28-124, or any other current applicable Colorado Revised Statute and any other legal action provided by appropriate law.

- c. The Land Use Administrator or his authorized representative is authorized to enter upon private property for the purpose of administering this Land Development code. The owner of the property shall give the Land Use Administrator free access after Rio Grande County has given reasonable notice for such survey or inspection. If access is denied, the Land Use Administrator may apply to the District Court of Rio Grande County for an order authorizing entry. If a violation shall be found to exist, the County Land Use Administrator or his authorized representative shall give written notice to the violator to correct such violation within thirty days after the date of such notice. Should the violator fail to correct the violation within such thirty day period, the Rio Grande County Land Use Administrator or his authorized representative may request that the County Sheriff deliver a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The summons and complaint shall require that the violator appear in County Court at a definite time and place stated therein to answer and defend the charge.

One copy of said summons and complaint shall be served upon the violator by the County Sheriff in the manner provided by law for the service of a criminal summons. The Sheriff and the Rio Grande County Land Use Administrator shall retain one copy each, and the Sheriff to the Clerk of the County Court shall transmit one copy.

Notwithstanding the foregoing, the issuance of a written notice as specified in the paragraph next above shall in no way or manner be deemed a prerequisite to the institution of any enforcement proceedings set forth herein; and provided further, that compliance with such written notice shall not necessarily be deemed to be a defense to any alleged violation of this Land Development Code in any court action instituted seeking full compliance therewith, but evidence of compliance with such order may be introduced as matter in mitigation and extenuation.

- d. The County Attorney's office is hereby authorized to enforce the provisions of this Section on behalf of the Board of County Commissioners.

## 2. Subdivision Violations

- a. Any Subdivider or agent of a subdivider who transfers or sells land before a Final Plat for such subdivided land has been approved by the Board of County Commissioners and recorded or filed in the Office of the Clerk and Recorder is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$500 for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected under this paragraph shall be credited to the General Fund of the County.

- b. The Board of County Commissioners has the power to bring an action to enjoin any subdivider from selling subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners and recorded.

- c. Guarantee of Public Improvements

The Board of County Commissioners or any purchaser of any lot, lots, tract or tracts of land subject to a plat restriction which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in any District Court to compel the enforcement of any Subdivision Improvements Agreement on the sale, conveyance or transfer of title of any lot, lots, tract or tracts of land or of any other provision of such agreement. Such

authority shall include the right to compel rescission of any sale, conveyance or transfer of title of any lot, lots, tract or tracts of land contrary to the provisions of any such restriction set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit.

d. Suspension of Approval

The Board of County Commissioners may suspend or withdraw any approval of a plan or plat or may require certain corrective measures to be taken following determination that the information provided by the Subdivider upon which such approval was based is false or inaccurate. A written notice from the Board of County Commissioners or its designated representative shall be served upon the Subdivider, setting out a clear and concise statement of the alleged facts and directing the Subdivider to appear at a certain regular meeting of the Board of County Commissioners not less than ten (10) days nor more than thirty (30) days after the date of service of notice. The Board of County Commissioners shall determine at the meeting the nature and extent of alleged false or inaccurate information, shall consider any new significant information that has been brought to its attention, and shall, for good cause shown, suspend or withdraw any approval or require certain corrective measures to be taken.

3. Building Violations

The Land Use Administrator or his designated representative is authorized to administer and enforce the Rio Grande County Land Development Code. It shall be unlawful to erect, construct, reconstruct, alter or remodel any structure, dwelling, or building in the designated area without first obtaining a building permit from the Rio Grande County Building Department. The County Building Department or his designated representative shall not issue any permit unless the plans for such proposed erection, construction, reconstruction, alteration or remodeling fully conform to the regulations of said Department and restrictions in the County Land Development Code.

- a. Any violation of the County Land Development Code shall be deemed a nuisance.
- b. Any person who violates the provisions of the County Land Development Code is liable upon conviction of a fine of not more than \$100, or by imprisonment in the County Jail for not more than ten (10) days, or by both such fine and imprisonment. Each day during which such illegal erection, construction,

reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

- c. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, remodeled, used or maintained in violation of the provisions of the County Land Development Code, the Board of County Commissioners by and through its County Attorney, the District Attorney, or any owner of real estate within the area, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus, or abatement to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, remodeling maintenance or use.
4. Cumulative Effect

The foregoing remedies and enforcement provisions shall be cumulative and not exclusive and shall be in addition to any other remedies and enforcement provisions provided by law.

5. Non-Liability for Damages

The Land Development Code shall not be construed to hold Rio Grande County in any manner responsible for any damages to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided, or resulting from the institution of court action as hereinabove set forth or the forbearance by Rio Grande County to so proceed.

6. Non-Liability of Officials

Any County Official or employee, charged with the enforcement of the Rio Grande County Land Development Code, acting in good faith and without malice on behalf of said County in the discharge of his official duties, shall not thereby render himself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him in the enforcement or attempted enforcement of any provision of this Code, shall be defended by the legal officer(s) of the County until final termination of the proceedings.

Article XXIV. Vested Property Rights

A. Authority

Title 24, Article 68, Colorado Revised Statutes

B. Regulations by Zone District

1. The procedures set forth in this subsection 1 shall be used to request the vesting of property rights within the following zone districts:

Agricultural Forest  
(AF) Agricultural  
Ranching (AR)  
Agricultural Estate  
(AE) Rural  
Residential (RR)  
Residential (R)  
Mobile Home (MH)  
Commercial  
Business (CB)  
Commercial Resort/Tourist  
(CRT) Light Industrial (LI)  
Heavy Industrial (HI)

- a. The Board of County Commissioners' approval of a Final Plat for residential uses may constitute approval of a Site Specific Development Plan for the purposes of property rights vesting.
- b. For all other uses, including those listed within the category of uses requiring conditional use review or planned unit development, the Board of County Commissioners' shall require a Site Specific Development Plan for purposes of property rights vesting.

C. Platting Required

All land for which a vesting of property rights is requested shall be platted prior to or in conjunction with such vesting.

D. Request for Site Specific Development Plan Approval

Any request for approval of a Site Specific Development Plan that would create a vested property right shall follow the procedures established for zoning and rezoning requests set forth in this Code, including the provisions for published notice and public hearing. Failure to so request renders the approval not a "Site Specific Development Plan," and no vested rights shall be deemed to have been created.

E. Standards and Conditions for Approval

A Site Specific Development Plan shall be approved only if the Board of County Commissioners finds that the Site Specific Development Plan meets the following standards and conditions:

1. Meets the minimum application requirements of a previous land use approval(s) pursuant to the Rio Grande County Land Development Code for the subject development of the property, including terms and conditions of such land use approval(s).
2. Is consistent with the land use approval(s) noted next above.
3. The development complies with all applicable codes, regulations and other permit requirements in effect at the time of approval.

The Board may approve, conditionally approve, or deny a request for Site Specific Development Plan approval. A conditional approval may impose such terms and conditions as are necessary to protect the public health, safety and welfare of current and future residents of the County.

Failure to abide by such terms and conditions shall result in forfeiture of vested property rights and shall void the Site Specific Development Plan.

Reapplication for such forfeited rights shall be by new petition and shall comply in all respects with the procedural and substantive provisions of this chapter.

F. Notice

Notice of the Board of County Commissioners' approval of a site-specific development plan and the creation of vested property rights shall be published in a newspaper of general circulation in Rio Grande County no later than fourteen days following the approval.

G. Duration of Vested Property Rights

A vested property right, once created, shall run for a period of three years commencing from the date of the Board's approval of the Site Specific Development Plan.

The Board of County Commissioners may enter into a development agreement with the applicant providing for vesting of property rights for a period of longer than three years. In determining whether to enter into such an agreement to extend the time period of Site Specific Development Plan approval, the Board of County Commissioners shall consider the size and phasing of the development, economic cycles, market conditions and other relevant circumstances, which warrant such agreement. A development agreement shall, as a minimum, include the following:

1. Description of the land subject to the development agreement.
2. Specification of the permitted uses of the property, the density and intensity of use, the phasing of the development project and the maximum height and size of proposed buildings.
3. Provision, where appropriate, for reservation or dedication of land for public purposes as may be required or permitted pursuant to laws, resolutions, regulations or policies in effect at the time of entering into the agreement.
4. Identification of the terms and conditions relating to financing of necessary facilities by the applicant.
5. Description of all permits needed to be approved for the development of the property.
6. Provision for commencement dates and completion dates.
7. Provision for review of compliance with the terms and conditions of the development agreement, on a periodic basis.
8. Provision for modification, termination, cancellation and enforcement of the development agreement.
9. Description of any requirements determined to be necessary to protect the public health, safety and welfare.

The development agreement may also cover any other matters not inconsistent with Section 24- 68-101, ET. seq., C.R.S., as may be amended, nor prohibited by law.

#### H. Submittal requirements

Follow the same procedure as outlined in Amendments to the Zoning Regulations, Article XII. (pg.103-107) H., 3.

I. Recording Required

1. Prior to the Board of County Commissioners' consideration of a Site Specific Development Plan, the applicant shall provide the Land Use Department the copy of the plan and related documents (e.g. Development Agreement, Covenants, Resolutions) to be recorded together with all fees necessary to record the Site Specific Development Plan and related documents.
2. Upon the Board of County Commissioners' approval of the Site Specific Development Plan, the signature of the Chairperson of the Board of County Commissioners and the Land Use Administrator shall be affixed to the document.
3. The Site Specific Development Plan and related documents shall be recorded by the County Clerk prior to the publication of the Notice of the Board of County Commissioners' approval of the Site Specific Development Plan and creation of vested property rights.
4. No changes, erasures, modifications or revisions shall be made on the Site Specific Development Plan after approval by the Board of County Commissioners.

J. Amendments to Site Specific Development Plans

The Board of County Commissioners following review and public hearings held in accordance with this chapter and pursuant to finding shall permit except no amendment of the Site Specific Development Plan upon approval that the amendment is consistent with the standards as set forth in Section F. of this chapter. The Board of County Commissioner's approval of any such amendment of the Site Specific Development Plan shall not extend the duration of the original vesting unless expressly authorized by the Board of County Commissioners.

K. Fees

The Board of County Commissioners may establish fees to cover the cost associated with review of an application for a Site Specific Development Plan.

L. Other Provisions Unaffected Approval of a Site Specific Development Plan shall not constitute an exemption from or waiver of any other provisions of this Code, nor any other

applicable County regulations or resolutions, pertaining to the development and use of property.

Article XXV. RIO GRANDE COUNTY AIRPORT OVERLAY PROTECTION ZONE REGULATIONS

A. SHORT TITLE

These regulations may be known and may be cited as "Rio Grande County Airport Overlay Protection Zone Regulations".

B. DEFINITIONS

As used in these regulations unless the context otherwise requires;

1. AIRPORT – The area, including all runways, taxiways, hangers and related facilities designed for the takeoff, landing, storage, refueling and maintenance of aircraft. The following two airports are covered by these regulations:
  - a. The Rio Grande County Airport at Del Norte, Colorado, known as Astronaut Kent Rominger airport; and
  - b. The Monte Vista Airport at Monte Vista, Colorado.
2. AIRPORT ELEVATION - The highest point of the airport's useable landing area measured in feet above mean sea level (MSL).
  - a. The airport elevation at the Astronaut Kent Rominger Airport at Del Norte is 7,949 feet MSL.
  - b. The airport elevation at the Monte Vista Airport at Monte Vista is 7,608 feet MSL.
3. AIRPORT HAZARD - any structure or object of natural growth located on or in the vicinity of the airport, or any use of land near the airport, which obstructs the air space required for the safe flight of aircraft in landing or take off at such airport or is otherwise hazardous to such landing or take off of aircraft.

4. HEIGHT – for the purpose of determining the height limits in all zones set forth in this Article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
5. RUNWAY – a defined area on an airport prepared for the landing and or take off of aircraft along its length.
6. PRIMARY SURFACE – a surface longitudinally centered on a runway. In the case of runways approved for visual approach only the primary surface is 250 feet wide, extending 125 feet laterally on each side of the runway centerline. In the case of runways approved for non-precision approaches the primary surface is 500 feet wide, extending 250 feet laterally on each side of the runway centerline. If the runway has a specially prepared hard surface the primary surface extends 200 feet beyond each end of the hard surfaced runway. If the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway.
7. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL, ZONES - these zones apply to the area under the approach, transitional, horizontal and conical surfaces as defined in these regulations.

#### C. AIRPORT ZONES

In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the land lying within the approach zones transitional zones, horizontal zones, and conical zones as they apply to a particular airport.

1. The zones for the Astronaut Kent Rominger Airport are shown on the Rio Grande County Zoning Map.
2. The zones for the Monte Vista Airport are shown on the Rio Grande County Zoning Map.

An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. RUNWAY APPROACH ZONE – the inner edge of this approach zone coincides with the width of the primary surface. The approach zone expands outward uniformly to a width of 1500 feet at a horizontal distance of 5,000 feet from the

primary surface. Its centerline being a continuation of the centerline of the runway.

2. **TRANSITIONAL ZONES** – these zones are hereby established as the area beneath the transitional surface. This surface extends outward and upward at 90 degree angles to the runway centerline at the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the side to the primary and approach surfaces to where they intersect the horizontal and conical zones.
3. **HORIZONTAL ZONE** – the horizontal zone is hereby established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to these arcs. The horizontal zone does not include the approach and transitional zones.
4. **CONICAL ZONE** – the conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the transitional zone.

#### D. AIRPORT OVERLAY ZONE HEIGHT LIMITATIONS

Except as otherwise provided in these regulations, no structure or tree shall be erected, altered, allowed to grow or be maintained in any zone created by these regulations to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **RUNWAY APPROACH ZONE** – slopes upward twenty feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **TRANSITIONAL ZONES** – slopes upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zone, and extending laterally a distance of 1050 feet to a maximum height of 150 feet above the primary surface.
3. **HORIZONTAL ZONE** – A horizontal zone one hundred fifty feet above the elevation of the primary surface extending outward 5,000 feet from the outer edge of the Transitional Zone to the inner edge of the Conical Zone.

- a. The elevation of the Horizontal Zone at the Astronaut Kent Rominger Airport is 8,099 feet MSL.
  - b. The elevation of the Horizontal Zone at the Monte Vista Airport is 7,758 feet MSL.
4. CONICAL ZONE – slopes upward and outward twenty feet horizontally for each foot vertically. The Conical Zone begins at the periphery of the Horizontal Zone at a height of one hundred fifty feet above the elevation of the primary surface, and increases to a maximum height of feet above the elevation of the primary surface at a distance of four thousand feet beyond the outer boundary of the Transitional Zone.
  5. MORE RESTRICTIVE LIMITATION SHALL PREVAIL – Where an area is covered by more than one height limitation, whether such limitations are imposed by these regulations or by regulations of any other governmental entity having jurisdiction, or both, the more restrictive limitation shall prevail.

E. USE RESTRICTIONS

Notwithstanding and other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity if the airport or otherwise, in any way, creates a hazard or endanger the landing, take off or maneuvering of aircraft intending to use the airport.

F. NONCONFORMING USES

1. REGULATIONS NOT RETROACTIVE – the rules herein prescribed by these regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure; the construction or alteration of which was begun prior to the effective date of these regulations, and is diligently prosecuted.
2. MARKING AND LIGHTING – notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby

required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Rio Grande County Board of County Commissioners or their designated representatives to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of Rio Grande County.

#### G. PERMITS - AIRPORT NOISE

1. FUTURE USES - no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the Rio Grande County Board of County Commissioners or their duly designated representatives.
  - a. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to these or any applicable regulations.
  - b. Before any such permit is granted the person making such application shall sign an agreement, release and waiver on forms furnished by the Board of County Commissioners or their designated representatives whereby such applicants expressly agree to release and hold harmless the County of Rio Grande, State of Colorado, from any complaints, actions or liability for and on account of any and all noise, disturbance or interference caused or made by aircraft using and operating to, from or in the vicinity of any county airport. Signing of such instrument shall be an absolute condition of the issuance of such permit, and shall be binding upon the heirs, survivors or assigns of such applicant regardless of compliance with any other requirements herein.
  - c. A fee may be charged for such application and permit, in the discretion of the Board of County commissioners.
2. EXISTING USES - no permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these regulations or any amendments thereto or than it is when the application for a permit is made.

3. NONCONFORMING USES ABANDONED OR DESTROYED - whenever the Rio Grande County Board of County Commissioners or their designated representatives determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, destroyed, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. VARIANCES - any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the rules prescribed in these regulations, may apply to the Board of Adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of these regulations.
5. HAZARD MARKING AND LIGHTING - any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Rio Grande County Board of County Commissioners or their designated representatives to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard. The cost and expense thereof to be paid by the person granted such permit or variance.

## Article XXVI. Blight

### A. CONTROL AND ENFORCEMENT

It shall be unlawful to permit or sustain accumulation of rubbish, including trash, junk, garbage, inoperable automobiles and appliances. Hereinafter accumulation on lots or tracts of land within the county, except industrial tracts of ten or more acres and agricultural land currently in agricultural use as the term agricultural land is defined in section 39-1-102(1.6), CRS, and from the alleys behind and from the sidewalk areas in front of such property.

1. Upon determination by the Land Use Administrator that a condition as described above exists, after an investigation, the Land Use Administrator shall, after approval by the Board of County Commissioners, cause notice to be served by certified mail, return receipt requested or by personal service, the landowner of the property on which the accumulation has occurred shall remove the accumulation

within thirty (30) days or appear before the Board of County Commissioners at a time and date set out in said notice for a hearing on the issue.

2. The Board of County Commissioners may order the removal of said accumulation upon determination at a hearing as described above. If the landowner fails or refuses to remove the accumulation, the Land Use Administrator is authorized to apply to the appropriate Court for an administrative entry and seizure warrant, and to have the accumulation removed by the County pursuant to such warrant.
  
3. The reasonable cost of such removal, including five (5) percent administrative assessment for items such as: inspection and other incidental costs in connection with the removal shall be assessed to the property owner. The assessment pursuant to this Article shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. In case such assessment is not paid within a reasonable time specified, it shall be certified by the Clerk to the County Treasurer, who shall collect the assessment, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected.
  - a. The penalty assessment procedure may be followed by any arresting law enforcement officer for any such violation.
  
  - b. In addition to the penalties prescribed in this Article, and in Article X of this Code, persons convicted of a violation of this Article are subject to a surcharge of ten dollars. These surcharges shall be paid to the Clerk of the Court by the defendant. Each Clerk shall transmit the moneys to the Court Administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in this judicial district pursuant to section 24-4.4-103 CRS.

## Article XXVII. Water Supply Standards for Fire Protection in Rio Grande County

Subdivisions with central water systems with one and two family dwellings.

### HYDRANTS:

- A. All hydrants shall be designed and constructed in accordance with nationally recognized standards. Thread type will be matched to local Fire Department Specification.

- B. Hydrants shall be spaced a maximum of 800 feet apart, with the minimum of 400 feet from the nearest hydrant.
- C. Hydrants shall be maintained in an operative condition at all times and shall be repaired or replaced when defective, the fire department shall be notified and hydrant labeled OUT OF SERVICE as soon as defect is noticed.
- D. Subdivisions with building other than one and two family dwellings shall have hydrants spaced no more than 300 feet apart with no lot more than 300 feet from nearest hydrant.

#### WATER VOLUMES

- A. One and two family dwellings minimum flow 250 gpm @ 40 psi from two adjacent hydrants for a period of 1 hour, 30,000 gallons total flow.
- B. Buildings other than one or two family dwellings minimum flow of 500 gpm @ 40 psi from two adjacent hydrants for a period of 1 hour, 60,000 gallons total flow.
- C. Buildings spaced closer than 30 feet or larger than 20,000 square feet will have a flow of 1000 gpm @ 40 psi for 3 hours 180,000 gallons total flow. Exception: A reduction in flow rate of 50 percent is allowed for (c) if buildings are provided with an approved automatic sprinkler system.

#### SUBDIVISIONS WITHOUT CENTRAL WATER SYSTEMS

- A. Will have an adequate water supply within 1200 feet of any lot. An adequate water supply shall be defined as follows.
- B. A man made water source such as a well, cistern, or pond capable of providing a minimum flow of 250 gpm for 2 hours and set up in such a way to allow unobstructed access of fire equipment, and shall have a dry hydrant or other means to access water supply.
- C. Natural water sources shall have a minimum annual water level and flow sufficient to supply 250 gpm. This source shall not be rendered unusual because of freezing. Source will have a permanent access point designated and permanently maintained for drafting. All subdivisions will need to have a water supply plan approved by the local fire district, Rio Grande County or municipality and could be subject to “case-by-case basis”.

## Article XXVIII. Dangerous Building Code

(a) Title. This regulation shall be known as the “Code for the Abatement of Dangerous Buildings”, may be cited as such, and will be referred to herein as the “dangerous building code”.

(b) Purpose. It is the purpose of the code to provide a just, equitable and practicable method, to be cumulative with, and in addition to, any other remedy provided by the building code, housing code, or otherwise available by law, whereby buildings or structures which, from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants and may be required to be repaired, vacated or demolished. It is not the purpose of the code to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

(c) Scope. The provision of this code shall apply to all “dangerous buildings”, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

(d) Alterations, additions and repairs. All buildings or structures, which are required to be repaired under the provisions of this code, shall be subject to the provisions of the International Building Code.

(e) Enforcement.

(1) General.

b. Administration. A directive from the Board of County Commissioners of the concurrence of the county administrator and the county building inspector shall be necessary in order to enforce the provisions of this code.

c. Inspections. Authorized officials are hereby empowered to make such inspections and take such actions as may be required to enforce the provisions of this code.

d. Right of entry. When it is necessary to make an inspection to enforce the provisions of this code, or when an authorized official has reasonable cause to

believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the authorized official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry, absent a bona fide emergency. If entry is refused, the authorized official shall have recourse to the remedies provided by law to secure entry. Such officials may force entry into the premises where an emergency is reasonably observed to exist or where exigent circumstances dictate.

- e. Abatement of dangerous buildings. All buildings or portions thereof which are determined, after inspection, by the authorized official, to be “dangerous”, as defined in this code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in subsection (g) of this code.
- f. Violations and penalty. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation any provision of this code shall be punished as provided in Article XXIII. Of the Rio Grande County Land Development Code.
- g. Inspection of work. All buildings or structures, within the scope of this code, and all construction or work for which a permit is required, shall be subject to inspection by an authorized official in accordance with and in the manner provided by the International Building Code.
- h. Appeals. The county board of adjustment is hereby authorized to hear and decide appeals of orders, decisions or determinations made by any authorized official relative to the application and interpretations of this code and in accordance with procedures established for said board. The decision of the board of adjustment shall be final subject to review by the district court of the 12<sup>th</sup> Judicial District and an in accordance with the provisions of Rule 106 of the Colorado Rules of Civil Procedure.

(f) Definitions.

(1) General. For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this section or as specified in the building code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

“Authorized official” shall include the Board of County Commissioners, the county administrator, the county building inspector, and all other authorized inspection personnel.

“Building Code” is the International Building Code promulgated by the International Code Council, as adopted by the Board of County Commissioners.

“Dangerous building” is defined as any building or structure deemed to be dangerous as hereinafter provided.

(2) Dangerous building. For the purpose of this code, any building or structure which has any or all of the conditions or defects, hereinafter described, shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

- (a) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (b) Whenever the walking surface of any aisle, passage way, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (c) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.
- (d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for new buildings of similar

structure, purpose or location whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

- (e) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
- (f) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (g) Whenever the building or structure, or any portion thereof, because of (1) dilapidation, deterioration or decay; (2) faulty construction; (3) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay or inadequacy of its foundations; or (5) any other cause, is likely to partially or completely collapse. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (h) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- (i) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (j) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii)

a harbor for vagrants, criminals, or as to enable persons to resort thereto for the purpose of committing unlawful acts.

- (k) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the building code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
- (l) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the
  - (1) strength, (2) fire-resisting qualities or characteristics, or (3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- (m) Whenever a building or structure, used or intended to be used for dwelling purpose, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health office to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease. Any structure within the county shall have active utility services in place including water, sewer, heat and electricity.

(g) Notice and orders of authorized officials.

(1) General.

- a. Commencement of proceedings. When an authorized official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the authorized official shall commence proceedings to cause the repair, vacation or demolition of the building.

b. Notice and order. The authorized official shall issue a notice and order directed to the record owner of the building and/or the person in possession, if the record owner cannot be reasonably ascertained or located. The notice and order shall contain:

1. The street address and legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the authorized official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of subsection (f)(2) of this code.
3. A statement of the action required to be taken, as determined by the authorized official. If the authorized official has determined the building or structure must be repaired, the order shall require that all permits be secured therefore and the work physically be commenced no later than 30 days from the date of service of the notice and order. If an appeal of the notice and order is timely filed in accordance with subsection (h) of this section, no action need be taken until such time as the appeal process is completed. All permits must be secured and work must be commenced within 60 days of the date when no further appeal is permitted.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the authorized official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the board of adjustment, provided the appeal is made in writing as provided in this code and filed with the board of adjustment within 30 days from the date of service of such notice and order, (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

c. Service of notice and order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and/or the person in possession if the property has been abandoned, posting of notice upon the property for ten days continuously shall serve as constructive notice. The failure of an authorized official to serve any person required herein to be served shall not

invalidate any proceedings hereunder as to any duty or obligation imposed by the provisions of this section.

- d. Method of service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his/her last known address. The failure of any such person to receive such notice shall not affect the validity of proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective upon the date of mailing.
- (2) Recordation of notice and order. If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the authorized official shall file in the office of the county clerk a certificate describing the property and certifying (1) that the building is a dangerous building, and (2) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate with county clerk certifying that the building has demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.
  - (3) Repair, vacation and demolition. The following standards shall be followed by the authorized official and by the board of adjustment (if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:
    - a. Any building declared a dangerous building under this code shall be made to comply with one of the following:
      1. The building shall be repaired in accordance with the current building code or current code applicable to the type of substandard conditions requiring repair; or
      2. The building shall be demolished at the option of the building owner; or
      3. If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.
    - b. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public, it shall be ordered vacated. If the building or structure is occupied on a full time basis at the time it is ordered vacated, ten days shall be allowed for the occupants thereof to file an appeal in accordance with subsection (h) of this section. If no appeal is filed the occupants may forcibly

remove at the expiration of the ten-day period. If an appeal is timely filed, an expedited hearing will be set by the board of adjustment to consider whether the conditions of the building are immediately dangerous to the occupants' health and safety as to warrant their immediate expulsion. The board of adjustment may set a reasonable time for the occupants to vacate the building or may set such terms and conditions as it may deem necessary for continued occupancy of the building. In its consideration the board of adjustment may take into consideration such factors as, without limitation, the weather conditions, the ability of the occupants to find other shelter, the age and health of the occupant, and the income level of the occupants.

(4) Notice to Vacate.

- a. Posting. Every notice to vacate shall, in addition to being served as provided in subsection (g) of this section, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER UNSAFE TO OCCUPY

It is an ordinance violation to occupy this building, or to remove or deface this Notice.

---

Authorized Official

Rio Grande County, Colorado

- b. Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under subsection (g) (1) (b) reciting the emergency and specifying the conditions, which necessitate the posting. No person shall remain in or enter any building, which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.

(h) Appeal.

(1) General.

- a. Form of appeal. Any person entitled to service under subsection (g)(1)(c) may appeal from any notice and order or any action of the authorized official under this code by filing at the office of the Rio Grande County Land Administrator or Building Inspector a written appeal containing:
  1. A heading in the words: "Before the Board of Adjustments of Rio Grande County, Colorado"
  2. A caption reading "Appeal of \_\_\_\_\_," giving the names of all appellants participating in the appeal.
  3. Effect of failure to appeal. Failure of any person to file an appeal in accordance, with the provisions of this section shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.
  4. Scope of hearing on appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

Staying of order under appeal. Enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal there from which is properly and timely filed.

(i) Enforcement of the order of the authorized official or the board adjustment.

(1) General.

- a. Compliance. After any order of an authorized official or the board of adjustment made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglected or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of violation of the Rio Grande County Land Development Code.
- b. Failure to obey order. If, after any order of the building official or board of adjustment made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of violation of the Rio Grande County Land Development Code.

- c. The authorized official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING DO

NOT OCCUPY

It is an ordinance violation to occupy this building, or to deface this notice.

---

(Authorized Official)

Rio Grande County, Colorado

1. No person shall occupy any building, which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the authorized official have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.
2. The authorized official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished or the materials, rubble and debris there from removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.
  - A. Extension of time to perform work. Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the authorized official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The authorized official's authority to extend time is limited to the physical repair,

rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

- B. Interference with repair or demolition work prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

Performance of work of repair or demolition.

(1) General.

- a. Procedure. When any work of repair of demolition is to be done pursuant to this code, the authorized official shall issue an order therefore to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefore may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.
- b. Costs. The cost of such work shall be recovered by the county through imposition of a special assessment against the property involved, or by satisfaction of a personal obligation of the property owner, whichever the Board of County Commissioners shall determine appropriate.

(k) Recovery of cost of repair or demolition.

- (1) Account of Expense, Filing of Report. The Rio Grande County Land Use Administrator shall keep an itemized account of the expense incurred by this county in the repair or demolition of any building done pursuant to the provisions of subsection (i)(1)(b)(3) of this code. Upon the completion of the work of repair or

demolition, said administrator shall prepare and file with the board a special report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located; and the names and addresses of the person entitled to notice pursuant to subsection (g) (1) (c) of this code.

- (2) Protest and Objections. Any person interested in or affected by the proposed charge may file written protests or objections with the Rio Grande County Land Use Administrator within ten days from service of notice. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection the date of receipt. The Land Use Administrator shall present such protests or objections to the board of adjustment, and no other protests or objections shall be considered.
- (3) Hearing of Protests. The board of adjustment shall conduct a hearing within 30 days from the receipt of a protest, may make such revision, correction or modification in the report or the charge as it may deem just; and when the board of adjustment is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the board of adjustments on the report and the charge, and on all protests or objections, shall be final and conclusive, subject to district court review.
- (4) Personal Obligation or Special Assessment.
  - a. General. The board of adjustment may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.
  - b. Personal Obligation. If the board of adjustment orders that the charge shall be made a personal obligation of the property owner, it shall direct the county attorney to collect the same on behalf of the county by use of all appropriate legal remedies.
  - c. Special Assessment. If the Board of County Commissioners orders that the charge shall be assessed against the property, it shall confirm the assessment to the County Assessor, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and lien upon the property.
- (5) Contest. The validity of any assessment made under the provision of this chapter shall not be contested in any action or proceeding unless the same is commenced

within 30 days after the assessment is placed upon the county assessment roll as provided herein. Any appeal from a final judgment is such action or proceeding must be perfected within 30 days after the entry of such judgment.

Authority for installment payment of assessments with interest. The county board of adjustment, in its discretion, may determine that assessments of \$500.00 or more may be payable in periodic payments not to exceed five equal annual installments. The Board of Adjustments determination to allow payment of such assessments in installments, the number installments, whether they shall bear interest and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

(6) Lien of assessment.

- a. Priority. Immediately upon its being placed on the assessment roll the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.
- b. Interest. All such assessments that remain unpaid more than 30 days from the date of recording on the assessment roll shall be considered delinquent and shall bear interest at the legal rate of eight percent per annum from and after the recording date.
- c. Report to Assessor and county Treasurer: addition of assessment to tax bill. After confirmation of the report, a certified copy of the special assessment shall be given to the county Assessor and to the county Treasurer who shall add the amount of the assessment to the next regular tax bill levied against the property.
- d. Collection of assessment: penalties and demolition fund. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the Rio Grande County Treasurer.

Article XXIX. Standards Governing Flood Damage Prevention

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioners of Rio Grande County, Colorado, does hereby adopt the following floodplain management regulations:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of Rio Grande County are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

7. Insure that potential buyers are notified that property is located in a flood hazard area.

Article XXIX. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

## DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**100-YEAR FLOOD** - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

**100-YEAR FLOODPLAIN** - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

**500-YEAR FLOOD** - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

**500-YEAR FLOODPLAIN** - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

**ADDITION** - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

**ALLUVIAL FAN FLOODING** - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the mainstream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

**AREA OF SHALLOW FLOODING** - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**BASE FLOOD ELEVATION (BFE)** - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and

VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**BASEMENT** - Any area of a building having its floor sub-grade (below ground level) on all sides.

**CHANNEL** - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

**CHANNELIZATION** - The artificial creation, enlargement or realignment of a stream channel.

**CODE OF FEDERAL REGULATIONS (CFR)** - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

**COMMUNITY** - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

**CONDITIONAL LETTER OF MAP REVISION (CLOMR)** - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**CRITICAL FACILITY** – A structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section H.

**DEVELOPMENT** - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**DFIRM DATABASE** - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

**DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)** - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

**ELEVATED BUILDING** - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEDERAL REGISTER** - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

**FEMA** - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

**FLOOD OR FLOODING** - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

**FLOOD INSURANCE RATE MAP (FIRM)** – An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

**FLOODPLAIN OR FLOOD-PRONE AREA** - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

**FLOODPLAIN ADMINISTRATOR** - The community official designated by title to administer and enforce the floodplain management regulations.

**FLOODPLAIN DEVELOPMENT PERMIT** – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

**FLOODPLAIN MANAGEMENT** - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD CONTROL STRUCTURE** - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOODPROOFING** - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY (REGULATORY FLOODWAY)** - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide

standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

**FREEBOARD** - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE** - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or;
  - b. Directly by the Secretary of the Interior in states without approved programs.

**LEVEE** – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

**LEVEE SYSTEM** - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LETTER OF MAP REVISION (LOMR)** - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

**LETTER OF MAP REVISION BASED ON FILL (LOMR-F)** – FEMA’s modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

**LOWEST FLOOR** - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

**MANUFACTURED HOME** - 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 the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** - For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

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

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP)** – FEMA’s program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**NO-RISE CERTIFICATION** – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

**PHYSICAL MAP REVISION (PMR)** - FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

**RECREATIONAL VEHICLE** - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**SPECIAL FLOOD HAZARD AREA** – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

**START OF CONSTRUCTION** - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation

on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

**SUBSTANTIAL CHANGE** – Any improvement to, or rehabilitation due to damage of, a structure for which the activity performed equals or exceeds 50 percent of the pre-improvement or pre-damaged value of the structure. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**THRESHOLD PLANNING QUANTITY (TPQ)** – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

**VARIANCE** - A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

**VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section

60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

#### GENERAL PROVISIONS

##### SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Rio Grande County, Colorado.

##### SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREA

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Rio Grande County," dated September 2, 20011, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the Rio Grande Board of County Commissioners. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

##### SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

##### SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the Rio Grande Board of County Commissioners from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

**SECTION E. ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

**WARNING AND DISCLAIMER OR LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**SECTION G. SEVERABILITY**

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

**SECTION H. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Land Use Administrator is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

**SECTION I. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any flood-proofing certificate required by Article III, Section C.
2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
7. When Base Flood Elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 5.
8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
11. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

#### SECTION J. PERMIT PROCEDURES

Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures; (crawl space is considered lowest floor)
2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential flood-proof structure shall meet the flood-proofing criteria of Article V, Section M(1-8);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Article III, Section B.

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

#### SECTION K. VARIANCE PROCEDURES

1. The Appeal Board, as established by the Community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in Article 1, Section C.
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
  - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b. Variances shall only be issued upon:
    - i. Showing a good and sufficient cause;
    - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

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

- a. The criteria outlined in Article III, Section B are met, and
- b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### SECTION L. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of Rio Grande County. Nothing herein contained shall prevent the Rio Grande Board of County Commissioners from taking such other lawful action as is necessary to prevent or remedy any violation.

#### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### SECTION M. GENERAL STANDARDS

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities

that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## SECTION N. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where base flood elevation data has been provided as set Forth:

### 1. RESIDENTIAL CONSTRUCTION

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

### 2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article IV. Section T, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection.

Such certification shall be maintained by the Floodplain Administrator, as proposed in Article 4.

### 3. ENCLOSURES

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### 4. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- a. The lowest floor of the manufactured home is one foot above the base flood elevation,  
or

- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

## 5. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, or
- c. Meet the permit requirements of Article 4, Section C, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

## 6. PRIOR APPROVED ACTIVITIES

Any activity for which a Floodplain Development Permit was issued by Rio Grande County or a CLOMR was issued by FEMA prior to Sept 2 2011 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.

## SECTION O. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the Special Flood Hazard Area established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

### 1. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor,

including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

## 2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article IV, Section M, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level with wall substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article III, Section C, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

## SECTION P. FLOODWAYS

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Article 2). Located within Special Flood Hazard Area established in Article 3, Section B, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If Article IV, Section M (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.

3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

#### SECTION Q. ALTERATION OF A WATERCOURSE

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Rio Grande County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

#### SECTION R. PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), with a lowest floor elevation placed below the Base Flood Elevation with one foot of freeboard that existed prior to the placement of fill.

#### SECTION S. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article III, Section C; Article 4, Section C; and the provisions of Article IV of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article III, Section B or Article IV, Section of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### SECTION T. STANDARDS FOR CRITICAL FACILITIES

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

##### 1. CLASSIFICATION OF CRITICAL FACILITIES

It is the responsibility of the Rio Grande County to identify and confirm that specific structures in their community meet the following criteria:

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

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

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

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

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

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- iii. Refineries;
- iv. Hazardous waste storage and disposal sites; and
- v. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010), available at [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/40cfr302\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/40cfr302_03.html), and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010), available at [http://www.access.gpo.gov/nara/cfr/waisidx\\_99/29cfr1910\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/29cfr1910_99.html), are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

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

- c. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

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

- d. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

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

## 2. PROTECTION FOR CRITICAL FACILITIES

All new and substantially changed Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- a. Location outside the Special Flood Hazard Area; or
- b. Elevation or flood-proofing of the structure to at least two feet above the Base Flood Elevation.

## 3. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the Land Use Administrator of Rio Grande County, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

**CERTIFICATION**

It is hereby found and declared by Rio Grande County that flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

**APPROVED;** \_\_\_\_\_  
(community official)

**PASSED:** \_\_\_\_\_  
(date)

I, the undersigned, \_\_\_\_\_, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the \_\_\_\_\_  
(community name)  
at a regular meeting duly convened on \_\_\_\_\_.  
(date)

\_\_\_\_\_  
(Secretary or responsible person)

(SEAL)