CUSTER COUNTY ZONING RESOLUTION

Prepared for the

Custer County
Board of County Commissioners

By the

CUSTER COUNTY PLANNING COMMISSION
And
PLANNING AND ZONING OFFICE

2022

Users of this Resolution should contact the department of Planning and Zoning from time to time, to determine if amendments have taken place.

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ENACTMENT CLAUSE

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245701 5/31/2022 12:55 PM Kelley Camper
1 of 1 R$0 D$0 N$0 S$0 M$0 E$0 Custer County Clerk

ENACTMENT CLAUSE

Upon approval and adoption of the Board of County Commissioners of Custer County, a certified copy of this Amended Resolution shall be filed, according to law, in the office of the County Clerk and Recorder of the County of Custer. This Amended Resolution shall become of full force and effect as of the date of its adoption, this being the 31st of May 2022

Attest: Kelley S Camper
Kelley
~~Kelly~~ Camper
County Clerk and Recorder

CUSTER COUNTY SEAL COLORADO

Board of County Commissioners
of Custer County

Kevin V. Day
Kevin Day
Chairman

William R. Canda
William R. Canda
Vise-Chairman

Tommy G. Flower
Tommy G. Flower
Commissioner

Date Filed with the Clerk and Recorder: 5.31.22

HISTORY OF THE ZONING RESOLUTION

This Zoning Resolution was initially prepared in a cooperative effort among the Colorado State Planning Office, the Board of County Commissioners, and citizens of Custer County.

This Zoning Resolution pertains to the unincorporated portions of Custer County.

The preparation of the initial document was financed in part through a comprehensive planning grant from the Department of Housing and Urban Development.

The original Resolution was adopted by the Custer County Board of County Commissioners on April 6, 1971.

Periodically, since 1971, changes have been adopted.

To the language of the original Resolution:

October 5, 1982
July 3, 1984
August 24, 1984
March 5, 1985
April 7, 1987
November 2, 1988
September 5, 1990
February 26, 2021
June 17, 2022
August 6, 1991
May 2, 1995
October 2, 1997
March 6, 2002
August 7, 2014
August 17, 2016
July 31, 2018
March 30, 2021

To the official zoning map:

April 3, 1973
June 5, 1973
November 15, 1974
August 3, 1977
August 2, 1979
September 4, 1985
July 3, 1986
December 4, 1990
July 2, 1991
June 17, 1992
April 4, 2000
April 3, 2001
September 5, 2001
February 5, 2002
March 6, 2002
May 11, 2010

INTRODUCTION

PURPOSE

CUSTER COUNTY: ITS UNIQUE ASSETS

The seven hundred thirty-eight (738) square miles constituting Custer County, presents a land of inspiring beauty and pristine environment. It ranges from the incomparable Sangre de Cristo Mountains on the west, across the lush Wet Mountain Valley, and on into the forested Wet Mountains covering the eastern portions of the County. The population is of comparatively low density, and most of the County's economy is supported by ranching, outdoor recreation, tourism, and leisure time activities. Custer County possesses an array of assets that include a most cherished natural environment and wildlife habitat, an ecologically-oriented populace with diverse economic interests, and the prime ingredients necessary for an enviable rural lifestyle.

The intent of this Resolution is to respect individual property rights, while promoting the health, safety, and general welfare of the residents of Custer County. In addition to the standard zoning considerations such as land use and economy, this Resolution relies on the geology, vegetation, physiography, and other natural characteristics of the area, and attempts to protect the natural ecology, while at the same time enabling the use of the land.

ZONING DISTRICTS

With the above considerations in mind, the four "zoning districts" in this Resolution were mapped primarily on the basis of the physical characteristics of the County. There are at least five distinct physiographic regions, which can be observed by someone driving through the County. The high Sangre de Cristo mountain area forms one such region, and the rich alluvial valley along Grape Creek forms another. The forested Wet Mountain area forms a third distinct region that includes the area of Lake San Isabel. A fourth physiographic region can be seen in the open, sage covered area lying between Grape Creek and the Wet Mountain forests. This region includes the popular Lake De Weese Recreation Area and Wildlife Refuge. Finally, a fifth region is formed by the northeast corner of the County, around Hardscrabble Creek.

These physiographic regions were considered with additional information such as existing land use and ownership patterns. This combined information was then used to determine the legal zoning district boundaries.

Due to similarities, the Wet Mountain and Hardscrabble regions have been combined into one zoning district, while the other three regions formed their own zoning districts. The approximate areas covered by these four zoning districts are shown in the accompanying map. (See Appendix I). The map is intended for general information only. It should not be confused with the legal zoning map, a copy of which is on display in the Commissioners Room in the Custer County Courthouse and recorded in the County Clerk's Office.

USES BY RIGHT AND SPECIAL USES

Custer County is primarily a rural county. Urban uses are generally located within the incorporated towns of Silver Cliff and Westcliffe. Of Custer County's 738 square miles, forty (40) percent is public land, and sixty (60) percent is private. Of private land in Custer County seventy–five (75) percent is devoted to agriculture. The majority of residential and vacant land is located in over one hundred and twenty (120) platted subdivisions. Agriculture and residential uses are allowed in every zoning district, but other uses are more restricted. See Section 7 (Uses Allowed by Right) and Section 9 (Special Uses).

WATER RIGHTS-OF-WAY

Colorado Law has long recognized the right to convey water across the land of another so that lands removed from available water can be developed. As early as 1861, Colorado Territorial Laws provided statutory rights-of-way over the lands of others to convey water for agricultural purposes. The Colorado Constitution, Article XVI, Section 7 provides:

All persons and corporations shall have the right-of-way across public, private and corporate lands for the construction of ditches, canals and flumes for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands[1], and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

In addition, Colorado Revised Statutes § 37-86-102 provides:

Any person owning a water right or conditional water right shall be entitled to a right-of-way through the lands which lie between the point of diversion and point of use or proposed use for the purpose of transporting water for beneficial use in accordance with said water right or conditional right.

This right extends to ditches, dikes, cuttings, pipelines, or other structures sufficient for this purpose. Colorado courts have also recognized and protected such rights-of-way.

SUMMARY: THE ZONING RESOLUTION

Four zoning districts have been delineated in the Custer County Zoning Resolution, based on geology, vegetative cover, availability of water, and other physical and geological features. Every zoning district has farming, ranching and single family residential as its major types of permitted land uses. These uses, among others, are presently the basis of the County's economy. Additional uses are permitted in the various zoning districts according to each zoning district's physical character, the sensitivity or potential capacity of its natural environment, and the expected demands of County residents. It is hoped that in this manner the values of natural resources and wildlife habitat can be conserved for the general welfare, while providing for suitable development and appropriate uses of the land.

1 The term "agricultural lands" in this context is not necessarily the same as used in zoning.

The Zoning Resolution is not an enforcement tool for Covenants or Deed Restrictions. Though many covenants and deed restrictions are in harmony with the County's Resolution, they are a civil matter between the landowner and their homeowner's association or their neighboring property owners. It is the responsibility of the landowner to be aware of any encumbrances that may affect their land.

SECTION 1

A RESOLUTION ESTABLISHING ZONING DISTRICTS FOR CUSTER COUNTY, COLORADO.

TITLE: ZONING RESOLUTION

1.1 Long Title

A resolution and map establishing Zoning Districts in Custer County, Colorado, regulating the location and height of structures, regulating the percentage of a lot which may be occupied, the size of lots, open space, the density and distribution of population; and the location and use of land for trade, industry, recreation, or other purposes, and enforcing of these Zoning Regulations and penalties for its violation.

1.2 Short Title

For the purposes of brevity, this Resolution and map shall be known as the Custer County Zoning Resolution.

1.3 Jurisdiction

The provisions of the Resolution shall apply to the unincorporated part of Custer County.

SECTION 2

GENERAL PROVISIONS

2.1 General Purpose

The original Resolution was designed and enacted for the purpose of regulating land use and promoting the health, safety, and general welfare of the residents of the unincorporated areas of Custer County, Colorado.

Modifications have been made to this Resolution in order to accommodate the goals listed above, as well as to address additional issues that have arisen.

In addition, consideration has been given to the physiographic and other natural characteristics of the Zoning Districts, and their individual suitability for particular uses, with a view to conserving the values of natural resources and wildlife habitat for the general welfare and encouraging the most appropriate uses of land throughout the County.

2.2 Authority

The original Custer County Zoning Resolution was authorized by Article 2, Chapter 106, of the Colorado Revised Statutes (C.R.S.), 1963, as amended and was declared to be in accordance with all provisions of those Statutes. Currently, the Custer County Zoning Resolution is authorized under C.R.S. § 30-28-111 and C.R.S. § 29-20-101. Development regulation is authorized under C.R.S. § 30-28-111, C.R.S. § 29-20-101 and C.R.S. § 24-65.1-101 (HB 1041).

Upon a complaint received in writing, by telephone, electronically or by other means of communication, or as a result of an application for a permit or variance having been filed, or for other good cause, the Planning and Zoning Office staff in order to enforce this Zoning Resolution, shall have the authority to enter upon or into properties to assess compliance with this resolution.

2.3 Transitional Provisions for New Regulations

This Resolution is effective on the date of its enactment and applies to all applications for approvals or permits under this Resolution submitted after its enactment.

2.4 General Amendment Procedure

Reports and recommendations for amendments from the PC (Planning Commission) to the BOCC (Board of County Commissioners) are required prior to the adoption of any such amendment.

A. Amendment to the language of the Resolution
   1. A petition for amendment to this resolution shall be submitted to the PC through the Planning and Zoning Office;
   2. The PC shall set a meeting date, publish notice of said meeting at the expense of the applicant in a newspaper of general circulation at least fourteen (14) days prior to the

meeting date, and post notice on the appointed bulletin board in the Custer County Courthouse;
3. After consideration of testimony received at the meeting, the PC shall submit a report and/or recommendations on the proposed amendment to the BOCC;
4. The BOCC shall proceed with the amendment request, as prescribed by law, for the consideration of adoption to the County Zoning Resolution.

B. Amendment to the Zoning Map
1. For proposed amendments to the official zoning map, the applicant shall place an appropriate sign(s) in a conspicuous place on the subject property, thirty (30) days prior to the meeting, stating the change requested, the date, time, and place of the meeting. These signs and sign locations are subject to approval by the Planning and Zoning Office;
2. The Planning and Zoning Office shall notify adjacent property owners by Certified, Return Receipt mail and interested parties by regular mail at least fourteen (14) days prior to the meeting; publish public notice in a newspaper of general circulation at least thirty (30) days prior to the meeting. The notification shall include the change requested, the date, time, and place of the meeting. Applicants may be required to pay additional postage if postage exceeds 20% of application fee.

2.5 Amending the Zoning Resolution

Amendments to this resolution shall be in accordance with C.R.S. § 30-28-116 as follows:

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

Proposed amendments shall be adopted by resolution of the BOCC. The Planning and Zoning Office shall ensure that all approved amendments are reflected in the official text of the Custer County Zoning Resolution in its next publication.

By order of the BOCC, the Appendices of this Resolution may be modified from time to time to meet changing conditions of the County as viewed necessary by the PC as long as the intent of the Zoning Resolution is not altered.

2.6 Establishment of Zoning Districts

In order to carry out the purposes of this Resolution, Custer County is divided into four (4) zoning districts as follows:

I	Grape Creek District	80 acre zone
II	Sangre de Cristo District	35 acre zone
III	Wet Mountain/Hardscrabble District	10 acre zone
IV	Foothills District	5 acre zone

The BOCC may create new zoning districts from time to time, as necessitated by changing conditions in the county, after recommendation from the PC, review, and meeting.

2.6.1 Amendments to change the Zoning Classification

Amendments to this Resolution may be adopted whereby the Zoning classification of an area is changed if any of the following conditions exist:

A. The area in question abuts an existing zoning district having the zoning classification desired; or
B. The petitioner has shown substantial evidence that the area in question possesses geological, physiological, or other environmental conditions compatible with, and warranting similar zoning district requirements as, the environmental conditions characteristic of the zoning district for which application is being made; or
C. In order to effectuate an approved Master Plan; or
D. To correct a mistake in the zoning process.

2.7 Zoning Map and Boundaries

The County is hereby divided into zones, or zoning districts, as shown on the Official Zoning map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chairperson of the Custer County BOCC and attested by the County Clerk under the following words: "This is to certify this is the Official Zoning Map of Custer County referred to in Section I of the County of Custer, Colorado" together with the date of adoption of this Resolution. The signed copy of the Official Zoning map shall be maintained in the office of the County Clerk for the use and benefit of the public.

CHANGES ON OFFICIAL ZONING MAP: If, in accordance with the provisions of this Resolution, changes are made in the zoning district boundaries or other explanatory matter portrayed on the Official Zoning map, such changes shall be promptly entered on said Official Zoning Map after amendment of same has been approved by the Custer County BOCC together with an entry on the Official Zoning Map as follows: "On (date), by official action of the Custer County BOCC, the following change(s) was/were made in the Official Zoning Map: (brief description of the change)", which entry shall be signed by the Chairperson of the Custer County BOCC and attested by the County Clerk. No changes to this Resolution, which involves matter portrayed on the Official Zoning Map, shall become effective until after such change and entry on such Official Zoning Map has been made.

CHANGES IN COMFORMITY WITH PROCEDURES: No change of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Resolution.

PENALTIES FOR UNAUTHORIZED CHANGES: Any unauthorized change of any kind by any person or persons shall be considered a violation of this Resolution and punishable in accordance with this Resolution and applicable law (see Section 12.6).

FINAL AUTHORITY OF OFFICIAL ZONING MAP: Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the County Clerk and Recorder, shall be the final authority as to the current zoning status of land within Custer County, Colorado.

The locations of the zoning districts are shown on the map entitled "Official Zoning Map of Custer County," dated May 11, 2010, and as amended thereafter under the provisions of this Resolution. This map, along with explanatory matter thereof, is hereby made a part of this Resolution and is on file in the office of the Custer County Clerk and Recorder and on display in the Commissioners' room at the Custer County Courthouse.

Unless otherwise specified on the Official Zoning Map, zoning district boundary lines are one or more of the following: lot lines; the center lines of streets, alleys, highways, or such lines extended; corporate lines of incorporated areas; natural boundary lines such as streams; or on section lines.

2.8 County Plat Standards

Plats submitted to the Planning and Zoning Office for approval by the PC and/or Custer County BOCC must meet both parts A.1 and A.2 of Appendix A at the back of this Resolution. Where appropriate the submittal requirements may be increased or modified.

2.9 Establishment of Vested Property Rights

Custer County, by Resolution 99-10, has provided procedures necessary to implement the provisions of C.R.S. § 24-68-101 and 103, et seq., as amended, for Vested Property Rights.

Vested Property Rights are the right to undertake and complete development and use of property under the terms and conditions of a Site Specific Development Plan.

For all developments, a Site Specific Development Plan means: 1) the final approval step, even if in stages, irrespective of its title, including Planned Unit Developments (PUDs) and Subdivisions, which occurs prior to zoning permit application; or 2) special use permit approval where no other prior approval is required for these permits; provided, however, that if the landowner wishes the approval to have the effect of creating vested rights under C.R.S. § 24-68-101 and C.R.S. § 24-68-103.1, and as amended, the landowner must request at time of filing that the approval be considered. Any resolution or motion approving a PUD, subdivision, or special use permit shall specifically designate the approval as a Site Specific Development Plan creating vested rights.

The following shall cause a forfeiture of the vested rights granted for the original Site Specific Development Plan and shall make the approval of the plan null and void:

1. A major amendment to a Site Specific Development Plan that has not been approved by the PC; or
2. Failure of the developer to complete the development of an approved Site Specific Development Plan within three (3) years of the effective date of approval; or
3. Failure of the developer to comply with any terms of approval of the Site Specific Development Plan.

2.10 Rules of Language Construction

For the purpose of this resolution and when not inconsistent with the context:

- Words used in the present tense include the future;
- Words in the singular include the plural;
- Words in the plural include the singular;
- The masculine includes the feminine;
- The word "shall" is mandatory;
- The word "may" is permissive;
- The particular controls the general;
- Where not defined, words and phrases should be given their ordinary meaning;
- Text shall control captions, titles and maps.

2.11 Interpretation

Certain words and phrases are defined, and certain provisions shall be interpreted as herein set out, when not inconsistent with the context. The word "building" includes the word "structure"; the word "person" includes a "firm", "associates", "corporation", "partnership", and "natural person"; the word "used" includes the words "occupied", "arranged", "designed", or "intended to be used"; the word "construct" includes the words "erect", "reconstruct", "alter", “build”, "move in", and "move upon".

In interpretation and application, the provisions of this Resolution shall be liberally construed for the promotion of the public health, safety and welfare.

2.12 Severability Clause

Should any section, clause, or provision of this Resolution be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part declared to be invalid.

2.13 Conflict

Whenever the requirements of this Resolution are in conflict with the requirements of any other County ordinance, rule, regulation, or State statute, the more restrictive or that imposing the higher standards, shall govern. Private covenants and deed restrictions are not researched or enforced by the Planning and Zoning Office and recourse is a civil matter.

SECTION 3

DEFINITIONS

Access: A means of vehicular or pedestrian approach, entry to, or exit from property.

Accessory Structure-Closed: A non-residential structure completely enclosed and detached from any other structure. Underground cellars, bunkers and steel storage and intermodal shipping containers that are one hundred (100) square feet or more in their entirety are included in this category (See Section 6.4.B.2 and Section 8, Zoning Procedures.)

Accessory Structure-Open: A non- residential structure, with at least one side open to the elements, and detached from any other structure. Water/windmills and towers that are one hundred (100) square feet or more in their entirety are included in the category (See Section 6.4.B.1. and Section 8, Zoning Procedures.)

Acre: A land area of 43,560 square feet.

Adjacent Property: Within three hundred (300) feet of the subject parcel.

Administrative Review: A process by which actions may not require review by the BOCC, BZA, or PC.

Advertising Device: See Sign.

Aggrieved Party: Any person or entity who can demonstrate that his property will be injured by an administrative decision.

Agricultural Land: Any land used primarily for the production of fair market crops or livestock, including: irrigated meadows, irrigated and dry pasture, and irrigation ditches; stock drive routes; lands used for barns, corrals and storage of crops or agricultural products. "Agricultural Land" does not include lands used primarily for the production of commercial timber.

Agricultural Use: Cultivating the soil, producing fair market crops or raising livestock. This includes raising, harvesting and selling crops; feeding, breeding, management and sale of, or the products of, livestock, poultry, fur-bearing animals, or honey bees; dairying and the sale of dairy products; or any other agricultural or horticultural use. It does not include confined animal feeding operations, nor does it include the operation of kennels.

Agriculture: The science or art of cultivating the soil, producing crops, and raising livestock.

Airport: The land used by aircraft to take off and land, together with all facilities and adjacent land used in connection with the operation of aircraft.

1. Airports and Heliports, Publicly Owned. The area comprising airports or heliports, located primarily on land owned by a public agency such as the County or a municipal government.
2. Landing strips and Helistops, Privately Owned. The area comprising landing strips or helistops located primarily on land owned by a private landowner(s),

Airport Hazard: Any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.
{C.R.S. § 41-3-103}

Alteration (Structural): A change, rearrangement or addition to the structural parts or existing facilities of a building or structure, or the moving from one location or position to another.

Aliquot Description: A land description utilizing the parcel descriptions of a federally defined grid method by section, township, range, meridian, and proportional parts thereof.

Alley: A public, dedicated right-of-way used primarily as a service or secondary means of access and egress to the service side of abutting property.

Antenna: Any exterior transmitting or receiving device mounted on a tower or building or structure used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. Anything in excess of one hundred (100) square feet requires a zoning permit.

Applicant: A person or entity submitting an application for land use subject to these Regulations.

Bedroom: A room intended for sleeping purposes that contains the following features which include but are not limited to the following:

1. A room designated den, study, hobby room etc. with a clothes closet.
2. A method to close off the room to assure privacy.
3. A minimum of one hundred (100) square feet in size
4. A loft may be considered a bedroom.

Board of County Commissioners or BOCC: The Board of County Commissioners of Custer County, Colorado.

Board of Zoning Adjustment or BZA: The body appointed by the BOCC whose authority and procedures are described in Section 4.3

Boundary: A line, which may or may not follow a visible feat

Buffer(ed): A strip of land established to separate and protect one type of land use from another, to screen from objectionable noise, smoke or visual impacts.

Building: Any structure built for the support, shelter, or enclosure of persons, animals, or property.

Building Height (Maximum): The vertical distance from the highest point of the finished grade of the building perimeter to the high point of the building structure must not exceed thirty (30) feet. The maximum height limit for any structure in Custer County is thirty (30) feet.

Bunkhouse: A detached living quarters of a permanent type of construction, without cooking facilities, clearly subordinate and incidental to the main dwelling on the same lot or parcel. (See Section 6.4.A.3)

Business: For purposes of this Zoning Resolution, the term "business" is defined as the making, buying, or selling of goods or providing services in exchange for money or other things of value, and includes the bartering, trading or exchange of goods or services.

Cease and Desist Order: An order issued and signed by the Planning and Zoning Director and the County Attorney prohibiting a property owner from occupying or using the property while said Order is in effect (see Section 12.6).

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

Commercial/Retail: The sale or rental of goods or services to consumer traffic.

Common Elements: Land amenities, buildings or portions thereof, central services and utilities, and any other interest owned and used by all property owners and designated on the development plat as common elements.

Compliance Inspection: Custer County Planning and Zoning Office inspection of all structures.

Construction: On-site erection, fabrication, installation, demolition or removal of any structure, facility, or addition thereto, including site preparation such as clearing of land, earth moving, and blasting.

Cooking Facility: Any area within a building intended or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall generally be considered as establishing a cooking facility.

County: The County of Custer, State of Colorado.

County Engineer: The appointed Colorado licensed engineer for Custer.

County Surveyor: The elected or appointed Colorado licensed surveyor for Custer County.

C.R.S: Colorado Revised Statutes as amended

Custer County Area Soil Survey: A soil survey conducted by the U.S. Department of Agriculture in cooperation with the State Agriculture Experiment Stations and other federal and state agencies.

Days: All references to days are calendar days unless otherwise noted.

Deck: A platform, whether free standing or attached to a structure, which is supported by pillars or posts.

Dedication: The intentional appropriation or conveyance of land or an interest in land by the owner to public or private facilities, uses, areas and/or services made necessary by the effects of the subdivision and its inhabitants.

Deed Restriction: A restriction on the use of a lot or parcel that is set forth in a deed and recorded with the County Clerk and Recorder and is binding on subsequent owners.

Density: The number of dwelling units per unit of land. In this Resolution, density is generally expressed as the number of acres per dwellingunit.

Developable Acre (As used in PUD Section 11): The area within the development boundaries, not including areas for: open space, public or private roads, and utility easements.

Developer: Any person, partnership, joint venture, association, firm, or corporation who shall participate as owner, promoter, designer, or sales agent in the planning, platting, development, promotion and sale or lease of real property.

Development: Any construction or activity which changes the basic characteristics or the use of the land on which the construction or activity occurs. The basic characteristics of the land are deemed changed if the primary utilization of the land changes from one use to another.

Dried-in: The structure is erected and weather-tight, the windows and doors are installed, and the roof is completed.

Dwelling: See Single Family Dwelling

Easement: Authorization by a property owner for use of the land by third parties for specific purposes.

Emergency Services: The Wet Mountain Valley Volunteer Fire Department, Wetmore Volunteer Fire Department, Custer County Ambulance Corps, Custer County Sheriff's Department and Posse, Custer County Search and Rescue or any other emergency organization designated by the BOCC.

Engineer: A person licensed as a Professional Engineer by the State of Colorado.

Excavation: The removal of earth material by artificial means also referred to as a cut. This also includes fill material.

Ex Parte Contact: Some form of communication between one party to a proceeding (e.g. an applicant for a permit) and a public official, who has some responsibility for making a decision on that request, concerning the merits of the decision, which occurs outside the formal decision-making process. Such contacts are prohibited and circumscribed by code of ethics to preclude conflicts of interest or appearances of favoritism to one party in a proceeding.

FAA: The Federal Aviation Administration.

Factory Built Home:

1. Manufactured Home: A home built in a factory, transported in one or more sections and built on a permanent chassis (metal frame) conforming to the regulations established by the United States Department of Housing and Urban Development (HUD).
2. Modular Home: A factory built home, transported in one or more sections. A modular home is lifted off the metal transport frame and is attached to a permanent foundation.
3. Mobile Home: A factory built home constructed after 1977, transported in one piece, will be eligible for a dwelling permit in Custer County.
4. No mobile, manufactured or modular homes shall encroach on the required setbacks. (See Section 6.4.A.5)

Farming: See Agricultural Use.

Fire Flow: Water flow for fire suppression as defined by the appropriate fire authority.

Flood Plain: An area of land that by virtue of its topography is subject to flooding from storm water or seasonal run-off.

Footprint: The area indicating the proposed exterior perimeter of a structure.

Forestry: The science and art of cultivating, maintaining, managing and developing forests.

Full-time Resident: Living on the property for more than 6 months per year.

Geographic Information System (GIS): A computerized information system developed to integrate, store, edit, analyze, share, and display geographic information and land use data.

Geologic Hazard: A geologic phenomenon which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

1. Avalanches, landslides, rock falls, mud flows, unstable or potentially unstable soils and unstable or potentially unstable slopes;
2. Seismic effects;
3. Radioactivity;
4. Ground subsidence.

Grade, Finished: The final elevation of the ground surface after development.

Green Burial: Burying un-embalmed human remains on private property according to C.R.S. § 25-2-111. (See Section 6.8)

Guaranty of Improvements Agreement: A written security agreement the developer must sign with the BOCC that provides the developer will guarantee all construction within the development of those public improvements, dedications and exactions required by these regulations will be accomplished in a timely, efficient manner with good workmanship. The agreement will include sufficient collateral to make provision for the completion of such improvements in accordance with cost, time line and design specifications of the approved development. The collateral shall include any one or a combination of the types as outlined in Section 11.6.1.R.

Guest House: A single family dwelling, detached from the main dwelling, that contains cooking, sanitation and sleeping facilities. (See Section 6.4.A.2)

Habitat: The physical location or type of environment in which an organism or biological population lives or occurs.

Hardship: An atypical or exceptionally difficult situation caused by an application of the Zoning Resolution. Hardship is caused by one or more of the following:

1. exceptional narrowness, shallowness, or shape of the land; or
2. exceptional topographic or geographic condition; or
3. other extraordinary and exceptional situations or conditions of the land, that are not of the owners making.

Hazardous materials: Any products that meet the definition of hazardous materials set forth in Title 40 Code of Federal Regulations (CFR) Section 261.3, as that section may be amended by the United States Environmental Protection Agency.

Highway: The entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular travel or the entire width of every way declared to be a public highway by any law of this state.

Home Occupation: An activity conducted within a dwelling or accessory structure by occupant(s) of the dwelling unit, where the occupation is secondary to the use of the dwelling and the residential character of the dwelling is maintained. See Section 9.8.

Homeowner's Association: An incorporated organization, operating under recorded land agreements, responsible for enforcing their covenants.

Industry, Light: Any trade, production or creative endeavor employing labor and capital in a process which is not noxious or offensive by reason of emission of odor, dust, smoke, gas, fumes, noise or vibrations, whose waste products are not allowed to escape or accumulate where they will cause discomfort or be unsightly to adjoining property owners or to the public in general and does not have a potentially threatening impact on the environment.

Infrastructure: Streets, water and sewer lines, and other utilities or common support facilities necessary to the functioning of a community or development.

Interior Lot Line: Platted lot line between two adjoining lots within the development.

Kennel: Any lot, tract, parcel or structure used in whole or in part for the purposes of grooming (where the animals are housed overnight), housing, boarding, breeding, raising and/or training of five (5) or more dogs or cats for remuneration. Pet shops or veterinary practices require a Special Use Permit.

Livestock: Cattle, horses, sheep, goats, swine, mules, poultry, alternative livestock, as defined in C.R.S. § 35-41.5-102 (Definitions) and such domesticated animals as fox, mink, marten, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit.

Lot: A division of a block of land or other parcel intended as a unit for the transfer of ownership or for development as described on a subdivision plat, survey map, assessor's map, or by metes and bounds.

Lot Line Adjustment: The transfer of part of one lot to another for the purpose of improving the lot, correcting the lot line or legal description, or settling a boundary line dispute. Such adjustment cannot result in a change in the number of lots, nor can it result in a non-conforming lot unless it was non-conforming prior to the adjustment.

Manufactured Home: See Factory Built Home.

Master Plan: An advisory document to guide land development decisions (C.R.S. § 30-28-106).

Mineral: An inanimate constituent of the earth in a solid, liquid or gaseous state that, when extracted from the earth, is usable in its natural form or capable of conversion into a usable form as a metal, a metallic compound, a chemical, an energy source, or a material for manufacturing or construction material.

Minor Plat Amendments: Minor errors or necessary minor revisions on a recorded plat, which do not affect the character, density or original approval requirements of a development.

Mitigation: An action which will have one or more of the following effects:

1. Avoiding an impact by not taking a certain action or parts of an action;
2. Minimizing an impact by limiting the degree or magnitude of the action or it implementation;
3. Rectifying an impact by repairing, rehabilitating or restoring the impact area, facility or service.
4. Reducing or eliminating an impact over time by preservation and maintenance operations; and
5. Compensating for an impact by replacing or providing suitable biological and physical conditions; and by replacing or providing suitable services and facilities.

Mixed Use Development: A single building containing more than one type of use, or a single development of more than one building where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of vehicular and pedestrian access and parking areas.

Mobile Home: See Factory-Built Home.

Multi-dwelling Variance: A variance required in order to have more than one single-family dwelling on a parcel of land.

Non-conforming Lot: A parcel of land created prior to the effective date of the original resolution (April 6, 1971), or any amendment thereto, which does not conform to the regulation of the zoning district in which it is located.

Non-conforming Structure: A building or portion thereof, built prior to the effective date of the original resolution (April 6, 1971), or any amendment thereto, which does not conform to the regulation of the zoning district in which it is located.

Non-conforming Use: A building, structure, or use of lands legally existing at the time of enactment of the original resolution (April 6, 1971) or any amendment thereto, which does not conform to the regulation of the zoning district in which it is located.

Official Zoning Map of Custer County: A map indicating the locations of the zoning districts. This map is on display in the Commissioner's Room of the County Courthouse and on file with the Clerk and Recorder's Office. (See Appendix I.)

Open Space: Area of land or water which is essentially unimproved and devoted to preservation or management of natural resources and/or for use as active or passive outdoor recreation areas. The term shall not include space devoted to streets, or parking and loading areas.

Parcel: Fee simple property, defined as lot, block, aliquot description, government lot, government tract or described by metes and bounds.

Parking Space: An off-street space designed and intended to be occupied by a parked vehicle, exclusive of maneuvering and roadway space.

Permanent Foundation: A poured concrete slab, blocks, or continuous perimeter foundation walls.

Permit: A document issued by Custer County, Colorado, granting permission to perform construction or use.

Person: Any individual, partnership, corporation, association, company or other public or corporate body, including the federal government and includes any political subdivision, agency, instrumentality or corporation in the State.

Pet: A domestic animal kept for pleasure rather than utility. If such animal is raised or kept for the purpose of sale or food, it shall be presumed not to be a pet. This term is not to include horses, cows, sheep, goats, llamas, ostriches, emus, alpacas, poultry or swine (excluding pot-bellied pigs).

Plan (As used in PUD Section 11, and Appendix C): "The provisions for development of a planned unit development, which may include, and need not be limited to, easements, covenants, and restrictions relating to use, location, and bulk of 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. "Provisions of the plan" means the written and graphic materials referred to in this definition." (C.R.S. § 24-67-103)

Planned Unit Development (PUD): "An area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk, or type of use, density, lot coverage, open space, or other restriction to the existing land use regulations." (C.R.S. § 24-67-103)

Planning Commission or PC: The Custer County Planning Commission.

Plat: A document prepared by a Colorado Professional Engineer or Surveyor in accordance with the Subdivision Regulations or this Resolution as an instrument that delineates property lines and shows monuments and landmark locations for the purpose of identifying and recording real property interests with the County Clerk and Recorder. (For Plat Standards see Appendix A.)

Plot Plan: A drawing showing dimensions of all structures existing or proposed, roadways, septic system, well locations, natural features and monuments (if required), and their relationship to property boundaries.

Private road or driveway: Every road or driveway not open to the use of the public for purposes of vehicular travel.

Property Line (Lot Line): The boundary which defines the outer limits of a property.

Property Owners Association (POA): See Homeowners Association.

Public Facilities: Any structure, road, or utility facility used to serve the general public.

Public Hearing: A type of public meeting in which public input and testimony on a specific proposal is taken before a board makes a final decision. A public hearing may be held as part of a public meeting.

Public Meeting: A meeting of an elected and/or appointed board, convened to discuss public business in person, by telephone, electronically, or by other means of communication.

1. A published notice of each meeting is required and shall indicate the purpose if the meeting and items that will be discussed.
2. Public meetings are open to the public at all times; they may be held exclusively for applicant input or the public can participate if deemed appropriate by the board.

Public Utility: Every regulated firm, partnership, association, cooperative, company, corporation or governmental agency, and the directors, trustees or receivers thereof, whether elected or appointed, which is engaged in providing railroad, airline, bus, electric, telephone, telegraph, communications, gas, water, sewerage, pipeline, street transportation, facilities and/or services.

Ranch: A parcel of land that is used for raising or grazing livestock and the cultivation of food for livestock, for the primary purpose of obtaining a monetary profit. A ranch may include a dwelling unit to house the owner or operator and their immediate family or as otherwise may be provided in this document.

Ranching: See Agricultural Use

Record: A document kept in the ordinary course of business by a governmental unit or agency. Also, the written expression of the proceedings of a public body. Meeting minutes are one form of record.

Recreational Occupancy: Living or staying in tents, tepee's, yurts and vehicles primarily designed as temporary living quarters for recreational camping or travel use, which has its own motive power or is mounted on or drawn by another vehicle. (See Section 6.4.A.4)

Representative: A person who is duly empowered in writing to make binding commitments in regard to an application on behalf of an applicant.

Residence (Residential Use): A single family dwelling (See Sections 3, page 27 and 6.4.A.1) used as a household by family members.

Resolution: Shall mean the Custer County Zoning Resolution.

Right-of-Way: A tract or strip of land that is dedicated to be used by the private individual or public for various access uses.

Riparian Area: An area that provides ecosystems occurring along natural or manmade watercourses or water bodies. They are distinctly different from the surrounding lands because of unique soil and vegetation characteristics that are strongly influenced by free or unbound water in the soil.

Road: See **Street**.

Roadway: That portion of a highway improved, designed, or ordinarily used for vehicular travel.

Run with the Land or Running with the Land: A condition applicable to the land, regardless of changes in ownership.

Rural:

1. Of, pertaining to, or characteristic of the country, country life, or country people; rustic: *rural tranquility*.

2. Living in the country: *the rural population*.
3. of or pertaining to agriculture: *rural economy* (Random House Dictionary, 2011)

Security: A performance bond or other form of guaranty.

Self-contained: Any RV or travel trailer that contains a black/gray water holding tanks.

Septic System: An approved method of waste disposal comprised of all of the components necessary for full functionality.

Setback: The minimum distance in linear feet measured horizontally between the outer perimeter of a structure, at grade, and each of its lot lines. (See Section 6.2 Required Setbacks)

Short-Term Rental (STR): A residential dwelling structure, or any room therein, available for lease or exchange for a period of thirty (30) days or less.

Sign: Any outdoor sign, plaque, display, device, figure, painting, drawing, message, placard, poster, billboard or any other contrivance designed to direct attention to business, profession, commodity, service or form of entertainment and placed on, suspended from, or in any way attached to any structure, vehicle, or feature of the natural or manmade landscape having the capacity of being visible from the travel way of any public road or highway. Signs may be permanent or mobile.

Single-family dwelling: A structure with cooking, sanitation and sleeping facilities used or designed to be used as a residence for one or more individuals living as a single household which has a septic system. (See Section 6.4.A.1)

Site Plan: A scale drawing, or sketch, showing the relationship between the lot or property line and the uses housed on the property, building or structures, existing or proposed on a lot, including such details needed for the purpose of the drawing such as: access points, building areas, setbacks from lot lines, building heights, floor areas, septic tanks and fields, water well, utility lines or a special or particular use.

Site Specific Development Plan: See Section 2.8.

Special Event: A temporary use for a specific purpose that is public or commercial in nature.

Special Use: A long term use of special nature allowed in the indicated zoning district after a review by the PC and granted by the BOCC. A Special Use Permit may be granted or denied in accordance with the basic purpose and intent of this Zoning Resolution. Special conditions or requirements of operation may be added by the Planning Commission to make the proposed use compatible with the zoning district.

Street (Road): The entire public or private right-of-way, providing for the pedestrian and vehicular movement of people and goods.

Structure: Anything constructed, erected or placed on the property, or attached, above or below grade.

Tent(s) or Tepee(s) or Yurt(s): A collapsible structure of canvas or other flexible material constructed and sustained by poles.

TODS: Tourist Oriented Directional Signs

Tower(s): A building or structure typically higher than its diameter and that is high relative to its surroundings. It may stand apart or be attached to a larger structure and may be fully walled in or of skeleton framework.

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

Undersized Lot: An approved parcel of land created before the Zoning Resolution went into effect (April 6, 1971) that does not meet the minimum lot area per unit as prescribed for that district.

Use by Right: A use that is listed as a use permitted by right in any given Zone in these Regulations. Zoning permits are required.

Use Tax: County Use Tax on building materials due if you purchased materials without paying any local sales tax. Usually, it refers to materials purchased outside the County delivered to property located within the County on which County sales taxes have not been collected.

Variance: A process that grants a property owner relief from certain provisions of this Zoning Resolution.

Vested Property Rights: The right to undertake and complete a development and use of property under the terms and conditions of a Site-Specific Development Plan. See Custer County Resolution: 99-10 "Vested Property Rights", and Section 2.8.

Wildlife: All species of wild animals.

Wildlife Habitat: The region or environment containing those elements for the health of a wildlife species, and consisting of principle feeding areas, winter range, summer range, shelter/security areas, concentration areas, production areas, movement corridors, areas providing essential minerals and water, and special habitat needs.

Wildlife, Critical Wildlife Habitat: Areas used by wildlife that are essential for their survival. Such areas include, depending on the species, breeding areas, birthing areas, migration routes, critical winter habitat, summer feeding and resting areas.

Yurt: see Tent or Tepee

Zoning District: A zone as shown on the County's official zoning map for which there are regulations governing the use of that land.

Zoning Permit(s): Required for any structure in excess of one hundred (100) square feet. Zoning permits are issued by the Planning and Zoning Office.

SECTION 4

ZONING AUTHORITIES, RESPONSIBILITIES, AND REVIEW POLICIES

This section discusses the roles and responsibilities of the Board of County Commissioner (BOCC), Planning Commission (PC), and Board of Zoning Adjustment (BZA), and the Planning and Zoning Office.

4.1 Board of County Commissioners (BOCC)

The Custer County BOCC is an administrative and policy-making body of a quasi- judicial nature. It is responsible for land use regulations in the unincorporated areas of the County and has provided zoning regulations for all unincorporated areas of the County since April 6, 1971, when the original Custer County Zoning Resolution was adopted.

4.1.1 Powers and Duties

The BOCC may amend any provision of the County Zoning Resolution (See Section 2.5).

In addition to the power to amend this Resolution, the BOCC appoints members to the PC, the BZA, and also appoints Associate Members. The BOCC is the final decision-making authority for land use recommendations by the PC after holding a public hearing. At public hearings the BOCC shall:

A. Hear and decide applications upon which it is required to act under the terms of this Resolution;

B. Consider and adopt amendments and/or changes (rezoning) to the Custer County Official Zoning Map, after review and recommendation by the PC;

C. Consider and adopt a schedule of permit and application fees for administration of the Resolution;

D. Provide for the proper and constant enforcement of the Zoning Resolution through appointment of a Zoning Director and sufficient budget to enable the PC, the BZA, the BOCC, the Zoning Director, and the County Attorney to carry out the responsibilities assigned to them by adoption of this Resolution.

E. In addition to authority granted to the BOCC by general or special law, the BOCC has authority to take such other action not delegated to the PC, the BZA or the Planning and Zoning Office, as the BOCC may deem desirable and necessary to implement the provisions of the Master Plan and this Zoning Resolution.

F. The BOCC shall follow the policy and procedures as detailed in 4.2, 4.3, and 4.4.

4.1.2 Appointments by the Board of County Commissioners (BOCC)

A. Custer County must be the full-time residence of each candidate.

B. For new PC and BZA appointments, the BOCC shall first consider Associate Members. The chairperson of the PC or the BZA will be consulted as to their recommendation to the BOCC regarding which of the Associate Members is best qualified to be appointed to fill the vacancy. Appointments should be based on, but not limited to, location of their residence, background, occupation, and experience, to gain a representative cross section of county residents.

C. Appointments depend on volunteers making themselves available to serve.

D. The annual calendar of meeting dates will be available to volunteers prior to the letter of intent date.

E. Letters of intent must be in the Custer County Planning and Zoning Office by the close of business on the last business day of December.

F. Board members and Associate Members serve at the pleasure of the BOCC. Associate and board members may not be given a re-appointment due to lack of attendance at meetings and workshops.

G. Any member of the PC, BZA, or an Associate Member, may be removed for cause by a majority vote of the BOCC upon written charges and after a public hearing according to procedure outlined in (C.R.S. § 30-28-117(1)) and the Custer County Zoning Resolution.

4.2 Planning Commission (PC)

Since July 1, 1971, every county in Colorado has been required to appoint a PC. The Custer County PC is authorized by C.R.S. § 30-28-103 and is declared to be in accordance with all provisions of these Statutes.

A. Purpose of the PC
   1. The PC shall be the advisory land use planning group for the County;
   2. The PC shall serve as an investigative and advisory group to the BOCC in the administration of zoning regulations;
   3. The PC shall make and adopt a Master Plan for Custer County;
   4. "The county planning commission of any county may, and upon order by the board of county commissioners in any county having a county planning commission shall, make a zoning plan for zoning all or any part of the unincorporated territory within such county, including both the full text of the zoning resolution and the maps, and representing the recommendations of the commission for the regulation by zoning districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, access

to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes. To the end that adequate safety may be secured, the county planning commission may include in said zoning plan provisions establishing, regulating, and limiting such uses on or along any storm or floodwater runoff channel or basin as such storm or floodwater runoff channel or basin has been designated and approved by the Colorado water conservation board in order to lessen or avoid the hazards to persons and damage to property resulting from the accumulation of storm or floodwaters." (C.R.S. § 30-28-111(1));

5. The PC shall hear and recommend action by the BOCC regarding all land use applications, including but not limited to this Zoning Resolution, the Master Plan, the Subdivision Regulations, and/or changes (rezoning) to the Custer County Official Zoning Map;
6. The PC shall periodically review the effectiveness of this Zoning Resolution and initiate amendments or make recommendations for amendments to the BOCC.

B. Membership

1. The BOCC is authorized to appoint a commission of not less than three (3) and not more than nine (9) to be known as the County Planning Commission (C.R.S. 30-28-103).
2. The members of the PC shall serve without compensation, but shall be reimbursed for travel, mileage, and continuing education expenses authorized by the BOCC;
3. Each member of the PC shall be a full-time resident of Custer County. Appointments depend on volunteers making themselves available to serve;
4. In the event there are not enough seated members available to serve, vacant positions should be filled by Associate Members first. A maximum of half of the BZA members may also be members of the PC. All seated members of the PC are ex-officio members of the BZA;
5. Any member of the PC may be removed for nonperformance of duty or misconduct by a majority vote of the BOCC (C.R.S § 30-28-103(3);
6. In the event of the death, resignation, or removal of any member or associate member before the expiration of his/her term, a successor shall be appointed by the BOCC for the unexpired portion of the member's or Associate Member's term;
7. Upon a permanent vacancy in the seated membership of the PC, the BOCC shall request recommendations from the Chairperson about which of the Associate Members are best qualified to be appointed to fill the vacancy;
8. No member of the BOCC may serve on the PC.

C. Experts, grants and gifts

1. The BOCC has the authority to employ experts and a staff and shall pay such expenses as may be deemed necessary for carrying out the powers conferred, and the duties prescribed in this section;
2. The PC is directed to make use of expert advice and information which may be furnished by appropriate federal, state, county and municipal officials, department, and agencies and in particular by the Director of the Division of Planning in the Department of Local Affairs (DOLA) of the State of Colorado. All state officials, departments and agencies having information, maps, and data pertinent to Custer County Planning and Zoning are authorized and directed to make the same available for the use of the PC as well as to furnish such other technical assistance and advice as they may have available for such purposes;
3. The PC is specifically empowered to receive and expend all grants, gifts, and bequests, specifically including state and federal funds and other funds available for the purpose

for which the commission exists, and to contract with the state of Colorado, the United States, and all other legal entities with respect thereto. The PC may provide, within the limitations of its budget, matching funds wherever grants, gifts, bequest, and contractual assistance are available on such basis. (C.R.S. § 30-28-104).

D. General duties of the PC

1. At the public hearing(s) the PC shall review the application and accompanying evidence before taking action on the request. Included in the review shall be:
   a. Any recommendations or questions by the Planning and Zoning Office;
   b. Public input on the application;
   c. Any additional qualified opinions or questions.
   d. Make a recommendation of action to the BOCC including pertinent background information supporting the recommended action;
2. The PC shall prescribe uniform rules of procedure pertaining to investigations, findings of facts, applications, appeals and public hearings;
3. "The county planning commission or the board of adjustment of any county, in the exercise of powers pursuant to this article, may condition any portion of a zoning resolution, any amendment thereto, or any exception to the terms thereof upon the preservation, improvement, or construction of any storm or floodwater runoff channel designated and approved by the Colorado water conservation board." (C.R.S. § 30-28-111(2));
4. The PC shall recommend action by the BOCC regarding all applications for amendments to the text of this Zoning Resolution, , Subdivision Regulations and/or changes to the Custer County Official Zoning Map;
5. Any member of the PC who has a direct or indirect interest in any property or in the decision relating to such property which is the subject matter of, or is affected by, a decision of the PC, shall be disqualified from participating in discussion, or decision proceedings of the PC in connection therewith;

E. Policies and Procedures

1. The PC shall act in strict accordance with all of the laws of the State of Colorado and regulations or ordinances of Custer County.
2. The PC serves as an investigative and advisory group offering recommendations to the BOCC in the administration of all land use regulations as required.
3. The PC will periodically review the Subdivision Regulations, Zoning Resolution, the County Master Plan and /or changes to the Custer County Zoning Map and hear and recommend action by the BOCC regarding said documents.
4. The PC shall select a Chairperson, Vice-Chairperson, and Secretary at its first regular meeting of each year and shall also establish the location to post meeting notices. The Secretary may or may not be a member of the PC Board.
5. The Chairperson shall preside at meetings and shall perform all duties as usual and ordinary for the presiding officer of any board or group. The Vice- Chairperson shall perform the duties of the Chairperson in absence of the Chairperson. The Secretary shall keep written minutes of its proceedings, indicating evidence presented, findings of fact made by the PC, decisions of the PC, the attendance of members, and the vote of each member and their reasons, upon each question. Minutes of the proceedings shall be of public record and filed in the Planning and Zoning Office which shall have custody of all of the records, and which shall be of public record.

6. A minimum of four (4) seated members of the PC must be present for a quorum. It is desirable to have seven (7) members at each meeting. In the event that there are less than seven (7) members available for the meeting due to a seated member or members being absent or recusing themselves. replacements will be chosen at random from the attending associate members first. In the event that less than seven (7) members are still not available, a maximum of no more than two (2) BZA seated members will be randomly chosen next;
7. Applicant is entitled to a seven (7) member board but may waive this right if the full number is unavailable to hear their application. However, under no circumstances will a decision be made unless the requisite four (4) PC seated members are present;
8. Each application for action by the PC shall be submitted in writing to the Planning and Zoning Office and on such form as shall be prescribed by the PC and shall contain, but not be limited to:
    a. The provisions of the Custer County Zoning Resolution involved;
    b. A sketch of the property showing the location of all improvements in relation to the lot lines (plot plan);
    c. A non-refundable application fee, as established by the BOCC. After the fact applications shall be triple the established fee;
    d. The submittal shall be at least thirty (30) calendar days prior to the regularly scheduled PC public hearing;
    e. The submittal shall be reviewed for completeness by the Planning and Zoning Office. The applicant shall be notified of any inadequacies or missing or incomplete documentation. An incomplete submittal will not be processed;
9. The applicant or his representative shall be present at any site tour and at any meeting scheduled to hear the request;
10. The PC shall take judicial notice of facts to the same extent and in the manner as courts of record and may consider any relevant facts within the personal knowledge of any member of the PC which are stated into the record by such member;
11. The PC may impose additional requirements or conditions on the applicant before they consider or act on the application;
12. All actions by the PC require the majority vote of the members of the PC;
13. When the Chairperson calls for a vote, each member may render their vote. After all votes are verified, each member may give a verbal statement explaining their vote.

4.3 Board of Zoning Adjustment (BZA)

The BZA is a quasi-judicial body established to hear variance requests to and appeals from the Zoning Resolution. BZA members are appointed by the Custer County BOCC. The BZA functions by authority granted in C.R.S. §30-28-117(2).

The BZA shall adopt any rules necessary to transact the BZA business or to expedite its functions consistent with Colorado State Statutes and the provision of this Zoning Resolution.

The BOCC hereby sets forth the general rules governing the organization, procedures, and jurisdiction of the BZA.

The BZA may adopt supplemental rules of procedure after approval of the PC and BOCC.

A. Purpose of the BZA
   1. To hear and act on specific appeals that vary from the requirements of the Zoning Resolution due to specific conditions and which will not be contrary to the public interest. Requests for variances should provide written findings of legitimate hardships, as defined in Section 4.3.H, 6, 7, and 8 of the Zoning Resolution, that explain why a literal enforcement of the provisions of this Resolution would result in a legitimate and unnecessary hardship and not merely an inconvenience;
   2. To hear and decide appeals from any person aggrieved or any officer, department, board, or bureau of the county affected by the grant or refusal of a zoning permit or by other decision of an administrative office or agency based on or made in the course of the administration or enforcement of the provisions of this Zoning Resolution.

B. Membership
   1. Custer County enacts Zoning Regulations and therefore shall provide for a Board of Zoning Adjustment (BZA) of three (3) to five (5) members and for the manner of appointment of such members (C.R.S. 30-28-117).
   2. Each of such members of the BZA shall be a full-time resident of the County. Appointments depend on volunteers making themselves available to serve;
   3. The members shall serve without compensation but shall be reimbursed for travel, mileage, and continuing education expenses authorized by the BOCC;
   4. Upon a permanent vacancy in the seated membership of the BZA, the vacant seated position should be filled by an associate member first, if practical. The BOCC shall request recommendations from the Chairperson regarding which of the Associate Members are best qualified to be appointed to fill a vacancy;
   5. No member of the BOCC shall serve on the BZA;
   6. Any member of the BZA may be removed for cause by a majority vote of the BOCC upon written charges and after a public hearing (C.R.S §30-28-117(1));
   7. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments;

C. Experts, grants, and gifts
   1. The BZA is directed to make use of expert advice and information which may be furnished by appropriate federal, state, county and municipal officials, department, and agencies and in particular by the Director of the Division of Planning in the Department of Local Affairs (DOLA) of the State of Colorado. All state officials, departments and agencies having information, maps, and data pertinent to Custer County Planning and Zoning are authorized and directed to make the same available for the use of the BZA as well as to furnish such other technical assistance and advice as they may have available for such purposes;
   2. The BZA is specifically empowered to receive and expend all grants, gifts, and bequests, specifically including state and federal funds and other funds available for the purpose for which the commission exists, and to contract with the state of Colorado, the United States, and all other legal entities with respect thereto. The BZA may provide, within the limitations of its budget, matching funds wherever grants, gifts, bequest, and contractual assistance are available on such basis. (C.R.S. § 30-28-104).

D. General duties of the BZA

1. To meet at the request of the Chairperson or the Planning and Zoning Office, to transact the BZA's business or to expedite its functions or powers, as long as they are consistent with the provisions of this Zoning Resolution;
2. To present publicly all evidence and testimony;
3. To hear requests that conflict with this Zoning Resolution;
4. To hear from any person, their agent or attorney, as to their concerns regarding a variance request;
5. To invoke any legal remedy for the enforcement of this Zoning Resolution including full power to order discontinuance of any use and stays of work (stop work orders) on any premises in violation of the requirements of this Zoning Resolution;
6. Any member of the BZA who has a direct or indirect interest in any property or in the decision relating to such property which is the subject matter of, or is affected by, a decision of the BZA, shall be disqualified from participating in discussion, or decision proceedings of the BZA in connection therewith;
7. The Chairperson, or in his absence the Vice-Chairperson, may administer oaths and compel the attendance of witnesses upon application to the district court.
8. "The county planning commission or the board of adjustment of any county, in the exercise of powers pursuant to this article, may condition any portion of a zoning resolution, any amendment thereto, or any exception to the terms thereof upon the preservation, improvement, or construction of any storm or floodwater runoff channel designated and approved by the Colorado water conservation board." (C.R.S. § 30-28-111(2)).

E. Policies and Procedures:

1. The BZA shall act in strict accordance with all of the laws of the State of Colorado and regulations or ordinances of Custer County.
2. The BZA will prescribe uniform rules of procedure pertaining to investigations, findings of fact, applications, appeals and public hearings.
3. The BZA shall select a Chairperson, Vice-Chairperson, and Secretary at its first regular meeting of each year and shall also establish the location to post meeting notices. The Secretary may or may not be a member of the Board.
4. The Chairperson shall preside at meetings and shall perform all duties as usual and ordinary for the presiding officer of any board or group. The Vice-Chairperson shall perform the duties of the Chairperson in absence of the Chairperson. The Secretary shall keep written minutes of its proceedings, indicating evidence presented, findings of fact made by the BZA, decisions of the BZA, the attendance of members, and the vote of each member and their reasons, upon each question. These minutes of the proceedings shall be filed in the Planning and Zoning Office which shall have custody of all of the records, and which shall be of public record.
5. A quorum will consist of three (3) seated members of the BZA. In the event that a seated member is absent or recuses themself, replacements will be chosen at random from the attending associate members first. In the event that a quorum still has not been established, PC members will be randomly chosen until a quorum is established.
6. An applicant may waive their right to the quorum requirement to hear their application. However, under no circumstances will a decision be made unless the requisite three (3) seated members are present.
7. The BZA has the power to take judicial notice of facts to the same extent and in the manner as courts of record and may consider any relevant facts within the personal

knowledge of any member of the Board which are stated into the record by such member.

8. Actions by the BZA for approval or denial of a variance application or other business shall require the concurring vote of all three (3) members on a three (3) member board, all four (4) on a four (4) member board, and four (4) on a five (5) member board.
9. When the Chairperson calls for a vote, each seated member may render their vote. After all votes are verified, each member may give a verbal statement explaining their vote.

F. Procedure to Request a Variance from the BZA

All variance requests to the BZA shall be submitted in writing and on such form as shall be prescribed by the BZA and shall contain, but not be limited to:

1. Provisions of the Custer County Zoning Resolution that are involved;
2. What relief is being sought;
3. What are the grounds upon which such variance is being sought;
4. A sketch of the property showing the location of all improvements in relation to the lot lines (plot plan) and in the case of an over height variance, an elevation of the structure relating to the height of the structure to finish grade and the location of the desired variance(s);
5. A non-refundable application fee, as established by the BOCC. After-the-fact application fees shall be triple the established fee.
6. The submittal shall be at least thirty (30) calendar days prior to the regularly scheduled BZA public hearing;
7. The applicant or his representative shall be present at any site tour and at any public hearing scheduled to hear the variance request;
8. Before the site tour, in cases of a new structure or an addition to an existing structure, the applicant is responsible for placing stakes in the ground showing the corners of the new addition with strings attached outlining the perimeter.
9. The submittal shall be reviewed for completeness by the Planning and Zoning Office. The applicant shall be notified of any inadequacies or missing or incomplete documentation. An incomplete submittal will not be processed.

G. Procedures and Standards for Granting a Variance

1. The BZA shall have the power to interpret the Zoning Resolution, including any uncertainty as to boundary location, or meaning of wording, so long as this interpretation is not contrary to the purposes and intent of this Zoning Resolution;
2. The BZA shall have the power to grant relief from this Zoning Resolution in unusual and extraordinary circumstances by authorizing upon a request or appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Zoning Resolution (C.R.S. § 30-28-118);
3. A variance may be granted when the exceptional narrowness, shallowness or shape of a specific piece of property that existed at the time of the enactment of the original Zoning Resolution or when exceptional topographic conditions or other extraordinary and exceptional situation(s) or condition(s) of a parcel results in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, the owner of such property;

4. No variance shall be granted by the BZA unless and until the BZA shall have made findings that all of the following conditions have been met:
   a. An unnecessary hardship to the owner would occur if the provisions of the Zoning Resolution were strictly applied;
   b. The granting of a variance will not substantially or permanently injure the appropriate use of adjacent property;
   c. The granting of a variance will not alter the essential character of the Zoning District;
   d. The variance will not authorize any use other than those enumerated as use-by-right in the Zoning District;
   e. The granting of a variance will not adversely affect the public health, safety or welfare of the inhabitants of Custer County;
   f. The variance is not out of harmony with the general purpose and intent of the Zoning Resolution or Master Plan; and
   g. The condition or situation of the property concerned, or the intended use of the property is so rare as to make an amendment to the Zoning Resolution impractical.
5. No variance shall be granted if the circumstances found to constitute a hardship were created by the current owner or for the owner's convenience, profit or whim, unless such circumstances were in existence at the time ofthe original passage of the Zoning Resolution and cannot be reasonably corrected;
6. Where feasible, special exceptions may be made for the purpose of using energy sources such as wind, solar, and geothermal;
7. Approvals for a variance require that three (3) members in the case of a three-member board, four (4) members in the case of a four-member board, or four (4) members in the case of a five (5) member board must vote in favor of the applicant or appellant.
8. When the chairperson calls for a vote, each member will render their vote. After all votes are verified, each member shall give a verbal statement explaining their vote;
9. In granting a variance, the BZA may impose additional requirements on the applicant as a condition of approval;
10. Variances shall be valid for two (2) years from date of approval. If construction has not begun in that time frame the variance shall lapse and become void. Upon completion of construction, the variance shall run with the land;
11. Written notification of the decision of the BZA shall then be mailed to the applicant.

H. Appeals to the BZA

1. Appeals from decisions of the Planning and Zoning Office and BOCC must be submitted to the Planning and Zoning Office by any person aggrieved by an inability to obtain a zoning permit or by a decision of any administrative official or agency based upon or made in the course of the administration or enforcement of the provisions of the Zoning Resolution. Appeals submitted to the Planning and Zoning Office will be heard and decided upon by the BZA.

2. Procedure for Appeals
   a. Appeals to the BZA shall be in writing and made within thirty (30) days from the date on which the appellant was aggrieved by such action. The thirty (30) day time period shall be counted in calendar days beginning with the date upon which the application was denied.
   b. The appeal shall be filed with the Planning and Zoning Office, which shall schedule the appeal for the next regularly scheduled public hearing of the BZA.

c. The administrative official whose decision is being appealed shall provide the BZA with all documents constituting the record upon which the appeal is based.
d. The administrative official shall also provide the BZA with a written statement of findings of fact and justification for the decision. The BZA shall have the right to require further information from the appellant or administrative official as it deems necessary.
e. A copy of all documents submitted to the BZA by either the appellant or the administrative official shall be provided to the opposing party at least one week prior to the BZA public hearing at which the appeal is heard.
f. The fee for appeals shall be the same as for variance requests that are established by resolution of the BOCC. If the BZA finds in favor of the appellant, the appeal fee will be refunded to the appellant.
g. No appeal to the BZA shall be allowed for building use violations that may be prosecuted pursuant to C.R.S. § 30-28-124 (1) (b) as amended.
h. The Chairperson of the BZA shall then, within forty-five (45) days, call a public hearing of the BZA for the purpose of reviewing the requested appeal. At the same time a copy of the requested appeal shall be transmitted to the PC for an opinion. The PC may provide feedback to the BZA and appellant for consideration.
i. In deciding upon any appeal, the BZA shall strictly apply the provisions of the Zoning Resolution.
j. The vote of all three (3) members in the case of a three-member board, all four (4) members in the case of a four-member board, or any four (4) members of a five-member board shall be required to reverse the action of decision of any administrative officer or agency. If less than the required vote is received, the appeal shall be deemed denied.
k. Written notification of the decisions to the BZA shall then be mailed to the appellant.
l. Any further appeal from the decision of the BZA shall be made to the District Court, as provided by court rule or state statute, provided that such appeal is made prior to thirty (30) calendar days following the date of the notification of the BZA decision.

4.4 Associate Members

"The board of county commissioners shall provide for the filling of vacancies in the membership of the commission and for the removal of a member for nonperformance of duty or misconduct. The board of county commissioners may appoint associate members of such commission, each of whom shall be a full time resident of the county, and, in the event any regular member is temporarily unable to act owing to absence from the county, illness, interest in any matter before the commission, or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose." (C.R.S. § 30-28-103(3)).

Appointment of Associate Member positions by the BOCC should be filled taking into consideration factors such as diversity and geographical location of residence, background, occupation and experience.

Serving as an Associate Member is an excellent opportunity to become educated on the duties and responsibilities of both the PC and the BZA.

4.4.1 Policies

A. Associate Members are appointed by the BOCC in January of each year for a term of one (1) year to serve both the PC and the BZA and attend both meetings. Associate Members shall act only when a regular member is temporarily unable to act. Associate Members shall be permitted to attend all meetings and may participate in the discussion of any matter coming before the PC or the BZA except for motions for approval/disapproval and voting.

B. When one or more associate members are needed for either the PC or the BZA, the Associate Member(s) shall be selected in a random draw from the names of all Associate Members present at the meeting. Preference will be given first to those Associate Members who attended the site tour. If needed, the draw shall be before each PC and BZA meeting commences.

C. In the event there are not enough associate members available to fill vacancies, up to one-half of the members of the BZA may be seated on the PC while all the members of the PC are ex-officio members of the BZA. No members of the BOCC shall be members of the PC or the BZA.

D. Associate Members selected shall participate as seated members.

4.4.2 Procedures:

A. Appointments depend on volunteers making themselves available to serve.

B. Letters of intent must be in the Custer County Planning and Zoning Office by the close of business on the last business day of December.

4.5 General Rules for PC, BZA, and Associate Members

A. Attendance PC, BZA and Associate Members

Policies:

1. Four (4) absences without cause (meetings and workshops) in a business year will prompt a review by the BOCC, the Chairperson of each Board and the Planning and Zoning Officer and could result in removal. (See 4.1B.7)
2. Attendance is important, and the absence rule applies to both boards and Associates.

Procedures:

1. The minutes of each meeting and workshop notes will indicate who is present and who is seated.
2. Associate Members are encouraged to attend all meetings, site tours and workshops. This is a learning experience and indicates interest by the members.

B. Public Meeting Rules

The PC and BZA shall meet at the request of the Chairperson or the Planning and Zoning Office, to transact business or to expedite its functions or powers, as long as they are consistent with

the provisions of this Zoning Resolution. The dates are scheduled by the BOCC at the beginning of each year, although special circumstances occasionally arise that cause a meeting date to be changed. Regular meetings shall be held monthly between February and December in the Custer County Courthouse, unless other arrangements have been made. A regular meeting may be held at any other convenient time or place with consent of each Board. Notice of a regular meeting, including specific agenda information where possible, shall be posted (see below) not less than twenty-four (24) hours prior to the holding of the meeting.

Special meetings at which no decisions may be made by either PC or BZA members, but which solicit input and comments from the public shall be called by the Secretary on the written request of the Chairperson, or on the written request of any two (2) members of the board desiring the input. At least twenty-four (24) hours advance notice, written or oral, of a special meeting shall also be posted and given to each member of the board calling the meeting. The advance notice to the board shall set forth the date, hour, place, and purpose of such meeting.

Special meetings may be conducted but cannot be used as a substitute for a regular meeting. Any information gathered during the special meeting may be considered during any subsequent regular meeting. Minutes shall be taken during special meetings. All applicants and the public shall be invited to attend.

Executive sessions are called for the purpose, among other things, of receiving legal advice and discussing matters subject to negotiations. It is privileged communication and shall be limited to specific legal implications. Meetings are subject to the provisions of the Colorado Open Meetings Act (C.R.S. § 24-6-402). Closing a portion of any meeting to public comment or participation shall only occur in those rare instances where the BOCC, PC, or BZA has need to discuss a matter for which an executive session is allowed under C.R.S. § 24-6-402. The BOCC, PC, or BZA may go into an executive session by an affirmative vote of two-thirds (2/3) of those members present. Prior to going into executive session, the Chairperson shall announce the general topic of the executive session. The only items that shall be discussed during the executive session shall be those items related to the announced topic of the executive session, and the BOCC, PC, or BZA shall come out of the closed session prior to conducting any regular business. No proposed policy, position, resolution, rule, regulation, or formal action may occur at an executive session.

All notices that are required to be published shall be published in the newspaper designated by the BOCC for legal publications at the BOCC's first scheduled meeting of the year.

Procedures:

1. Elections will be conducted by a written nomination and ballot.
2. Nominations will be clearly announced prior to voting to allow nominees to decline nominations.
3. The Chairperson and Vice Chairperson should be on different appointment cycles, if possible. Each appointment will be for one year.
4. A candidate for Chairperson must have completed one year of service on the BZA to be nominated.
5. The Secretary or a representative from the Planning and Zoning Office will be the acting Chairperson for the first meeting of the year until the Chairperson and Vice Chairperson are nominated and elected.

6. The Secretary will be able to appoint an impartial assistant from the Associate Members, the audience or County Courthouse staff to assist with the elections, if needed.
7. After the elections the Chairperson will be seated and will preside for the remainder of the meeting.

The general duties of the above boards are:

1. The Chairperson shall preside at meetings and shall perform all duties as usual and ordinary for the presiding officer of any board or group. The Chairperson shall also:
   a. Open the session and call the meeting to order and take care of general meeting duties such as approval of minutes and Planning and Zoning Office report;
   b. Announce the general business and act upon it in the order specified in the public agenda;
   c. Require people to remain at the podium and microphone. Discourage speakers from approaching closer to the hearing body except in unusual circumstances;
   d. Enforce, on all occasions, the observance of order and decorum among the assembly.
2. The Vice-Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson.
3. A Temporary Chairperson may be appointed by the members present to preside at a meeting where the Chairperson and Vice-Chairperson are absent.
4. The Secretary shall:
   a. Keep written minutes of the proceedings of each meeting indicating evidence presented, findings of fact made, the vote of each member upon each question, the reasons for their vote, absences and abstentions and to keep records of its examinations and official actions, all of which shall be filed as public records in the Planning and Zoning Office which shall have custody of all the records.
   b. Publish, or cause to be published, notice of meeting(s) at least fourteen (14) days prior to the date of meetings. Said notice shall contain:
      1. Legal description of the property and its street address;
      2. Present zoning classification of the property and the nature of the request;
      3. Date, time and place of meeting;
   c. Notify adjacent property owners within three hundred (300) feet of the boundaries of the subject parcel and any agencies that may be affected by the request.
5. Conflicts of Interest: Any member or Associate Member who has a personal or financial interest in any matter that may come before the PC or BZA board at any meeting shall disclose such interest to the board. Such member's interest shall be recorded in the minutes of the proceedings of such meeting and such member should recuse themselves from participating in the board discussion and voting on such a matter.

The public shall be permitted to attend and be heard regarding current agenda items at all of its meetings. All evidence and testimony shall be presented publicly.

The PC and BZA shall act only by motion.

C. Recess or Adjournment

Any regular meeting may be recessed or adjourned or the time or place of any previously announced regular meeting may be changed without requiring additional public notice.

D. Cancellation

If no business is scheduled before the PC or BZA or, if it is apparent that a quorum will not be available, any meeting may be cancelled by the Chairperson by giving notice by either personal delivery, mail, e-mail or telephone to all members prior to the time set for the meeting.

E. Order of Business

The business of the PC and BZA shall be handled at each meeting in the following order:

a. Call to order.
b. Pledge to the flag.
c. Approval of minutes from previous meetings.
d. Amend agenda.
e. Old Business.
f. New Business.
g. Adjournment.

The order of business for a meeting may be modified by affirmative vote of the members present.

F. Conduct of the Public at Public Meetings and Public Hearings

1. Public may comment or ask questions at a meeting;
2. The Chairperson may establish rules of conduct and whether proponents and opponents are represented by a spokesperson;
3. The Chairperson may establish a time limit on persons (staff and applicants excepted) who wish to address the PC or BZA;
4. At no time should the public speak directly to the applicant or vice versa. All comments should be directed to the PC or BZA;
5. Anyone making a comment must come to the podium and identify themselves by name and address;
6. No foul language or outbursts;
7. Failure of anyone to comply with any of the above shall be subject to removal from the meeting.

G. Site Tours

Site tours are an important fact-finding tool for board members in the variance and investigative process. PC, BZA and Associate Members are encouraged to participate.

Policies:

1. Site Tours are scheduled by the Planning and Zoning Office.
2. Site tours are generally held the Thursday before the scheduled meeting date of the PC and BZA.
3. Board members and Associate Members are required to review the rules pertaining to site tours and treat each applicant with courtesy and respect, recognizing that this is probably a new experience for the applicant.

4. During the site tour, Board Members and Associate Members may direct questions to the applicant to clarify what is seen on the site tour. Questions and answers at the site tour will be recorded or written by the Planning and Zoning Office representative and presented during the presentation meeting.

Procedures:

1. All Board Members and Associate Members will meet at the Planning and Zoning Office at a prescheduled time.
2. Site tours will be combined when practical. . Prior to the site tour date the Chairperson of each Board will meet with the Planning and Zoning Office personnel to go over the itinerary and design the tour to best accommodate both Boards and Associates. Should it be necessary to split the tours, the Chairperson will insure that Associates are available on each tour.
3. Board Members and Associate Members are asked to stay in a group during the site tour.

4.6 Planning and Zoning Office

A. Duties

The Planning and Zoning Office shall oversee the daily administration and enforcement of the County Zoning Resolution, Septic Regulations, Special Event Regulations and Subdivision Regulations. C.R.S. § 30-28-124 requires the designated administrative official to issue a compliance order if he or she has personal knowledge of a violation. Merely reporting to a board or commission would not be enough. C.R.S. § 30-28-124.5 states that compliance orders shall be issued by a zoning official designated by resolution of the BOCC. Such orders are to be issued on the "personal information and belief" of the zoning official. The zoning official or the County Attorney may then issue a summons and complaint in the event of non-compliance with the order.

In addition, the Planning and Zoning Office shall:

1. Authorize zoning and septic permits;
2. Maintain a list of licensed installers of Onsite Waste Water Treatment System (OWTS) and administers the test for installers;
3. Accept applications for variances, Special Use Permits, Special Event Permits and Planned Unit Development Permits;
4. Grant interior lot line vacations;
5. Issue OWTS variances;
6. Maintain current fee schedule;
7. Collect scheduled fees and County Use Tax;
8. Perform and record County and State septic inspections;
9. Maintain the records of the membership terms for the PC, BZA and Associate Members and attendance of the PC, BZA associate members at meetings and workshops;
10. Provide research and supporting materials to aid the BZA, PC, and the BOCC for their consideration of applications brought before them;
11. Ensure a public notice appears in a newspaper of general circulation in Custer County fourteen (14) days prior to any PC or BZA meeting or workshop date;
12. Notify adjacent property owners via Certified, Return Receipt mail of any applications submitted to the PC and/or BZA;

13. Notify an Applicant in advance of any meeting of all information, documents, petitions, orders, correspondence that will be presented during an upcoming meeting by the Planning and Zoning Office, PC, BZA or BOCC;
14. Educate the public concerning building and living in the County through the Homeowners Packet, Right to Ranch and Farm policy, zoning regulations, wildlife recommendations, and Master Plan initiatives;
15. Conduct compliance inspections of buildings and structures to determine compliance with the terms of this Zoning Resolution and report said findings and violations to the PC, BZA and BOCC for the purpose of ordering compliance with the requirements of this Zoning Resolution;
16. Provide interpretation of this Zoning Resolution and the Official Zoning Map and such other technical and clerical assistance as the PC, BZA and BOCC may require;
17. Maintain a list of registered Special Use Permits, Home Occupations and Special Event Permits;
18. Assume additional responsibilities assigned by the BOCC;
19. The Director of the Planning and Zoning Office acts as the County Planner and the County Compliance Inspector;
20. Act as code enforcer;
21. Present at PC and BZA meetings the questions asked, and answers given at all site tours.

In the event that any application submitted to the Planning and Zoning Office is denied, the applicant may appeal that decision through the BZA Appeal Process (Section 4.3.G).

B. The Planning and Zoning Director shall be the coordinator of the meetings of the PC and BZA. During meetings, the Planning and Zoning Director shall assist in expediting the business in every way compatible with the rights of individuals.

C. Administrative Review Process by the Planning and Zoning Office
   1. Eligibility for Administrative Review (A process by which actions may not require review by the BOCC, BZA, or PC).

      The following actions may be considered based on the Administrative Review Request:
      - Lot Line and/or Boundary Adjustments;
      - Minor Plat Amendments;
      - Vacation of Interior Lot Lines; and
      - Home Occupation.

   In order to qualify for an Administrative Review, the proposal must meet the following conditions:
      - Does not increase net density of the subdivided land;
      - Does not have any apparent negative impact on adjacent properties or easements;
      - Does not change recorded acreage of existing properties; and
      - Conforms to this Zoning Resolution.

   2. Standards and Procedures

      Upon request of an Administrative Review, the Planning and Zoning Office staff, in consultation with the Chairperson of the PC or his representative, shall review the

Application to determine whether it qualifies for Administrative Review. Once eligibility has been determined, the request shall be processed.

a. The Planning and Zoning Office shall consider the following criteria in reviewing the application:
    1. Review title and proof of ownership;
    2. The Applicant's purpose in submitting the application;
    3. The degree to which the application decreases net density, and whether such alteration increases or decreases the amount of nonconformance with the Zoning Resolution and the Master Plan;
    4. The impact on adjacent property owners, interested parties and easements, to include traffic impact.
    5. Where lots are increased in size as a result of any action requested in an Administrative Review well and dwelling permits will be restricted to one (1) per reconfigured lot.
b. Administrative Review Procedures:
    1. The Applicant shall:
        a. Submit proof of ownership by providing an ownership and encumbrance (O&E) report from a title insurance company. Prior to final action on an application for Administrative Review, the applicant must supplement the O&E report by submitting a written statement from the Custer County Assessor that no documents or instruments of any kind have been recorded against the property subsequent to the date of the O&E report. A date-stamped copy of the official parcel record maintained by the Assessor's Office pertaining to the property in question and signed by the Assessor or a deputy shall be sufficient documentation;
        b. Submit a written application to the Planning and Zoning Office, along with proper fees and such evidence as may be necessary to demonstrate compliance with the qualifications and requirements set forth in this Section;
        c. Be available to answer questions from office staff and, if deemed necessary, appear before the PC and BOCC to present the request; and
        d. Meet the requirements as set forth in the Planning and Zoning Office letter of notification.

    2. The Planning and Zoning Office shall:
        a. Upon receipt of an Administrative Review request and in consultation with the Chairperson of the PC or his representative, review the Application to determine whether it qualifies for Administrative Review. Once eligibility has been determined, the request shall be processed.
        b. Process the submitted fees;
        c. Research and verify the applicant's request and documentation;
        d. Prepare a staff report that includes background information and areas of concern with the application and any action or requirements for consideration; and
        e. Send a letter of notification to the applicant detailing the action and requirements that need to be met once determined by the Planning and Zoning Office Staff.

f. Review the application and accompanying evidence with the Chairperson of the PC before taking action on the application. Before a final decision is made such evidence will include all input and items researched by the Planning and Zoning Staff; and

g. Grant or deny the application. If the application is denied, the applicant will have the option to have the request reviewed by the PC and BOCC.

3. Final Documentation

After final approval has been granted through the Administrative Review Process, pertinent documentation shall be recorded with the County Clerk and Recorder within sixty (60) days of approval. In all instances, a letter describing the action shall be recorded by the Planning and Zoning Office. The applicant shall record the approved plat with all appropriate signatures.

SECTION 5

RIGHT TO RANCH AND FARM

Custer County Resolution 98-14, establishing a right to ranch and farm policy, was adopted November 4, 1998, and is supported by C.R.S. § 35-3.5-102, which was effective July 1, 1996. The Resolution and Statutes state that an agricultural operation that employs methods or practices commonly or reasonably associated with agricultural production is not a public or private nuisance, particularly if it was in place prior to the initiation of nonagricultural activities in the surrounding neighborhood.

It is the policy of the BOCC of Custer County that ranching, farming, and all manner of traditional agricultural activities and operations throughout Custer County are integral elements of and necessary for the continued vitality of the county's history, economy, landscape, lifestyle and culture. Given their importance to Custer County and Colorado, agricultural lands and operations are worthy of recognition and protection.

Colorado is a "Right to Farm State" pursuant to C.R.S. § 35-3.5-101, et seq., Colorado Revised Statutes. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds and smells of Custer County's agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and a healthy ranching and farming sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells as inconveniences, eyesores, noises and odors. However, state law and county policy provides that ranching or other agricultural activities and operations within Custer County shall not be considered to be nuisances, as long as they are operated in conformance with the law and in a non- negligent manner. Therefore, all landowners, residents and visitors must be prepared to encounter noises, odors, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, fertilizers, soil amendments, herbicides and pesticides according to applicable law, any one or more of which may naturally occur as part of legal and non-negligent agricultural operations. In addition, all owners of land, whether ranch or residence, have obligations under state law and county regulation with regard to the maintaining of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and to act as good neighbors and citizens of the county.

(The above represents an excerpt from the County Resolution 98-14. Complete copies may be obtained from the Clerk and Recorder.)

SECTION 6

COUNTY STANDARDS AND REQUIREMENTS

The County desires to have certain standards or requirements met by all property owners who build in the unincorporated areas of Custer County. These standards and requirements are considered in effect for the public welfare of all citizens of the County.

No building, structure or land shall hereinafter be occupied or used, and no building or structure, or part thereof, shall be erected, moved, or structurally altered unless in conformity with all the regulations herein specified.

No owner shall have the right to divide any lot unless in conformity with all the regulations herein specified and the Subdivision Regulations.

6.1 Sanitation Requirements

Applicable County, State, and Federal sanitation requirements shall be met in order to develop any land. Sanitation requirements consist of potable water and sewage disposal. County sewage disposal regulations are detailed in the current County Guidelines on On-site Wastewater Treatment System (OWTS), commonly called the Septic Regulations.

No septic tank system or other sewer facility shall be constructed on any parcel or lot unless it has a prior septic permit from the Planning and Zoning Office.

Recreational vehicle parks and tent camping areas shall provide an authorized dump station for disposal of chemically treated sewage. Such stations shall meet, or exceed, the minimum standards required by the Colorado Department of Public Health and Environment.

6.2 Required Setbacks

On property sized three (3) acres or greater: No portion of any building or structure shall be located, erected or maintained less than fifty (50) feet from any property line or roadway easement boundary nor less than sixty (60) feet away from the edge of the driven surface of a roadway, where a recorded roadway easement does not exist.

On property less than three (3) acres, but greater than one half (1/2) acre: No portion of any building or structure shall be located, erected or maintained less than twenty- five (25) feet from all property lines, boundaries, or recorded roadway easements.

On property one half (1/2) acre or less: No portion of any building or structure shall be located, erected or maintained less than ten (10) feet from all surveyed property lines, boundaries, or recorded roadway easement.

Setback Clarifications:

- Cornices, eaves, canopies, sunshades, gutters, belt courses, leaders, sills, lintels, hung bay windows, and ornamental features that are supported by the building or structure may project not more than three (3) feet into a required setback, for the primary building or structure only, as established by coverage standards, and in no case shall any feature of any structure project beyond the property line.
- Cantilever projections shall be considered a portion of the building or structure and shall not protrude into the required setback.
- Carports are not allowed to infringe upon the setback requirement whether attached or free standing.
- Decks shall not be allowed to infringe upon the setback requirements whether attached or free standing.
- Accessory buildings or structures shall not protrude in any way into any required setback.
- Licensed Recreational Vehicles may be stored in the setbacks.

6.3 Maximum Building Height

The vertical distance from the highest point of the finished grade of the building perimeter to the high point of the building structure must not exceed thirty (30) feet. Backfill to provide drainage or blending into existing grade for landscaping is important for construction finish. However, backfill applied to the building perimeter for the purpose of circumventing the finished building's height requirement will be considered a violation of this Resolution. The maximum height limit for any structure in Custer County is thirty (30) feet.

If the structure is found to be in non-compliance with these maximum height requirements, the owner must apply for an Over Height Variance within sixty (60) days of notification. If the owner fails to apply for this variance or is denied variance approval by the BZA, legal action may be taken against the owner.

Plot plans for all structures must accompany requests for zoning permits. (See Appendix B.1)

6.4 Structure Standards

For parcels greater than one half (1/2) acre, the gross land area covered by all structures collectively shall not exceed ten percent (10%) of the gross parcel. All structures listed below, A and B, that exceed one hundred (100) square feet require a Zoning Permit before construction begins.

A. Residential Structures
    1. Single-family Dwelling:
        a. Use by right;
        b. Requires an approved Septic Permit;
        c. Must adhere to height requirements;
        d. Must adhere to setback requirements;
        e. Used for human habitation;
        f. Can be factory built or site built.
    2. Guest House:

a. Requires a Multi-dwelling Variance prior to construction;
b. Must have an approved septic system;
c. Must adhere to height requirements;
d. Must adhere to setback requirements;
e. Used for human habitation;

3. Bunkhouse:
   a. Requires an approved Septic Permit;
   b. Must adhere to height requirements;
   c. Must adhere to setback requirements;
   d. Used for human habitation;
   e. Can be factory built or site built;
   f. Cannot be separately rented, let or leased;
   g. No cooking.
   h. Water can be used in your bunkhouse if well permit allows it.

4. Recreational Occupancy:
   a. Any recreational vehicle that is self-contained (sewer and water tanks) may occupy the property for a maximum of ninety (90) days within a (12) month period beginning January 1st.
   b. Any occupancy over ninety (90) days will require an approved septic system.
   c. Must adhere to setback requirements;
   d. Must be used for human habitation;
   e. Planning and Zoning Office shall require proof that sewage is being disposed of in an approved dump site.
   f. Recreational occupancy of tents, teepees, yurts and any similar structures that are not self-contained cannot be occupied for more than fourteen (14) days within a twelve-month period beginning January 1st.

5. Factory Built Home:
   a. Use by right;
   b. Requires an approved Septic Permit;
   c. Must adhere to height requirements;
   d. Must adhere to setback requirements;
   e. Used for human habitation;
   f. Must have the wheels removed (if applicable) and be blocked and leveled with skirting applied around the base, and/or placed on a permanent foundation;
   g. No factory built home shall be transported within Custer County until a permit is obtained from the Custer County Road and Bridge Department;
   h. Any factory built home constructed after 1977 shall be eligible for a permit.

B. Non-Residential Structures
   1. Accessory Structure Open:
      a. Must adhere to height requirements;
      b. Must adhere to setback requirements;
      c. Will not be used for human habitation;
      d. Not permitted to have bathrooms or sinks.

2. Accessory Structure Closed:
   a. Must adhere to height requirements;
   b. Must adhere to setback requirements;
   c. Will not be used for human habitation;
   d. An approved septic system must be obtained if the structure has a bathroom or sink.
   e. No advertising utilizing wording or graphics is permitted.

6.5 Permitted Signs and Advertising Devices

For the purpose of this Resolution, the generic term, sign, as defined by Section 3, will be used for signs, plaques or other advertising devices. All signs erected in public rights-of-way by a public agency controlling or directing traffic shall be exempt from the provisions of this section. Mobile, portable or temporary signs, plaques, or advertising devices are not exempt from State and County sign requirements. Oversized, flashing, blinking, or animated signs, and advertising signs not in compliance with A - E below shall not be allowed in any Zoning District without a permit. Signs or plaques in compliance with subsections A-E shall be allowed and do not require a permit. All over-sized signs must have an approved variance.

For the purposes of sign size, the maximums below include the total size of all signs attached directly or indirectly to a common support.

A. Sale, Lease, or Rent Signs or Advertising Devices

Signs may be located on a property advertising the property for sale, lease or rent. All signs may be up to six (6) square feet in size and shall be spaced no less than six hundred sixty (660) feet apart.

B. Posting Signs

Signs may be located on a property posting that property for warnings or prohibitions on trespassing, hunting, or fishing. Such signs may be up to two hundred (200) square inches each in size and shall be spaced no less than three hundred (300) feet apart.

C. Tourist-Oriented Directional Signs (TODS)

TODS signs must meet the criteria of the State as defined in the Rules and Regulations for Tourist Oriented Directional Signs (TODS).

D. General Purpose Signs or Advertising Devices

Signs or advertising devices may be located on private property identifying its occupants, products and services for sale. Such signs shall not exceed twenty (20) square feet. Sale, lease, or rent signs do not qualify as General Purpose Signs.

Signs placed on rural conventional highways advertising a business shall be located a minimum of two hundred (200) feet from the nearest intersection to the business and shall be spaced no less than three hundred (300) feet apart.

E. Political Campaign Signs

Political campaign signs must comply with State guidelines and the following County requirements:

1. The signs are placed on private land. Signs are not permitted on public land or in public rights-of-way;
2. The distance between similar signs shall have a minimum of 200 feet;
3. The maximum size of a sign is twenty (20) square feet per face, with a maximum of two faces;
4. The maximum height from the ground to the top of the sign is eight (8) feet;
5. Temporary political signs may be erected or maintained for a period not to exceed forty-five (45) days prior to the date of the election to which such are applicable and shall be removed within seven (7) days after the election.

F. Penalties

Penalties shall be imposed, as prescribed in Section 12, Enforcement and Penalties, for erecting signs in the unincorporated County that do not comply with this Section or which have not been properly permitted.

6.6 Wildlife Review Requirements

The County's Wildlife Review Policy, adopted by modification of the Custer County Zoning Resolution, and as amended, is designed to educate and inform developers and landowners about potential impacts of proposed land uses in order to minimize impacts while maximizing landowner enjoyment.

The BOCC has approval authority, as related to wildlife and wildlife habitats, for the following:

- Subdivisions and Planned Unit Developments (PUD);
- Applications for Special Use Permits. A Wildlife Review may be requested with requirements defined in Section 10 for these permits.

See Appendix F for Wildlife Review procedures.

6.7 Professional Review Fees

In addition to the non-refundable application fee imposed by the BOCC through a separate resolution, the BOCC may at its discretion, assess additional fees in amounts deemed appropriate by the BOCC, for the purposes of covering the actual costs and expenses of evaluating the application, including, but not limited to, retaining any necessary expert review or investigative assistance for any portion of the application or its accompanying documents.

6.8 Green Burial or Natural Burial Requirements

All green or natural burials in Custer County must comply with C.R.S. § 25-2-111. In addition, the following requirements must be followed:

- One hundred feet (100') from any well;
- One hundred feet away from all surveyed property lines;
- Permanent marker (engraved rock, metal marker, etc.);
- A depth of at least six feet (6');
- Death Certificate needs to be filed with the Custer County Clerk;
- Recorded easement for property showing ingress and egress to burial site;
- Burial must be within twenty-four (24) hours after death if the body is not embalmed.
- Body must be refrigerated within twenty-four (24) hours after death if the body is not embalmed.
- A Private Burial Affidavit must be obtained and filed with the Custer County Coroner's office. A copy of this affidavit must be filed with the Assessor and Zoning Offices.
- On-site home cremations or funeral pyres are not permitted.
- Any lien holder must be notified prior to burial.

SECTION 7

ZONING DISTRICT REGULATIONS

It is the intention of Custer County to preserve its rural and agricultural heritage, as much as possible, while providing areas of development on land less suited for farming and ranching. The zoning of the County reflects the desire to minimize population density and was established to preserve the feeling of openness. Only one single family dwelling is permitted per lot or parcel. The entire County is zoned by density acreage allowing farming, ranching, and residential uses by right. All other uses such as commercial or industrial require a Special Use Permit.

The BOCC reserves the right and authority to create new zoning districts or change existing zoning district boundaries from time-to-time as necessitated by changing conditions in the County.

7.1 Regulations Common to All Zoning Districts

A. Uses Allowed by Right
   1. Farming;
   2. Ranching;
   3. One (1) single family dwelling (residence):
   4. Accessory structures (not to exceed 10% of gross land area);
   5. Non-conforming uses, subject to Section 10 of this Resolution.

B. Special Uses Allowed by Permit Only
   - Any use not listed above in 7.1A., See Section 9

C. Zoning Permits
   - A Zoning Permit is required subject to the provisions of Section 8 of this Resolution.

7.2 Custer County Zoning Districts

Zone I. Grape Creek District

This **80-acre zone** is intended to have low population density and remain agricultural in nature, areas where conservation of agriculture resources and open space is of prime importance. This zone may have Sections that are less than 640 acres. The minimum lot size may be adjusted where fairness requires to compensate for these irregular Sections.

Minimum Lot Area: Eighty (80) acres.

Zone II. Sangre de Cristo District

This **35-acre zone** is intended to be both residential and agricultural in nature. This zoning district is intended to promote a rural residential environment, areas where conservation of agriculture resources, including forestry, and open space is of prime importance.

Minimum Lot Area: Thirty-five (35) acres.

Zone III. Wet Mountain/Hardscrabble District

This **10-acre zone,** which contains large portions of the San Isabel National Forest and some concentration of development in the Wetmore and San Isabel areas, is intended for limited agricultural and residential use due to the heavy timber and steep, rugged terrain.

Minimum Lot Area: Ten (10) acres.

Zone IV. Foothills District

This **5 acre zone** is intended to be both residential and agricultural in nature. This zoning district is the County's main residential area established to provide areas of residential development for single-family dwelling units and is where most of the approved subdivisions are located.

Minimum Lot Area: Five (5) acres.

SECTION 8

ZONING PROCEDURES

Custer County is zoned by density and has not adopted a building code for structures built within the unincorporated area of the County. Because there is not a building code, structures are permitted through the zoning permit process. All dwellings and additions to dwellings require a zoning permit. All accessory structures, or additions to accessory structures that cause them to be 100 square feet or more in their entirety, require a zoning permit. The County has specific requirements for its zoning and septic permits, such as height limitations, setbacks, and use tax, of which all landowners must be aware. This Zoning Resolution, the Septic Regulations, and the Subdivision Regulations address these requirements. If questions arise concerning the County's requirements, the Planning and Zoning Office should be contacted for further clarification. Any person desiring a use of land other than uses by right identified for each zoning district shall need to pursue the County's Special Use Permit process.

It is not the responsibility of the Planning and Zoning Office to be aware of or enforce covenants or deed restrictions. The Zoning Resolution is not an enforcement tool for Covenants or Deed Restrictions, and though many are in harmony with the County's Resolution, they are a civil matter between the landowner and his homeowners' association or other neighboring landowners. It is the responsibility of the landowner to be aware of any covenants or deed restrictions that may affect his land.

8.1 Zoning Permit

The BOCC enacted the Zoning Resolution requiring a zoning permit, issued by the Planning and Zoning Office, prior to: excavation, construction or reconstruction, repair or remodeling that increases square footage, or a change of use for or to any building. No dwelling permit shall be issued without an approved septic system. A schedule of fees, maintained in the Planning and Zoning Office, has been established, and may be modified from time to time as needed, by the BOCC.

A. IT IS THE RESPONSIBILITY OF THE LANDOWNER TO APPLY FOR AND OBTAIN ALL NECESSARY ZONING PERMITS.

B. NO STRUCTURE OR ADDITION TO SAID STRUCTURE, INCLUDING EXCAVATION AND FOUNDATIONS, SHALL BE CONSTRUCTED OR MOVED, UNTIL A ZONING PERMIT HAS BEEN ISSUED BY THE CUSTER COUNTY PLANNING AND ZONING OFFICE. IF A STRUCTURE IS MOVED WITHIN THE SAME PARCEL AND CONFORMS WITH ALL REQUIRED SETBACKS, THE PERMIT FEE WILL BE WAIVED.

C. No zoning permit for a dwelling shall be issued until:
   1. An approved Septic Permit has been issued. All residences and businesses must have a County approved permanent septic system installed before occupancy;
   2. The applicant establishes a legally adequate and physically available water source;
   3. The applicant demonstrates that the proposed structure shall comply with applicable provisions of this Resolution.

D. Applications for all zoning permits shall be accompanied by:
   1. Permit fee;
   2. Proof of ownership;
   3. Plot plan;
   4. Floor plan;
   5. An elevation drawing of the proposed structure relating the height of the structure to finished grade.

E. A Zoning Permit for construction shall be valid for a period of two (2) years. If exterior construction has not been completed to a dried-in stage during that time period, a new permit is required. All Use Taxes on building materials used in construction to this point must be paid in full before the new permit will be issued.

F. The Planning and Zoning Office must be notified if there are any changes to the original Zoning Application.

G. Fees are established by the BOCC, published in the Custer County Planning and Zoning Fee Schedule, and maintained in the Planning and Zoning Office. Misrepresentation on an application shall cause a permit to be cancelled and shall require a new application.

H. Permit fees are non-refundable.

I. Zoning permits are required to reconstruct and/or repair existing structures that have been damaged due to catastrophic events such as high winds, blizzards, floods, fires, or explosion. However, the permit fees may be waived in these instances.

8.2 Closing an Open Permit/Compliance Inspection

Before an open zoning permit may be completed and closed:

A. The structure must be dried-in within a two (2) year period and at the completed phase within three (3) years of the issuance of the permit. If the structure is not completed within the three (3) years, the property owner will need to re-apply for a new Zoning Permit (s). Failure to re-apply would put permit at one hundred percent complete. P&Z would notify the Assessor's office to value the structure at one hundred percent at the end of the third year.

B. Proof must be provided that rough-in and final electrical and plumbing inspection are complete. This shall include solar energy systems (if required).

C. County Use Tax obligations must have been met;

D. A compliance inspection of the site has confirmed that the structure, individual sewage disposal system, water, and other zoning commitments are in compliance with this Resolution. Compliance Inspection requirements are in Appendix D;

E. A county road access permit has been obtained if applicable;

F. Placement of a reflective address marker that meets local fire department specifications shall be required.

Penalties for non-compliance are described in Section 12.6.

8.3 Use Tax

County Use Tax shall be collected, by the Planning and Zoning Office, on building materials purchased without paying State and/or County and/or City sales tax. If insufficient sales tax has been paid, then Use Tax is due. The owner is obligated to pay the difference. Usually affected would be materials purchased outside the County and delivered to a property located within the County. Building materials are defined as any material used in the construction of a structure to include, but not be limited to, built-in appliances, fixtures, and floor coverings. The Planning and Zoning Office staff is available to identify what qualifies as building material. Copies of receipts must be submitted to the Planning and Zoning Office to verify whether proper taxes have been paid at the time of purchase. It is the responsibility of the landowner

to see that all applicable use tax is paid.

Depending on the circumstances, one of the following deadlines shall apply to the payment of County Use Tax per Custer County Resolution 93-4:

A. If the total tax due is less than $300.00 during one calendar year, the tax must be paid by January 20th of the following year; or

B. If the anticipated total tax due is more than three hundred dollars ($300.00), this amount shall be paid at the time of obtaining the Zoning Permit. The balance shall be due and payable after an audit by the Planning and Zoning Office at the closing of the permit. Use Tax payment is non- refundable.

C. The Planning and Zoning Officer or his/her representative may enter a dwelling or structure with the owner or contractor or their representative present for the purpose of determining compliance with the Use Tax requirements.

Penalty and interest charges shall be due on a use tax payment, if filed late or if the applicant fails to make arrangements. The penalty for late payment is ten percent (10%) of tax due. Interest for late payment is eighteen percent (18%) per annum.

8.4 Records

All zoning permits, application records, and records of septic inspections shall be kept on file in the Planning and Zoning Office and shall be available for inspection by the public during regular office hours.

8.5 Right(s)-of-Way Access

8.5.1 Private Access onto Public Rights-of-Way

Before constructing or modifying any private access way, such as a driveway or a private road that intersects with a publicly maintained right-of-way, a permit must be obtained from the appropriate authority. In the case of a State highway, the Colorado Department of Transportation (CDOT) has jurisdiction. For County maintained roads, the County Road and Bridge Department has jurisdiction.

A. Procedures for obtaining a permit from CDOT may be acquired by contacting the local CDOT office in Pueblo, Colorado.

B. Permits are required for all accesses that intersect County maintained roads and the access shall be inspected for compliance. Permit fees for ingress and egress are established by the BOCC. Permits shall be obtained from Custer County Road and Bridge Department located in Westcliffe.

C. Resolution of conflicts to this matter and fee schedule shall be set by the BOCC. See appendix G.1 for Private Access Standards.

8.5.2 Subdivision Access onto County Rights-of-Way

Permits are required for all platted or unplotted subdivision accesses that intersect County maintained roads and the access shall be inspected for compliance. Proof of compliance by Custer County Road and Bridge must be submitted to the Planning and Zoning Office.

See Appendix G.2 for Private Access Standards.

8.5.3 Mailboxes on Public Rights-of-Way

See Appendix G.3 for standards regarding installation on Public Rights-of-Way.

SECTION 9

REGULATION OF OTHER USES

9.1 Special Uses Allowed by Permit Only

Special Uses, as designated under Section 7, Zoning District Regulations, are allowed only by permission of the BOCC, as follows:

1. Special Use Permit
2. Modification of a Special Use Permit
3. Home Occupation
4. Special Event Permit
5. Short-Term Rental Permit

A. A Special Use Permit (SUP) may be granted or denied at the discretion of the BOCC, whose determination shall be based on the purposes, standards, and requirements regarding Special Uses as set forth under Section 9.7, and under appropriate provisions of Sections 7 and 8 of this Resolution. In granting permission for a Special Use, the BOCC may impose additional conditions in order to comply with the purposes and intent of this Resolution.

B. SUP Modifications follow the same process as a new SUP.

C. Authorization of a SUP shall expire after two (2) years, if it has not been acted upon; or such time as the authorization may specify; or if the project is not in compliance with terms and conditions of approval.

9.2 Regulation of Special Uses

All Special Uses allowed by permit shall conform only to the regulations, as set forth in Section 7, for the zoning district in which they have been permitted. In addition, such uses shall conform to any supplementary regulations, such as those designated for particular uses under Section 9.6 of this Resolution.

9.3 Application Procedure for Special Use Permits

9.3.1 General Requirements

General requirements for granting the SUP:

- proof of adequate water and sewer;
- proof of adequate street and transportation improvements to accommodate traffic volume generated by the proposed development;
- explain appropriateness of the development for the project site and its surroundings;
- description of the compatibility and consideration of adverse impacts of the project with adjacent properties, land uses and zoning district;
- demonstrate attractiveness of the development and its preservation of the rural character of Custer County;

- avoid development in hazardous and wetland areas;
- explain how the protection of public health, safety and welfare is accomplished;
- project will not result in an excessive use of land, have a materially adverse effect on community capital improvement programs, require a level of community facilities and services greater than that which is available, or cause significant impacts beyond the property's boundary.
- detail how the project will be adequately landscaped, buffered, and screened and will provide adequate mitigation for adverse impacts on wildlife.

A. Applicants for a SUP shall:
   1. Arrange a pre-application conference with the Planning and Zoning Office. The Chairperson of the PC, or his representative, will be invited to participate. Other individuals may be included;
   2. Submit a written application to the Planning and Zoning Office at least thirty (30) days prior to a proposed meeting date, along with proper fees, and such evidence as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use according to this Resolution;
   3. Appear in person, or by authorized representative, at a regularly scheduled meeting of the PC to present the application. (Arrangements may be made through the Planning and Zoning Office.);
   4. Appear in person, or by authorized representative, at the designated site tour, if deemed necessary by the PC or the BOCC;
   5. Appear in person, or by authorized representative, at meetings of the PC and BOCC to present the application.

B. The Planning and Zoning Office shall:
   1. Meet with the applicants in the pre-application conference;
   2. Review the application and associated documentation;
   3. Process the submitted fees;
   4. Schedule the application as an agenda item for a regularly scheduled PC meeting;
   5. Research and verify the applicant's request and documentation;
   6. Notify adjacent property owners by Certified, Return Receipt mail;
   7. Inform PC in person or in writing regarding background information concerning the application, a list of suggested conditions and areas of concern prior to the PC meeting at which the application is presented;
   8. Conduct a meeting(s) at the request of the PC and ensure a public notice appears in a newspaper of general circulation in Custer County, as set forth in Section 9.3.2 of this Resolution;
   9. Schedule the site tour, if deemed necessary.

C. The PC shall:
   1. Review the application and accompanying evidence prior to the meeting on the application. Included in the review process shall be:
      a. The report prepared by the Planning and Zoning Office;
      b. Information ascertained from site tour, if necessary;
      c. Additional expert advice, if deemed necessary.
   2. Develop a list of possible conditions pertinent to the application;

3. Direct the Planning and Zoning Office to schedule and publish notice of a meeting on the application;
4. Hold a meeting to obtain input on the application and accompanying conditions;
5. Make a recommendation to the BOCC, including pertinent findings supporting the recommended action and/or conditions if approved.

D. The BOCC shall:
1. Review or study the application and accompanying evidence before taking action on the application. Such evidence shall include all items included in the review and study by the PC, as well as recommendations from the PC;
2. Grant or deny the application, as indicated in Section 9.1.

9.3.2 Public Notice and Meeting Procedures

Before granting a Special Use Permit, the PC and the BOCC shall hold a meeting(s), in compliance with Appendix E, on the matter. Notice of such meeting and the subject matter shall be published, at the expense of the applicant, in newspaper of record as determined by the BOCC, at least fourteen (14) days prior to the meeting date. In the case of Wildlife review or items of State interest the notice shall be at least thirty (30) days prior to the meeting date. In addition, written notice of the first meeting shall be mailed Certified, Return Receipt to the owners of properties adjacent to the property in question. The mailing shall be at least fourteen (14) days prior to the meeting date. Such written notice should be mailed to the last address of record held by the Custer County Assessor's Office. Failure to mail such notice due to clerical omissions shall not affect the validity of any meeting or determination of the BOCC. Applicants may be required to pay additional postage, if postage for all applicable meetings exceeds 20% of application fee.

9.3.3 Modification of a Special Use Permit

Any modification to an existing SUP must be applied for through the Planning and Zoning office and shall be processed under the normal SUP procedures.

9.3.4 Revocation of a Special Use Permit

A SUP granted pursuant to this section may be suspended, revoked, or modified by the BOCC after holding a public meeting to determine whether any condition, stipulation, or term of the approval of the Use Permit has been violated.

Any activity conducted in association with a pending SUP application is a violation of this Resolution and will result in termination of the SUP.

An SUP recommendation by the PC may be withdrawn by the PC Chairman, based on new information, no less than twenty-four (24) hours prior to the BOCC meeting in which the application will be heard. The PC Chairman must consult with at least four (4) seated PC members before a request of a withdrawal or postponement of an SUP is made.

9.4 Fees for Special Use Applications

A schedule of fees, maintained in the Planning and Zoning Office, has been established for SUPs and modifications, and may be modified from time to time as needed, by the BOCC. Payment shall be made to Custer County when filing the application. Applicants may be required to pay additional postage, and professional fees as deemed appropriate by the PC for compliance with Section 9.7.

9.5 Performance Bonds Required for Some Special Uses

A. Mining, Sand and Gravel, Oil and Gas, and Other Extractive Operations.

Before any Special Use Permit shall be issued, the applicant shall furnish one of the following: evidence of a bank commitment of credit in favor of Custer County, a bond, or a certified check, in an amount calculated by the BOCC to secure the site reclamation (as required in Section 9.6 of this Resolution). Site reclamations must be done in a workmanlike manner and in accordance with specifications and construction schedules established or approved by an appropriate engineer. Such commitment, bond, or check shall be payable to and held by the BOCC.

This requirement may be waived by the BOCC if such requirement has been or will be fulfilled by the applicant as a condition of obtaining appropriate permits through any State or Federal agency.

B. Bonds may be required for any or all Special Use permits as deemed appropriate by the BOCC.

9.6 Supplementary Regulations for Special Use Permits

The following regulations shall apply to Special Use Permit only, as indicated.

Mines, sand and gravel, oil and gas, and other extractive operations allowed as Special Uses in all zoning districts shall be subject to the following provisions:

A. That such use does not create any danger to the safety of the citizens in surrounding area, does not cause water pollution and does not create substantial amounts of offensive noise, vibration, smoke, dust, odors, heat, glare, or other objectionable influences beyond the boundaries of the property in which such use is located;

B. Permits shall be granted for these uses only with the provision that a satisfactory general reclamation plan for the land shall be submitted prior to the start of operations and implemented at completion:
   1. The plan for site reclamation shall be submitted to and approved by the BOCC before a permit may be issued;
   2. The applicant shall furnish a bank commitment of credit, bond, or a certified check to secure the site reclamation according to the plan and as indicated in Section 9.5;

C. Motor vehicle traffic to and from such uses shall not create hazards or nuisances to any area in the County, nor shall it unduly damage public roads;

D. Any of the above requirements may be waived by the BOCC if such requirement has been or will be fulfilled by the applicant(s) as a condition of obtaining appropriate permits through any State or Federal agency;

E. Time limits may be set.

9.7 Special Use Submission Requirements and Criteria

Any Special Uses in the zoning districts shall be subject to the following provisions:

A. A plot plan, elevation of proposed structures, and a general written description of the proposed use shall be presented;

B. Such use does not jeopardize the safety of people or endanger wildlife in surrounding areas, does not cause water pollution, and does not create substantial amounts of offensive noise, vibration, smoke, dust, odors, heat, glare, or other objectionable influences beyond the boundaries of the property on which such use is located;

C. A written explanation and presentation of methods to be used to minimize smoke, odors, noise, dust, and similar impacts which might result from the operation of the proposed use shall be made at the meeting;

D. The application should demonstrate sufficient distance from abutting properties which might otherwise be damaged due to the operation of the proposed use. This distance will be negotiated with the Planning and Zoning Office and the distance will be finalized by the PC and BOCC;

E. Satisfactory assurance shall be given that such areas shall be properly maintained;

F. Motor vehicle traffic to and from such uses shall not create hazards or nuisances to any area in the County, nor shall it unduly damage public roads;

G. Sufficient off-road parking shall be provided to accommodate the expected volume of users of such facilities;

H. Wildlife mitigation (See Appendix F), if applicable;

I. Any other item found necessary by the Planning and Zoning Office staff, PC, and BOCC.

See standards in Section 9.3.

9.8 Home Occupation

A. Prior to establishing a home occupation on a property, the homeowner must file with the Planning and Zoning Office a Notice of Home Occupation and receive an approval and a Home Occupation permit.

B. Home Occupation permits that will not be permitted.
Some of the types of Home Occupations that are not permitted in Custer County include, but are not limited to:
1. Amusement or dance parlor
2. Antique shop
3. Barber or beauty shop
4. Gift shop
5. Funeral home
6. Medical or dental facility, hospital, nursing home
7. Motor vehicle repairs or sales
8. Kennel
9. Veterinary clinic
10. Nursery or day care

C. Conditions/Criteria for Administrative Approval of a Home Occupation

A Home Occupation must operate under the following guidelines:
1. The home occupation shall be conducted within the permitted dwelling unit or permitted accessory building and only by occupants of the dwelling unit. The use of employees or other workers in the home occupation is prohibited.
2. The home occupation is clearly subordinate to the residential use of the property and does not change the residential character of the property nor infringe upon the right of neighboring owners to enjoy their property.
3. No equipment or machinery shall be used in any home occupation that will result in significant impacts beyond the property's boundary.
4. No hazardous or toxic materials shall be used or stored in the dwelling or structure of the home occupation.
5. Off-street parking appropriate to such home occupation shall be associated with the parking for the dwelling unit and in no event shall parking for such home occupation be permitted on any public road right-of-way.
6. All signage shall be subject to all provisions of this Zoning Resolution pertaining to signs.
7. Proof of sales tax license.
8. The dwelling or accessory structures in which the home occupation is being conducted shall be open for inspection by the Custer County Zoning Department and fire department personnel during reasonable hours.
9. A permit for a home occupation is valid only for the original applicant.
10. Letter of approval from property owner's association, if applicable.

If the Home Occupation does not fit into the aforementioned criteria after a pre-application conference, then it shall require a Special Use Permit.

All applications for Home Occupations shall include the identity of all agencies of local, state or federal government that will be required to issue any permit, license or the like for all or any part of the activity that comprises the Home Occupation use. This item shall include the full name of the agency, contact information for the agency (mailing address, telephone number, e-mail address) and the name of the contact person at the agency whom the applicant has been in contact with. This item shall include a summary of any permits, licenses or the like required, status of pending applications for the same, copies of pending applications and/or copies of issued permits.

D. Termination of Home Occupation

Reasons for terminating a home occupation may include, but are not limited to:

1. Any violation of this Zoning Resolution;
2. Sale or change of ownership of the property;
3. Failure to pay property and/or applicable sales taxes;
4. Death of the applicant;
5. Any addition, deletion, or significant change of the type of product or service originally specified in the application;
6. Revocation of any applicable licenses, certifications, or permits by any local, state, or federal agency of the government;
7. Violation of any fire and/or safety related codes or requirements.

9.9 Special Event Permit

A Special Event Permit is required for one (1) to four (4) consecutive day events that occur no more than two times per year.

a. Special Event Permit may be granted or denied at the discretion of the Planning and Zoning Office, whose determination shall be based on the purposes, standards and requirements regarding Special Events as set forth herein. Please refer to Section 9.9.B.2. In granting permission for a Special Event, the Planning and Zoning Office may impose additional conditions in order to comply with the purpose and intent of this Resolution.

At the discretion of the Planning and Zoning Office, the application may need to be reviewed and approved at a public hearing by the PC and the BOCC.

b. General standards and requirements:

1. In order to grant a special event permit, the special event must:
   a. protect the public health, safety and welfare,
   b. provide adequate potable water and sanitary facilities,
   c. provide adequate parking and adequate allowances for traffic control,
   d. insure all federal, state and local permits and licenses are obtained,
   e. not result in an over-intensive use of the land,
   f. not require a level of community facilities and service greater than that which is available,
   g. not cause significant impacts beyond the property's boundary,
   h. provide adequate proof of insurance.

2. If the special event meets the following standards, it shall require approval by the PC and the BOCC at a public hearing:
   a. the event will have more than one hundred and fifty (150) participants;
   b. at the discretion of the Planning and Zoning Office Staff.

3. General requirements
   a. The applicant must have the decision making authority on behalf of the event sponsor and be responsible for the event. Such person shall be continuously available to Federal, State, and local authorities during the event.
   b. The acquisition, installation, and maintenance of traffic control devices are the responsibility of the applicant. Applicant must remove all traffic control devices within two hours following completion of the special event.
   c. Insurance coverage is required in the amount of a minimum of one million dollars ($1,000,000). Such insurance shall include general liability and auto liability. Coverage must be extended to spectators and participants and must name Custer County and all its officers, and employees and agents as additional insureds with regard to damages and defense from claims arising from:
      1. Activities performed by or on behalf of the named insureds;
      2. Products and operations of the named insureds;
      3. Premises owned, leased or used by the named insureds;
   d. All animals must be kept under control at all times during the event.
   e. NO FIREWORKS /PYROTECHNICS ALLOWED.
   f. Secure appropriate emergency service(s) and agency(s) approval. The agency must be compensated for their services. If a major incident or emergency occurs elsewhere during the event, the emergency personnel reserve the right to respond with any and all services at this event.
   g. Clean-up of the site, including portable toilet removal, shall be completed within an appropriate amount of time as negotiated with the Planning and Zoning Office Staff.
   h. Staff will inspect the site for compliance.

c. Special Event Permit Procedure
   1. Applicants for a Special Event Permit (SEP) shall:
      a. Secure appropriate jurisdictional approval from emergency services and affected agencies.
      b. Contact adjacent property owners and provide written comments with the application.
      c. Submit a written application and all submittal requirements to the Planning and Zoning Office at least sixty (60) days prior to the proposed event, along with proper fees and such evidence as may be necessary to demonstrate compliance with the standards and requirements.
      d. The applicant shall schedule an inspection time with the Planning and Zoning Office after the event is completed.
   2. The Planning and Zoning Office shall:
      a. Review and accept the application along with the associated documentation and process the submitted fees.
      b. Research and verify the application and prepare a report that includes the background information concerning the event, a list of proposed conditions and areas of concern.

c. Complete a site analysis.
d. Review the application and accompanying evidence and grant or deny the application with conditions or forward the application to the PC and BOCC for review.
e. If the application is forwarded to the PC and the BOCC, the Planning and Zoning office staff shall:
    1. Schedule the application as an agenda item for a regular PC/BOCC public hearing;
    2. Schedule the Site Tour (if deemed necessary) and public hearing and ensure a Public Notice appears in a newspaper of general circulation in Custer County, as set forth in Part G below;
f. Planning and Zoning Office Staff shall inspect the property for compliance with clean-up and with conditions of approval.

3. The PC shall:
    a. Review the application and accompanying evidence at a hearing. Included in the review process shall be:
        1. The report prepared by the Planning and Zoning Office;
        2. Information ascertained from site tour, if necessary;
        3. Additional expert advice, if deemed necessary;
    b. Develop a list of possible conditions pertinent to the application;
    c. Hold a public hearing to obtain input on the application and accompanying conditions;
    d. Make a recommendation to the BOCC, including pertinent findings supporting the recommended action and/or conditions if approved.
4. The BOCC shall:
    a. Review the application and accompanying evidence at a public hearing. Included in the review process shall be:
        1. The review and study by the PC;
        2. Additional expert advice, if deemed necessary;
        3. A public hearing to obtain input on the application and accompanying conditions; and
        4. The recommendation from the PC to include the findings supporting the recommended action and/or conditions if approved.
    b. Grant or deny the application.

d. Special Events Submission Requirements:

The following items must accompany the application:

1. Plot Plan detailing the dimension, location and relationship to the property boundaries of all structures existing or temporary; roadways and parking to include the number of off-road parking spaces; sanitary facilities; well locations; natural features; traffic patterns; location of trash receptacles; and location of emergency services (if applicable).
2. Written description of the proposed event to include:
    a. Written permission from the landowner, if applicable
    b. Explanation of the event and the duration of the event.
    c. Number of expected people who will be at the event.
    d. Explanation of the potable water source and sanitation.

e. A written explanation of the methods to be used to minimize smoke, odors, noise, dust, trash removal, and similar problems which might result from this event.
f. Site clean-up and disposal plan to include completion time.
g. Explanation of the signage, roads and trails that will be used.

3. Traffic Control Plan and course map, if applicable.
4. Proof of the ability to obtain liability insurance. Once the Special Event Permit is obtained, a certificate of the liability insurance must be submitted to the Planning and Zoning Office within ten (10) working days of the approval.
5. Proof of notification to appropriate agencies that this event will have the proper service and the service will be properly compensated for.
6. Provide proof that all federal, state, and local permits and licenses are obtained.
7. If a public hearing is required, the adjacent property owner's written comments must be submitted to the Planning and Zoning Office thirty (30) days prior to the public hearing.

e. Fees for Special Events Permit:
1. A schedule of fees will be established for Special Events by the BOCC.
2. Applicants will be required to pay additional fees for professionals if their services are deemed necessary.

f. The applicant will be responsible for any damages that are done to county facilities (i.e. roads, signs and any other applicable Federal, State, County and City property).

g. Public Notice Procedures for Special Event Permit

1. If a public hearing is determined, then public notice of such public hearing shall be published by the Planning and Zoning office, at the expense of the applicant, in a newspaper of general circulation within Custer County at least fourteen (14) days prior to the public hearing date.
2. In addition, written notice of the public hearing shall be mailed Certified, Return Receipt to the owners of properties adjacent to the property in question. The mailing shall be at lease fourteen (14) days prior to the hearing date. Such written notice should be mailed to the last address of record held by the Custer County Assessor's Office. Failure to mail such notice due to clerical omissions shall not affect the validity of any public hearing or determination of the BOCC. Applicants may be required to pay additional postage if postage for all applicable public hearings exceeds 20% of application fee.
3. If road closures are approved, the applicant shall publish a public notice in a newspaper of general circulation within Custer County at least fourteen (14) days prior to the event.

h. Enforcement
1. If the above procedures are not followed or completed within the specified time ranges, the application may be denied.
2. If the event is held without the approval of a Special Event Permit, Custer County Planning and Zoning and BOCC reserves the right to terminate the event including the option of law enforcement.
3. A fine shall be imposed of three (3) times the special event permit fee. If the fine is paid within sixty (60) days, the event may be reapplied for in the future. If the fine is not paid within sixty (60) days, the event shall not be permitted for a period of two years. Any future application for the event must go before the PC for approval.

9.10 SHORT TERM RENTAL PERMIT

A Short-Term Rental (STR) Permit is required prior to renting or leasing all or a portion of any single-family dwelling for less than30 days.

9.10.1 Introduction

A. Article 15 of Title 30 of the Colorado Revised Statutes sets forth certain regulatory powers given to the Board of County Commissioners by the Colorado General Assembly. Section 30-15-401 (1)(s)(I) includes the power "To license and regulate an owner or owner's agent who rents or advertises the owner's lodging unit for a short-term stay, and to fix the fees, terms and manner for issuing and revoking licenses issued therefor. As used in this subsection (1)(s)(I), 'owner's agent' does not include an internet hospitality service."

B. Based on the statutory authority cited above and the State of Colorado Department of Revenue, the Board of County Commissioners is empowered to license and regulate STRs in Custer County and to classify them as businesses for such regulatory purposes for the same reason that the U.S. Internal Service classifies STRs as businesses: because they generate taxable income for the property owners.

C. Section 30-15-401 (1)(s)(II) says "The licensing under the regulation or authority conferred in (1)(s)(I) does not affect whether a lodging unit is a residential improvement, as defined in section 39-1-102 (14.3)," which reads as follows: " 'Residential improvements' " means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families. The term includes buildings, structures, fixtures, fences, amenities, and water rights that are an integral part of the residential use".

D. STRs are not classified as commercial properties in this Zoning Resolution and are not subject to a different property tax rate. Such properties are subject to being taxed at the residential rate established by the State of Colorado. The residential status of STRs in Custer County is not changed or altered in any way by the addition of this Section 9.10.

E. Many subdivisions in Custer County have protective covenants or restrictive covenants that were adopted at the time the subdivisions were created. The County does not enforce these covenants; they are not part of this Zoning Resolution (see Sec 8 introduction). The enforcement of covenants is the exclusive purview of Homeowner Associations (HOA) and Property Owner Associations (POA). By classifying the STRs as businesses for regulatory purposes the County is not intending to change or alter the meaning of any covenants now in effect. The County is not directing or attempting to direct the HOAs and POAs to treat their property owners any differently than they would if this Section 9.10 had not been adopted and incorporated into the Custer County Zoning Resolution.

9.10.2 Regulation of an STR Permit

A. An STR Permit may be granted or denied at the discretion of the BOCC, whose determination shall be based on the purposes, standards, and requirements regarding Special Uses as set forth under Section 9.7, and appropriate provisions of Sections 7 and 8 of this Resolution. In granting an STR Permit, the BOCC may impose additional conditions in order to comply with the purposes and intent of this Resolution.

B. STR Permit modifications must follow the same process as a new STR Permit.

9.10.3 Application for an STR Permit

A. General Standards for Granting an STR Permit

1. All applicable federal, state, and local licenses and/or permits have been obtained.
2. Must have a legal water supply and sanitary facility.
3. The STR will not require a level of community facilities and services greater than what is available.
4. The STR does not cause significant impacts beyond the property's boundary (see Sec 9.7B). The Good Neighbor Policy is included in your application and shall be posted in your house rules.
5. Adjoining neighbors' opinion shall be taken into consideration in the Planning Commission decision.

B. Specific Requirements:

1. A property owner cannot submit an application before a structure is completed, a zoning permit is closed, and property taxes are current.
2. Fire evacuation maps indicating routes from the residence and from the property must be conspicuously displayed in the STR dwelling.
3. A reflective address marker must be displayed at the driveway entrance.
4. Bunkhouses and accessory structures **cannot** be rented as STRs (see 6.4,A.3.f.).
5. Occupancy of the STR will require a permitted On-Site Waste Water Treatment System (OWTS). STR owners shall not advertise occupancy rates greater than what is allowed by their OWTS permit.
6. Each owner of an STR property shall designate a responsible agent. The owner may designate himself/herself as the responsible agent. The name and telephone number of the designated responsible agent shall be conspicuously posted within the STR dwelling. The responsible agent must be physically present in Custer County for the duration of each STR rental period and must be available at all times to answer calls and address problems associated with the STR.
7. The STR owner must notify the Custer County Planning and Zoning Office in writing within five (5) days of a change in the designated responsible agent.
8. The STR Permit shall not be transferred or assigned to another individual, entity or address. A new owner may apply for a new STR Permit prior to taking title of an existing STR property without causing an interruption of existing rental business.

9. An STR Permit in good standing must be renewed annually by January 31 with a renewal fee per the County's current fee schedule, as an administrative action by the Custer County Planning and Zoning Office.
10. Reapplication for an STR permit for a property cannot be made less than one year after denial of the original STR application by the BOCC.

C. Applicant for an STR Permit shall**:**

1. Provide proof of ownership of the property.
2. Arrange a pre-conference with the Planning and Zoning Office. The Chairperson of the PC or a designated representative will be invited to participate. Other individuals may be included.
3. Submit a written application to the Planning and Zoning Office at least thirty (30) days prior to a proposed meeting date, along with proper fees, and such evidence as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use according to this Resolution.
4. Appear in person, or by authorized representative, at the designated site tour, if deemed necessary by the Planning and Zoning Office.
5. Appear in person, or by authorized representative, at a meeting of the PC to present the application. (Arrangements may be made through the Planning and Zoning Office).

D. The Planning and Zoning Office shall:

1. Meet with the applicant(s) in the pre-application conference.
2. Review the application and associated documentation.
3. Schedule the application as an agenda item for a PC meeting.
4. Research and verify the applicant's request and documentation.
5. Notify adjacent property owners by Certified, Return Receipt mail.
6. Provide the PC background information concerning the application, a list of suggested conditions and areas of concern prior to the PC meeting at which the application is presented.
7. Schedule a site tour if deemed necessary by the Planning and Zoning Office.
8. Ensure a public notice appears in the newspaper of record in Custer County, as set Forth in Section 9.3.2 of this Resolution.

E. The PC shall:

1. Review the application and accompanying evidence prior to the meeting when the application is presented. The review shall include:
   a. The report prepared by the Planning and Zoning Office.
   b. Information ascertained from the site tour, if necessary.
   c. Additional expert advice, if deemed necessary.
2. Develop a list of possible conditions pertinent to the application.
3. Hold a public meeting to consider the application.
4. Make a recommendation to the BOCC, to approve or not approve the application including pertinent findings supporting the recommended action.

F. The BOCC shall:

1. Review the application and accompanying evidence before taking action on the application. Such evidence shall include all items included in the review and study by the PC, as well as recommendations from the PC.
2. Grant, deny or modify the application, as indicated in Section 9.10.2, at a BOCC meeting.

9.10.4. Fees for STR Permit Applications

The Planning and Zoning Office shall maintain a schedule of fees as established by the BOCC for STR Permits, modifications and renewals. The BOCC may modify fees from time to time as needed. Payment shall be made to Custer County when filing the application. Applicants may be required to pay additional postage and professional fees as deemed appropriate by the PC for compliance with Section 9.7.

9.10.5. Public Notice and Meeting Procedures

A. Before granting an STR Permit, the PC and the BOCC shall hold a meeting(s), in compliance with Appendix E. Notice of such meeting and the subject matter shall be published at the expense of the applicant in the newspaper of record at least fourteen (14) days prior to the meeting date. In the case of a Wildlife Review or items of State interest, the notice shall be at least thirty (30) days prior to the meeting date.

B. Written notice of the first meeting shall be mailed Certified, Return Receipt, to the owners of properties adjacent to the property in question. The mailing shall be at least fourteen (14) days prior to the meeting date. Such written notice shall be mailed to the last address of record held by the Custer County Assessor's Office. Failure to mail such notice due to clerical omissions shall not affect the validity of any meeting or determination of the BOCC.

C. Applicant(s) may be required to pay additional postage if postage for all applicable meetings exceeds 20% of the application fee.

9.10.6. Violations and Penalties

A. No STR rental occupancy shall occur while a STR Permit application is pending or said action will be a violation of this Resolution and shall result in termination of the STR application process, excluding STRs in existence at the time of the adoption of this Zoning Resolution amendment.

B. An owner of a property operating as an STR without an approved STR Permit may be issued a cease-and-desist order (see Sec 12.6).

C. An STR Permit granted pursuant to this section may be suspended, modified or revoked by the BOCC during a public meeting after determining that a violation has occurred.

D. A monetary penalty may be imposed for any violation of an STR Permit. Refer to Section 12.7 of this Resolution.

E. An STR application not approved by the BOCC may be appealed to the BZA (see Sec 4.3 H)

9.10.7. STR Density
The number of STRs operating in each Zone in the County will be determined in February of each year. Increases in the number of STRs during that year should not exceed one (1) in each of Zones I and II, and three (3) in Zones III and IV. Applications that would cause limits to be exceeded for the year would be deferred to the following year and be considered in the order in which the applications were received.

SECTION 10

NON-CONFORMING USES, STRUCTURES AND LOTS

10.1 Non-conformance

A. Non-conforming Uses: Uses that were lawful and on-going at the time of the passage of the original Zoning Resolution or a subsequent amendment to the Resolution, but do not meet the current requirements of this Resolution. It is the intent of this Resolution to allow the continuance of those uses unless they are specifically prohibited by resolution or amendment.

B. Non-conforming Structures: Any building or portion thereof, built in compliance with all then existing laws and regulations prior to the effective date of the original Resolution (April 6, 1971) or any amendment thereto, which does not conform to the regulation of the zoning district in which it is located.

C. Non-conforming Lots: Any parcel of land created in compliance with all then existing laws and regulations prior to the effective date of the original Resolution (April 6, 1971), or any amendment thereto, which does not conform to the regulation of the zoning district in which it is located.

10.2 Change in Non-conforming Use

The non-conforming use of a building or lot may not be changed to another non- conforming use. A non-conforming use of a building or lot may be changed to a conforming use.

10.3 Expansion or Enlargement

A. A non-conforming use may be extended throughout any part of a structure, which existed at the time of enactment of the original Resolution.

B. A non-conforming structure to be enlarged shall conform to the provisions of this Resolution.

10.4 Repairs and Maintenance

The following changes or alterations may be made to a non-conforming building or to a conforming building housing a non-conforming use:

A. Maintenance repairs that are needed to maintain the good condition of a building. If a building has been officially condemned, it may not be restored under this provision, unless it is proposed for historic preservation on the State or National Registry.

B. Any structural alteration that would reduce the degree of non-conformance or change the use to a conforming use.

C. An alteration or expansion which the Planning and Zoning Director determines to be necessary to rectify a hazardous health or safety situation.

D. An alteration or expansion necessary to comply with the Americans with Disabilities Act requirements.

10.5 Restoration or Replacement

A. The cost of land or any factors other than the current cost of construction of the structure are excluded in the determination of cost of restoration for any non- conforming structure or structure devoted to a non-conforming use.

B. If a structure, whose use is non-conforming, is destroyed or damaged in any manner such that restoration equals or exceeds fifty (50%) percent of the current cost of reconstructing that use to its state prior to damage, it shall be restored only if such use complies with the requirements of this Resolution.

C. If a non-conforming structure is destroyed or damaged in any manner such that restoration equals or exceeds seventy-five (75%) percent of the cost of reconstructing the entire structure to its state prior to damage, it shall be restored only if it complies with the requirements of this Resolution.

D. If a structure is non-conforming due to setback only, and is destroyed or damaged, it may be rebuilt upon the existing foundation.

E. Any such repairs or restorations shall be started within twelve (12) months and completed within twenty-four (24) months from the date of partial destruction.

F. Any structure that meets the condition for repair or restoration still requires zoning permits and approved septic systems.

10.6 Discontinuance

Whenever a non-conforming use has been discontinued for a period of one (1) year, it shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Resolution.

10.7 Special Exceptions to Expansion of Non-conforming Use

The BZA may authorize, upon appeal in specific cases, an exception permitting an increase in either or both the land area and the floor area of a structure or structures occupied by a non-conforming use.

Every exception authorized shall be personal to the applicant and shall not be transferrable until after the construction of any authorized structure or structures and shall then run with the land. No exception shall be authorized unless the BZA finds that all the following conditions exist:

A. That the use is a non-conforming use, as defined by this Resolution, and is in full compliance with all requirements of this Resolution applicable to non- conforming uses;

B. That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property;

C. That the exception will not alter the essential character of the zoning district in which it is located;

D. That the exception will not weaken the general purposes of this Resolution;

E. That the exception will be in harmony with the spirit and purpose of this Resolution;

F. That the exception will not adversely affect the public health, safety, or welfare.

10.8 Non-conforming Lots

Non-conforming lots on record at the time of passage of the Zoning Resolution in 1971 may be built upon when all other relevant zoning district requirements are met.

It is the desire of the County to minimize non-conforming lots by encouraging and facilitating the consolidation of contiguous non-conforming lots.

In accordance with C.R.S. § 30-28-120, and to protect the County and property owners of the County, verifiable proof of the creation of a non-conforming lot, claimed to predate the Zoning

Resolution, shall be required. Such proof must be provided by the applicant or property owner and shall consist of a plat or deed dated prior to the adoption of zoning. Proof of the non-conforming lot must be presented to the Planning and Zoning Office, who shall review the documentation to determine the validity.

SECTION 11

PLANNED UNIT DEVELOPMENT (PUD)

11.1 Authorization

The Custer County Planned Unit Development (PUD) Section is authorized by the C.R.S § 24-67-101 et seq., and as amended.

Users of this Zoning Resolution should also refer to the appropriate sections on common procedures, application fees, submittal requirements, enforcement provisions and definitions when making use of the PUD regulations contained herein.

ALERT

Be forewarned that water is a primary concern for PUD's in Custer County and in the State of Colorado. Applicants must be aware that before approval of the PUD request is considered, the following conditions must be met:

- Proof of ownership of a water source, adjudicated by final decree.
- An engineer designed system to provide potable water and a treatment system is required.
- Test wells are required for all ground water sources.
- Provide written estimates of total usage in number of gallons per day based on full time occupancy and 100% build out including fire hydrants with sufficient fire flow, if applicable.
- All water systems must be metered and must meet the Colorado Department of Public Health and Environment and the Colorado Division of Water Resources standards and requirements.

11.2 Purpose and Intent

To promote more efficient use of land to preserve and enhance the natural characteristics and unique features of a development; to improve the design, character, and quality of new development, to encourage integrated planning to achieve the objectives of the Custer County Master Plan; to preserve open areas, to facilitate the adequate and economical provision of streets and utilities, and to reduce the burden on existing streets and utilities by more efficient development; and to conserve the value of land. A PUD is an entire development concept and shall be reviewed as a whole. It may be granted in the County after approval through the permit process. PUD Permits shall be approved or denied at the discretion of the BOCC, following review by the PC. Determination shall be based on the purposes, standards and requirements of this Zoning Resolution.

A PUD allows for development of a site subject to the PUD regulations set forth herein. All uses that are allowed in the underlying zoning district where the PUD is located and any other uses that are consistent with the Master Plan and compatible with the site's physical and environmental characteristics may be allowed in a PUD. It is intended:

A. To promote increased economic uses and development of the land, while protecting environmental and ecological assets;

B. To promote the unified and integrated development and use of the land in a concentrated fashion and at its highest feasible economic value;

C. To encourage innovative residential, commercial, and/or recreational developments in which various uses and structures may be grouped in appropriate relationships to each other, open space and common facilities;

D. To provide for light industrial sites that are desirable, well-located, clean and safe, and create a minimum impact on transportation infrastructure;

E. To meet the applicable objectives of C.R.S. § 24-67-102 and provide adequate infrastructure, such as: water, sewer, roads, power and telephone; and prevent excessive disruption to wildlife habitat or wetlands.

F. To protect and preserve with adequate mitigation measures critical wildlife habitat and migration corridors, historical and archeological features, scenic views and other aspects of the physical environment of Custer County.

G. To foster development that groups various land uses in appropriate relationships to each other, to commonly shared open space and recreational, commercial, employment or cultural facilities.

The BOCC is the final decision-making authority for PUD approvals after holding a public hearing.

11.3 General Standard for Granting a PUD Permit

PUD permits will be considered for that part of Custer County east of State Highway 69: PUDs are not allowed west of Highway 69. (see Appendix J)

The following is an outline of the requirements which will be more detailed in Section 11.5. Failure to address these requirements shall be an appropriate basis for denial of any application for PUD approval. Every applicant shall address the following requirements at the Sketch, Preliminary and Final Plan processes and shall govern the PC and the BOCC's consideration of any request for approval of a PUD:

A. Be compatible with the goals of the Master Plan;

B. Have adequate water and sewer;

C. Include a design system to address drainage and to mitigate any runoff created by the PUD;

D. Show adequate street and transportation improvements to accommodate traffic volume generated by the proposed development;

E. Be appropriate and compatible to the surrounding areas, neighbors and zoning district with no adverse impacts on land values or land uses;

F. Maintain the attractiveness of the development, and its preservation of the rural character of Custer County;

G. Avoid development in hazardous, geologically sensitive, wetland or riparian areas;

H. Protect the public health, safety and welfare;

I. Not result in an over-intensive use of land, have a materially adverse effect on community capital improvement programs, require a level of community facilities and services greater than that which is available, or cause significant impacts beyond the property's boundary;

J. Mitigate adverse impacts on wildlife;

K. Minimize potential fire hazards;

L. Develop the land in a manner appropriate for the site with an emphasis on correcting unsuitable land conditions prior to development;

M. Be landscaped, buffered, and screened with native plants and trees;

N. Provide utilities including, but not limited to water, sewer, power, and telecommunications services that are adequate to serve the PUD and give assurance that the methods of financing, constructing and maintaining these utilities and public services are sufficient;

O. Not allow any interest in land located within the PUD to be transferred or sold before approval of the Final Plan by the BOCC and recorded and filed in the Office of the Custer County Clerk and Recorder;

P. Not allow building or structures to be erected nor shall a zoning permit be issued within a PUD before approval of the Final Plan by the BOCC and recorded and filed in the Office of the Custer County Clerk and Recorder.

In addition, the following standards shall apply regarding planning, design, construction and density of the PUD:

A. Minimum acreage for a PUD shall be the same as the minimum lot acreage for the zoning district that the PUD will be located in;

B. A minimum of 50% of the PUD acreage shall perpetually remain in open space limited by deed restriction;

C. Density: The purpose is to retain a minimum of 50% of the parcel in agricultural production or open space, while allowing for small lot home site development or mixed-use development;
   1. The PC recognizes that density standards apply but may be exceeded or reduced based on an approved PUD Plan which mitigates significant adverse impacts.
   2. The number of Single-family residential structures allowed will be based on the percentage of land perpetually dedicated to open space and to provide an incentive for clustering and other creative designs. The guidelines are established in the following table:

	Percentage of Open Space	Density Standard (Dwelling Unit/Acre
Zone I	Not Allowed	NA
Zone II	50%	5/35
	60%	7/35
	70%+	10/35
Zone III	50%	2/10
	60%+	4/10
Zone IV	50%+	2/5
Zone IV	West of highway 69 not allowed	N/A

   3. Light Industrial structures shall be no more than a 20,000 square foot per acre footprint per remaining developable acreage.
   4. Commercial/Retail structures shall be no more than 10,000 square foot per acre footprint per remaining developable acreage.
   5. Mixed Use will be negotiated with the PC and each acre in the PUD will be used to calculate a specific use. If any acre of land is used to calculate a given use, it would be subtracted from other use calculations.

D. Designed to minimize fire hazards;

E. Innovative mixed land uses, variations in development densities and variety in type design and layout of buildings;

F. Design and construction provides for clustering development, more effective land utilization, and more cost effective and efficient extension of infrastructure.

11.4 General Procedures for a PUD

The PUD approval process consists of three phases: The Sketch Plan, the Preliminary Plan and the Final Plan. The approval of the Sketch Plan, Preliminary Plan and Final Plan will be done by the PC and the BOCC.

11.4.1 Vested Property Rights

Custer County, by Resolution 99-10, has provided procedures necessary to implement the provisions of C.R.S. § 24-68-101 and 103, et seq., as amended, for Vested Property Rights. Any development must address Vested Property Rights and a Site Specific Development Plan.

Vested Property Rights are the right to undertake and complete development and use of property under the terms and conditions of a Site Specific Development Plan.

For all developments, a Site Specific Development Plan means the final approval step, even if in stages, irrespective of its title, which occurs prior to zoning permit application; provided, however, that if the landowner wishes the approval to have the effect of creating vested rights under C.R.S. § 24-68-101 and C.R.S. § 24-68-103.1, and as amended, the landowner must request at time of filing that the approval be considered. Any resolution or motion approving a PUD shall specifically designate the approval as a Site Specific Development Plan creating vested rights.

The following shall cause a forfeiture of the vested rights granted for the original Site Specific Development Plan and shall make the approval of the plan null and void:

A. A major amendment to a Site Specific Development Plan that has not been approved by the PC; or

B. Failure of the developer to complete the development of an approved Site Specific Development Plan within three (3) years of the effective date of approval; or

C. Failure of the developer to comply with any terms of approval of the Site Specific Development Plan.

11.4.2 Procedure for Processing PUD Application

The general requirements to be followed for each phase of the PUD Approval Processes are listed below (Also see Appendix C). The consequences of non- compliance with these procedures shall be postponement on the agenda until the next regularly scheduled meeting.

A. The Developer shall:
   1. Schedule and attend a non-binding pre-application with the Planning and Zoning Office, to which the Chairperson of the PC, or his representative, shall be invited. Other individuals may attend the conference, and an on- site evaluation may be included;
   2. Submit a complete written application and all additional required documentation, for each PUD phase, to the Planning and Zoning Office. The developer shall provide applicable fees, and such documentation as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use;
   3. Appear in person, or by authorized representative, at a regularly scheduled meeting of the PC to present each phase of the plan and appear at any associated meetings deemed necessary;
   4. Appear in person, or by authorized representative, at the designated site tour, if deemed necessary by the PC or the BOCC;

5. Appear in person, or by authorized representative, at a meeting of the PC and BOCC to present each phase of the plan*;*
6. Maintain a complete packet of documentation that includes an Index of Recordings to be submitted to the Planning and Zoning Office prior to the Final Plat recording.

B. The Custer County Planning and Zoning Office shall:
1. Invite the PC chair or representative to the pre-application conference. Meet with the Developer and the PC representative for the pre-application conference, which may include an on-site tour. The Planning and Zoning Office shall provide the applicant with a current checklist and timetable for each step of the submittals to aid in an orderly and transparent process. This should include all meeting dates and deadlines;
2. Review the application and associated documentation to determine if the application is complete;
3. Process the submitted fees;
4. Schedule the application as an agenda item for a regularly scheduled PC meeting;
5. Research and verify the Developer's request and documentation;
6. Prepare and mail apublic notice of each sketch, preliminary and final plan meeting to each landowner identified by the Developer at the Sketch Plan phase;
7. Prepare a report for the PC that includes the background information concerning the application, a list of suggested conditions and areas of concern prior to the PC meeting at which the application is presented;
8. Schedule a meeting and ensure a Public Notice appears in a newspaper of general circulation within Custer County at least thirty (30) days prior to the meeting date.
9. Review the documentation for completeness and prepare packets for all three (3) phases for dissemination to the following:
   a. PC members and associates;
   b. BOCC;
   c. Adjacent property owners and applicable home owners' association.
10. Schedule special meeting(s) and site tour(s), if deemed necessary;
11. Send packets, including information from applicant, to the following interested parties, as applicable, for both the Preliminary Plan and Final Plan reviews, in addition to the parties listed above:
    a. County Engineer
    b. County surveyor
    c. County GIS Department
    d. County Assessor
    e. County Attorney (Bond issues and Guaranty of Improvements)
    f. Colorado Department of Public Health and Environment, State Engineer, Colorado Division of Water Resources
    g. Colorado Department of Local Affairs
    h. Mineral rights owners
    i. Appropriate utilities (public and private)
    j. Each municipality within a three (3) mile radius of the proposed PUD
    k. Area school district
    l. Special districts
    m. NRCS
    n. Colorado Geological Survey

o. Appropriate agencies including, but not limited to, the following: U.S. Forest Service (USFS), State Forest Service (CFS), Bureau of Land Management (BLM), Colorado Department of Transportation (CDOT), Frontier Pathways and Scenic Byways, State Land Board, area ditch companies, Custer County Road & Bridge, Sheriff's Office and County Health Department
p. Colorado Parks and Wildlife (CPW)
q. State and local Historical Societies
r. Owners of water rights when a water course, irrigation ditch, a storm easement or drainage right-of-way, channel or stream traverses a PUD
s. Any other agency, entity or individual deemed necessary by the PC

Failure of any of these referral agencies to respond to any request for recommendations within twenty-one (21) days after the mailing by the County or its authorized representative, unless a necessary extension of not more than thirty (30) days has been consented to by the Developer and the BOCC, shall be deemed an approval of the proposed PUD plan as provided in C.R.S. § 30-28-136(2).

Where such plan involves twenty (20) or more dwelling units, it shall be necessary for the impacted school district(s) to submit recommendations with respect to adequacy of school sites and the adequacy of school structures.

12. Send a letter of notification to the applicant detailing the actions, recommendations, and conditions evolving from each phase.

C. The Custer County PC shall:
1. Review each phase of the application and accompanying documentation at a meeting prior to publishing notice of a meeting on the application. Included in the review process shall be:
   a. The report prepared by the Planning and Zoning Office;
   b. Information ascertained from the site tour, if necessary;
   c. Additional expert advice, if deemed necessary. (See Section 11.10);
2. On each phase of the PUD Approval Process:
   a. Negotiate and list recommendations and conditions pertinent to the application;
   b. Direct the Planning and Zoning Office to schedule and publish notice of the meetings on the application, to include posting on County web calendar;
   c. Conduct special meetings, as necessary, from which all input and results shall be presented at the next meeting. Obtain public input on the application and accompanying conditions;
   d. Hold meeting;
   e. After closing the meeting, make a recommendation to the BOCC, including pertinent findings supporting the recommended action and conditions. The PC shall only recommend for approval, those plans which it finds to be developed in accordance with the intent, standards and criteria specified in, and conforming to, this Zoning Resolution.

D. The Custer County Attorney shall:
   1. Review and provide comments and recommendations based on each phase and accompanying documentation of the application, as well as the PC recommendations. Also, review any additional conditions or changes in any phase of the plan for compliance with this Zoning Resolution;
   2. Review the agreement of the Developer in complying with the Guarantee of Improvements of Section 11.4.6 and make any recommendations to the BOCC;
   3. Provide legal advice to the BOCC and staff of Custer County, as necessary or when called on.

E. The Custer County BOCC shall:
   1. Review each phase of the application and accompanying documentation before taking action on the application. Such documentation shall include all items included in the review and study by the PC, as well as their recommendations. The BOCC may impose additional conditions or changes in any phase of the plan in order to comply with the purposes of this Resolution;
   2. Enter into a written agreement with the Developer requiring that the Developer comply with the Guaranty of Improvements of Section 11.4.6 before granting final approval of the PUD;
   3. May grant waivers of procedural requirements;
   4. Act on each phase of the PUD process.

F. The Public may:
   1. When recognized, provide input in a courteous and orderly manner during the meeting;
   2. Address the PC and BOCC from the podium after stating their name and address for the record.

11.4.3 Public Meeting Timeframes

Any required meeting pursuant to these Regulations shall be conducted expeditiously and concluded when all those present and wishing to testify have been offered an opportunity to do so. No meeting pursuant to these Regulations shall be continued for more than forty (40) days from the date of commencement, without the written consent of the Developer. Any continuation of a meeting shall be to a certain date. The failure of an adjacent property owner to receive a certified mailed notice of a Preliminary Plan or Final Plan meeting shall not affect the jurisdiction of the PC and/or the BOCC in the PUD process or their decisions. Such notices are merely advisory and are not a precondition for a PUD approval or denial.

11.4.4 Waiver

At any time from pre-application conference to the end of the sketch plan phase, the applicant may request of the BOCC a waiver to eliminate the preliminary plan phase.

11.4.5 Timeframe for Decision on Applications for PUD Approval

Unless withdrawn by the Developer, any phase of any application for PUD approval submitted pursuant to these Regulations that has been neither approved nor denied within a time mutually agreed to by the County and the Developer at the time of filing such application shall

be deemed approved. The Developer may waive this requirement in writing. In addition, such period may be extended by the County to receive a recommendation by any referral agency referenced in these Regulations, but such extension shall not exceed thirty (30) days unless the agency has notified the County that it will need additional time to complete its recommendation. (See C.R.S. § 30-28-133.5)

11.4.6 Guaranty of Improvements

A. The Developer shall submit a financing plan that includes but is not limited to a summary of estimated construction costs and proposed method of financing the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required by the county.

B. The Final Plat(s) shall constitute only a portion of the approved Final Plan. No final Plat shall be recorded until it has been reviewed by the County Attorney and approved by the BOCC, who have agreed upon the following:
   1. All improvements are completed consistent with the approved plan and have passed inspection by the appropriate authority;
   2. A form of collateral including:
      a. Performance or property bonds;
      b. Private or public escrow agreements;
      c. Loan commitments;
      d. Assignments of receivables;
      e. Liens on property;
      f. Letters of credit;
      g. Deposits of certified funds or other similar surety agreements.
   3. Any other negotiated agreement or contract setting forth the plan, method and parties responsible for the construction of any required public improvements shown on the Final Plat sufficient to make reasonable provision for the completion of said improvements.

C. Any improvements constructed pursuant to this Zoning Resolution shall be accomplished in accordance with the design and time specifications and construction schedules established by the Developer and approved by the County.

D. As improvements are completed, the Developer may request release of up to 90% of the collateral deposited for that portion of the improvements completed. If the BOCC determines that any of the improvements are not constructed in substantial compliance with the design specifications, it shall furnish the Developer a list of specific deficiencies and shall withhold collateral sufficient to ensure compliance. If the BOCC determines that the Developer shall not construct any or all of the improvements in accordance with all of the specifications and/or construction timeline, the BOCC shall withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements.

E. Lots in the PUD shall not be contracted for or sold prior to the completion of improvements with as-built-drawings and Final Plat(s) approval and recordation.

11.5 PUD Approval Process

The PUD approval process consists of three phases: The Sketch Plan, the Preliminary Plan and the Final Plan. The approval of the Sketch Plan, Preliminary Plan and Final Plan will be done by the PC and the BOCC.

11.5.1 Sketch Plan

The Sketch Plan allows the PC and the BOCC to review and comment on the concept of the proposed PUD with the understanding that additional detailed design material shall be provided during the later approval processes.

An applicant shall make application for the approval of a PUD by first submitting a sketch plan for the PUD to the PC. The Sketch Plan shall include maps and a written statement and shall show enough of the area surrounding the proposed PUD to indicate the relationship of the PUD to adjacent uses, both existing and proposed.

The Sketch plan phase shall consist of:

A. Pre-application conference(s);

B. Applicant submitting a "Request for PUD" application and documentation with all applicable fees;

C. Staff review(s);

D. Site tour by the PC and BOCC. Applicant or representative must be present;

E. Presentation of the plan with appropriate documentation at a regularly scheduled meeting before the PC to review the plan for general scope and compliance.

The public shall be allowed to participate at the meeting when the plan is presented to the PC. The PC may make recommendations to the applicant. If the applicant requests waiver of a specific provision of the PUD Regulations a written application requesting the same shall be submitted to the BOCC. The waiver may be granted upon a finding that the waiver would not be in conflict with the substantive and procedural intent and purpose of the Zoning Resolution.

The PC shall take action on the Sketch Plan application at a scheduled public hearing.

The Custer County Planning and Zoning Office shall prepare a report of the meeting to be submitted to the BOCC and applicant. This report to include, but not limited to:

A. Site tour findings;

B. Written and verbal comments from adjacent property owners;

C. Written and verbal comments from interested parties;

D. PC minutes;

E. PC recommendations;

F. Reasons for the vote of the seated members of the PC;

G. Conditions.

At a subsequent public hearing the BOCC shall approve or deny the request. Approval at the Sketch Plan phase does not guarantee approval of the Final Plan.

Upon completion of the Sketch Plan process, the applicant shall have one-hundred and eighty (180) days to submit all data for the Preliminary Plan phase, unless an extension is granted at a regularly scheduled meeting. Prior to the 180-day deadline, the application for an extension must be submitted to the Planning and Zoning Office thirty (30) days prior to the regular scheduled meeting.

The dimensions for each sketch plan drawing submitted for public presentation shall be no smaller than twenty-four (24) inches by thirty-six (36) inches. Each copy shall be submitted in a reproducible size and/or electronic format meeting GIS data standards and/or the specification of the Planning and Zoning Office. In the case of multiple sheets, a key map showing the relationship of the individual sheets shall be provided.

11.5.2 Sketch Plan Requirements

The Sketch Plan shall include, at a minimum, in writing:

A. A description of the type of development, to applicable Custer County Zoning District(s), and compatibility with land uses surrounding the proposed site;

B. The name of the PUD. No PUD in the County shall bear the same name as another PUD or Subdivision unless adjoining and using consecutive filing numbers;

C. The name, address, and contact information of the landowner(s) and the developer(s), as well as any planners, consultants or other experts used and authorization to act form when applicant is different from the property owner;

D. Proposed water system and evidence that a water supply shall be developed that is sufficient in terms of quality, quantity and dependability for the PUD;

E. Suitability of the land for the proposed PUD in terms of slope, flood plain, soil erosion, drainage and vegetation;

F. A map showing the location of the PUD in relation to surrounding land uses, its property boundaries and the significant natural and man-made features on the site and within one-half (1/2) mile of any portion of the site, which can be obtained from existing identified sources;

G. A current topographic map with contours at twenty (20) foot intervals drawn from available data, such as United States Geological Survey (USGS) maps;

H. Evidence of title of ownership of the land to be subdivided;

I. The potential impact to streams, lakes, topography, vegetation, and wildlife habitat;

J. Wildlife impact designation, which may be obtained from the CPW Significant Wildlife Habitat Overlay Map;

K. Density of the development;

L. General statement of expected financing

M. A lighting plan that describes the outside lighting, if any, to be provided or installed within the PUD, including lighting of roads, common elements, and PUD gates. The plan shall identify the location of any such lighting, the types of fixtures to be used, and the power or voltage ratings of the fixtures, and describe any shielding or other measures to be taken to mitigate potential problems.;

N. Geologic characteristics and hazards of the area significantly affecting the land use, such as, but not limited to, radiation hazards and steep slopes;

O. Potential impact to all infrastructures public facilities and services within the County;

P. The acreage of the entire tract to the nearest half (1/2) acre and percent of the total area to be allocated to streets and to each other type of use;

Q. Soil types and their boundaries, as shown on soil survey maps, such as the original Custer County Area Soil Survey prepared by the U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS) and a table of interpretations for the soil types shown on the soil map prepared by the NRCS. Additional documentation may be required during the Preliminary Plan by the PC;

R. Proposed sewage system;

S. Proposed land use design: accessibility of the site, road alignment, lot configuration, easements, etc., showing the area. Dimensions will be shown to the nearest five (5) feet;

T. Plan showing the general locations of roads, parking, building, and any proposed amenities;

U. Area of ground coverage for buildings, open space, parking and street or roads;

V. Initial wildfire hazard/mitigation considerations;

W. Names and addresses of adjacent property owners from the records of the County Assessor.

11.5.3 Preliminary Plan

The Preliminary Plan is the second phase in the PUD approval process and consists of the entire concept of the PUD. The Developer must have received Sketch Plan approval in order to proceed with the Preliminary Plan application. The Developer must receive Preliminary Plan approval before proceeding to the Final Plan process. The Developer may request a waiver of the preliminary plan phase. See Section 11.4.4.

The Preliminary Plan phase shall consist of:

A. Applicant submitting an application and all applicable fees;

B. The Preliminary Plan requirements;

C. Site tour by the PC and BOCC. Applicant or representative must be present;

D. Presentation of the plan with appropriate documentation at a regularly scheduled meeting before the PC to review the plan for general scope and compliance.

The Custer County Planning and Zoning Office shall:

A. Review the submitted information;

B. Contact professionals;

C. Schedule a site tour by the PC (if necessary). Developer or representative must be present;

D. Send Packets to all interested parties and agencies as applicable.

There shall be a meeting before the PC. The PC may make recommendations to the applicant. The PC and BOCC may have several meetings with the Developer before a decision on the Preliminary Plan is made. The public shall be allowed to participate at the meetings.
The PC shall take action on the Preliminary Plan application at a scheduled public hearing.

The Custer County Planning and Zoning Office shall prepare a report of the meetings to be submitted to the BOCC and applicant. This report to include, but not be limited to:

A. Site tour findings (if taken);

B. Any subsequent special meeting(s), meetings with the Developer;

C. The PC recommendations;

D. Reasons for the vote of the members of the PC and conditions.

At a subsequent public hearing the BOCC shall approve or deny the request.

Approval of the Preliminary Plan does not guarantee approval of the Final Plan. Upon approval of the Preliminary Plan, the Developer shall have one hundred and eighty (180) days to submit all data for the final Plan phase, unless an extension is granted at a regularly scheduled meeting,

prior to the 180-day deadline. The application for extension must be submitted to the Planning and Zoning Office thirty (30) days prior to the regular scheduled meeting.

11.5.4 Preliminary Plan Requirements

The Preliminary Plan Application shall contain the following:

A. Boundary survey that meets state statutory requirements for a surveyor's plat and a property survey that complies with the Plat Standards. (See Appendix A);

B. Written documentation:
   1. Final water decree;
   2. The name, address, and contact information of the landowner(s) and the Applicant(s), as well as any planners, consultants or other experts used if different from original submittal;
   3. A map showing location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for public use, recreation areas, open space and other important features within and adjacent to the tract to be developed including:
      a. Dimensions of all lots to the nearest foot;
      b. Lots and blocks numbered consecutively;
      c. Location and identification of all existing and proposed public and private easements;
      d. Existing and proposed street names;
      e. Sites to be reserved or dedicated for open space, parks, playgrounds, schools, community facilities or other public uses; and
      f. Calculations of the area devoted to each type of use to an accuracy based on 4.4.B.4.
   4. Topography at vertical intervals of two (2) feet where the average slope of the PUD is less than ten (10) percent and at vertical intervals of five (5) feet where the average slope of the PUD is ten (10) percent or greater. All drawings must be drawn to meet the current standards at a legible, graphically-defined scale to be determined by the Planning and Zoning Office
   5. Location of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features. This shall include direction of flow, water level elevations, typical depths, location and extent of areas subject to inundation.

C. Environmental characteristics and analysis applicable to the PUD including the following:
   1. Preliminary flood hazard storm drainage plan: map showing the boundaries of a hundred (100)-year flood, delineating the possible depth of flood waters in the proposed PUD, and provisions for addressing the hazards of construction in the flood plain. Recognized published sources may be used. If this information is not available publicly, the information must be certified by a Colorado professional engineer. (See Section 11.6.C);
   2. Geologic and Hydrology Reports:
      a. A report prepared by a professional geologist, including map(s) relative to the lot layout, concerning geological characteristics, radiological hazards, asbestos hazards. Any hazardous conditions should be expounded upon, and any mitigation measures explained;

b. The Applicant must submit a check or money order, payable to the Colorado Geological Survey, in the amount necessary to cover fees charged for the Preliminary Plan review;
c. A hydrology report by a Professional Hydrologist consisting of quantity, quality, and availability of water.

3. Soil suitability: maps and tables concerning suitability of types of soil in the proposed PUD in accordance with the N.R.C.S.;
4. Identify important resource areas including: potential mineral resources, historical, archeological, significant wildlife habitat, and agricultural land;
5. Preliminary long-term open space management plan. (See Section 11.6.D);
6. Preliminary road plan. (See Section 11.6.E);
7. Preliminary fire/wildfire hazard plan. (See Section 11.6.G);
8. Dedication and public services and facilities impact study (involving at least the school, medical clinic and sheriff's office). (See Section 11.6.I);
9. Wildlife review. (See Section 11.6.J);
10. Map of utilities, both existing and proposed, including preliminaries of the sewage treatment facility plan, the water system plan, lighting plan, easements and rights-of-way plan, and the utilities plan. (See Section 11.6);
    a. A PUD development guide that addresses the following: Evidence from a current hydrology report that a water supply, adjudicated/procured by final water decree, will be available, sufficient in terms of quality, quantity and dependability, for the PUD. Test wells are required for ground water sources. This is part of the Water System Plan required in Section 11.6.A;
    b. Preliminary copy of any proposed covenants and restrictions to the properties, including the landscaping design guidelines as detailed in Section 11.6.K;
    c. Names, addresses, and contact information of Applicant, designer of the PUD, land surveyor (who shall be licensed by the Colorado State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors), and consultants, including their qualifications;
    d. Evidence that the development plan will be in compliance with State Regulations for the extraction of mineral resources on or under the subject property if the mineral interests are severed;
    e. The estimated quantity of domestic solid waste to be generated, the types of waste involved and proposed disposal as detailed in Section 11.6.Q;
    f. Build out and growth projections for 2, 5, 10 and 20 years;
    g. Vicinity map showing the relationship of the proposed PUD to the nearest towns, and direct routes via public roads to the PUD from such towns.
    h. Guaranty of Improvements Agreement. (See Section 11.6.R)
    i. Weed management plan. Plan must be in accordance with the Custer County Weed Management Plan and approved by the Weed Advisory Board.
    j. Map that is drawn to scale which shows the uses of property which are abutting to the PUD.

D. Any additional evidence required to be in compliance with the PUD Development Standards of Section 11.

E. Any additional documentation determined to be necessary for disclosure will be required by the PC, BOCC and/or the Planning and Zoning Office.

11.5.5 Final Plan

The submission of the Final Plan is the last step in the approval process and consists of the final engineering and completed professional designs of the PUD. The Applicant must have received Preliminary Plan approval before proceeding with the Final Plan process. The Final Plan process shall review all of the required documents for compliance with these Regulations.

The Final Plan phase begins with submitting an application, final plan recommendations and applicable fees.

The Custer County Planning and Zoning Office shall;

- Review the information submitted for completeness;
- Schedule a site tour by the PC and BOCC Members (if necessary). Applicant or representative must be present.

The PC and BOCC may have several meetings with the Applicant before a decision on the Final Plan is made.

There shall be meetings before the PC and the public of the Final Plan. The PC may make recommendations to the applicant.

The PC shall take action on the Final Plan application at a scheduled public hearing.

The Custer County Planning and Zoning Office shall prepare and submit to the BOCC and the applicant a report on the meetings, site tour (if taken), any subsequent meetings with the Applicant; the PC action taken; reasons for the vote of seated members of the PC; and conditions.

The BOCC may impose additional conditions or approve incentives pertaining to final studies, reports, engineering details and completed professional design of the PUD before the Final Plat is approved.

The BOCC shall hold a public hearing within ninety (90) days of the complete application for Final Plan approval, unless a longer time frame is agreed to by the Applicant in writing.

Upon approval, all recording on pertinent documents shall commence.

11.5.6 Final Plan Requirements

The Final Plan consists of the following:

A. Preliminary Plan approval from the BOCC;

B. Final copy of the water supply plan approved by the Division of Water Resources, State Engineer and the District Engineer.

C. Final documentation complying with specific design criteria detailed in Section 11.6.1, A-U, including a copy of any covenants and restrictions, conditions, conservation easements and the guaranty of improvements for the PUD;

D. Legal proof of ownership, by a commitment of a Title Insurance Policy that is not more than thirty (30) days old.

E. Plan and profiles for the following:
   1. All streets and roads;
   2. Sanitary and storm sewer systems;
   3. Water distribution system.

F. Construction timeline detailing all construction phases and proposed completion dates;

G. Final Plat Requirements:
   1. Adhere to Plat Standards, as detailed in Appendix A of this document.
   2. Plat Monumentation:
      a. Meet all applicable statute requirements including: C.R.S. § 38-51-104, C.R.S. § 38-51-105, C.R.S. § 24-4-103
      b. Aliquot monuments must be upgraded, and monument records prepared and submitted at the state level, as per applicable provisions of the Colorado Revised Statutes, and as amended.
      c. All vertical control shall be physically described, elevation noted, and datum referenced.
      d. Placement as follows:
         1. At all boundary corners;
         2. At a minimum of every 1400' along all boundary lines;
         3. At all changes in direction and the beginning and end of all curved boundaries and radial changes of all lots and roads within the PUD;
         4. At all controlling corners referenced in the legal description or as required by aliquot description.
      e. Meet the physical standards as required by BLM regulations if abutting BLM lands.
      f. Lot corners, with exception of intermediate points of deflection, shall be stamped with line markings and lot numbers.
   3. Drawing Specifications:
      a. All drawings must be drawn to meet the current standards at a legible, graphically-defined scale to be determined by the Planning and Zoning Office;
      b. Drawn in permanent black ink or reproduced in a fixed black ink on dimensionally stable mylar or polyester film of a minimum 4 mil thickness;

c. All signatures and seals must be original and permanent on the Final Plat to be recorded;
d. Must have margins as follows:
    1. 36" side, a minimum width of ½";
    2. 24" side, a minimum width of 1" on left-hand side and a minimum width of ½" on the right-hand side.

4. Plat Contents must:
    a. Meet requirements of C.R.S. § 38-51-106;
    b. Show Section Lines and all boundaries of the PUD lots and other land entities with accompanying annotation and corner references to legend by symbol or text description;
    c. Indicate the acreage for the following: total, lots, roads, other land entities;
    d. Identify all controlling monumentation, including aliquot lines, with annotated ties and references to legend by symbol or text description;
    e. Show all elements as dimensioned and distance-related to the boundaries. Any elements shown graphically and by scale only shall be so labeled;
    f. Be comprised of the following text, at a minimum:
        1. Legal description of the PUD boundary;
        2. Signature of owner(s) acknowledging execution of the Final Plat.
        3. Notary statement to owner(s) signature;
        4. Signature and accompanying notary by any mortgage holder in the property signifying consent to the plat.
        5. Dedication indicating intentions and specifics of the owner(s) request for acceptance and dedication of public elements of the plat;
        6. Surveyor's statement and signature/seal per statute;
        7. Statement and signature of acceptance/approval by the appropriate government agencies, such as:
            - BZA
            - PC
            - BOCC
            - Special District Boards(s)
        8. Standard wording used in the signature blocks must be pre- approved by the County Attorney;
        9. Filing statement and signature by the County Clerk & Recorder's office;
        10. Legend and notes by the surveyor describing lines, symbols, monumentation and defining other depicted plat elements including: title, graphic bar type scale and north arrow;
        11. Tract boundary lines, all rights-of-way including easements, and property lines of all lots must have accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves;
        12. Name of each street, and width of all rights-of-way;
        13. Any easement, including those indicating perpetual open space required by the PC or BOCC or granted to public utility companies shall be included, and the location, dimension, and purpose of such easement shall be given;
        14. All deed restrictions.
        15. Addresses for all lots must be shown and approved by the appropriate county entity.

g. The annotation of coordinates is optional but if shown the following minimum information is required:
   1. For 3 monumented locations at boundary extremities; and,
   2. Defined in 3-dimensions based on an accepted datum. Basis, datum and method, and date of observations shall be included as a notation in the legend, or alongside the actual position on the drawing.

h. Provide plat annotations as follows:
   1. All bearings or angles in degrees, minutes, and seconds;
   2. Distances in feet to two decimal places;
   3. Acreage to two decimal places;
   4. Elevation in feet to two decimal places;
   5. Coordinates dictated by other accuracy levels on the Plat and Datum used.

i. Provide electronic submittal of the Final Plat. A copy of the Final Plat, as approved and prior to recording shall be submitted to the Planning and Zoning Office in a reproducible size, electronic format meeting GIS data standards and/or the specification of the Planning and Zoning Office.

H. Any documentation, including disclosure acknowledgments, required by the PC, BOCC or the Planning and Zoning Office;

I. It is the responsibility of the Applicant to maintain an Index of Recordings of all filed and recorded documents relating to the Final Plan and submit that index list along with a complete packet of PUD documentation to the Planning and Zoning Office prior to Final Plat recording;

J. Permits for construction on individual lots shall not be issued until as-built drawings for all constructed improvements are provided AND the final plat has been approved and recorded.

11.5.7 Final Plat Recording

A. All PUD Final Plats must be recorded in the County Clerk and Recorder Office. After approval has been given by all parties, and the appropriate signatures are verified on the plat and recording fees collected from the applicant, the plat shall remain in the possession of the Planning and Zoning Office to be recorded in accordance with paragraph B below.

B. Recording shall take place once the Final Plat has been approved. The Guaranty of Improvements Agreement, the Covenants, and Homeowner's Association Documents shall be recorded concurrently with the Plat.

C. All recording fees are the responsibility of the applicant.

11.6 Assessing the PUD Plan

The criteria used to assess the PUD Plan shall include, but not be limited to, the following:

A. Approval of each phase prior to proceeding to the next phase.

B. The effect of the proposed PUD upon the immediate area, including employee housing requirements.

C. Whether an exception from the zoning resolution requirements and/or from the PUD regulations requirements is warranted by virtue of the design and amenities incorporated in the development plan and development guide.

D. Conformance with the general intent of the zoning resolution.

E. Existing and proposed utility services are adequate for the proposed development and that the methods of financing, construction and maintenance are sufficient to insure the on-going provision of those services.

F. The proposed PUD does not create unacceptable impacts beyond the property's boundary.

G. Suitability of the overall PUD design as well as any general phasing scheme that may apply.

H. Other relevant matters related to the PUD as determined by the PC and BOCC.

11.6.1 PUD Design Criteria

The PUD Plan must anticipate future growth and address the following topics:

A. Water System
   1. The Developer must submit engineer designed water source, distribution, and treatment systems which provide for a physically available and legally adequate water supply adjudicated by final water decree and meet all of the requirements contained in this Subparagraph A.
   2. Developer must provide evidence from a current hydrology report by a professional hydrologist that a potable water supply shall be available to serve the PUD that is sufficient in terms of quality, quantity and dependability based on 100% build out and full-time occupancy. Such written evidence shall include, but shall not be limited to:
      a. ownership of water rights;
      b. historic use and estimated yield of claimed water rights;
      c. public or private water owners can and shall supply water to the PUD in the event that the decreed water is out of priority;
      d. potability for the proposed water supply for the PUD can be determined from test wells or other means as provided by the hydrology report;
      e. Identify any event or circumstance, likely or reasonably possible, which may significantly affect the long-term adequacy of the water supply.
   3. If a water distribution system is proposed, hydrants with sufficient fire flow are required for the proposed build-out.
   4. All water systems, whether individual or central, are to be metered at the source. Data from the meter shall be provided to the County at the same time it is provided to the State.
   5. Parcels whose sole water supply is a cistern must have a contract to supply water for a minimum of twenty-five (25) years.

6. All water systems shall be subject to applicable standards, technical procedures, and requirements of the Colorado Department of Public Health and Environment (CDPHE) and the Colorado Division of Water Resources.

B. Sewage Treatment Facilities
   1. The Developer must submit a collection and on-site wastewater treatment system (OWTS) designed by an engineer. The sewage disposal plan shall include an estimated calculation of the total number of gallons of sewage to be treated per day, detailed plans on whether the treatment will be performed by a central wastewater treatment facility or by some other system, and meet all requirements contained in this Subparagraph B.
   2. The Developer shall submit evidence that the sewage treatment shall comply with the terms of the water augmentation decree.
   3. The Developer shall also provide evidence that these facilities shall meet or exceed the standards set by the CDPHE. All systems must comply with federal, state and local laws and regulations in effect at the time of submission of the Final Plan.

C. Storm Drainage System Design
   1. The Developer shall submit an engineer designed storm drainage system designed for the 100-year storm which meets all the requirements of this Subparagraph C and all applicable federal, state, county and local regulations.
   2. The storm drainage system shall include maps and plans that provide easements for storm water drainage.
   3. All existing or planned drainage features which are incorporated in the design must be identified on the plat(s) by easements or dedications necessary for their installation and/or maintenance. The drainage and flood plain systems shall be designed to allow the unimpeded flow of natural water courses and insure adequate drainage of all low points.

D. Open Space
   1. Open Spaces within the PUD, including those spaces being used as public or private recreation sites, shall be protected by adequate covenants running with the land, conservation easements, or deed or plat restrictions.
   2. Open Space must be functional in terms of optimal preservation of natural features.
   3. Open Space shall be no less than 50% of the gross land area. No less than 25% of the gross land area shall be contiguous and usable open space.
   4. The developer shall provide a Long-Term Open Space Management plan which address ownership, maintenance, succession and wildfire mitigation. This plan shall undergo appropriate legal review.

E. Roads
   1. The developer shall submit a road plan that defines and specifies the dimensions of the dedicated rights-of-way, ownership status and a maintenance plan for all roads created by the Final Plat. Ownership and maintenance statements shall be included on the Final Plat.
   2. The developer shall provide engineered construction, traffic and access plans. Multiple ingress and egress routes must also be addressed in the road plan. These plans must meet the County Road Specifications and receive the approval of the BOCC, the Custer County Road and Bridge Department and the appropriate emergency services authority.

3. Authorized access to lots and sites is required by either public or private roads.
4. Where roads are to be constructed through timber, all road sight lines must be kept clear and the timber removed from the rights-of-way by the developer to achieve traffic safety goals of the County.
5. The developer road plan shall conform to the state highway access code as required by C.R.S. § 43-2-147 and/or the Custer County Road Specifications.
6. The Developer and/or Home Owners Association (HOA) or Property Owners Association (POA) shall provide and maintain reflective street signs and traffic control devices installed in the PUD and obtain addresses from the appropriate County authority. Street sign design and street names must meet the approval of BOCC, appropriate emergency services authority and the Custer County the Custer County Road and Bridge Department. Street names shall not be duplicated within the County.

F. Easements and Rights-of-way
1. The Developer shall dedicate public and/or private rights-of-way on the Final Plat.
2. Utility easements shall meet the requirements of all appropriate utilities.
3. A storm water easement, drainage right-of-way if required, and/or irrigation ditch/drainage if located on the plat shall be provided in the final plat.

G. Fire Protection Plan
1. The Developer shall meet with the Fire Chief and/or Fire Inspector that serve the area and develop a Fire Protection Plan which meets all the requirements of this Subparagraph G.
2. Fire hydrants and/or a water storage supply are required. If a central water system is used, it shall include fire hydrants. Hydrants and/or water storage tanks shall be installed and located according to the engineer's design and the recommendations of the recognized local fire authority.
3. The PUD Fire Protection Plan shall address issues of fire hazard mitigation and wildland/urban interface.
4. The PUD Fire Protection Plan shall include a map which shows the location of fire/wildfire hazards and the reason for the hazard, such as: slope, aspect, topography, and fuel. A written report must accompany this map. It should include information regarding specific fire prevention and suppression plans. This information must be approved by the Fire Chief and/or Fire Inspector.
5. Slash from road construction shall be addressed in the PUD Fire Protection Plan.
6. The PUD Fire Protection Plan shall be in compliance with the county-wide fire plan as applicable.

H. Utilities
1. The Developer shall submit a utility plan to all impacted local utilities, as applicable, including, but not limited to: the electric company, propane company, postal service, telephone company, and water and sanitation district. This plan must be acceptable to each organization, as well as the BOCC.
2. The utility plan shall provide that utility lines are placed underground.
3. The utility plan must indicate provisions have been made to ensure reliable and adequate utility services for the PUD. Submission of a Letter-of- Agreement between the Developer and each utility serving the site shall be deemed sufficient to establish adequate provisions of service to each property within the PUD.

4. The County Road and Bridge Department retains the authority to inspect underground utility work performed in the PUD roadways and easements, and to collect applicable fees.

I. Dedications and Improvements

1. The purpose of land dedication, and/or payment-in-lieu thereof, is to provide public facilities, areas and/or services made necessary by the effects of the PUD and its inhabitants. The factors considered come from both the demands of the PUD and the burdens it places upon the County. The dedication and/or payment-in-lieu shall be proportional to the cost the PUD would impose on the County in or outside the PUD, and the increased need of services deemed necessary by the approval of the PUD.
2. The Developer shall provide a comprehensive study to demonstrate the actual impacts of the PUD upon public services and facilities. The study shall include an evaluation of the County's demand and capacity for all public services required by the PUD and its inhabitants. An initial meeting between the PC and the Developer and his consultant(s) shall establish the expected areas of impact. Subsequent meetings may involve other individuals and/or organizations. Impact areas will involve both direct and indirect costs to the County. The identified impacts will dictate the appropriate dedications. The study shall also identify the public land and improvements required to be dedicated or constructed by the Developer in order to serve the demand generated by the proposal. Any cost to the County for review or consultation concerning the study will be paid by the Developer.
3. The BOCC, after the study has been reviewed by the PC and upon consideration of their recommendations, will require the dedication of sites and land, which are deemed necessary. The BOCC may allow payment of a sum of money in- lieu of dedication of sites and land, not exceeding the fair market value of such sites, or may allow a combination of such payment and land dedication. The potential recipients of such sites or payments shall provide input to the BOCC as part of the decision-making process within thirty (30) days.
4. The County shall require the dedications to be of suitable use, size, type and location for public use as schools, parks, open space, and necessary public facilities. In those cases where the proposed dedications of land are in such locations, configurations or sizes that the property required to be dedicated is unacceptable to the County, the Developer, at the option of the BOCC, shall be required to make payment-in-lieu to the County for some or all of the required land dedication. Such payment shall be based on the anticipated fair market value, based on completion of proposed platting of the entire property as it may exist when all required infrastructure is completed and functioning. In determining the fair market value of land for the purpose of calculating a payment-in-lieu, the County shall require that the Developer obtain an appraisal(s).
5. All land to be dedicated shall be designated on the final approved plat as outlots, and these outlots shall not be residential lots. Such outlots shall be deeded to the County or other public entities as agreed, at the time of approval of the Final Plat and by dedication on the Final Plat. A policy of title insurance and a certificate of representations and warranties concerning title and use of the entire property shall be required for all lands prior to approval of the Final Plat.
6. If any governmental or quasi-governmental agency (e.g. school or fire district) requires the Developer to dedicate facilities for a non-residential purpose, such requirement shall not alter the residential nature of the PUD.

7. Approval of a PUD shall not constitute an acceptance by the County for maintenance of the roads, streets, alleys, or other public lands as indicated for dedication on the plat. The Final Plat shall contain a plat note irrevocably stating that the Developer conveys and dedicates those areas designated for public use and dedication. The dedication of any of these lands for public use of any nature within the County shall be accepted by the County only by specific action of the BOCC. The Final Plat should contain a separate statement certifying the BOCC's acceptance of dedicated property. Acceptance of public rights-of-way or public improvements does not imply acceptance for maintenance.
8. Should any entity to whom a dedication is made, pursuant to this requirement, request that the land or site be sold, the Developer shall have the right of first refusal to purchase the dedicated land as provided in C.R.S. § 30-28- 133(4)(a)(II).
9. Additional improvements may be required by the PC and the BOCC that may include but are not limited to: sidewalks and/or pedestrian and bicycle trails, street lighting, and landscaping.

J. Wildlife Impacts
    1. The Planning and Zoning Office shall forward a copy of the PUD proposal to the Colorado Parks and Wildlife (CPW) for their review and recommendations.
    2. The Wildlife Review Proceedings found in Appendix C will be triggered if;
        a. The Developer and the CPW cannot come to a resolution on the mitigation standards.
        b. The CPW determines that a more formal review is necessary.
        c. The PC deems that a formal review is necessary.
    3. The following minimum guidelines common to all properties should be incorporated on development plats and recorded protective covenants by the Developer:
        a. Large solid waste receptacles (dumpsters)
            1. Large solid waste receptacles sites should be located as far from houses as is practical and should serve as many home sites as is reasonable.
            2. These sites should be located with the assistance of the Division of Wildlife Manager prior to preparation of plats.
        b. All edibles, including pet food and bird feeders, should not be left outside at night.
        c. Dogs should be physically restrained or under the direct control of a person.
    4. Fences shall be in compliance with the current CPW guidelines.

K. Home Owner's Association and Covenants
    1. Home Owners Association (HOA) or Property Owners Association (POA) Responsibilities
        a. The Developer shall institute a HOA or POA, or other comparable association, which among other duties, is responsible for maintaining and managing: water augmentation plans, open space, common elements, roads, signs and traffic control devices. This organization shall be responsible for enforcing and modifying covenants.
        b. Until the HOA or POA is functioning, the Developer is responsible for maintaining and managing: water augmentation plans, open space, common elements, roads, signs, and traffic control devices.

2. The Developer shall submit the proposed covenants, easements and/or deed restrictions for review. These shall include the ownership and maintenance of all open space, common elements and roads. There may be additional cost to the Developer for review by the county attorney.
3. Covenants must comply with state statutes and cannot be less restrictive than current County Regulations.
4. The County shall require prior notification of changes to the association and/or the covenants which affect land use.

L. Landscaping Design Guidelines
1. The Developer shall incorporate appropriate landscaping guidelines into the covenants. These guidelines should reflect water conservation practices and will be dependent on availability of water.
2. Trees, shrubs and all other landscape objects shall be placed within property lines and only in areas not encumbered by a line of site for traffic purposes.
3. Noxious weed abatement requirements in the state statutes and county weed policy, as administrated by the County Extension Agent and County Weed Control Board, shall be observed.

M. Signage
1. All PUD road entrances must have identifying signs, which shall display the PUD name and a map showing lot configuration, lot numbers, and addresses as assigned. The Developer shall have the sign in place within fifteen (15) days of approval of the final plat. The Developer or HOA/POA or designated organization shall be responsible for maintaining this sign.
2. The signs shall meet the Custer County Zoning Resolution sign requirements and not block traffic sight lines.
3. Individual property signs must conform to County specifications.
4. Individual address signs must be highly visible day and night, 6x18 inches and green with white reflective letters on both sides.

N. Parking

A parking space shall be a minimum of 200 square feet in area, with a minimum width of 10 feet. Parking spaces shall be provided in the PUD according to the following:
1. Dwelling units (private and commercial lodgings) - 2 spaces per unit;
2. Churches, auditoriums, and other facilities housing seated audiences - 1 parking space per every 4 seats;
3. Other indoor uses (including, but not limited to, offices, retail goods and services, and eating and drinking places) - 1 space per 300 square feet of floor area;
4. Outdoor or mixed facilities and combinations of any permitted uses - sufficient number of spaces that will, in the determination of the Commissioners, make reasonable and adequate provision for the highest expected volume of users. Such determination may be based upon the following:
   a. The designated capacity of such facilities;
   b. An overall plan for concentrations of parking with consideration for designed landscaping in relationship to the surroundings;

c. Trade-off, or alternating use of parking area(s) by uses occurring during different hours, days or seasons;
d. Compliance with Americans with Disabilities Act requirements for the physically challenged.

O. Advertising Devices

Advertising Devices shall be permitted in the PUD in accordance with State and County advertising device requirements.

P. Maximum Building Height

The maximum height of buildings should be consistent and in accordance with County building height requirements, however, such restrictions may be relaxed upon showing good cause. (See Section 6.3)

Q. Refuse/Trash Disposal Plan

The developer shall submit a garbage disposal plan for approval. This plan must include, but may not be limited to, waste disposal container locations and service.

R. Guaranty of Improvements
1. The Developer shall submit a financing plan that includes, but is not limited, to a summary of estimated construction costs and proposed method of financing the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required by the County.
2. The Final Plat(s) shall constitute only a portion of the approved Final Plan. No Final Plat shall be recorded until it has been reviewed by the County Attorney and approved by the BOCC, who have agreed upon the following:
   a. All improvements are completed consistent with the approved plan and have passed inspection by the appropriate authority;
   b. A form of collateral including;
      1. Performance or property bonds;
      2. Private or public escrow agreements;
      3. Loan commitments;
      4. Assignments of receivables;
      5. Liens on property;
      6. Letters of credit;
      7. Deposits of certified funds or other similar surety agreements.
   c. Any other negotiated agreement or contract setting forth the plan, method and parties responsible for the construction of any required public improvements shown on the Final Plat sufficient to make reasonable provision for the completion of said improvements.
3. Any improvements constructed pursuant to these Regulations shall be accomplished in accordance with the design and time specifications and construction schedules established by the Developer and approved by the County.
4. As improvements are completed, the Developer may request release of up to 90% of the collateral deposited for that portion of the improvements completed. If the BOCC

determines that any of the improvements are not constructed in substantial compliance with the design specifications, it shall furnish the Developer a list of specific deficiencies and shall withhold collateral sufficient to ensure compliance. If the BOCC determines that the Developer shall not construct any or all of the improvements in accordance with all of the specifications and/or construction timeline, the BOCC shall withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements.

5. Lots in the PUD shall not be contracted for or sold prior to the completion of improvements with as–built-drawings and Final Plat(s) approval and recordation.

S. Hazardous Site Conditions

The Developer must provide evidence that all hazards or special concerns stemming from soil, topographic, or geologic conditions have been identified and adequately addressed.

T. Mineral Estates

Owners of record and Lessees of Mineral Estates shall be informed of any planned use change prior to meeting on any application for Preliminary Plan or Final Plat approval. The Developer must certify compliance with notice requirements to mineral rights owners pursuant to C.R.S. § 30-38-133 (10)o*, et. seq*, and as amended.

U. Subdivision Regulations

Where applicable and not in conflict with PUD plan requirements, a PUD plan must also satisfy the requirements of the County's Subdivision Regulations and State and Federal statutes for subdivision approval.

See Appendix C for additional requirements.

Failure of the PUD proposal to satisfy the above PUD plan design criteria shall be an appropriate basis for denial of any application for PUD approval.

11.7 Fees for PUD Application

A. Fees for the PUD process or modification shall be established by the BOCC and published in the Planning and Zoning Fee Schedule. Recording fees, as determined at the time of approval, shall be due and collected from the applicant.

B. The Developer shall pay all legal and professional fees incurred by the County in connection with reviewing the application submitted pursuant to these Regulations. Pre-payment of sufficient funds to cover review by experts may be required upon submission of any request for approval submitted under these Regulations. Developer shall be required to pay additional postage if postage for all applicable meetings exceeds twenty percent (20%) of each phase's application fee.

C. Before any Final Plat approval shall be issued for a PUD, the BOCC shall require that the Developer furnish one of the following: evidence of a bank commitment of credit in favor

of Custer County, a bond, or a certified check, in an amount calculated by the BOCC to secure all or part of the public infrastructure improvements such as water, sewer and road construction. Any such commitments, bonds, or checks shall be payable to, and held in escrow by, the BOCC.

11.8 Requests for Modification or Redesign

The PC and/or the BOCC may request redesign on all or any portion of any plan for PUD approval submitted pursuant to these Regulations. Such request shall be based on specific criteria. If the Developer redesigns a plat or plan in accordance with any such request, no further redesign shall be required, unless such redesign is agreed to by the Developer in writing or unless such redesign is necessary to comply with these Regulations or any other County resolution, ordinance or regulation.

11.9 Modifications of an Approved PUD

Any proposed modifications to a PUD Plan that has received final approval from the BOCC must follow Final Plan approval procedures as outlined in this Section.

Any PUD Modification that would increase density or change an approved use must follow the approval requirements for preliminary and final plan reviews.

11.10 PUD Application Denials

The denial by the BOCC of any application for PUD approval submitted pursuant to these Regulations shall be in writing and shall specify the provisions of these Regulations that the application failed to address or satisfy, unless the Developer waives the necessity for such findings in writing. Any technical dispute between a licensed or registered professional consultant of the Developer and that of the County may be referred, at the Developer's request and expense, to the appropriate state agency for a recommendation to facilitate resolution of the dispute.

SECTION 12

ENFORCEMENT AND PENALTIES

12.1 Enforcement

This Resolution shall be enforced by the Planning and Zoning Office, BOCC, and County Attorney. Any unauthorized change of any kind by any person or persons shall be considered a violation of this Resolution and punishable in accordance with this Resolution and applicable law.

12.2 Validity of Applications

All information provided in any application and supporting documents submitted in accordance with this Zoning Resolution shall be valid, true and correct to the best of the applicant's knowledge and belief. If any portion of the application, at any stage of review or approval, is found to be misrepresented, misleading, inaccurate, invalid or false then the application shall be rendered null and void. Further, in such circumstances any approvals granted shall be rescinded and any plats or drawings shall be invalid. There shall not be a refund of application fees or additional fees for any application determined to be null and void or if approval has been granted and subsequently rescinded. A complete, new application submittal and all appropriate fees shall be required for any application determined to be null and void or in such circumstances where approval has been rescinded in order to reapply.

12.3 Inspection

The Custer County Planning and Zoning Director or his/her authorized representative are hereby empowered to inspect and examine any building, structure, or tract of land concerning which they have reasonable cause to believe that a use exists, or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this resolution. At the discretion of the Planning and Zoning Director, additional county agencies such as law enforcement, public health, assessor, etc. may also participate in the inspection.

12.4 Complaints

An aggrieved party, by a violation or apparent violation of the provisions of this resolution, may file a complaint with the Planning and Zoning Office. Complaints may be received in writing, by telephone, electronically or anonymous message. The Planning and Zoning Office shall begin an investigation within five (5) business days of receiving the complaint. If violations are found to exist, the Planning and Zoning Office shall take appropriate legal action to have the violation remedied and/or the violator penalized. Any structure that is in violation of any part of this Zoning Resolution shall be required to be brought into compliance or removed.

No permits shall be issued for any property subject to outstanding zoning violations. The authority for complaint investigations is contained in Section 2.2.

12.5 Notification

Whenever the Planning and Zoning Office finds a violation of any of the provisions of this resolution, the person responsible for the violation shall be notified, in writing by a certified and non-certified letter to the address listed in the records of the Custer County Assessor and shall be ordered to make the necessary corrections within a period of thirty (30) calendar days.

12.6 Cease-and-Desist Order

A. If a property owner duly notified of a zoning violation by certified letter and non-certified letter fails to correct the violation within a period of thirty (30) calendar days, the Director of the Planning and Zoning Office, acting in his/her capacity as the County Compliance Inspector, may issue a cease and desist order to said property owner directing that the property shall not be occupied or otherwise used for any purpose until such time as remedial action has been taken. For the purpose of this provision, "remedial action" may consist of correcting the violation or contacting the Planning and Zoning Office and working out a satisfactory plan to correct the violation by a specified date. If such a cease and desist order is issued, the property owner shall be sent a copy of said order by Certified, Return Receipt letter and non-certified letter, and in addition a copy of said order shall be posted in a conspicuous location on the premises. Access to all structures on the property which are in violation shall be temporarily prohibited by the use of yellow warning tape. It shall be unlawful for the property owner or any other person to remove, deface, or otherwise tamper with the posted notice and the warning tape. The posted notice and the warning tape shall only be removed by the Planning and Zoning Director or his/her designated agent.

B. A cease-and-desist order shall include the following information:

1. Notice of the specific provision(s) of the Zoning Resolution which is/are in issue;
2. Notice that access is prohibited to all structures on the premises that are sealed with yellow warning tape.
3. Notice that it is unlawful to remove, deface, or otherwise tamper with the posted Cease-and-desist order with yellow warning tape.
4. The address and telephone number of the Planning and Zoning Office and a Statement that the property owner must contact said Office forthwith.
5. Notice that failure to correct the violation(s) and failure to contact the Planning and Zoning Office may result in legal action and that criminal and/or civil penalties may be imposed.

12.7 Penalties

There are potential civil penalties for a violation of any provision of this Zoning Resolution. Said penalties are set forth in Section 30-28-124.5, Colorado Revised Statutes.

30-28-124.5. County court actions for civil penalties for zoning violations

(1) It is unlawful to erect, construct, reconstruct, alter, or use any building, structure, or land in violation of any regulation in, or of any provisions of, any zoning resolution or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 1. In addition to any penalties imposed pursuant to section 30-28-124, any person, firm, or corporation violating any such regulation, provision, or amendment thereof or any provision of this part 1 may be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than five hundred dollars nor more than one thousand dollars. It is within the discretion of the county attorney to determine whether to pursue the civil penalties set forth in this section, the remedies set forth in section 30-28-124, or both. Each day after the issuance of the order of the county court during which such unlawful activity continues shall be deemed a separate violation and shall, in accordance with the subsequent provisions of this section, be the subject of a continuing penalty in an amount not to exceed one hundred dollars for each such day. Until paid, any civil penalty ordered by the county court and assessed under this subsection (1) shall, as of recording, be a lien against the property on which the violation has been found to exist. In case the assessment is not paid within thirty days, it may be certified by the county attorney 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. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this subsection (1). Any lien placed against the property pursuant to this subsection (1) shall be recorded with the clerk and recorder of the county in which the property is located.

(2) (a) In the event any building or structure is erected, constructed, reconstructed, altered, or used or any land is used in violation of any regulation or provision of any zoning resolution, or amendment thereto, enacted or adopted by any board of county commissioners under the authority granted by this part 1, the county attorney of the county in which such building, structure, or land is situated, in addition to other remedies provided by law, may commence a civil action in county court for the county in which such building, structure, or land is situated, seeking the imposition of a civil penalty in accordance with the provisions of this section.

(b) A county zoning official designated by resolution of the board of county commissioners shall, upon personal information and belief that a violation of any regulation or provision of any zoning resolution enacted under the authority of this part 1 has occurred, give written notice to the violator to correct the violation within ten days after the date of the notice. If the violator fails to correct the violation within the ten-day period or within any extension period granted by the zoning official, the zoning official, the sheriff of the county, or the county attorney may issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of the charge to the violator.

(c) One copy of the summons and complaint issued pursuant to paragraph (b) of this subsection (2) shall be served upon the violator in the manner provided by law for the service of a county court civil summons and complaint in accordance with the Colorado rules of county court civil procedure. The summons and complaint shall also be filed with the clerk of the county court and thereafter the action shall proceed in accordance with the Colorado rules of county court civil procedure.

(d) If the county court finds, by a preponderance of the evidence, that a violation of any regulation or provision of a zoning resolution, or amendment thereto, as enacted and adopted by the board of county commissioners, has occurred, the court shall order the violator to pay a civil penalty in an amount allowed pursuant to subsection (1) of this section. The penalty shall be payable immediately by the violator to the county treasurer. In the event that the alleged violation has been cured or otherwise removed and the violator has notified the county zoning official of the cure or removal at least five business days prior to the appearance date in the summons, then the county attorney shall so inform the court and request that the action be dismissed without fine or appearance of the defendant.

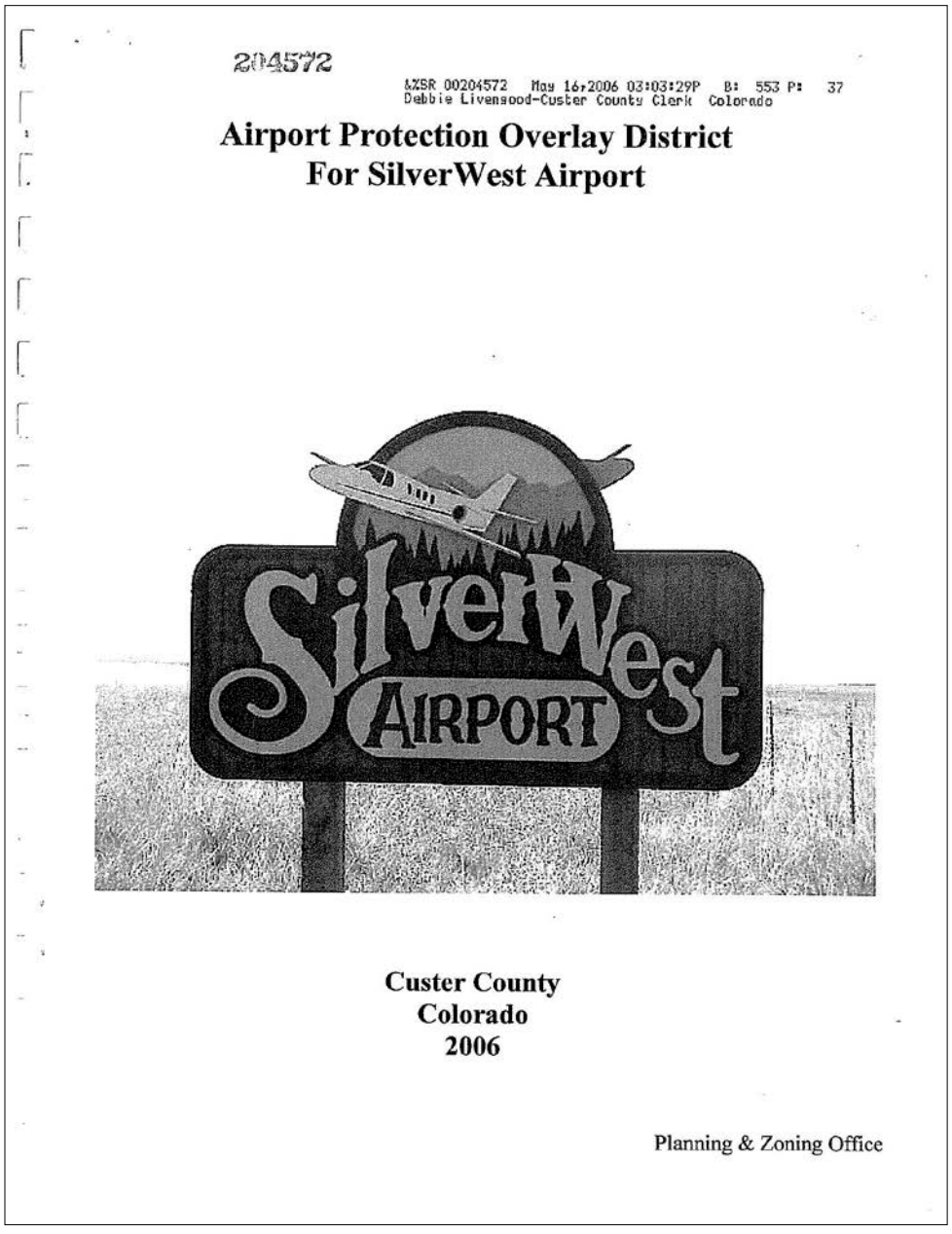
(3) Upon the filing with the court of a receipt issued by the county treasurer showing payment in full of a civil penalty assessed pursuant to this section and upon the filing of an affidavit of the county zoning official that the violation has been cured, removed, or corrected, the court shall dismiss the action and issue a satisfaction in full of the judgment so entered. The court may also dismiss the action upon a motion of the county attorney indicating that the matter has been otherwise resolved.

(4) If a receipt showing full payment of the civil penalty or the affidavit or the motion by the county attorney required by subsection (3) of this section is not filed, the action shall continue, and the court shall retain jurisdiction to impose an additional penalty against the violator in the amount specified in subsection (1) of this section. The additional penalty shall be imposed by the court upon motion filed by the county and proof that the violation has not been cured, removed, or corrected. Thereafter, the action shall continue until the filing with the court of a receipt issued by the county treasurer showing payment in full of the civil penalty and any additional penalties so assessed and the filing of an affidavit of the county zoning official that the violation has been cured, removed, or corrected, or until a motion by the county attorney to dismiss the action is granted by the court.

SECTION 13

AIRPORT PROTECTION OVERLAY DISTRICT FOR SILVERWEST AIRPORT

The next 12 pages are a copy of the Airport Protection Overlay District for SilverWest Airport.



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Debbie Livensood-Custer County Clerk Colorado

Airport Protection Overlay District
For SilverWest Airport

Custer County
Colorado
2006

Planning & Zoning Office

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AIRPORT PROTECTION OVERLAY DISTRICT FOR SILVERWEST AIRPORT

A Resolution regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the SilverWest Airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein, referring to the SilverWest Airport airspace drawing which is incorporated in and made a part of this resolution; providing for enforcement, adjustment and imposing penalties.

It is hereby found that an obstruction has the potential for endangering the lives and property of users of the SilverWest Airport and property or occupants of land in it's vicinity; that an obstruction may affect existing and future instrument approach minimums at the SilverWest Airport; and that an obstruction may reduce the size of areas available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of SilverWest Airport and the public investment therin.

Accordingly, it is declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the SilverWest Airport.
2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the policy power without compensation.

It is further declared that the prevention of the creation of establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of construction are public purposes for which a political subdivision may raise and extend public funds and acquire land or interests in land.

It is hereby resolved by Custer County as follows:

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SECTION I: SHORT TITLE

This Resolution shall be known and may be cited as the SilverWest Airport Overlay Protection District.

SECTION II: DEFINITIONS

1. Airport—SilverWest Airport
2. Airport elevation—The highest point of an airport's usable landing area measured in feet form mean sea level.
3. Approach surface—A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Resolution. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. Approach, transitional, horizontal, and conical zones—These zones are set forth in Section III of this Resolution.
5. Board of Adjustment—A Board consisting of the Custer County Commissioners.
6. Conical Surface—A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. Hazard to air navigation—An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. Height—For the purpose of determining the height limits in all zones set forth in this Resolution and shown on the zoning map, the datum shall be based on WGS84 projections.
9. Heliport primary surface—The primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

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10. Horizontal surface—A horizontal plane 150 feet above ground level, the perimeter of which in plane coincides with the perimeter of the horizontal zone.

11. Larger than utility runway—A runway that is constructed for and intended to be used by propeller driven aircraft greater than 12,500 pounds maximum gross weight and jet powered aircraft.

12. Nonconforming use—Any pre-existing structure, object of natural growth, or use of which is inconsistent with the provisions of this Resolution or an amendment thereto.

13. Non-precision instrument runway—A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. It also means a runway for which a non-precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

14. Obstruction—Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Resolution.

15. Person—An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; including a trustee, receive, an assignee, or a similar representative of any of them.

16. Precision instrument runway—A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

17. Primary surface—A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of the runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the point on the runway centerline.

18. Runway—A defined area on the airport prepared for landing and takeoff of aircraft along its length.

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19.Structure—An object, including mobile object, constructed or installed by man, including but without limitation, buildings, towers, crane, smokestacks, earth formation, and overhead transmission lines.

20.Transitional surfaces—These surfaces extend outward at 90 degree angels to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angels to the extended runway centerline.

21.Tree—Any object of natural growth.

22.Utility runway—A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

23.Visual runway—A runway intended solely for the purpose of aircraft using visual approach procedures.

SECTION III: AIRPORT ZONES

In order to carry out the provisions of this Resolution, there are hereby created and established certain zones which include all the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surfaces as they apply to the SilverWest Airport. Such zones are shown on the SilverWest Airport Airspace Map, which is attached to this Resolution and made a part hereof. An area located in more than one (1) 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 Non-Precision Instrument Approach Zone—The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. It's centerline is the continuation of the centerline of the runway.

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2. Visual Runway Approach Zone—The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach surface expands uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline of the approach zone is a continuation of the runway.

3. Transitional Zone—The transitional zones are the areas beneath the transitional surface.

4. Horizontal Zone—The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of the primary runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

5. Conical Zone—The conical zone is 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.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Resolution, no structure shall be erected, altered, maintained, and no tree shall be allowed to grow in any zone created by this Resolution 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 Precision Instrument Approach Zone—Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet and continues on for a distance of 40,000 feet at a slope of forty (40) feet outward for each foot upward along the extended runway centerline.

2. Runway Nonprecision Instrument Approach Zone—Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

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3. Visual Runway Approach Zone—Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation ad the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

4. Horizontal Zone—Established at 150 feet above ground level.

5. Conical Zone—Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone.

SECTION V: USE RESTRICTIONS

Notwithstanding any other provisions of this Resolution, no use may be made of land or water within any zone established by this Resolution in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or flight operations of aircraft utilizing the airport.

SECTION VI: NONCONFORMING USES

1. Regulations Not Retroactive—The regulations prescribed by this Resolution shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Resolution, or otherwise interfere with the continuance of 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 this Resolution, 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 Custer County Zoning Office to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction, Such markers and lights shall be installed, operated, and maintained at the expense of the SilverWest Airport.

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SECTIONVII: PERMITS

Application for action by the Board of Adjustment shall be forthwith transmitted by the Custer County Zoning Office.

1. Future Uses—Nonconforming—No material change shall be made in the use of land, no structure shall be erected or otherwise established in any zone hereby created unless, a permit has been approved by the Custer County Zoning Office and the Custer County Commissioners.

2. Existing Uses—No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Resolution.

3. Nonconforming Uses Abandoned or Destroyed---Whenever Custer County Zoning Office determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, 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 property, not in accordance with the regulations in this Resolution, may apply to the Custer County Zoning Office for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of a proposal on the operation, navigation facilities and the safe efficient use of navigable airspace. Such variances may be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the Custer County Zoning Regulations, public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Resolution.

   Additionally, no application for variance to the requirements of this Resolution may be considered by the Board of Adjustment unless the has first been furnished to the Custer County Airport Authority Board for advice as to the aeronautical effects of the variance and then, if the Custer County Airport Authority Board does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

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5. Obstruction Marking and Lighting—Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Resolution and be reasonable in the circumstances, be so conditioned as to the require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as condition may be modified to require the owner to permit at it's own expense, to install, operate, and maintain the necessary markings and lights.

SECTION VIII: ENFORCEMENT

It shall be the duty of the Custer County Zoning Office to administer and enforce the regulations prescribed herein.

SECTION IX: BOARD OF ADJUSTMENT

1. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirements, decision, or determination made by Custer County Zoning Office in the enforcement of this Resolution; (2) to hear and decide special exceptions to the terms of this Resolution upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.

2. The Board of Adjustment shall be the Custer County Commissioners.

3. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and to decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

4. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of Custer County Zoning Office or decide in favor of the application on any matter upon which it is required to pass under the Resolution, or to effect a variation to this Resolution.

SECTION X: APPEALS

1. Any person aggrieved by any decision of the Custer County Zoning Office made in the administration of this Resolution, may appeal to the Board of Adjustment.

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2. All appeals hereunder must be in writing and filed within 30 days as provided by the rules of the Board of Adjustment, by filling with the Custer County Zoning Office a notice of appeal specifying the grounds thereof. Custer County Zoning Office shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless Custer County Zoning Office certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would in the opinion of Custer County Zoning Office cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to Custer County Zoning Office and on due cause shown.

4. The Board of Adjustment shall comply with the Custer County Zoning Resolution in conducting any hearings.

5. The Board of Adjustment may, in conformity with the provisions of this Resolution, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

SECTION XI: JUDICIAL REVIEW

Any appeal from the decision of the Board of Adjustment may be made to the District Court as provided by law provided that such appeal is made prior to 30 days following the date of the notification of the Board's decision.

SECTION XII: PENALTIES

Violations will be provided for in the Custer County Zoning Resolution.

SECTION XIII: CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Resolution and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail.

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SECTION XIV: SEVERABILITY

If any of the provisions of this Resolution of the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provision applications of the Resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this Resolution are declared to be severable.

SECTION XV: EFFECTIVE DATE

Whereas, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage by Custer County and publication and posting as required by law. Adopted this day.

Date: 5/2/06 2006

By

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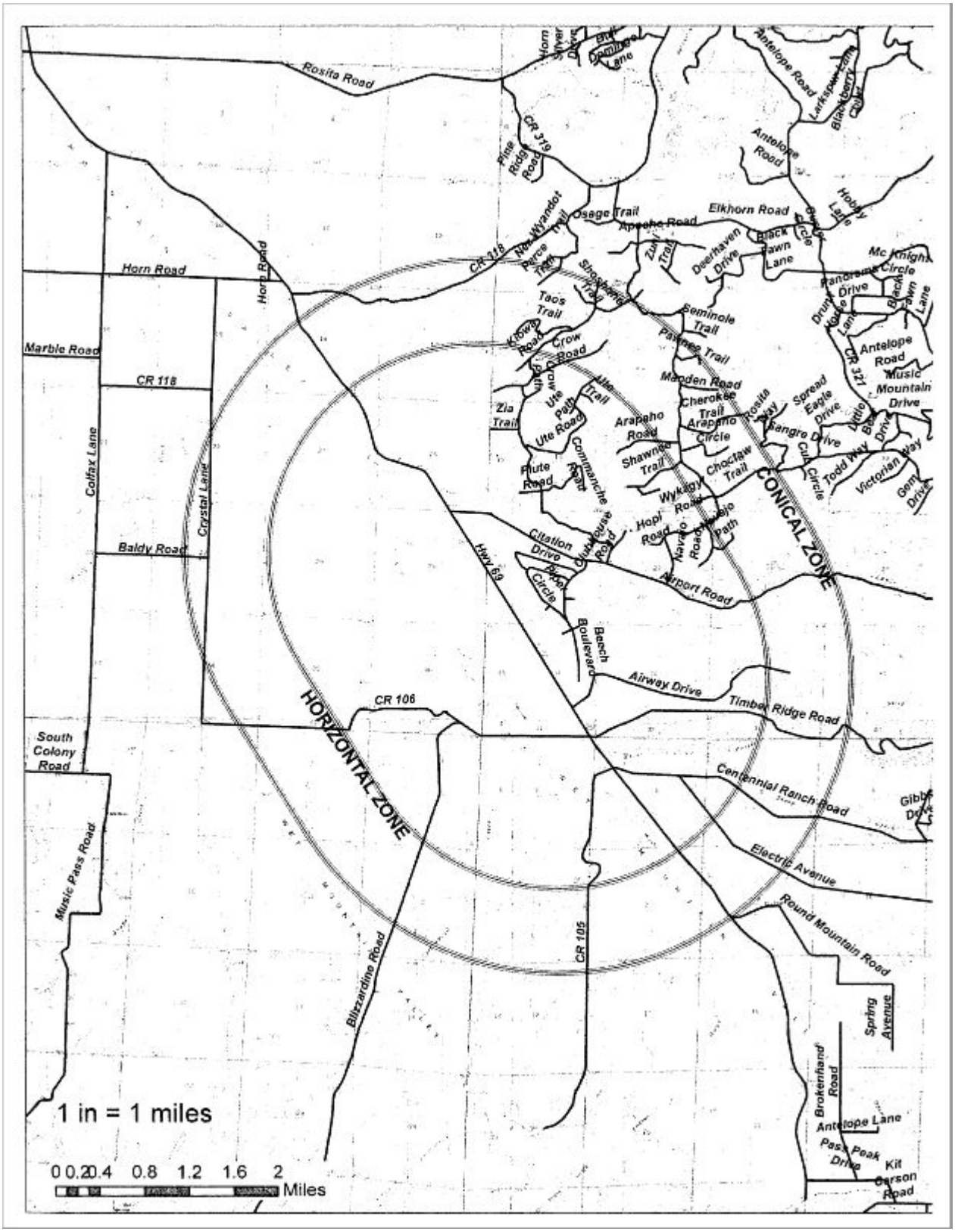
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Horn Road
Marble Road
CR 118
Colfax Lane
Crystal Lane
Baldy Road
South Colony Road
Music Pass Road
CR 319
Pine Ridge Road
Osage Trail
Apache Road
Elkhorn Road
Antelope Road
Larkspur Lane
Blackberry Cloud
Hobby Lane
Black Fawn Lane
Deerhaven Drive
Zuni Trail
Shoshone Trail
Taos Trail
Seminole Trail
Pawnee Trail
Crow Road
Ute Trail
Ute Path
Zia Trail
Ute Road
Arapaho Road
Cherokee Trail
Arapaho Circle
Shawnee Trail
Choctaw Trail
Wykagyl Road
Hopi Road
Navajo Road
Pueblo Path
Commanche Road
Plute Road
Citation Drive
Clubhouse Road
Airport Road
Beech Boulevard
Airway Drive
Timber Ridge Road
Centennial Ranch Road
Electric Avenue
Round Mountain Road
Spring Avenue
Brokenhand Road
Antelope Lane
Pass Peak Drive
Kit Carson Road
Mc Knight Circle
Panorama Drive
Drunk Horse Lane
Antelope Road
Music Mountain Drive
Spread Eagle Drive
Sangre Drive
Cub Circle
Todd Way
Victorian Way
Gem Drive
Little Bear Drive
CR 321
CONICAL ZONE
HORIZONTAL ZONE
Hwy 69
CR 106
CR 105
Blizzardine Road
1 in = 1 miles
0 0.2 0.4 0.8 1.2 1.6 2
Miles

APPENDIX A

PLAT STANDARDS

Plats submitted to the Planning and Zoning Office for approval of the PC and/or BOCC must meet both parts A.1 and A.2 as stated below. The more restrictive shall apply.

A.1 Minimum State Requirements set by C.R.S. § 38-51-106

C.R.S. § 38-51-106. Land survey plats. (1) All land survey plats shall include but shall not be limited to the following:

A. A scale drawing of the boundaries of the land parcel;

B. (I) All recorded and apparent rights-of-way and easements, and, if research for recorded rights-of-way and easement is done by someone other than the licensed land surveyor who prepares the plat, the source from which such recorded rights-of-way and easements were obtained; or
(II) If the client wishes not to show rights-of-way and easements on the land survey plat, a statement that the client did not want such rights-of-way and easements shown;

C. All dimensions necessary to establish the boundaries in the field;

D. A statement by the licensed land surveyor that the survey was performed by such surveyor or under such surveyor's responsible charge;

E. A statement by the licensed land surveyor explaining how bearings, if used, were determined;

F. A description of all monuments, both found and set, which mark the boundaries of the property and of all control monuments used in conducting the survey;

G. A statement of the scale or representative fraction of the drawing and a bar- type or graphical scale;

H. A north arrow;

I. A written property description, which shall include, but shall not be limited to a reference, to the county and state together with the section, township, range and principal meridian or established subdivision, block and lot number, or any other method describing the land as established by the general land office or bureau of land management;

J. The signature and seal of the licensed land surveyor;

K. Any conflicting boundary evidence.

A.2 County Requirements

In addition to the above state statute referred to in A.1 above, the following requirements are set forth by this Custer County Zoning Resolution and may be more restrictive than state requirements:

A. The survey must include language that explains the intent of the survey, and dedications of any road, right-of-way or property to the county, as applicable;

B. The plat must include appropriate signature blocks for county authorities Chairperson of PC and Chairperson of BOCC indicating that the plat is approved and that any dedicated property is accepted;

C. The plat must contain provisions for signatures of all property owners within the platted area. Proof of ownership shall be evidenced by a Title Commitment or Policy that shall be obtained within thirty (30) days from the date of application or submission;

D. The survey must be submitted thirty (30) days before the meetings of the BOCC, PC, and BZA, so the County Surveyor and/or County Cartographer has adequate time to review the submittal;

E. The plat must show compliance with the provisions of the Wildlife Review Process and Colorado Parks and Wildlife (CPW) Provisions as authorized by C.R.S. § 24-65.1-101, et seq., 1973, and H.B. 1041;

F. The plat must show all easements and rights-of-way contained within the Title Commitment or Policy. It must also show any physical evidence of easements or rights-of-way burdening the property which were discovered during the course of the survey, such as, but not limited to, irrigation and drainage ditches, roads serving other properties, and utilities. Lot line vacations do not necessarily eradicate easements.

APPENDIX B

PLOT PLAN AND PLANNING AND ZONING REQUIREMENTS

B.1 Plot Plan Requirements

A. A drawing must be submitted having the following minimum elements:
   1. Size minimum 8.5" x 11" to a maximum of 18" x 24";
   2. The drawing must be to scale and indicate clearly a graphic scale and North arrow with a statement of the basis of bearings if used;
   3. The legal description of the permitted parcel must be placed on the drawing or submitted as an attachment thereto;
   4. The boundaries of the parcel and ties from boundaries to various permitted elements must be shown in such a way as to be retraceable in the future;
   5. The boundary or control monuments used to relate the proposed improvements by measurement must be depicted, described and tied to the other elements of the plot plan;
   6. If no boundary monuments on the permitted parcel are available, other control monuments may be used, such as, but not limited to, the following:
      - Other relative lot or block monuments;
      - Aliquot monuments;
      - Highway markers.
   7. The footprint must be dimensioned both horizontally and vertically in such a way as to allow for the determination on-site of the high and low points of the native grade along the proposed structure perimeter as they existed at the time of plot plan preparation;
   8. If the data shown is representing a site with previously disturbed grades, this fact must be indicated along with the likely date of the disturbance;
   9. The drawing must contain an original signature, date, seal and a statement by the licensed Colorado land surveyor indicating that the information contained on the plot plan is correct and was derived under his supervision, responsibility and verification;
   10. The drawing must be executed in a clear, reproducible and workmanlike manner.

B.2 Planning and Zoning Office Requirements

A. A copy of the stamped, signed surveyor's plat/plan/map must be submitted to the Planning and Zoning Office with the application for a zoning permit.

B. If there is a dispute or question about the height of a structure, or the accuracy of monuments, which cannot be clearly resolved by the Planning and Zoning Office staff, the BOCC may hire a surveyor, at applicant's expense, different from the surveyor who performed the original work to try to establish data that shall resolve the question.

C. The BOCC shall be the final decision maker to resolve any height dispute.

D. Appeal from the denial of a zoning permit is in the Zoning Resolution Section 4.3 "BZA," paragraphs G, I and J.

APPENDIX C

SUBMISSION REQUIREMENTS FOR EACH PHASE OF PLANNED UNIT DEVELOPMENT

The following sections detail the submission requirements for each phase of the PUD plan.

C.1 Sketch Plan

The Sketch Plan consists of the following (including rough dimensions and distances):

A. Suitability of the land for the proposed planned unit development in terms of slope, flood plain, soil erosion, drainage and vegetation;

B. Compatibility of the PUD with surrounding land uses;

C. The location of the PUD in relation to surrounding land uses;

D. Potential impacts on streams, lakes, topography, vegetation, and wildlife habitat;

E. Geologic characteristics of the area significantly affecting the land use;

F. Potential impact on public facilities and services, including schools;

G. Evidence that a water supply shall be available that is sufficient in terms of quality, quantity and dependability for the PUD;

H. Proposed land use arrangement;

I. Status of property title.

C.2 Preliminary Plan

The Preliminary Plan consists of the following:

A. Property survey that meets State statutory requirements for a surveyor's plat and legal proof of ownership with a full disclosure of all mortgages, liens and encumbrance against said property. The property survey shall consist of:
   1. Minimum Standard as outlined in the Custer County Plat Standards. (See Appendix A);
   2. Name of PUD;
   3. Scaled so that all requirements are discernible on a plat no smaller than 2' X 3';
   4. Total acres to be subdivided;
   5. Name and address of landowner;
   6. Location of the PUD, with surrounding tracts of land identified by ownership, and by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner, or other boundary monuments referenced in public record;
   7. Location of section lines, and approximate location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for public use, recreation areas, open space and other important features within and adjacent to the tract to be developed;

8. Topography at vertical intervals of two (2) feet where the average slope of the subdivision is less than ten (10) percent and at vertical intervals of five (5) feet where the average slope of the subdivision is ten (10) percent or greater. USGS datum may be used if it meets the interval requirements;
9. Location 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 inundation, whether such inundation is frequent, periodic or occasional;
10. Proposed sites for all structures and land uses within an area;
11. Total number of proposed dwelling units;
12. Total number of off-street parking spaces, excluding those associated with single family residential development;
13. Boundary lines and dimensions of the PUD;
14. Location of existing and /or proposed water and sewer utilities.

B. Relevant environmental characteristics and analysis applicable to the proposed PUD including the following:
   1. Fire/Wildfire Hazard: A map showing the location of fire/wildfire hazards and the reason for the hazard, such as: slope, aspect, topography, and fuel. A written report must accompany this map. It should include information regarding site-specific fire prevention and suppression plans. This information must be prepared by a professional forester or experienced fire marshal;
   2. Geologic Hazard: A report concerning geologic characteristics of the area significantly affecting the proposed land use. Any hazardous conditions should be expounded upon and measures, if any, which could be taken to mitigate these conditions explained. This information must be prepared by a professional geologist;
   3. Soil Suitability: Maps and tables concerning suitability of types of soil in the proposed PUD in accordance with the National Soil Survey;
   4. Wildlife Review. (See Appendix F);
   5. Important Resource Areas: Including potential mineral resources, historically significant or archeologically important areas and prime agricultural land;
   6. Map of Utilities, both existing and proposed;
   7. A PUD development guide that addresses the following:
      a. PUD requirements as found in Section 11;
      b. Preliminary copy of any proposed covenants and restrictions to the properties;
      c. Names and addresses of developer, designer of the PUD, surveyor (who shall be licensed by the Colorado State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors), and "experts" used along with their qualifications;
      d. Evidence that the development plan will present no obstacle to extraction of mineral resources on or under the subject property if the mineral interests are severed;
      e. The estimated quantity of garbage and/or industrial waste to be generated, the types of waste involved and proposed disposal;
      f. Growth projections for 5, 10, 20, 30 years;
      g. Sustainability report for 5, 10, 20, 30 years;
      h. Evidence that a water supply will be available that is sufficient in terms of quality, quantity and dependability for the planned unit development. Include 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 the ability to amend existing rights to the proposed uses;

i. A check or money order, payable to the Colorado Geological Survey, in the amount necessary to cover fees charged for review of the Preliminary Plan by the Colorado Geological Survey;
j. Vicinity map drawn to scale showing the relationship of the proposed PUD to the nearest towns, and direct routes via County roads to the PUD from such towns;
k. Evidence of suitable and legal ingress and egress for the PUD, including emergency access;
l. Proof of financial responsibility in relation to proposed development costs;
m. Estimated total number of gallons per day of sewage to be treated by the sewage treatment facility;
n. Estimated total number of gallons per day of water system requirements for the water distribution system;
o. Any documentation as required by the PC, BOCC or the Planning and Zoning Office.

C.3 Final Plan Approval for PUD

The final plan consists of the following:

A. Any documentation as required by the PC, BOCC or the Planning and Zoning Office;

B. Proof of a bond, if applicable;

C. Centerline profiles for all street and roads;

D. Sanitary and storm sewer profiles;

E. Water distribution system profiles;

F. Drainage plans;

G. A letter of intent, stating the estimated construction cost and proposed method of financing streets and related facilities, water distribution and sewage collection systems, storm drainage facilities, and other utilities as required by the BOCC;

H. Construction timeline detailing all major construction and completion dates;

I. Finalized edition of any covenants or restrictions to be placed on the property;

J. Final Plat Requirements:
1. Must adhere to Plat Standards;
2. Monuments: Affixed securely to the tip of each monument shown on the final plat shall be the Colorado license number of the land surveyor responsible for establishment of said monument and the lot designation. Reasonably permanent external boundary survey monuments shall be set at locations approved by the BOCC, provided that such monuments shall be set not more than one thousand four hundred (1400) feet apart along any straight boundary line, at all angle points and at the beginning, end and points of change of direction or change of radius of any curved boundary;

3. Scaled such that all requirements are discernible on plats no smaller than 2' X 3';
4. Title, scale, north sign, date;
5. All dimensions, angles, bearings, and similar data on the plat shall refer to primary control points. These primary control points shall be approved by the County Surveyor, prior to the final approval. Monuments and ties to monuments shall exist in the field before final approval. Elevation data shall be referenced to a USGS or USC&G benchmark. Date and published value of datum shall be shown;
6. Tract boundary lines, all rights-of-way including easements, property lines of all lots, must have accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves;
7. Name of each street, and width of all rights-of-way;
8. Any easement required by the PC or BOCC or granted to public utility companies shall be included, and the location, dimension, and purpose of such easement shall be given;
9. Number identifying each lot or site, and each block; and the area of each lot;
10. Location and description of monuments;
11. Any accompanying deed restrictions that shall be recorded, and shall be referred to on the final plat;
12. Any easement indicating perpetual open space;
13. Approval signature blocks for the Chairpersons of the PC and BOCC. Wording used in the signature blocks must be approved by the County Attorney;
14. Any documentation required by the PC or BOCC.

K. Permits shall not be issued for construction until the PUD plan has received final approval.

General Flow Chart

SKETCH PLAN

Pre-application conference with the Planning and Zoning Office

⮟

Submit application/documentation/applicable fees

⮟

Review(s) of application by the Planning and Zoning Office

⮟

Site Tour by PC (if necessary)

⮟

Presentation to PC of Sketch Plan Phase

⮟

Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjacent property owners written and verbal comments
3. Interested parties written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions

⮟

Planning and Zoning Office report submitted to BOCC and Applicant

⮟

PC public hearing of Sketch Plan Phase

⮟

PC recommendations to BOCC

⮟

Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjacent property owners written and verbal comments
3. Interested parties written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions

⮟

Planning and Zoning Office report submitted to BOCC and Applicant

⮟

BOCC meeting and action within forty-five (45) days

⮟

PRELIMINARY PLAN PHASE

(if necessary, see Section 11.4.4 Waiver)

⮟

Submit application, documentation, and applicable fees

⮟

Review(s) of application by the Planning and Zoning Office and Professionals (if necessary)

⮟

Site Tour by BOCC and PC (if necessary)

⮟

Send packets to the interested parties and agencies, as applicable, for both the Preliminary Plan and Final Plan

⮟

Public Hearing of PC for Preliminary Plan

⮟

Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjacent property owners additional written and verbal comments
3. Interested Parties additional written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions

⮟

Planning and Zoning Office report submitted to BOCC and Applicant

⮟

BOCC meeting and action within forty-five (45) days

⮟

FINAL PLAN

⮟

Submit application, documentation, and applicable fees

⮟

Site Tour by BOCC and PC (if necessary)

⮟

PC Public Hearing of Final Phase

⮟

Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjacent property owners additional written and verbal comments
3. Interested parties additional written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions

⮟

Planning and Zoning Office report submitted to BOCC and Applicant

⮟

BOCC meeting and action within forty-five (45) days

The above steps presuppose approval of a given phase prior to advancing to the next phase. In the event that approval is not received, the process shall not continue. Approval of the Sketch Plan or Preliminary Plan does not guarantee approval of the Final Plan. Special meetings may be required, at any phase, to allow the PC, BOCC, and the Applicant to reach an agreement on specific actions or requirements. Site Tours may be required at all phases.

At any time from the pre-application conference to the end of the sketch plan phase, the applicant may request of the BOCC a waiver to eliminate the preliminary plan phase.

APPENDIX D

COMPLIANCE INSPECTION

D.1 Purpose

To inspect structures, SUPs or PUDs for compliance with the current Custer County Zoning Resolution and the Custer County Septic Regulations.

D.2 Criteria

A compliance inspection shall be performed when the following are met:

A. The structure is dried-in;

B. The appropriate plumbing inspection completed, if applicable;

C. The appropriate electrical inspection completed, if applicable;

D. The appropriate solar inspection completed, if applicable:

E. The individual sewage disposal system has been installed and has passed inspection, if applicable;

F. The use tax obligation has been met.

D.3 Procedure

A. The applicant shall call for a compliance inspection after the above criteria are met.

B. The Planning and Zoning Office shall schedule the compliance inspection.

C. The inspection shall be performed using the following standards:

a. Height: Custer County Zoning Resolution. The vertical distance from the highest point of the finished grade of the building perimeter to the high point of the building structure must not exceed thirty (30) feet. The maximum height limit for any structure in Custer County is thirty (30) feet.

b. Septic: Custer County Septic Regulations or Engineer Design specifications. The number of bedrooms and appliances shall be confirmed to verify sizing of the leach field and septic tank.

c. Setback: Custer County Zoning Resolution. Setback compliance shall be confirmed on all sides of the structure. If the setback distance is substantially over the current setback requirements, an estimate may be substituted.

d. Square footage: Custer County Zoning Application. The outside dimensions of the structure shall be measured to the nearest whole foot and compared to the square footage of the structure on the application.

e. Single-family dwelling: Custer County Zoning Resolution. Custer County allows one single-family dwelling per parcel of land unless a variance has been granted or the structures existed before zoning was adopted.

f. Water Source: Show proof of a legal water source.

h. Electrical Inspection: A copy of the appropriate State Electrical Inspection, if necessary, shall be required before the compliance inspection is performed.

i. Plumbing Inspection: A copy of the appropriate State Plumbing Inspection, if necessary, shall be required before the compliance inspection is performed.

j. Access Inspection: Verify that County Access Requirements have been met.

k. Use Tax: Use Tax, if owed, shall need to be verified and paid.

l. Special Use Permit: Applicant is in compliance with terms and conditions of approval.

m. Wildlife Review: Agreed upon mitigation has been undertaken.

n. Planned Unit Development: Applicant is in compliance with terms and conditions of approval.

D. The Planning and Zoning Office shall review the findings from the inspection and determine if the property is in compliance.
   1. If the property is in compliance, a letter will be sent to the property owner stating the property is currently in compliance and the zoning permit will be closed.
   2. If the property is not in compliance, a letter will be sent to the property owner, Certified, Return Receipt, pointing out the non- compliance and how to come into compliance. The property owner will then have to bring the property into compliance within thirty (30) calendar days from the date of notification. The property must be brought into compliance before occupancy.

3. After thirty (30) days, a re-inspection shall be made of the property. If the matter of non-compliance has not been corrected or an agreement has not been reached by the Planning and Zoning Office with the property owner, the property file will be turned over to the County Attorney for prosecution, as prescribed by the current Custer County Zoning Resolution.

APPENDIX E

PUBLIC MEETING/ WORKSHOP PROCEDURES

The BOCC, PC, and the BZA meet in regularly scheduled meetings. The dates are scheduled at the beginning of each year, although special circumstances occasionally arise that cause a meeting date to be changed. All meeting dates, times, and locations shall be posted on the officially designated Courthouse bulletin board.

Special meetings shall be held as necessary and advertised as required.

Meetings of the BOCC, PC, and the BZA are open to the public. Interested citizens may voice their concerns on agenda items in either of two ways:

A. by means of personal testimony at the meeting; or

B. in writing, via mail, fax or e-mail.

Each method carries equal weight, and all correspondence received is entered into the record and becomes a part of the permanent file. Decisions are made on a case- by-case basis, and therefore, variances granted or denied shall not set precedent.

The meeting shall be called to order by the Chairperson of the Board or Commission involved who will take care of general meeting duties such as approval of minutes and reports. The Chairperson shall then proceed with the agenda.

Workshops shall be held as necessary to review, discuss and revise aspects of specific cases. These workshop meetings are held to facilitate discussion among members of the BOCC, PC or BZA. Workshops are open to the public; public comment at workshops may or may not be allowed, at the discretion of board members. Workshops must be advertised in the same manner as regular and special meetings. No decisions will be made in a BOCC workshop.

APPENDIX F

Plats for Subdivisions, Planned Unit Developments, or some Special Use Permits require a wildlife review, as authorized by C.R.S. § 24-65.1-101, et seq., 1973, HB 1041 powers.

WILDLIFE REVIEW PROCEDURE

F.1 Application Procedure

A. Applicants for a Wildlife Review shall:
   1. Submit a written application and preliminary plat to Planning and Zoning Office at least sixty (60) days prior to the meeting date, along with proper fees;
   2. Appear in person, or by authorized representative, at the designated site tour with the PC;
   3. Appear in person, or by authorized representative, before the PC in a meeting to present the application.

B. Applicant may be required to appear in person, or by authorized representative before the PC to present the plan. (Arrangements may be made through the Planning and Zoning Office.). The Planning and Zoning Office shall:
   1. Review the application and associated plat for completeness;
   2. Process the submitted fees;
   3. Submit the plat to the CPW District Manager for review and recommendations;
   4. Inform the applicant of CPW's recommendations;
   5. Schedule the meeting on the application;
   6. Schedule the site tour;
   7. Prepare a report for the PC and BOCC that includes a list of areas of concern.

C. The PC shall:
   1. Review the application and accompanying plat before taking action on the application. Included in the review shall be:
      a. Any recommendations or questions by the CPW, PC, or the Planning and Zoning Office;
      b. Public input on the application;
      c. Any additional qualified opinions or questions.
   2. Make a recommendation of action to the BOCC, including pertinent background information supporting the recommended action or conditions pertinent to approval. If approval is recommended, the PC Chairperson shall sign the submitted plat.

D. The BOCC shall:
   1. Review or study the application and accompanying plat before taking action on the application. Such evidence shall include all items included in the review and study by the PC, as well as their recommendation;
   2. Rule on the application. If approved, the BOCC Chairperson shall sign the submitted plat.

F.2 Submission Requirements for a Wildlife Review

The wildlife review, which is required for development in unincorporated County areas, shall require the following submissions with the application.

A. Plat and documentation standards

Plats and maps must be prepared in a workman-like manner. Poorly drawn or illegible maps are unacceptable. They must be drawn to an identified scale. For smaller properties, a scale of 1" = 50' is appropriate. The maps must show the following:

1. The location of the proposed development site. For development of multiple lots, include a boundary survey prepared, signed, and sealed by a licensed Colorado land surveyor;
2. The relationship of the site to surrounding topographic features, such as roads, streams, and location of existing structures, to the nearest public road;
3. The nature and density of the proposed development or land use change;
4. Proposed building, improvement, and infrastructure locations related to common users;
5. A legend which includes:
   a. complete and accurate legal description, including total acreage of the parcel;
   b. title, scale and North arrow;
   c. date, including revision dates, if applicable;
   d. a "prepared by" signature block.
6. Existing structures, infrastructure, and significant landscape features including the name and location of water courses, ponds, and other bodies of water;
   a. Accessory documentation:
   b. Proof of Ownership in the form of a current Ownership & Encumbrances certificate, or commitment for a policy of Title Insurance;
   c. Authorization to act on behalf of a landowner.
7. Such additional information as may be required by the BOCC in order to determine if the intent and purpose of the Wildlife Habitat Review have been fulfilled.

B. Guidelines common to all properties

The following should be incorporated on development plats and recorded protective covenants by the developer:

1. Because removing garbage from close proximity to homes greatly increases the safety of homeowners, a garbage location should be provided.
   a. Garbage sites should be located as far from houses as is practical and should serve as many home sites as is reasonable.
   b. The garbage site should be located with the assistance of the CPW prior to preparation of plats.
2. All edibles, including pet food and bird feeders, should not be left outside at night.
3. Dogs should be physically restrained or under the direct control of a person.
4. Designated "no build areas" could be open space to serve a development or could be parts of parcels controlled by the discretion of a developer's covenants.
5. It is recommended that a wildlife friendly fence be used in or around wildlife corridors and habitat areas:

a. Wildlife friendly fence - barbed wire: build the fence with top wire no more than 40" high, leave a minimum of 12" between the top two wires, and 16" between the ground and bottom smooth wire strand.
b. Wildlife friendly fence - electric wire: top wire 40" or lower, at least 12" between the top two wires, and grounded bottom wire at least 16" above the ground.
c. Wildlife friendly fence - smooth wire: use dimensions in 5.a above.

F.3 Mitigation Standards

To meet the intent of the Wildlife Review, mitigation measures must be in-kind, that is, targeted to the specific species or habitat impact brought about by a particular development. Multiple mitigation steps maybe necessary to mitigate all potential impacts to wildlife and habitat.

The following criteria should be followed if impacts to wildlife and wildlife habitats are identified:

A. All measures should first be considered that would avoid or minimize potential impacts to wildlife and wildlife habitat. If not deemed feasible and practical, then;

B. Compensation measures for the impacts to wildlife and habitat may be made by replacing or providing substitute resources and environments as recommended by the CPW.

APPENDIX G

ROAD AND BRIDGE ACCESS AND MAILBOX PROCEDURES

G.1 Private Access onto County Maintained Rights-of-Way

The following standards have been established by the Road and Bridge Department.

A. Application must be filled out completely.

B. The permit fee is established by the BOCC for ingress and egress on Custer County maintained roads, allowing a maximum of two (2) accesses per parcel. Additional inspections beyond those required shall be charged a per trip rate.

C. If the property is accessible through a subdivision the property must be accessed through that subdivision, unless unusual circumstances exist.

D. All proposed accesses must be clearly staked or flagged prior to applying for a permit. A plot map should be provided with information pertaining to lot number, road number or name, and subdivision name and filing.

E. The minimum length of all access culverts shall be thirty (30) feet. The inspector shall determine the required diameter and length at the initial inspection.

F. There must be visibility in both directions from the access of at least three hundred (300) feet.

G. Installed culverts must be metal and of annular or spiral construction.

H. Culverts must have at least six (6) inches of cover (dirt). The top of the cover must be level with the grade of the County road.

I. Allow at least 2 weeks from the date of application for the initial inspection to be done. All inspections shall be done by the Road Supervisor or the Utility Inspector.

J. Accesses under construction without a permit shall be subject to an additional fine and double the normal permit fee.

K. Access shall be verified during the Compliance Inspection prior to closing the Zoning Permit.

G.2 Subdivision Road Access onto County Maintained Rights-of-Way

The same standards that apply to private access onto County maintained rights-of- way apply to subdivision access, with the following exceptions:

A. The permit fee is established by the BOCC for ingress and egress onto Custer County maintained roads. Additional inspections beyond those required shall be charged a per trip rate.

B. The minimum width of a subdivision road is 24 feet with 18-foot radius. Special circumstances may require a wider road.

C. The minimum length of all subdivision road access culverts shall be sixty (60) feet. The required length and diameter of all access culverts for subdivision roads shall be determined by the inspector at the initial inspection.

D. All proposed subdivision roads must be clearly staked or flagged prior to applying for a permit. A plot map should be provided with information pertaining to road number or name, and subdivision name and filing.

E. Culverts must have at least six (6) inches of cover (gravel). The top of the cover must be level with the grade of the County road. Compaction around the culvert must be done with a jumping jack.

G.3 Mailbox Installation Along Publicly Maintained Rights-of-Way

Instructions for the installation of mailboxes along publicly maintained rights-of-way.

A. Customers must use only approved mailboxes. Custom-built mailboxes may be used if the local postmaster gives prior approval and the mailbox conforms generally to the same requirements as approved manufactured mailboxes.

B. Mailbox supports should be a semi-arch or extended arm type which allows snow plows to sweep near or under mailboxes without damaging supports and provides easy access to the mailboxes by carriers and customers.

C. Mailbox supports should be no larger than a 4"x4" wood post or a 2" diameter standard steel or aluminum pipe, buried no more than 24 inches. If struck, this type of post should safely break away without causing damage or injury.

D. Mailboxes should be installed with the bottom of the mailbox at a vertical height of 48" from the road surface.

E. On Custer County maintained roads, mailboxes should be installed so that the face of the mailbox is even with the shoulder of the road.

F. On Colorado State highways, mailboxes must be placed a minimum of 8 feet from the edge of the highway, with the approach to the mailbox properly filled and graded.

G. Mailboxes must be on the right-hand side of the road in the carrier's direction of travel. The approach to the mailbox should be clear of snow, vehicles and other obstructions.

H. House number and street name must be on the mailbox, visible to the approaching carrier. Letters and numbers must be 1" or more in height.

I. Any other installation guidelines as defined by the United States Postal Service (USPS).

As of the publication date of this document, the USPS will not deliver packages that do not fit in the mailbox if the delivery address is more than ½ mile from the mailbox.

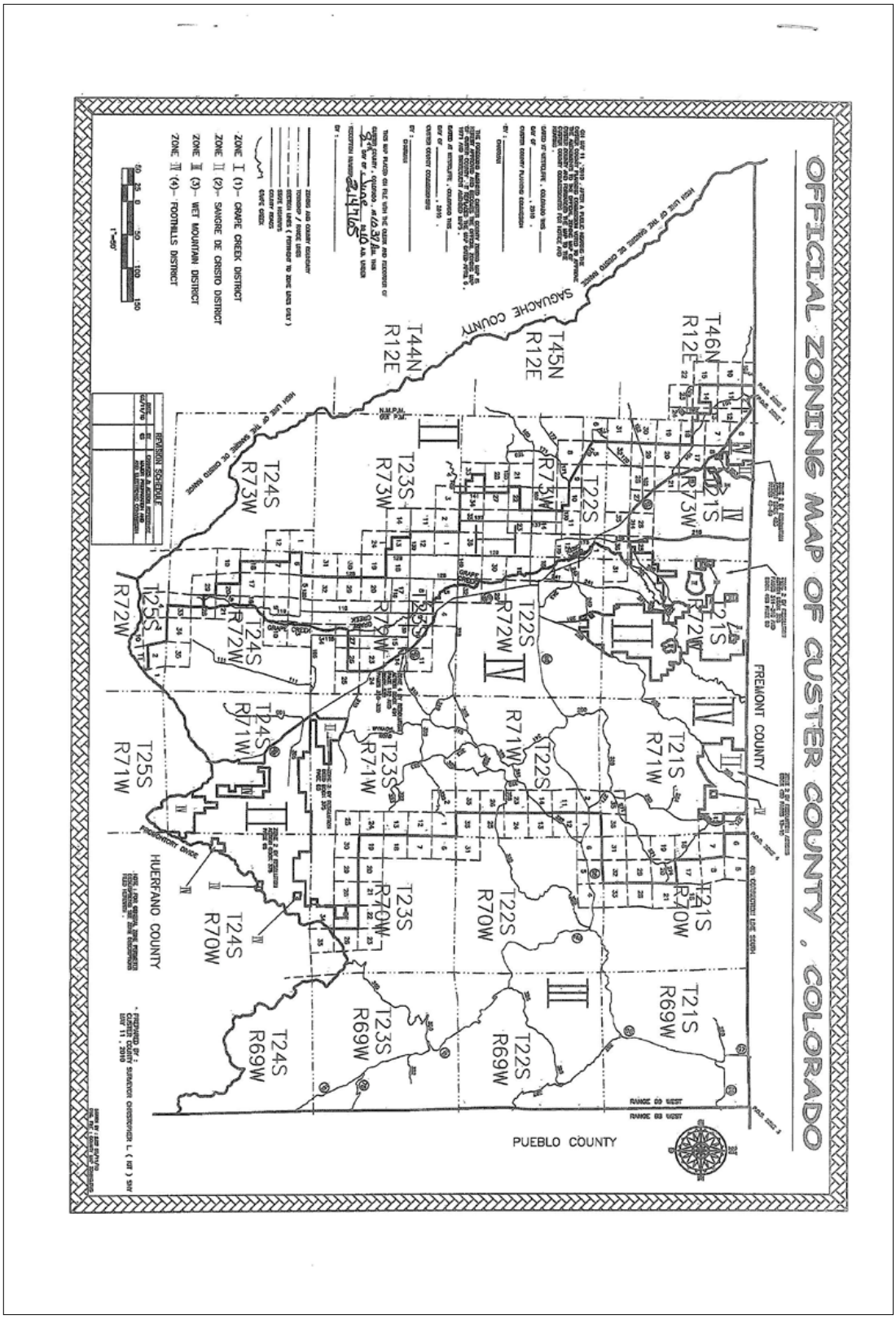
APPENDIX H

COMMON ACRONYMS

BOCC	Board of County Commissioners
BZA	Board of Zoning Adjustment
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health and Environment
CPW	Colorado Parks and Wildlife
CRS	Colorado Revised Statutes
GIS	Geographic Information Systems
HB	House Bill
HOA	Homeowner's Association
OWTS	On-site Wastewater Treatment Site
PC	Planning Commission
POA	Property Owner's Association
PUD	Planned Unit Development
STR	Short Term Rental
TODS	Tourist Oriented Directional Signs
UBC	Uniform Building Code
USGS	United States Geological Survey
USC&G	United States Coast and Geodetic
WRIS	Wildlife Resource Information System

APPENDIX I

OFFICIAL ZONING MAP OF CUSTER COUNTY, COLORADO



APPENDIX J

236106

236106 9/3/2019 10:09 AM Kelley Camper
1 of 2 R$0 D$0 N$0 S$0 M$0 E$0 Custer County Clerk

CUSTER COUNTY RESOLUTION NO. 19-09

A RESOLUTION OF CUSTER COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, MODIFYING THAT PORTION OF THE CUSTER COUNTY ZONING RESOLUTION CONCERNING PLANNED UNIT DEVELOPMENTS

Whereas, the Custer County Planning Commission has formally recommended to the Board of County Commissioners that the current Zoning Resolution dated July 31, 2018, be modified with respect to the provisions concerning Planned Unit Developments as follows:

1. That the creation of new Planned Unit Developments for all that portion of Custer County lying west of Colorado Highway 69 shall, as of July 1, 2019, no longer be allowed;
2. That a five-year moratorium be placed on the approval of new Planned Unit Developments for all that portion of Custer County lying east of Colorado Highway 69, also effective as of July 1, 2019; and

Whereas, these recommendations have been made because the Planning Commission has determined it is necessary to further regulate and control land use in Custer County to protect the limited natural resources of the county, particularly its water; and

Whereas, the Board of County Commissioners concurs in the reasoning of the Planning Commission and expressly finds that the proposed modifications set forth above would serve to promote the health, safety and general welfare of the citizens of Custer County;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners that:

1. No new Planned Unit Developments shall be allowed for any portion of Custer County lying west of Colorado Highway 69 after July 1, 2019;

2. A five-year moratorium shall be placed on the approval of new Planned Unit Developments for any portion of Custer County lying east of Colorado Highway 69, effective as of July 1, 2019.

3. The land use restrictions set forth above do not apply to the incorporated towns of Silver Cliff and Westcliffe.

236106

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2 of 2 R$0 D$0 NS0 SS0 M$0 E$0 Custer County Clerk

This Resolution No, 19-09 is approved and adopted this 30th day of August, 2019, *nunc pro tunc* the 1st day of July, 2019.

Signed:

Tommy G. Flower
Chairman

William R. Canda
Vice-Chairman

Jay D. Printz
Commissioner

Attest:

Kelley Camper
County Clerk and Recorder