



PLANNING COMMISSION AGENDA

August 24, 2023 at 1:30 PM

Commissioners Meeting Room - 401 Main Street, Suite 309, Walsenburg, CO 81089

Office: 719-738-3000 ex 200 | Fax: 719-738-3996

Join via Zoom: <https://us02web.zoom.us/j/82550511219> | Meeting ID: 825-5051-1219

WORK SESSION

[Land](#) Use Code Process Updates

[1041](#) Regulations Update

1. UPCOMING MEETINGS

- a. September 12 - Joint Public Hearing
23-028 Vacate Mohr

Markup Copy of Changes to Processes by application type

1.03.02 District Characteristics and Requirements

Minimum dwelling size in all districts shall be 600 square feet. In recognition that smaller dwelling unit sizes may be adequate to meet individual needs and able to meet criteria of adopted building codes, a variance may be requested for proposed dwellings under 600 square feet in accordance with Section 9.02 of this Code. -

The districts enumerated in Section 1.03.01 shall have the following characteristics and specifications:

A Agricultural District

This district is created for the purpose of protecting the productive agricultural lands of Huerfano County and preserving the visual and cultural values, historical and archeological features and critical wildlife habitat associated with the scenic vistas, natural topography and agricultural lifestyles in rural, unincorporated areas of Huerfano County.

- Minimum district size: 40 acres
 - Minimum lot area: 35 acres
 - Minimum lot width: 200 feet ~~per dwelling unit~~
 - Front yard setback: 60 feet
 - Side yard setback: 25 feet
 - Rear yard setback: 30 feet
 - Maximum structure height: Refer to Comprehensive plan, page 4, “Residential Use”
 - ~~Minimum dwelling size: 600 square feet~~
 - Maximum lot coverage: 15 percent
- For uses allowed by right, conditional uses and prohibited uses see Section 1.05.

RR Rural Residential District

This district is created for the purpose of allowing the establishment of moderate density rural residential development in predominantly agricultural and rural areas of unincorporated Huerfano County without compromising or otherwise significantly changing the visual, scenic and other natural characteristics of the surrounding area and providing as necessary for the protection of critical wildlife habitat.

- Minimum district size: 20 acres
 - Minimum lot area: 2 acres
 - Minimum lot width: 100 feet ~~per dwelling unit~~
 - Front yard setback: 20 feet
 - Side yard setback: 10 feet
 - Rear yard setback: 20 feet
 - Maximum structure height: 40 feet (refer to Comprehensive plan, page 4, “Residential Use”)
 - ~~Minimum dwelling size: 600 square feet~~ Meets/Complies with currently adopted Building Code.
 - Maximum lot coverage: 30 percent
- For uses allowed by right, conditional uses and prohibited uses see Section 1.05.

UR Urbanizing Residential District

This district is created to accommodate the urbanizing areas of Huerfano County where relatively high density residential and associated commercial and service development has occurred, is occurring or is desired to occur.
Minimum district size: 10 acres

Minimum lot area: ½ acre
Minimum lot width: 50 feet
Front yard setback: 20 feet
Side yard setback: 10 feet
Rear yard setback: 20 feet
Maximum structure height: 40 feet (refer to Comprehensive plan, page 4, “Residential Use”)
~~Minimum dwelling size: 600 square feet~~
Maximum lot coverage: 30 percent
For uses allowed by right, conditional uses and prohibited uses see Section 1.05.

C Commercial-Service District

This district is created for the purpose of establishing medium to highly intensive use commercial and service areas at designated locations by major highways or in close proximity to urbanized and urbanizing areas within Huerfano County.

Minimum district size: 5 acres
Minimum lot area: ½ acre
Minimum lot width: 50 feet
Front yard setback: 20 feet
Side yard setback: 10 feet
Rear yard setback: 20 feet
Maximum structure height: 40 feet (refer to Comprehensive plan, page 4, “Residential Use”)
~~Minimum dwelling size: 600 square feet~~ Meets/Complies with currently adopted Building Codes.
Maximum lot coverage: 30 percent
For uses allowed by right, conditional uses and prohibited uses see Section 1.05.

I Industrial District

This district is created for the purpose of establishing exclusive areas for the construction, fabrication, assembly, storage, shipping and other general and light industrial processing of goods and the extraction, transport and processing of natural resources at appropriate locations within Huerfano County as designated by these regulations.

Minimum district size: 5 acres
Minimum lot area: ½ acre
Minimum lot width: 50 feet
Front yard setback: 20 feet
Side yard setback: 10 feet
Rear yard setback: 20 feet
Maximum building height: none, except in APO districts
~~Minimum dwelling size: 600 square feet~~ Meets/Complies with currently adopted Building Codes.
Maximum lot coverage: 30 percent
For uses allowed by right, conditional uses and prohibited uses see Section 1.05.

1.04.01 Variances

Variances from various provisions of this zoning regulation are heard by and decided by the Board of Adjustment. See Section 9.02.02.

Process Summary

1. Staff reviews application for completeness, notifies relevant referral agencies and prepares staff report
2. Public noticing
3. BOA Public Hearing and decision

9.02.02 Powers and Duties of the Board

4. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of enactment of these regulations, or by reason of exceptional topographic conditions or other extraordinary or exceptional physical characteristics or conditions of such piece of property not created by the applicant, subsequent to the adoption of these regulations or previously adopted County zoning regulations, or due to unique characteristics of the proposed project, the strict application of any zoning regulation or provision therein would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, or that the requested variance would pose no substantial detriment to the public good, then the Board of Adjustment shall have the authority, upon an appeal relating to said property, to authorize a variance from such strict and literal application so as to relieve such difficulties or hardship. Such relief shall be granted, however, without substantial detriment to the public good and without altering or impairing the intent and purpose of the zoning regulations and other provisions contained within State or County regulations. The Board shall not, however, have the power to grant variances from the uses prohibited or allowed conditionally by special review for the zoning district involved.

9.02.04 Appeal and Variance Application and Procedures

9.02.04.1 Criteria for Granting a Variance or Appeal

1. The strict application of any zoning regulation or provision therein would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property;
2. That the requested variance would pose no substantial detriment to the public good;
- 1-3. The requested variance does not alter or impair the intent and purpose of the zoning regulations and other provisions contained within State or County regulations;
4. The requested variance does not permit a use prohibited or allowed conditionally by special review for the zoning district involved.
5. If adverse impact on the public good or adjacent property values is cited as a reason for denial, it should be supported with evidence that the adverse impact is both likely and significant.

9.02.03 Submittal Requirements for Appeals and Variances

In addition to general submittal requirements outlined in Section 8.03

1. Applicants appearing before the Board of Adjustment shall submit the following submittal materials and all other materials as the County Planner or the Board of Adjustment may deem necessary. These submittal requirements are in addition to those specified in Section 8.03 and 9.02.04, Application and Appeals Procedures, of these regulations.

~~01. A full and accurate legal description of the land involved in the appeal action.~~

~~02. A plot plan showing the existing and proposed location of all structures, uses, zoning district boundaries and setbacks on the land involved in the appeal action.~~

~~03. Proof of ownership of the property or written evidence of authority to act on behalf of the lawfully demonstrated owner of the property.~~

~~04. Proof of publication of the advertised legal notice of public hearing before the Board of Adjustment. A list of Names of owners of record and physical addresses of all property adjacent to the property in question and all adjacent mineral rights owners and lessees and easement holders, as shown on the records of the Huerfano~~

~~County Assessor. (10) days prior to the Board of Adjustment public hearing date, See Section 9.02.04, Appeals Procedures, below.~~

~~05. Proof of pPayment of the cost of publication of the advertised mailed and published public hearing notices.~~

~~06-01. Letter of Intent describing stating what provision(s) of the zoning regulation is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant-regulation from which a variance is being requested, why requested variance is necessary, and how such variance request meets criteria for a variance described in 9.02.02 (4) and 9.02.04 (4).~~

~~07. A letter of intent addressing criteria described in 9.02.02 and 9.02.04 (4)~~

~~2. Items in Section 9.02.03 numbers .04, .05, and .06, above, need to be submitted not at the time of application but by or before the conduct of the public hearing.~~

9.02.04 Appeal and Variance Application Procedures

1. Appeals to the Board of Adjustment may be made by any person(s) aggrieved by an inability to obtain a building permit or by the decision or interpretation of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of these zoning regulations. Appeals to the Board shall be made within thirty (30) days of the order, requirement, decision, interpretation or refusal alleged to have occurred or to be in error. Applications to the Board of Adjustment may also be made by persons, organizations or corporations to provide applicants with an opportunity to apply for variances from zoning setback requirements and other circumstances for which a variance may be obtained.

2. The Board shall hold a public hearing on all applications for variances and appeals. Prior to such public hearing scheduled before the Board of Adjustment, noticing procedures outlined in Section 8.05 and 8.08 of the Land Use Code shall be followed. ~~a notice of public hearing shall be published in a legal publication in Huerfano County at least ten (10) days before the scheduled date of the public hearing. Publication of such notice shall follow a form prescribed by the County and publication of the notice, which shall specify the time and place of the hearing and location of the land subject to the hearing. Such publication of the notice is the responsibility of the applicant. Applicants shall be billed directly by the County for costs associated with noticing, newspaper and shall submit proof of publication of the notice and proof of payment of publication costs with the Board of Adjustment as a condition for action by the Board of Adjustment.~~

~~3. All listed owners of record of adjacent properties shall be notified by certified mail and all registered addresses of adjacent properties shall be notified by regular mail at least ten (10) days prior to the scheduled hearing date and notice shall be posted in a newspaper of record at least ten (10) days prior to any public hearing. A written notice of such hearing shall be mailed by certified or registered mail, return receipt requested, at least ten (10) days prior to the Board of Adjustment public hearing date to owners of record of all property adjacent to the property in question. This mailed notice shall also be sent to all adjacent mineral rights owners and lessees and easement holders, as shown on the records of the Huerfano County Assessor and identified in the application by the applicant, and the notice shall include a vicinity map, a short narrative describing the relief sought and an announcement of the date, time and location of the scheduled hearing.~~

~~Acceptable proof of mailing such notice shall be submitted to the Board of Adjustment as a condition for action by the Board of Adjustment.~~

4. All applications and appeals to the Board of Adjustment shall be in writing and on such forms as shall be prescribed by the Board and the appropriate filing fee shall accompany the application. ~~Every application or appeal shall state what provision(s) of the zoning regulation is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant.~~ The chairman of the Board, or his appointed designee, shall call a meeting of the Board scheduled to take place within ~~fifteen~~ Thirty (1530) days of the submission of the required submittal materials. The Board of Adjustment may, at its discretion and

by majority vote, transmit a copy of the application or appeal to the Planning Commission or other appropriate public organizations or private parties for review and comment.

5. Upon reaching a decision in the manner described above, the Board of Adjustment or its authorized agent shall notify applicant(s) in writing ten (10) working days after the Board of Adjustment takes action on an appeal brought before it.

1.05 USES ALLOWED BY RIGHT, CONDITIONAL USES AND PROHIBITED USES IN ZONING DISTRICTS

Table 1 on the following pages indicates which land uses are allowed by right, which are conditional uses and which are prohibited uses in the zoning districts listed in Section 1.03.01 and described in Section 1.03.02. Uses not listed or not substantially similar to listed uses are considered to be conditional uses. See Section 1.06 on conditional use provisions and Section 1.07 on uses not itemized.

Table 1
Uses allowed by Right. Conditional Uses and Prohibited Uses by Zoning District

R = Use Allowed by Right C = Conditional Use P = Use Prohibited

<i>Zoning District</i>	<i>AA</i>	<i>RR</i>	<i>UR</i>	<i>C I</i>	<i>Regulatory Reference</i>
.01 Single family dwelling on a single undivided parcel of land	R	R	R	R C	1.06
.02 Additional dwellings; e.g., for rent, lease or sale, on any undivided parcel of land or lot	C	P	P	P C	1.06
.02 Addition dwellings on tracts of land that meet a 35:1 land/dwelling ratio	R	C	C	C C	1.06
.03 Two family dwelling	C	C	R	C P	1.06
.04 Multiple family dwelling, co-housing facilities and single and multi-family condominiums	C	C	C	C P	1.06
.01 Up to two dwelling units on a single parcel of land	R	R	R	R C	1.06
.02 Three to six dwelling units on a single, parcel of land.	C	C	R	R C	1.06
.03 Over six dwelling units on a single parcel, including: Multiple family dwelling, co-housing facilities, condominiums or employee housing.	C	C	C	R C	1.06
.04 Tiny home and mobile home parks (over 6 units)	C	C	C	C P	
.05 Unpurged mobile homes built prior to 1976 and mobile home parks and non-qualified manufactured mobile homes.	P	P	P	P P	N/A
.55 Manufacture, fabrication or processing of all materials not otherwise listed and which will not cause excessive noise, heat, dust, fumes or other adverse consequences	C	P	P	C R	1.06

.61	Medical Marijuana dispensaries	P	P	P	P	P	Section 18
.62	Commercial Medical Marijuana cultivation operations	C	P	P	C	C	Section 18
.62	Commercial Marijuana retail stores	C	P	C	C	P	Section 18
.64	Marijuana Hospitality – on-site consumption Commercial Marijuana testing facilities	P-R	P-C	P-C	P	P	Section 18
.65	Commercial Marijuana product manufacturing <u>and testing</u> <u>product infusion</u> facilities	P-C	P	P	P	P	Section 18
.63	Commercial/ <u>recreational/medical</u> Marijuana cultivation facility	C	P	P	C	C	Section 18
.69	Any use not listed in this table	C	C	C	C	C	

1.14 MANUFACTURED HOME AND NON-QUALIFIED MANUFACTURED HOME REQUIREMENTS AND PROVISIONS

1.14.01 Treatment of Non-Qualified Manufactured Homes

Home built prior to 1993 HUD standards are considered non-qualified homes and are prohibited in all zoning districts. Such housing, for habitation or for storage, may not be installed or erected on any land within unincorporated Huerfano County, including, but not limited to a manufactured home park upon the date of adoption of these regulations. However, non-qualified manufactured homes lawfully located in the County prior to the date of adoption of these regulations shall be treated as legal non-conforming uses under Section 1.16.01.

1.14.02 Treatment of ~~Double-wide~~Qualified Manufactured Homes

A ~~double-wide~~qualified manufactured home, as defined in these regulations, ~~are~~is treated as a "single family dwelling" for all purposes. A ~~double-wide~~qualified manufactured home is a permitted use in any zoning district where a single family dwelling is a permitted use. A ~~double-wide~~qualified manufactured home is a prohibited use in those zoning districts in which a single family dwelling is a prohibited use. The placement, erection or installation of a ~~double-wide~~qualified manufactured home requires a conditional use approval in those zone districts where a conditional use approval is required for a single family dwelling. A ~~double-wide~~qualified manufactured home which is placed, erected or installed in the County must comply with all applicable provisions including, but not limited to, applicable HUD or ICC regulations, set-back requirements, minimum dwelling size and minimum lot size requirements. All ~~double-wide~~qualified manufactured housing shall be installed according to the Colorado Division of Housing, Manufactured Home Installation Program.

1.06 CONDITIONAL USE APPROVAL AND APPROVAL AMENDMENT PROVISIONS

Conditional uses may be allowed in an eligible zoning district upon review and recommendation by the Planning Commission and favorable action by the Huerfano County Board of County Commissioners. A public hearing may be ~~required~~waived, upon a majority vote of if the Planning Commission determines the proposal would have a minor impact, before action is taken. Upon favorable action, a conditional use application approval or amendment of an existing approval shall be granted by the Board. Granting of a conditional use approval for a conditional use may be subject to such conditions and safeguards as the Board of County Commissioners may impose in order that the conditional use complies with the general intent and specific provisions of these regulations and be in harmony with the character of the surrounding area. Conditional uses shall be permitted for a duration of time, up to indefinite, as specified by the Board of County Commissioners. Specific decision-making criteria on conditional use approvals are contained in Section 1.06.03.

Each conditional land use approval approved by the Board is subject to review at intervals that the Board of County Commissioners deems appropriate and reasonable. In addition, the Board may, at its discretion and for proper cause, revoke an approval for a conditional use.

1.16.03 Conditional Use Permits for Shipping Containers may be considered a minor impact and may be processed administratively. An application for a shipping container shall include submittals outlined in Section 8.03, including a letter of intent describing the intended use of the container and any existing uses on adjacent properties.

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1.06.01 Submittal Requirements

Application for a conditional use approval for a conditional use shall require submission a) of an application on a form provided by Huerfano County, ~~b) submission of a Letter of Intent and c), submission of a Site Plan along with submittal requirements outlined in Section 8.03.~~ These submissions shall be made to the ~~Planning Commission~~ Department and ~~it shall be by majority vote of the Planning Commission to staff shall~~ determine ~~as necessary~~ that ~~the submittal materials applications~~ are complete, accurate and ready for formal review and processing. In addition to the submittal requirements outlined in Section 8.03, the following shall apply to Conditional Use Permits:

1. In addition to those items listed in Section 8.03 (1), ~~t~~The Letter of Intent shall include the following items:
 01. The current zoning of the property and of adjoining-adjacent property.
 - ~~02. Proof of ownership, which may include, where appropriate, a current title policy and as appropriate, certification from the owner recognizing the authority of an owner's appointed representative to represent that owner.~~
 03. Description of the current land use(s) on the property, the characteristics of the land within the property boundaries, and the current land use on all adjoining-adjacent property.
 04. A description of the proposed conditional use of the property and project activities, including all utility sources and supplies, needed to bring about that use.
 - ~~05. A statement of the impacts of the proposed use on items such as roads, traffic and public safety protection services on the features of the subject property and the neighboring environment including but not necessarily limited to flora, fauna, critical wildlife habitat, wildlife migration corridors and the quantity and quality of surface and ground water resources.~~
 - ~~06. A statement demonstrating that the proposed conditional use would be in compliance with the eComprehensive pPlan.~~
 07. A listing of additional local, state or federal permits and approvals required to bring about the proposed land use and notation of which permits have been applied for and which, if any, have been granted.
 - ~~08. A list of the names and mailing addresses of all listed owners of record of all adjacent property.~~
2. The Site Plan shall include the following items:
 01. A legible sheet or map drawn to an appropriate scale, as accepted by the Planning Commission, showing the location, height and approximate dimensions ~~or envelope location~~ of each existing and proposed structure in the proposed conditional use area, the uses to be contained within the existing and/or proposed structures ~~and the name, mailing address and phone number of the applicant and applicant representative(s), if any.~~
 02. The existing and proposed building setbacks and the building area with reference to property lines, highway, street or road rights-of-way, watercourses and other natural and historic features of the site.
 03. The location, size, number of spaces and surfacing of any existing or proposed parking and loading areas.

04. The location of any existing and proposed roads, streets, footpaths, traffic devices, driveways and curb cuts with an indication of how pedestrian and vehicular movement will be controlled.
05. The dimensions, grade, right-of-way and roadway width of all proposed public and private roads and streets.
06. The location, if any, and pertinent characteristics of any existing or proposed signs, lighting fixtures and landscaping.
07. The location of any easements on the property.
08. The location of all water, sewage disposal, ~~septageseptic~~, electrical, telephone and other utilities and facilities needed to develop the proposed conditional use.
09. All grading, storm water runoff and re-vegetation plans needed to install the use.
10. A notation of the stages, if any, in which the project will be developed.

~~3.11.~~ A vicinity map locating the proposed conditional use in relationship to the surrounding area within 500 feet of the boundaries of the proposed property and a description of any existing plats and improvements on this adjacent property.

The appropriate filing fees shall accompany the submission of these above materials. The ~~Planning Commission Director, by majority vote,~~ may waive any but not all of the above submission requirements in cases where provision of the specified items would prove unnecessarily burdensome or inappropriate. ~~In special cases additional submittal items may be required in the Letter of Intent or on the Site Plan, as specified by majority vote of the~~ The Planning Commission ~~may vote to continue a public hearing in order to permit applicant time to prepare and submit additional information deemed necessary to make a recommendation.~~ The Planning Commission may require additional documentation, including any requirements listed above that were waived by the Director before making a decision.

1.06.02 Procedures for Referral, Review and Action on an Application for a Conditional Use Approval

Process Summary:

1. Staff determines completeness, routes to relevant referral agencies and schedules public meeting with PC and prepares staff report
2. Planning Commission public meeting and recommendation
- ~~2.3. Public noticing as outlined in Section 8.05 and 8.08.~~
4. Board of County Commissioners public hearing (major impact) or public meeting (significant impact) and decision.

1. Upon proper and adequate submission of the appropriate application form, fees and other submittal materials as specified in Section 1.06.01, the Planning Commission shall consider at a regular or special public meeting the conditional use application. ~~When, as specified in Section 1.06 the Planning Commission determines by majority vote that a public hearing is required, the Board of County Commissioners and the Planning Commission shall conduct a joint public hearing on the application, with notice of such hearing published by the applicant in a newspaper of general circulation in Huerfano County at least ten (10) days prior to the scheduled hearing date. The applicant shall also mail notification of the hearing date and subject of the hearing to a~~ All listed owners of record of properties within 1,320 feet in the Agricultural Zone District, or of adjacent properties in other zones shall be notified by certified mail and all registered addresses in the same radius shall be notified by regular mail at least ten (10) days prior to the scheduled hearing date and provide at the public hearing proof of publication, proof of payment of publication and proof of notification of adjacent property owners and notice shall be posted in a newspaper of record at least ten (10) days prior to any public hearing. The applicant will be responsible for cost of noticing, which must be paid as a condition of approval. ~~The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote.~~ In addition, the applicant shall cause to have posted on the property in question, in a conspicuous location, a sign supplied by Huerfano County, stating the time, date, location and subject of the hearing. Such sign(s) shall be posted at least ten (10) days before the scheduled date of the hearing.

~~These public due process notification and proof of notification procedures shall apply to all joint public hearings conducted by Huerfano County for actions included within these regulations.~~

~~2. Following the conduct of the public meeting or the public hearing, the Planning Commission shall make a recommendation on the application for a conditional use approval to the Board of County Commissioners, recommending approval, denial or conditional approval. The Planning Commission shall forward its recommendation and any records of the hearing to the Board within ten (10) working days of its action.~~

~~Within thirty (30) days of receiving such materials the Board of County Commissioners shall consider the recommendation at a regular or special session of the Board and shall act to approve, deny or conditionally approve the application, including notice whether there shall be a time period for review of compliance with any approval conditions. The Board of County Commissioners shall also provide the Planning Commission with notification of the action taken.~~

~~3. When the Planning Commission, as decided upon by majority vote, in the judgment of the a conditional use application has a potential impact on any of the referral agencies listed in 8.04.01 (4), requires referral review and comment by any agency, organization, governmental entity or person or persons, the Planning Commission may so cause the application materials or any portion thereof to be submitted. staff will route the application for referral review and comment. The referral review and comment period shall be for a period of time of up to thirty (30) days from the date materials are received for review. that the Planning Commission so decides upon the need for such referral before the date of the conduct of the public meeting or public hearing.~~

1.06.02.01 Modification of a Conditional Use Permit

Recognizing that there are circumstances which may cause the holder of a Conditional Use Permit to make changes to operations, premises and uses over time, the holder of a Conditional Use Permit must modify their permit to reflect those changes that potentially alter the impact on neighbors or infrastructure or represent a change of use in one or more buildings. Modifications could include an expansion of operations, modifications to the site plan, or adding additional, related uses.

Should there be a modification or change in the use granted by a Conditional Use Permit, permit holder shall present a detailed description of the changes to the Planning Department for review. If the Director finds that the change presents minimal or no impact on nearby land owners, infrastructure, services or the community, the CUP will be modified administratively to reflect changes. If the Director finds that changes present the potential to increase impacts on or nuisances to nearby land owners, infrastructure, services or the community, the application to modify the CUP will be presented to the Planning Commission for review. The Planning Commission may recommend to staff whether to approve, approve with conditions or deny the proposed modification.

1.18 Rezoning

1.18.01 General Information

Applications to rezone or change the zoning classification of a parcel or parcels of land shall be treated as proposed amendments to this zoning regulation and such applications also shall comply with the common procedures described in these regulations. Applications for rezoning shall be accompanied by an application form provided by Huerfano County, by the appropriate submittal materials and by the necessary filing fees.

Process:

1. Staff determines completeness, routes to relevant referral agencies and schedules public meeting with PC and prepares staff report→
2. PC public hearing meeting and recommendation

3. Noticing for public hearing

2.4. BOCC public hearing and decision. ~~Changes to the text of the zoning regulations are addressed in The Amendment Process.~~

1.18.02 Special Rezoning Requirements and Provisions

~~All listed owners of record of adjacent properties shall be notified by certified mail and all registered addresses in the same radius shall be notified by regular mail at least ten (10) days prior to the scheduled hearing date and provide at the public hearing proof of publication, proof of payment of publication and proof of notification of adjacent property owners and notice shall be posted in a newspaper of record at least ten (10) days prior to any public hearing in accordance with noticing guidelines in Section 8.05 and 8.08. The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote.~~
~~Publication of said notice(s) shall follow a form prescribed by the County and publication of the notice is the responsibility of the applicant. In compliance with Huerfano County Resolution 78-33, applicants shall be billed directly by the newspaper publisher and shall submit proof of publication of the notice and proof of payment to the Planning Commission before said hearing may take place. Applicants will be billed by the county for costs associated with public noticing, payment of such costs is a condition of approval.~~
In addition, the applicant shall also post notice on the property for which the rezoning is requested at least thirty (30) ~~ten (10)~~ days prior to a public hearing scheduled before the Planning Commission ~~and indicating information on the public hearings scheduled with both the Planning Commission and the Board of County Commissioners.~~ ~~S~~Applicant shall post notice on the property; such notice shall follow a form prescribed by the County and shall consist of at least one sign facing each adjacent public right of way. Such signs shall measure at least three (3) feet by four (4) feet, the size of all letters shall be at least two (2) inches high and the signs shall be erected on posts no less than four (4) feet nor more than six (6) feet above ground level. The applicant shall also mail a ~~W~~written notice of said hearing(s) shall be sent by registered mail, return receipt requested, at least fifteen (15) ~~ten (10)~~ days prior to a Planning Commission or Board of County Commissioners hearing date to owners of record of all property adjacent to the property proposed for rezoning. Notifications for Rezoning ~~The notice~~ shall include a vicinity map, a short narrative describing the current zoning, the proposed rezoning and the nature of the proposed land use change along with announcement of the date, time and location of the scheduled hearing.

Rezoning applications may be initiated by any citizen or group of citizens, association, partnership or corporation owning or leasing property or residing in Huerfano County or by a representative or agent with written power of attorney from one of the above parties to initiate the application.
The Board of County Commissioners and the Huerfano County Planning Commission may also initiate a rezoning.

- ~~1. The Board of County Commissioners.~~
- ~~2. The Huerfano County Planning Commission.~~
- ~~3. Any citizen or group of citizens, association, partnership or corporation owning or leasing property or residing in Huerfano County or by a representative or agent with written power of attorney from one of the above parties to initiate the application.~~

1.18.03 Submittal Requirements

Applications for rezoning shall include those submittals outlined in Section 8.03. In addition to those submittal requirements, applications for rezoning shall include the following: a Letter of Intent and a Site Plan providing the information required in Section 1.06.01 for a conditional use review. Additionally, the following items shall be submitted with an application: ~~In addition, applicants shall supply the following supplemental information and such additional information and documentary material as the Planning Commission shall reasonably stipulate by majority vote:~~

Required attachments:

1. The source and quantity of water required for the proposed use(s) within the area to be rezoned.

2. The method of wastewater treatment and anticipated quantity of wastewater generated.
3. When water or wastewater service would be provided by a municipality or a water or sanitation or water and sanitation district or other public entity, written confirmation that the public entity in question is willing and able to provide the service in question.
4. A description of any natural or man-made hazard within or in the vicinity of the land proposed for rezoning and a statement describing how the anticipated impact of such hazards will be mitigated.

~~5. A legal description of the property to be rezoned.~~

6. A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding area within a distance of two (2) miles from the boundaries of the proposed rezoning.
7. A graphic description of all natural and manmade water courses, retention areas, streams, lakes and known one hundred (100) year flood plains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater.
8. A description of any critical wildlife habitat and migration corridors and unique natural features, such as historical sites, unique land forms or scenic vistas contained within the land proposed for rezoning.

9. Description of any planned development.

10. Any additional information requested by staff or Planning Commission.

1.18.05 Criteria for Action on a Rezoning Application

All actions by the Planning Commission in reviewing and making recommendations on a rezoning application and by the Board of County Commissioners in approving or disapproving such application shall be based in general upon the provisions of these regulations and specifically ~~on the criteria contained in Section 1.06.03, Criteria for Action on a Conditional Use Application, and also~~ on the following additional criteria:

1. That the existing zoning district is consistent with the goals, objectives and policies of Huerfano County, as contained in the County Comprehensive Plan and other adopted planning documents.
2. That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest to encourage different densities or uses within the land in question.
3. That the proposed rezoning is needed to provide land for a demonstrated community need or service.

In any petition for rezoning, the petitioner shall carry the burden of demonstrating that the land in question should be rezoned and that the advantages resulting from rezoning would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of the Board of County Commissioners to rezone any land within unincorporated Huerfano County or otherwise amend this zoning regulation for any reason consistent with the health, welfare or safety of the residents of Huerfano County.

2.09 SUBMITTAL REQUIREMENTS FOR PROPOSED SUBDIVISIONS

Applications for approval of a subdivision shall include, in addition to a completed application on a form provided by Huerfano County and the appropriate filing fees, the following items. The Planning Commission

may, at its discretion and upon written application by an applicant, waive any of these items not required by the laws of the State of Colorado, and the Planning Commission may also, at its discretion, add such submission items as it deems necessary and appropriate to evaluate an application for a subdivision.

Process Summary:

One public hearing to be held for each phase: Sketch Plan, Preliminary Plan, and Final Plat. For each phase, the following process will be followed:

1. Staff determines completeness, routes to relevant referral agencies and schedules & posts notices for public meeting with PC and prepares staff report
2. PC public meeting/hearing and recommendation
3. Public Noticing
4. BOCC public hearing and decision

Public Notice: Public noticing requirements shall apply separately for each public hearing involved in the subdivision process. At least ten (10) days prior to public hearings for the Sketch Plan, Preliminary Plan and Final Plat, the County shall send notice to property owners by certified mail and to listed physical addresses by regular mail to properties within 1320 feet of the boundaries of the proposed subdivision where existing zoning is Agricultural, or 500 feet for properties in all other zones; This distance provision may be expanded up to twenty-five hundred (2,500) feet, or to include identified properties that have the potential to be impacted by the proposal by majority vote of the Planning Commission in the case of large subdivisions and when other special circumstances so warrant.

In addition to those submittal requirements outlined in Section 8.03, submittal requirements for each phase of a subdivision proposal are outlined in this section.

2.09.02 Preliminary Plan/General Submission

The preliminary plan shall incorporate all modifications of and changes to the sketch plan agreed to by the applicant, the Planning Commission and the Board of County Commissioners. The purpose of a preliminary plan is to review the proposed subdivision in the context of the technical requirements, design standards and improvement requirements of Huerfano County and the various other terms and provisions of these regulations to ensure the compatibility of the proposed subdivision with these considerations and with the current and anticipated or desired future land use patterns within and in the vicinity of the proposed subdivision. Detailed review of a preliminary plan at the general submission stage provides further evidence of compliance or lack of compliance of the proposed subdivision with the comprehensive plan and other provisions of State & Local Regulations, along with the policies and plans of other public and quasi-public agencies in Huerfano County.

Preliminary plans shall be prepared by appropriately qualified persons in a clear and legible manner on reproducible stock in a manner acceptable to the Planning Commission and at a scale of one (1) inch to one hundred (100) or two hundred (200) feet or another scale approved by the County Planner. In the case of large proposed subdivisions requiring more than one sheet at such scale, a reproducible composite measuring not more than twenty-four (24) inches by thirty-six (36) inches and showing the total area at an appropriate scale shall also be submitted.

Preliminary plans approved by the Board of County Commissioners shall remain valid for one (1) year following the date of their approval, unless an extension of up to one (1) additional year is granted by the Board of County Commissioners, upon submission of a written request for such extension by the applicant, prior to the expiration of the initial preliminary plan. Any preliminary plan submitted for a proposed subdivision for which the previous preliminary plan approval has expired shall be considered a new preliminary plan and shall require a new application and filing fee.

A preliminary plan shall require the following information:

1. The name(s) and address(es) of the property owner(s) and of the applicant(s), if other than the owner(s), and the person(s) preparing the preliminary plan submittal materials.
2. In the case of a corporate property owner or corporate applicant, evidence of registration or incorporation in the State of Colorado.
3. A copy of a current certificate from a title insurance company or an attorney licensed to practice law in the state of Colorado setting forth the names of all owners of property included within the proposed subdivision and a list of all mortgages, judgments, liens, easements, contracts and agreements of record which shall affect the property within the proposed subdivision.
4. The name or identifying title of the proposed subdivision.
5. The date of preparation of the preliminary plan, a north arrow and a written and graphic scale.
6. An accurate legal description of the property included within the proposed subdivision and the total acreage of the proposed subdivision.
7. The location of the proposed subdivision as a part of a larger subdivision, if any, and with reference to permanent survey monuments with a tie to a section or a quarter-section corner.
8. A location map showing the relationship of the proposed subdivision to the characteristics of the surrounding area along with the names of adjacent subdivisions and the current land uses and zoning districts within one (1) mile of the boundaries of the proposed subdivision.
9. A list from the County Assessor's office of current property owners of record and their complete mailing address ~~as well as physical addresses for properties within 1320 feet of the boundaries of the proposed subdivision for properties zoned Agricultural, or 500 feet for properties in all other zones within five hundred (500) feet of the boundaries of the proposed subdivision. At the Planning Commission's discretion, this can be expanded to 2,500 feet and to include other properties likely to be impacted. This distance provision may be expanded up to twenty five hundred (2,500) feet, or to identified properties that have the potential to be impacted by the proposal, by majority vote of the Planning Commission in the case of large subdivisions and other special circumstances that so warrant. The County shall send notices by certified mail with return receipt, to listed property owners, and letters by regular mail to physical addresses on listed properties at least ten (10) days prior to a public hearing.~~
10. A list of the owners of subsurface mineral interests and their lessees, if any, on the proposed site and their complete mailing addresses.
11. Site data in chart form presenting the total number of proposed residential lots, the net size of the average (mean) lot, minimum lot size, maximum lot size, the types of land use proposed and the area of land proposed for each such land use.
12. The proposed sites, if any, for multi-family residential use, business use, commercial and industrial areas and other public and non-public uses exclusive of single family residential areas within the proposed subdivision.
13. The total number of projected square feet of non-residential floor space to be included within the proposed subdivision.
14. The current zoning districts on the site and any zoning changes to be requested.
15. The location and principal dimensions of all existing and proposed streets, alleys, roads, easements, off-street parking areas, watercourses, streams, ponds and other significant features of the natural and manmade landscape within and adjacent to the proposed subdivision. Such features should be labeled by their proper names, when such names exist or are known, and the use of all should be clearly shown. All streets and access easements must have proposed names for addressing according to the County's emergency systems. All roads & access names must be approved in writing by the Huerfano County Land Use Department before the final plat is submitted.
16. The location and current and proposed future uses of all buildings and other structures in and within one hundred (100) feet of the boundaries of the proposed subdivision.
17. A lot and street layout with lots and blocks numbered consecutively with the dimensions of all lots to the nearest foot and the acreage in each lot displayed.

18. The location of and preliminary engineering from any existing or proposed sewers, water mains, culverts, storm drains, sidewalks, gutters, fire hydrants and the sizes and types thereof, along with the width and depth of pavement or sub-grading to be provided, the depth of burial of all under-ground lines, pipes and tubing and typical cross sections of the proposed grading of roadways and sidewalks.
19. The preliminary engineering design and construction features for any bridges, culverts or other drainage structures to be constructed.
20. The topography of the proposed subdivision at two (2) foot contour intervals for predominant ground slopes up to five (5) percent grade and five (5) foot contours for predominant ground slopes within the site that are over five (5) percent grade. Upon request of and at the discretion of the County Planner, alternate contour intervals can be used for all or part of a site where special slope or other conditions prevail. Elevations shall be based on National Geodetic Survey sea level data.
21. The delineation of any known identified or designated areas where a flood statistically has a one (1) percent chance of occurring in any given year and localized areas subject to periodic flooding. Mitigation measures, if any, proposed to overcome the consequences of periodic inundation shall also be included in the submission. The distance between the mean identifiable high water mark of any creeks, streams or rivers and the nearest proposed development within the site shall also be shown.
22. The delineation of the geological characteristics of the area with evidence regarding the extent and intensity of any geological, radiological, seismic or other related hazards within or in close proximity to the proposed site. Mitigation measures, if any, proposed to overcome such geological, radiological, seismic or other hazards shall also be included in the submission.
23. Soil suitability and interpretation information developed from National Cooperative Soil Survey data and accompanied by a table of interpretation for the soil types shown on the soils map or equivalent qualified private research sources, along with a narrative description of the mitigating measures, if any, proposed to overcome soils limitations present on the site of the proposed subdivision.
24. Preliminary drainage, erosion and sedimentation control plans, as required.
25. Delineation of the type and extent of vegetative cover on the site.
26. All areas to be reserved for community or public uses and all areas to be dedicated to Huerfano County along with any other areas to be used for open space and a statement describing how such reserved, dedicated and open space lands shall be maintained.
27. Preliminary copies of the protective covenants to be filed with the final plat.
28. Evidence that the proposed system for the disposal of sewage will comply with State of Colorado and regional health department statutes, regulations and design requirements and that the proposed method is both technically feasible and environmentally sound. The peak capacity of the sewage treatment system shall be provided if a centralized collection and treatment system is proposed.
29. Evidence from the Colorado Division of Water Resources that the proposed system for the supply of potable water would be sufficient in terms of quantity, quality, dependability and pressure to provide adequate water supply to the proposed subdivision. The peak capacity of the proposed water supply system shall be provided if a centralized distribution system is proposed.
30. Where water supply or sewage collection and treatment is to be provided by an already existing centralized system, a letter of preliminary commitment from the owner(s) of that system or their duly authorized agent(s), stating that there now exists or will exist sufficient system capacity to supply the needs of the proposed subdivision and that the owners of the system are willing and able to provide the proposed water supply or sewage collection and treatment services.
31. Information regarding the relationship of the proposed location of the subdivision to any critical wildlife habitat and wildlife migration corridors and proposed mitigation measures to preserve such habitat and corridors and measures to be employed to reduce the impact of future human settlement on such wildlife habitat and migration corridors.
32. Information regarding the relationship of the proposed location of the subdivision to any historical or archeological resources and proposed mitigation measures to preserve such resources and measures to be employed to reduce the impact of future human settlement on these historical and archeological resources.
33. A preliminary development schedule for required and proposed improvements, including the estimated construction cost and the proposed method(s) of financing.

34. A discussion of any special districts that would be created wholly or partly within the proposed subdivision, listing the proposed boundaries of the service district and what services it would provide.

35. A preliminary phasing plan when the proposed subdivision would be developed in more than one phase.

36. ~~Other such information and submittal items as the Planning Commission or the Board of County Commissioners may reasonably request. Other such information and submittal items as the Planning Commission or the Board of County Commissioners may reasonably request to review and act upon the preliminary plan.~~

~~2.09.02 (36) & 2.09.03 (25) preliminary and final plat submittals. Other such information and submittal items as the Planning Commission or the Board of County Commissioners may reasonably request. t. review and act upon the preliminary plan to.~~

2.09.02 Preliminary Plan/General Submission

...

Preliminary plans approved by the Board of County Commissioners shall remain valid for ~~one (1) year~~ eighteen (18) months following the date of their approval, unless an extension of up to one (1) additional year is granted by the Board of County Commissioners, upon submission of a written request for such extension by the applicant, prior to the expiration of the initial preliminary plan. Any preliminary plan submitted for a proposed subdivision for which the previous preliminary plan approval has expired shall be considered a new preliminary plan and shall require a new application and filing fee.

...

2.09.03 Final Plat/Final Submission

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Final plats shall be submitted to the Planning Commission for action within eighteen (18) months after the date that a preliminary plan for the same proposed development was granted approval by the Board of County Commissioners, except that one extension of up to an additional eighteen (18) months may be granted by the Board of County Commissioners upon the submission of a written request for such extension by the applicant prior to the expiration of the initial eighteen (18) month period. Failure to submit an acceptable final plat within this allowable time period or extension period, if granted, shall require that an applicant resubmit a preliminary plan with the appropriate filing fees and associated materials.

...

2.14 AMENDMENTS TO APPROVED AND RECORDED PLATS

The re-subdivision of land or substantial changes to a recorded plat shall be considered a subdivision or the subdivision of land and shall be subject to the subdivision and other applicable provisions of these regulations. Minor changes to an approved and recorded plat shall not be considered a subdivision of land within the intent and definitions of these regulations, so long as the minor changes are not undertaken for the purposes of circumventing these subdivision regulations and so long as the minor changes do not include modifications which significantly alter the intended land uses, density, number of lots, circulation system, dedicated land or encompass more than twenty-five (25) percent of the land included ~~within an overall site~~ within an approved and recorded subdivision. Specifically included within the scope of minor changes are the following actions: the adjustment and revision of lot lines, the re-platting of lots, the reconfiguration of dedicated streets and easements and reserved sites, along with similar minor changes to an approved and recorded plat, so long as the minor

changes create no nonconforming lots, create no new dedication of public land or right-of-way, nor significantly alter street and road locations, drainage easements or violate the subdivision design standards contained herein. If more than three new lots are created, Staff analysis of impact and recommendation on whether it should be an amendment or subdivision to PC for determination on how to treat the application.

Referral agencies: HOA/POAs, Utilities, Fire Dept, and other agencies reasonably expected to be impacted as determined by staff, Planning Commission or County Commissioners.

2.14.01 Procedures for Amendment

Process Summary:

1. If more than three new lots are created and no public right of way or other public space is dedicated, PC recommendation on whether to treat application as subdivision or plat amendment.
2. Full application submitted; Staff determines completeness, routes to relevant referral agencies and schedules public meeting/public hearing with PC and prepares staff report
3. PC public meeting and recommendation
4. BOCC public hearing/meeting and decision

Applicants wishing to amend an approved and recorded plat shall submit to the Planning ~~Commission~~ Department an application on a form supplied by the County, the appropriate submittal materials and the required filing fees. Applications to amend an approved and recorded plat shall be reviewed by the Planning Commission following the submission of the required materials. Upon closing the public meeting, the Planning Commission shall make a recommendation on the application for the amendment of an approved and recorded plat and transmit the application to the Board of County Commissioners for a decision. The Board of County Commissioners shall consider the application at a regularly scheduled meeting following, ~~at their discretion, the submission of the application to any appropriate review agencies and interested parties,~~ and the decision of the Board shall be recorded in the minutes of the meeting and transmitted in writing to the applicant. Applications that are denied by the Board of County Commissioners shall result in a statement to the applicant giving the reason for the denial.

2.14.02 Submission Requirements

Submission requirements for an application to amend an approved and recorded plat include a completed application, the appropriate filing fees, submittal requirements outlined in Section 8.03 and the following items:

- ~~1. Proof of ownership of the lot(s), parcel(s) or subdivision plat to be amended and evidence that the applicant, if not the owner, has full legal authority to act on behalf of the owner.~~
2. A copy of the previously approved and recorded final plat along with drawings done to the same scale as the recorded final plat indicating the amendment(s) proposed to be made to the approved and recorded plat. The drawings submitted with the recorded final plat shall meet all requirements for the preparation of a final plat and be suitable for recording in the office of the County Clerk and Recorder. The drawings shall also show the location of all structures, streets, rights-of-way and easements within the area of the proposed plat
3. A narrative statement as part of the letter of intent describing the proposed changes to the approved and recorded final plat and providing an explanation of why the proposed changes should be approved by the

Planning Commission and the Board of County Commissioners. Included with the narrative statement shall be the acreage or square footage of all lots before and after adjustment, a legal description of each lot ~~before and after adjustment~~ and a statement of the current zoning of all portions of the plat to be amended.

4. Applications for amendment of an approved and recorded plat submitted to correct minor surveying or drafting errors shall be accompanied by an affidavit by a Colorado licensed land surveyor attesting to the changes that have been made in the previously approved and recorded final plat.

5. The Planning Commission may, at its discretion and upon written request by an applicant, waive any but not all of these submission items listed above, and the Planning Commission may also, at its discretion, add such submission items as it deems necessary and appropriate to evaluate and recommend upon any application for a plat amendment submitted to it. The Planning Commission may also submit the application for review to such referral agencies and interested parties as it reasonably sees fit.

2.15 VACATION

2.15 VACATING OF APPROVED AND RECORDED PLATS, ROADS OR EASEMENTS

Applicants may apply for the vacating of any plat, road, easement or portion thereof so long as the plat, road, easement or portion thereof has been filed and recorded in the office of the Huerfano County Clerk and Recorder.

Process Summary:

1. Staff determines completeness, routes to relevant referral agencies and schedules & posts notices for public meeting /public hearing with PC and prepares staff report
2. Public notices and notices to referral agencies ~~sent~~
3. PC public hearing and recommendation
4. BOCC public meeting and decision.

2.15.01 _____ Procedures for Vacating Plats, Roads and Easements

1. Applications to vacate approved and recorded plats, roads, easements or portions thereof shall be accompanied by an application form provided by Huerfano County, by the appropriate submittal materials listed in Section 8.03 and 2.15.02. and by the necessary filing fees. Copies of the vacating submittal materials shall be submitted to the school district and any other special purpose districts in which the proposed vacating is located along with all utility companies and municipalities potentially affected by the proposed vacating. Additional referral agencies may be contacted ~~by~~ at the Planning Commission's ~~at its~~ discretion. All referral agencies shall be allowed a review period, or the extension period shall be deemed an approval by referral agencies, twenty-one (21) days from the receipt of the referral materials to report their findings and/or recommendations to the County, and an additional twenty-one (21) day extension period with the approval by a majority vote of the Planning Commission. Failure to respond within the original review period or the extension period shall be deemed a de facto approval by referral agencies.

2. At least ten (10) days prior to a ~~joint~~ public hearing scheduled before the Planning Commission ~~and the Board of County Commissioners~~ to consider a vacating application, a notice of the ~~joint~~ public hearing shall be published in a legal publication in Huerfano County. Publication of said notice(s) shall follow a form prescribed by the County and publication of the notice ~~is the responsibility of the applicant. In compliance with Huerfano County Resolution 78-33~~ in accordance with notification requirements outlined in Section 8.05 and 8.08, applicants shall be billed directly by the ~~newspaper publisher and shall submit proof of publication of the notice and proof of payment for publication with the Planning Commission before said hearing can take place~~ County for costs associated with noticing.

3. Notice: All listed owners of record of properties within 1,320 feet in the Agricultural Zone District, or of adjacent properties in other zones, as well as all identified mineral estate owners identified, shall be notified by certified mail and all registered addresses in the same radius shall be notified by regular mail at least ten (10) days prior to the scheduled hearing date and notice shall be posted in a newspaper of record at least ten (10) days prior to any public hearing. The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote. ~~At least ten (10) days prior to a joint public hearing scheduled before the Planning Commission and the Board of County Commissioners to consider a vacating application, a notice of the joint public hearing shall be published in a legal publication in Huerfano County. Publication of said notice(s) shall follow a form prescribed by the County and publication of the notice is the responsibility of the applicant. In compliance with Huerfano County Resolution 78-33, applicants shall be billed directly by the newspaper publisher and shall submit proof of publication of the notice and proof of payment for publication with the Planning Commission before said hearing can take place. Applicants will be billed by the county for costs associated with public noticing.~~

~~In addition, the applicant County shall also mail a written notice of said hearing(s) or meeting(s) by certified or registered mail, return receipt requested, at least ten (10) days prior to the Planning Commission hearing date to owners of record of all property adjacent to or within the property where the proposed vacating is located and to owners of record of all property located within five hundred (500) feet of the boundaries of the property in question. Pursuant to C.R.S. § 24-65.5-103 (2) (a) The applicant shall identify the mineral estate owners entitled to notice pursuant to this section by examining the records in the office of the County Tax Assessor and Clerk and Recorder. The notice shall include a vicinity map, a short narrative describing the proposed action and an announcement of the date, time and location of the scheduled hearing.~~

4. Applications for vacating shall be processed as a final submission except as otherwise provided for in this Section 2.15.

Applications for vacating may be initiated by the owner of record or duly authorized agent of any owner of record of any approved and recorded plat or easement. The Board of County Commissioners and the Huerfano County Planning Commission may also initiate a vacation of land.

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~~01. The Board of County Commissioners~~

~~02. The Huerfano County Planning Commission~~

~~03. The owner of record or duly authorized agent of any owner of record of any approved and recorded plat or easement.~~

5. The vacation of internal lot lines for the purpose of consolidating or merging parcels shall be processed administratively and shall not require a public hearing unless requested by the owner of an affected parcel and subject to procedures outlined in CRS 30-128-139. Any easements along vacated lot lines cannot be vacated administratively.

2.15.02 Submittal Requirements

Submittal requirements for an application to vacate an approved and recorded plat or easement shall include a completed application, the appropriate filing fees and the following items:

- ~~1. Proof of ownership of the property to be vacated and evidence that the applicant, if not the owner, has full legal authority to act on behalf of the owner.~~
2. A copy of the approved and recorded plat or easement and a vacated plat. Said plat shall be prepared as a final plat and shall be prepared by and have the seal of a registered land surveyor, duly registered to practice in the state of Colorado.
- ~~3. A narrative statement describing the proposed vacating action and providing an explanation of why the proposed vacating should be approved by the Planning Commission and the Board of County Commissioners. Included within the narrative should be a legal description of the land to be vacated and the area, in acreage or square feet, of the land in question.~~
4. The Planning Commission may, at its discretion and upon written request by an applicant, waive any but not all of the submittal requirements listed above and the Planning Commission may also, at its discretion, add such submittal items as it deems necessary and appropriate to evaluate and recommend upon any application for the vacating of a plat, right-of-way or easement.

3.05.01(7)

7. The construction, installation and repair of right-of-way openings for subsurface utilities require the issuance of a permit from Huerfano County, the posting of an appropriate bond, and evidence of adequate insurance. All applicants and excavators who, for any reason, cut, disturb or otherwise deface any County property being a public right-of-way for purposes of constructing, installing or repairing or for any other reason pertaining to the presence of an underground utility or structure shall comply with the terms and provisions of ~~BOCC Resolution No: 12-20, Section 19.00 of the Land Use Code~~, "Huerfano County Roadway Design and Construction Standards".

3.07 SUBMITTAL REQUIREMENTS FOR PROPOSED PUDS

Applications for a PUD approval shall include, in addition to a completed application on a form provided by Huerfano County and the appropriate filing fees, the following items. ~~Staff~~ The Planning Commission may, at its discretion and upon written application by an applicant, waive any but not all of these items. The Planning Commission may ~~also~~, by majority vote, add such submission items as it deems necessary and appropriate to evaluate and recommend upon any application for the issuance of a PUD approval.

3.08 PROCESSING PROCEDURES FOR SUBDIVISION AND NON-SUBDIVISION PUDS

Process Summary:

1. Staff determines completeness, routes to relevant referral agencies, schedules public meeting with PC and prepares staff report→
2. PC public meeting and recommendation
3. Schedule and post notices for BOCC public hearing
4. BOCC public hearing and decision

The review and processing procedures for non-subdivision PUD development plans shall be as specified in the County's Common Land-use Procedures and Requirements for Preliminary Submission, of these regulations. In the event that a conflict or inconsistency exists between the procedures and requirements contained the County's Common Land-use Procedures and in these regulations, the procedures contained herein in these PUD regulations shall prevail.

10.02 GENERAL PROVISIONS

10.02.01 Permit Requirements

It shall be unlawful to erect, construct, reconstruct, alter or remodel any building, structure or improvements of land within the unincorporated territory of Huerfano County, except as allowed for within Section R105 of the International Residential Code and Section 105 of the of the International Building Code, as have been adopted by Huerfano County.

10.02.02 Conditions for Permit Issuance

The County Building Inspector shall approve and issue building permits only if upon review of an application and submittal materials and upon site inspection, as required, the proposed building, structure, foundation or improvements are in full compliance with and not in conflict with or in violation of:

1. All applicable policies, requirements and other provisions contained within these Regulations.
2. The specifications and other provisions of all current Building, Plumbing, Fire and Mechanical codes adopted by the Board of County Commissioners or other governmental organizations authorized to adopt related laws, rules and regulations pertaining to Huerfano County.
3. All other such specifications and codes as are adopted in future by the Board of County Commissioners.

10.02.02.1 Posting of Permit

Upon issuance of a building permit, applicant must post a copy of the permit in a conspicuous location visible from the public right-of-way near the entrance to the property. The permit must remain posted and in such condition that all parts of the permit remain legible as long as the permit is active. Building permit on display must include a permit number, scope of work, expiration date and how to obtain more information.

11.03 FEE STRUCTURE

Comprehensive Plan or Text Amendment.....	\$200.00
<u>Sign Deposit – land use (refundable)</u>	<u>.....\$75</u>
<u>Sign Deposit – Building Permit (refundable)</u>	<u>.....\$45</u>
<u>Public Hearing Noticing.....</u>	<u>\$15 plus cost of certified letter for each property owner to be notified.</u>

Section 12 Submittal Copies

Repeal Section

14.04 SIGN PERMIT PROCEDURES

Applications for sign permit shall be made to the County Building Inspector who shall, except as specified otherwise herein, administer this sign code. Upon payment of the required application fee and the submission of the required application materials, the County Building Inspector shall decide, on the basis of the provisions contained herein, whether to issue a sign permit, whether to deny the permit.

Signs on CDOT roads will require both a County permit and a CDOT permit.

14.04.01 Submittal Requirements

Applications for a sign permit shall include, in addition to the application fee and an application on a form supplied by Huerfano County, a legibly done rendering, in ink, fully dimensioned, showing the sign message and a site plan showing the location, setbacks, height, construction materials and sign are of all proposed signs and sign alterations. ~~For signs not expressly included within the scope of this code, The Planning Commission will review the application at a public meeting and may, at its discretion, and by majority vote, require additional information for sign applications submitted to it for review.~~

14.04.02 Permit Issuance by the County Building Inspector

Sign permit applications meeting the requirements contained herein shall be approved by the County Building Inspector so long as such applications do not expressly require Planning Commission approval as described in 14.04.03.

Sign permit applications failing to meet the requirements contained herein shall be denied by the County Building Inspector.

14.04.03 Permit Appeal Review, ~~Denial and Issuance~~ by the Board of Adjustment ~~and the Planning Commission~~

Any person denied a sign permit by the County Building Inspector may seek a variance by appealing that decision to the Board of Adjustment within sixty (60) days of the denial. ~~The Planning Commission shall review all sign applications for signs not otherwise expressly included within the scope of this code. For sign code appeals and the applications brought before them, the board of Adjustment and the Planning Commission shall base their actions on the following criteria:~~

1. ~~That there exists a clear and reasonable need for the sign at the proposed location~~ That the location, character and other features of the proposed sign are consistent with the applicable provision of these regulations, or that the proposed sign poses no significant nuisance.
-
2. ~~That the type, style, size and other characteristics of the proposed sign are consistent with the character of the proposed location.~~ That the sign doesn't contain any profanity, vulgarity or hate speech or other non-protected speech.
3. ~~That the benefits that the sign would provide to residents of Huerfano County and the motoring public outweigh any esthetic or other negative impacts of the proposed sign.~~
4. ~~That the location, character and other features of the proposed sign are consistent with the applicable provision of these regulations~~3. That the proposed sign poses no significant nuisance.

~~—That the sign doesn't contain any profanity, vulgarity or hate speech or other non-protected speech.~~

Marijuana Conditional Use Permits 18.

Process Summary:

1. Staff determines completeness, routes to relevant referral agencies and schedules public meeting with PC and prepares staff report
2. PC public meeting and recommendation
3. Public Noticing
- ~~2.4. BOCC public hearing and decision~~

18.04.01 Time of application and operation.

18.04.01.01 Annual Compliance Reviews shall be performed by the Building Department Board of County Commissioners, or its designees, and no later than 30 days following the anniversary date of the issuance of a Commercial Building Permit.

18.04.02.03 When determined necessary by the Building Inspector, Commercial Marijuana Facilities shall be equipped with an automatic fire sprinkler system, meeting the commercial building standards adopted by Huerfano County at the time of construction.

~~Consider adding a county licensing process in addition to CUP process in order to improve ongoing oversight with annual renewal requirements.~~

18.06 FEES

18.06.01 Initial Review Fee: \$400, non-refundable.

Fee shall be paid when the application is submitted to the Land-Use Department.

18.06.02 Application Fee: \$1,300, non-refundable. Operating Fee: \$10,000 Fees shall be paid prior to the Planning Commission's completeness review. This operating fee shall be utilized by Huerfano County to cover any costs to the County associated with the review and enforcement of said Conditional Use Application or Permit. This fee may include, but shall not be limited to, outside review agencies, staff inspections & enforcement, and professional services. Staff expenses related to CUP and inspections not limited to those related to any actual or perceived violation. Subject to forfeiture in the event that the terms of the CUP are violated. Can be used to cover the cost of any fines assessed to CUP holder. Following the first or any subsequent annual compliance reviews, the Applicant may request a reimbursement of any unused operating fees.

Section 17.00

Definitions

Dwelling: A building designed to be used or used as the living quarters for one or more persons, families or housekeeping units, including modular homes but excluding mobile homes.

Dwelling unit: A building or portion thereof designed to be used or used as the living quarters for one person, family or housekeeping unit, including modular homes but excluding mobile homes.

Manufactured homes, qualified and non-qualified: A ~~single wide or double wide factory~~ manufactured home or otherwise a non-qualified manufactured home as defined herein.

1. ~~Double-wide~~Qualified manufactured home: A structure which is designed and used as a single family dwelling, as defined herein, and which is partially or entirely manufactured in a factory; ~~is not less than twenty-four feet in width and thirty-six feet in length;~~ meets all HUD building codes or building codes adopted by the County; is installed on an engineered, permanent perimeter foundation; and was constructed after 1992.

A non-qualified manufactured home as defined herein does not meet the requirements of a ~~double-wide~~ manufactured home.

2. ~~Single-wide~~ manufactured home: A structure which is designed to house a single family, and which: ~~is partially or entirely manufactured in a factory; is less than twenty-four feet in width; (iii) has brick, wood, or cosmetically equivalent siding and a pitched roof; can be installed on a permanent foundation, and was constructed after 1992.~~

~~A non-qualified manufactured home as defined in herein does not meet the requirements of a single-wide manufactured home.~~

3. Non-qualified manufactured home: A structure which is designed and used to house a single family, and which is partially or entirely manufactured in a factory, and is not attached to an engineered, permanent foundation or does not meet the requirements of ~~either a "single-wide manufactured home" or "double-wide"qualified~~ manufactured home" as defined herein.

4. Mobile home: A non-qualified manufactured home.

Single family dwelling: A building or structure or portion therein designed to be used as the living quarters for one person, family or housekeeping unit. In accordance with the provisions described in Sections 1.05 and 1.14 of these regulations, the term ~~double-wide~~qualified manufactured home shall meet and qualify for the definition of a "Single family dwelling."

Section 4.00 Flood Damage Prevention

Definitions

~~**MANUFACTURED HOME**—A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".~~

~~Section 7.01.10 Definitions~~

~~PP. "New communities" means the major revitalization of existing municipalities or the establishment of urbanized growth centers in unincorporated areas. New communities shall not include those established through the municipal annexation of unincorporated territory.~~



MEMORANDUM

MEETING TYPE: Work Session
MEETING DATE: 8/24/2023
ITEM NAME: Land Use Code Process Updates
SUBMITTED BY: Sky Tallman
SUMMARY:

Since the Planning Commission reviewed and sent recommended code changes to the BOCC for review, the BOCC has held several work sessions and made a number of revisions of the code. Below is a summary of some of the changes that have been made by the BOCC.

Before making a resolution to adopt changes, the BOCC would like the Planning Commission to have one more chance to review proposed changes and offer comments and recommendations prior to sending back to the BOCC for a public hearing.

Review notes

- Keep 600 sf minimum dwelling size with allowance for variance requests.

Issue: criteria for variance don't clearly cover requests for a variance to minimum square footage requirement.

Solution:

- Modify 9.02.02(4) to allow variances to be granted for reasons that are not related to conditions of the parcel.
- Add a section 9.02.04.1 to clarify criteria for granting a variance.
 - It would be the responsibility of the applicant to make a case that no harm is done, but it would be on the Board to justify a claim that an adverse impact is both likely and significant.
 - If someone wanted a variance to build a 500 sf house, I can't imagine any objective and valid rationale for denial. If it is about aesthetics, we must remember that we have no architectural guidance; in AA, someone can drop a conex with little ado, but not a 500 sf house.
 - It is not clear whether a person's income or financial means could be a 'peculiar and exceptional practical difficulty to or exceptional and undue hardship'. If a person is seeking to provide themselves with shelter and the cost of shelter is prohibitive due to

minimum dwelling size, can a hardship be deemed exceptional relative to a person's means?

- If affordability of establishing housing that meets min square footage on a parcel is cited as a hardship, is it a greater detriment to public good to permit a smaller house due to neighbor opposition based on property values or to deny someone the ability to get housing at a price they can afford? As it is written, variance should consider hardship to property owner.
- 8.06 (currently 1.18.02) requires that all letters in a public notice sign be 2" high. I would like to purchase signs for public noticing that are easier to transport and post than our current signs. The design I would like is something like the images below which contain in large, permanent print that it is a notice of public hearing, and on a protected sheet of paper attached to the sign would be the details specific to the hearing. Attaching a legal-size sheet to a sign would be a cost-effective way of reusing signs.
 - The signs we are using now weigh about 40 pounds and are difficult to move and mount. Code says that the applicant will post the sign, but the current signs do not fit in most people's cars and they take some time for us to prepare and set up, so we wind up posting them on properties.
 - Signs that are light-weight and quick to prepare could be given to applicants at the window and we could have them post their own signs.
- **Fee Schedule:** Add sign deposit and public hearing noticing costs.



**HUERFANO COUNTY
AMENDED AND RESTATED MARIJUANA LICENSING REGULATIONS**

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Part I. GENERAL PROVISIONS

Section 1.01 Title

These regulations shall be known and referred to as the "Huerfano County Marijuana Licensing Regulations" (referred to herein as "Regulations").

Section 1.02 Authority and Scope

Authority: These Regulations are adopted pursuant to Colorado Const., Art. XVIII, §16(5)(f); the Colorado Marijuana Code, C.R.S. §44-10-101, et seq. ("Colorado Marijuana Code"), including § C.R.S. §30-11-101(1)(e), (2); and C.R.S. §30-11-107(1)(i).

Establishment: These regulations were adopted pursuant to Resolution 22-__ by the Huerfano County Board of County Commissioners and they replace Section 18 of the Land Use Code covering conditional use permits for marijuana. Section 18 shall remain in effect for one year from the time of the effective date of this resolution for those operations for which Conditional Use Permits were in place at the time of adoption. This resolution, and not section 18 of the Land Use Code shall not govern applications for marijuana establishments received after the effective date for this resolution.

Jurisdiction: Conditional Use Permits for marijuana in place at the time of adoption of this code will expire one year from the adoption of this code, after which, holders of CUPs will be required to apply for a license. These Regulations apply only to the unincorporated areas of Huerfano County, Colorado.

Section 1.03 Purpose

1.03.1 The purposes of these Regulations are to:

- (1) Comply with the County's obligations under the Colorado Marijuana Code;
- (2) Require that "Marijuana Establishments" shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Marijuana Code;
- (3) Mitigate potential negative impacts that the Marijuana Establishments may cause on surrounding properties and persons;
- (4) Regulate the conduct of persons owning, operating, and using Marijuana Establishments to protect the public health, safety and welfare;
- (5) Establish a nondiscriminatory mechanism by which the County appropriately regulates the location and operation of Marijuana Establishments within the County.

1.03.2 By enacting these Regulations, Huerfano County does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of federal law.

Section 1.04 Definitions

1.04.1 Unless otherwise expressly provided, the definitions in the Colorado Marijuana Code, including the definitions in C.R.S. §44-10-103, shall apply in these Regulations with respect to Medical Marijuana Establishments and Retail Marijuana Establishments.

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

- (1) "*Authority*, "*Huerfano County Local Licensing Authority*" and "*Local Licensing Authority*" have the same meaning for the purposes of these Regulations.

(2) *"Colorado Marijuana Code"* means the Colorado Marijuana code, Article 10 of Title 44, CRS, and the state administrative regulations promulgated pursuant thereto.

(3) "Dual Operation" means a person who holds both a license to operate a Medical Marijuana Establishment and a license to operate a Retail Marijuana Establishment may operate both licenses in the same premises ("dual operation") provided the licensee meets the requirements of the Colorado Marijuana Code and this Chapter.

- (a) A Medical Marijuana Store licensee may also hold a Retail Marijuana Store license and operate a retail business operation on the same licensed premises provided that the licensee does not authorize patients under the age of 21 years to be on the premises. The licensee must post signage that clearly states: "You must be 21 years of age or older to enter this premises." The licensee may display both medical marijuana and retail marijuana on the same sale floor, provided the licensee maintains virtual separation of its inventory. A Medical Marijuana Store that authorizes medical marijuana patients under the age of 21 years to be on the premises cannot share its premises with a Retail Marijuana Establishment and the two shall maintain distinctly separate licensed premises.
- (b) A Medical Marijuana Cultivation Facility licensee may also hold a Retail Marijuana Cultivation Facility license and operate on the same premises. Persons operating dual medical and retail cultivation operations shall maintain virtual separation of the facilities, marijuana plants, and marijuana inventory.
- (c) A Medical Marijuana Products Manufacturer licensee may also hold a Retail Marijuana Products Manufacturer license on the same premises. Persons operating a Medical Marijuana Products Manufacturer facility and a Retail Marijuana Products Manufacturer facility shall maintain virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory.

(4) *"Good Cause"*, for purposes of refusing or denying a license issuance, renewal or transfer means:

- (a) The Licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, the Colorado Marijuana Code, or the state administrative regulations promulgated pursuant thereto, as applicable;
- (b) The Licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;
- (c)
- (d) The Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or
- (e)
- (f) The Licensed Premises have been inactive for at least one year.

(5) *"Licensed Premises"* means the premises specified in a license under these Regulations, which are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of the Colorado Marijuana Code, and these Regulations. "Licensed Premises" includes an off-premises storage facility owned, operated or used by the Licensee.

(6) *"Licensee"* means a person licensed pursuant to these Regulations.

(7) "Licensing Agent" means the person designed by the Board of County Commissioners to

process marijuana applications or, if no such person has been specifically designated, the Director of the Department of Planning and Development or his or her designee.

- (8) *"Location"* means a particular parcel of land that may be identified by an address or other descriptive means.
- (9) *"Medical Marijuana Establishment"* means a medical marijuana store, medical marijuana-infused products manufacturer, medical marijuana testing facility, and/or optional premises cultivation operation, each as defined in the Colorado Marijuana Code.
- (10) *"Owner"* means any person having a beneficial interest, as defined by the State Licensing Authority, in a Medical or a Retail Marijuana Establishment.
- (11) *"Premises"* means a distinctly identified, as required by the State Licensing Authority, and definite Location, which may include a building, a room, or any other definite contiguous area.
- (12) *"Residential Zone"* means a zone district intended primarily for residential uses that allows for lot sizes under 35-acres.
- (13) *"Retail Marijuana Establishment"* means a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturer and/or retail marijuana testing facility, each as defined in the Colorado Marijuana Code.
- (14) *"Sale"* or *"Seller"* includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under these Regulations, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any in for any consideration promised or obtained directly or indirectly.

Section 1.05 Adoption of Colorado Marijuana Code and State Administrative Regulations

1.05.1 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Marijuana Code, all of the provisions of the Colorado Marijuana Code, as they are amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Medical Marijuana Establishments and Retail Marijuana Establishments.

1.05.2 If there is a conflict between the provisions of these Regulations and the Colorado Marijuana Code, including with the state administrative regulations promulgated pursuant to them, respectively, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Section 1.06 Dual Operations

A person may operate a licensed Medical Marijuana Store, Optional Cultivation Facility or Medical Marijuana-infused Products Manufacturing Facility and any licensed Retail Marijuana Establishment at the same Location if the Local Licensing Authority determines that the operations will meet the requirements of these Regulations.

Section 1.07 Operation Limitations

Licensees shall be subject to the following additional operation limitations:

- (1) No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location.
- (2) Indoor Licensed Premises shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the Licensed Premises or at

any adjoining use or property.

(3) A medical marijuana store and retail marijuana store may be open for the sale of marijuana only between the hours of 8 a.m. to 12 a.m.

(4) No Marijuana Establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the Licensed Premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

1.08 Section 1.08 Location Criteria

No License may be issued to operate a Medical or Retail Marijuana Cultivation Facility in a Residential zone district, or operate a medical or retail marijuana store, manufacturing facility or testing facility as a "home occupation" under the Huerfano County Zoning Regulations.

1.08.1 When the Local Licensing Authority has reason for concern that an adjacent use may not be compatible with the proposed use, a statement of no opposition from adjacent property owners may be requested by certified mail to addresses listed with the Assessor, which shall include a description of the scope of the project to be licensed and information on where application materials can be found for review, and how to respond. If no response is received within 30-days, it shall be considered a de-facto statement of no opposition.

1.08.2 Proposed new cultivation facilities located within three miles (3) of a municipality boundary shall have an extraterritorial commercial water tap from said community. An approved contract with the municipality for said water tap must be included in the application at the time of the initial submittal or the application shall not be accepted. The water line must be permanently installed from the municipality to the facility prior to the issuing of a Certificate of Occupancy.

1.08.3 Any new cultivation facilities located more than three miles (3) of a municipality must demonstrate a physical, legal source of water approved by a Division 2 Engineer from the Colorado Division of Water Resources. Documentation of this requirement must be included in the application at the time of the initial submittal, or the application shall not be accepted.

1.08.4 All applications for commercial marijuana cultivation shall be sent to the Colorado Division of Water Resources, the appropriate Fire District, the Huerfano County Sheriff Department, and any other agency determined necessary by the Planning Commission for review. Any comments by these agencies should be returned to County Staff within twenty-one (21) days of receipt of the application.

1.08.5 No license for retail or medical marijuana stores will be issued within three (3) miles of a municipality boundary.

1.08.6 Retail or medical marijuana stores, testing facilities and infused products manufacturers not located in a Commercial or Industrial zoning district and not operating as a dual operation with a cultivation facility shall have a water supply provided by a municipal or communal water utility.

Section 1.09 County Reservations

- 1) Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Const. Art. XVIII, §16(5)(±), or CRS §44-10-104.
- 2) Adoption of these Regulations is not intended to waive or otherwise impair the County's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Part II. LOCAL LICENSING AUTHORITY

Section 2.01 Establishment of Local Licensing Authority

The Huerfano County Local Licensing Authority shall be the Huerfano County Board of Commissioners. The Chairman and Vice-chairman of the Board of County Commissioners shall be, respectively, the Chairman and Vice-chairman of the Local Licensing Authority.

Section 2.02 Clerk

The Huerfano County Clerk & Recorder, or his or her deputy delegated to serve as Clerk to the Huerfano County Board of Commissioners, shall be the Clerk to the Huerfano County Local Licensing Authority.

Section 2.03 Powers

The Local Licensing Authority shall have the powers described in the Colorado Marijuana Code, including to hear and determine at a public hearing any contested local license denial, any complaints against a Licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held. In the absence of the Chairman, the Vice-chairman may exercise the powers of the Local Licensing Authority.

Part III. LICENSES

Section 3.01 Medical Marijuana Licenses

The Huerfano County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Medical Marijuana Establishment pursuant to the Colorado Marijuana Code who fulfill the requirements for one of the following:

- (1) medical marijuana store;
- (2) optional premises cultivation operation;
- (3) medical marijuana-infused products manufacturer; and
- (4) medical marijuana testing facility.

Section 3.02 Retail Marijuana Licenses

The Huerfano County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Retail Marijuana Establishment pursuant to the Colorado Marijuana Code who fulfill the requirements for one the following:

- (1) retail marijuana store;
- (2) retail marijuana cultivation facility;
- (3) retail marijuana products manufacturing facility; and
- (4) retail marijuana testing facility.
- (5) Storage warehouse
- (6) Retail Marijuana Hospitality and Sales Business
- (7) Marijuana Hospitality Business

Section 3.03 Nature of Local License

3.03.1 A local license pursuant to these Regulations shall apply to and be valid for only a specific person or entity, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person or entity, a different Establishment, or different Premises except as provided by these Regulations.

3.03.2 Any license given hereunder does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production,

distribution or possession of marijuana.

Section 3.04 General Requirements

3.04.1 Any licenses issued under prior titles pursuant to this Chapter and the Colorado Marijuana Laws may continue to operate under the new license titles and any future changes to those titles shall have no impact on the requirements and restrictions for each license type.

3.04.2 A license provided and issued pursuant to this Chapter shall specify the date of issuance, the date of approval, the period of licensure, which shall be one year from the date of approval or, if the approval order has been extended by the Board, one year from the expiration of the initial approval, the name of the licensee and the premises licensed. The licensee shall, at all times, conspicuously post all licenses, diagrams, and security plans on the licensed premises pursuant hereto.

3.04.3 Rules by Licensing Agent. The Licensing Agent is authorized to make rules and publish forms and policy consistent with the intent and spirit of this Chapter concerning applications, the application process, the information required of applicants, the application procedures, reporting of changes, and the administration and procedures to be used and followed in the application process, hearings, and general license administration.

3.04.4 County Excise Tax: Pursuant to Huerfano County Board of County Commissioners’ Resolution 14-15 a local five percent (5%) excise tax on unprocessed commercial marijuana cultivation when unprocessed marijuana is first sold or transferred by a retail marijuana cultivation facility that has been approved by the Huerfano County voters. The excise tax is imposed upon the Facility Operator who shall pay the excise tax to the Huerfano County Treasurer upon the transferring of any commercial marijuana from said facility. Failure to complete with all provision of this resolution may result in revocation of the Conditional Use Permit.

Section 3.05 Annual New License Caps

For the purpose of preventing an administrative backlog and a saturation of the market, the County will accept a limited number of new license applications for medical and retail marijuana stores in the same calendar year. Should more than the stated cap on new applications be received in a calendar year, excess applications will be placed on a waitlist to be processed in the next calendar year. Waitlisted applications will be processed in the order they were received.

Facility Type	Cap on New Licenses/year
(1) medical marijuana store;	3
(2) retail marijuana store;	3

Section 3.06 Entitlements

No person shall have any entitlement or vested right to licensing under these Regulations.

Section 3.07 No local license required.

At this time, the county is not imposing separate local licensing requirements on individuals and entities for the following medical or retail marijuana licenses: testing facilities, marijuana transporters, marijuana research and development facilities, centralized distribution permits, or R&D co-location permits. The local licensing authority shall neither approve nor deny such license applications. For licensing purposes, such individuals and entities must only possess a valid and current license issued by the state licensing authority to operate in the county.

Part IV. LICENSES REQUIRED

Section 4.01 Unlawful Acts

4.01.1 For any business, establishment, facility or activity which is required by the Colorado Marijuana Code to have a state license, excepting a medical marijuana transporter or a retail marijuana transporter licensed under one of those codes, it is unlawful and a violation of these Regulations to operate in unincorporated Huerfano County without both a current state license and a current license issued by the Local Licensing Authority of the same type for the same activity at the same Location.

4.01.2 A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the Local Licensing Authority and State Licensing Authority and, when required by applicable law, their approval. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.

Section 4.02 Co-ordination of Local and State Licenses

4.02.1 If a state license is suspended or revoked by the State Licensing Authority, the Licensee shall immediately cease operation of the Marijuana Establishment in this County until the state license is re-instated during the term of a valid local license. The Local Licensing Authority may suspend or revoke the local license upon the denial, suspension or revocation of the associated state license.

4.02.2 Upon the surrender of a state license for a Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect.

4.02.3 A local license shall not become effective unless and until all necessary state licenses are in effect.

Section 4.03 Duration of Local Licenses

4.03.1 Except as provided in Section 4.03.2, any local license approved under these Regulations shall be valid for a period of one year from the date of issuance, or as otherwise stated on the license, unless sooner suspended, revoked, surrendered by the Licensee, or otherwise terminated. Notwithstanding the foregoing, the Local Licensing Authority may change the duration to no fewer than ten months and no more than fourteen months from the date of issuance to synchronize the license periods of the state and local licenses of the same type for the same activity at the same Location.

4.03.2 If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them, violates federal law, and such decision becomes final and unappealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

Section 4.04 License Contents

The licenses issued pursuant to these Regulations must specify the type of license, the name of the Licensee, the Premises licensed, the date of issuance, any conditions imposed by the licensing authority, and the date of expiration or the period the license is effective.

Part V. LICENSE APPLICATIONS

Section 5.01 Application Information

5.01.1 Applications for a local license shall be submitted by submitting a duplicate of the application form(s) submitted to the State Licensing Authority for a license of the same type for the same activity at the same Location, together with or including:

- (1) A complete and accurate list of all Owners, officers and others who own, manage, or are otherwise substantially associated with conducting the business or establishment such that an occupational license or registration is required pursuant to the Colorado Marijuana Code;
- (2) Identity of the owner of the Premises on which the Licensed Premises are to be located;
- (3) A site plan (interior) of the building(s) on the Premises being licensed;
- (4) A site plan of the Premises;
- (5) A vicinity map including properties within a 1,500-foot radius of the proposed facility.
- (6) A list of all other uses on the Premises and on properties within 500 feet;
- (7) The Waiver and Release of Liability and Agreement to Indemnify Huerfano County Form (substantially in the form in Appendix A to these regulations);
- (8) An Investigation Authorization and Authorization/Request to Release Information;
- (9) If the Premises are not owned by the applicant, a complete copy of the lease or other agreement by which the applicant has possession of the Premises, which must expressly state possession is for the purpose of operating the proposed Marijuana Establishment;
- (10) A copy of the most recent deed for the Premises (or the property of which the Premises are a part);
- (11) If the legal description of the Premises (or the property of which the Premises are a part) in the most recent deed is a metes and bounds description, a copy of the most recent, pre-September 1, 1972, deed for the Premises (or property of which the Premises are a part);
- (12) For applications for a renewal or transfer, verification that the State Licensing Authority issued a license of the same type for the same activity at the same Location for the previous term of the license sought to be renewed or transferred;
- (13) Verification of the State Licensing Authority having accepted the application to it, in the form submitted to the Local License Authority, as complete for processing;
- (14) An explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the applicant during the previous 12 months;
- (15) A description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the siteplans;
- (16) Plans for the interior of the licensed premises, or place of business in the case of business operators, shall include a detailed floor plan layout drawn to scale, which clearly reflects the uses, functions, and operations within each building. Plans to include ventilation of the facilities that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For all Marijuana Establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process;
- (17) An inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;
- (18) \$5,000 bond to the County to cover the late or non-payment of taxes.
- (19) The operation of the proposed establishment is generally consistent with local context and will not adversely affect the public health, safety, or welfare of the area;
- (20) For an establishment proposed in a Residential zone district, a demonstration that there is a desire among the owners and tenants within 200 ft of the property boundaries for

the establishment, as demonstrated by petitions, remonstrances, or otherwise; and
(21) Such other information as the Local Licensing Authority requires.

5.01.2 A site plan of the Premises will be scaled and show the following:

- (1) The scale used;
- (2) North arrow designating true north;
- (3) Property boundaries of the Premises, indicating front, rear and side lines;
- (4) Location of all proposed buildings/structures and existing buildings/structures that will remain, and notation of any phasing;
- (5) Locations and dimensions of all existing and proposed roads, on and adjacent to the Premises, driveways, easements, rights-of-way, existing and proposed utilities;
- (6) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);
- (7) Platted building envelope(s), if applicable;
- (8) Parking areas and spaces;
- (9) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;
- (10) Total acreage or square footage of the Premises; and
- (11) Total square footage of all buildings and total square footage of building footprints.
- (12) Drainage plan demonstrating on-site infiltration capacity for runoff from impermeable surfaces.

5.01.3 All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO₂ gas will be used in the cultivation and the location of the generation, use or storage shall be identified on the site plans.

5.01.4 The applicant shall provide complete and accurate information in the application.

5.01.5 The applicant must promptly update any of the information required of an application by this section 5.01 in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

5.01.6 By submitting a license application, the owner of the Premises and the applicant authorize (a) the Authority and its designee, (b) the Huerfano County Building, Planning, and Public Health & Environment Departments and other departments and agencies of the County, (c) in its jurisdiction, the relevant Fire District and its designee, and (e) the Huerfano County Sheriff and designees, to enter upon and inspect the Premises for the purposes of implementing these Regulations. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

5.01.07 All applications for licenses must be submitted electronically.

Section 5.02 Processing Applications

5.02.1 Applications shall be submitted to the Authority in care of the Huerfano County Land Use Department. The Land Use Department receives applications and determines compliance with Huerfano County building and zoning regulations. The Building Department also shall also conduct the post-approval inspections required by these Regulations as a condition of license approval.

5.02.2 Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the Authority

may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.

5.02.3 Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Land Use office will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes:

- (1) Assessor: For determination that assessment records and personal property schedules are current and complete.
- (2) Land Use Office: For determination of completeness of application, compliance with land use and other local regulations and with state regulations.
- (3) Finance Department: For determination of compliance with the County-Wide Retail Marijuana Excise Tax.
- (4) Public Health & Environment: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.
- (5) Treasurer: For determination of payment of property taxes on the Premises.
- (6) Any other County department deemed relevant in the circumstances: For determination of compliance with laws and regulations administered by it.
- (7) Huerfano County Sheriff: For investigation as requested by the Local Licensing Authority; for post-approval inspection of the Premises authorized by the Colorado Marijuana Code, except and to the extent the inspection is performed by the County Land Use Department.
- (8) Fire Chief for the fire protection district in which license is sought for its determination of Fire Code compliance.
- (9) Weed Manager: To conduct an initial conditions assessment of the site for cultivation facilities.
- (11.) County departments shall inspect the Premises as deemed appropriate or requested by the Local Licensing Authority to confirm compliance with building and equipment standards imposed by the Colorado Marijuana Code.

5.02.4 Referral agencies and departments must submit their written findings and conclusions to the County Land Use office no later than thirty days after the referral.

5.02.5 The Local Licensing Authority may request that the State Licensing Authority advise the Local Licensing Authority of any items the State Licensing Authority finds in its investigation that could result in the denial of the state license. If the Local Licensing Authority receives such information from the state, it shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the issues have been corrected and the applicant is eligible for a state license.

5.02.6 The Local Licensing Authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted.

5.02.7 The applicant is responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Colorado Marijuana Code.

An application not deemed complete within 90 days of the submittal date will be considered abandoned. No further action will be taken on the application

Part VI. APPROVAL CRITERIA

Section 6.01 Basic Criteria

Before approving a local license, the Authority shall determine that all of the following requirements have been met by the Applicant:

- (1) The appropriate application is complete and the full application, license and operating fees have been paid;
- (2) The Land Use Department has determined that the use is permitted at the Location of the Premises and the owner or operator has obtained any required approvals under the Huerfano County Land Use Regulations;
- (3) No zoning violations exist on the Premises;
- (4) All proposed signs meet the requirements of the Huerfano County Land Use Regulations;
- (5) All proposed lighting meets the Huerfano County Land Use Regulations;
- (6) Any structure in which a licensed use is located has been inspected by the Huerfano County Building Official, Building Inspector or designee, complies with all applicable Building Regulation provisions and these regulations, and all necessary building permits have been obtained;
- (7) The Premises complies with all applicable Land Use regulations including, but not limited to, driveway, grading, and setback regulations;
- (8) The Premises has all required well or water and sanitation system permits or is adequately served by public water and/or sewer;
- (9) Evidence of a legal and adequate water supply has been established;
- (10) The Premises is not subject to unresolved enforcement action by the Las Animas - Huerfano County Health Department; The Premises complies with the applicable Fire Code;
- (11) All personal property tax schedules related to the Premises are submitted timely and are complete;
- (12) All property taxes have been paid and no tax liens exist on the Premises;
- (13) All Huerfano County sales taxes have been timely reported and paid;
- (14) All Huerfano County retail marijuana cultivation facility excise taxes have been timely reported and paid;
- (15) The applicant and Premises are in compliance with all other applicable County regulations;
- (17) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and
- (18) The proposed Licensed Premises are located in a Location permitted by these Regulations.
- (19) Protests from nearby residents or HOA/POAs will be considered as a potential justification for denial.

Section 6.01.1 Additional Approval Criteria for Retail Marijuana Hospitality and Sales Business Licenses

- (1) Provide a safety plan that includes policies for preventing customers from driving under the influence and mitigating any other potential risks.
- (2) Provide ventilation in smoking areas to minimize exposure to second-hand smoke. Outdoor smoking or vaping areas must be at least 20 ft. from any adjacent property or use.

Section 6.02 Applicant Burden of Proof

The applicant bears the burden of proving it meets all licensing requirements.

Section 6.03 State License Must Be Issued First

Before a new local license may be issued, or a transfer of ownership is approved, the applicant must have been issued a state license of the same type for the same activity at the same Location,

or had the transfer of ownership approved by the state, as provided in the Colorado Marijuana Code. If the Local Licensing Authority determines it is impracticable to withhold action on an application which it would otherwise approve until a state license *is* issued, a local license may be issued - conditioned on the issuance of the state license - if it is demonstrated to the satisfaction of the Local Licensing Authority that the applicant is eligible to receive its state license of the same type for the same activity at the same Location based on information provided by the State Licensing Authority.

Section 6.04 Buildings Must Be Ready for Occupancy

No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy (and a certificate of occupancy issued, if applicable) with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and then only after inspection of the Premises has been made by the Local Licensing Authority or State Licensing Authority to determine that the applicant has complied with all submitted and approved plans, including any interior work.

Section 6.05 Conditional Approval of an Application

If the Local Licensing Authority approves an application with conditions, such conditional approval shall be valid for a maximum period of one year from the date of approval. If the conditions have not been completely satisfied within that time period, the approval expires, and the applicant must file a new application if it still desires a license under these Regulations.

6.05.1 Privileges of licensure not vested. An order of the Local Licensing Authority conditionally approving an application is not a license but only the right to obtain a license once certain conditions have been met. A conditionally approved applicant is not a licensee and may in no case exercise the privileges of licensure, including operating a licensed establishment, taking any other preliminary steps for which, a license is required, or transferring the conditional approval through a transfer of ownership.

6.05.2 Jurisdiction of Local Licensing Authority. A conditionally approved applicant is subject to the jurisdiction of the Licensing Agent and Board of County Commissioners and to investigation by Huerfano County, disciplinary actions before the Licensing Authority or Hearing Officer, and any other requirements or procedures imposed by law or by order of the Board. All rights conveyed through the Local Licensing Authority's approval or conditional approval may be suspended or revoked through the same procedure, and with the same effect, as a license.

6.05.3 Violations and Administrative Revocation. It shall be a violation of this section for a conditionally approved applicant to commit an act or omission, which, if committed by a licensee, would be a violation of any other provision of this Chapter or of the Colorado Marijuana Code. Additionally, the Local Licensing Authority may also, without finding a violation, administratively rescind an approval order and revoke all rights conferred thereby if it finds that a circumstance necessary to its approval has materially changed or ceased to exist. At any point prior to the issuance of the license, the Local Licensing Authority or the Licensing Agent, subject to approval by the Local Licensing Authority at its next meeting, may stay the issuance of a license if it reasonably appears that a conditionally approved applicant has violated or is being investigated for violating any provision of this Chapter or of the Colorado Marijuana Code, or if it reasonably appears that there are grounds to rescind the conditional approval order.

6.05.4 Conditional Approval Extensions. When any conditionally approved applicant requires an extension to complete an act required by its approval order, the Board may, unless this Chapter or the Colorado Marijuana Code require otherwise, provide a one-time extension of the term of the order if the applicant requesting the extension demonstrates that the delay at issue was reasonably justified, and the applicant is in compliance with the terms and conditions of the order, of this Chapter, and of the Colorado Marijuana Code. It is at the discretion of the Local Licensing Authority to determine if the facts establish a reasonable justification. This extension shall run from the date of expiration of the initial order for a period of one year. If the applicant does not comply within the period of the extension, then the order shall expire.

Section 6.06 Condition of Local License For Release of Huerfano County

It shall be a condition of all local licenses that the applicant/Licensee releases Huerfano County from liability to the applicant/Licensee and also agrees to indemnify, defend and hold harmless Huerfano County from liability arising from injuries and damages substantially in the form in Appendix A to these Regulations.

Part VII. ACTION ON APPLICATION; HEARINGS

Section 7.01 Action on Applications

7.01.1 The Local Licensing Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall deny any application that is not in full compliance with these Regulations. Except as otherwise provided in these Regulations, the Local Licensing Authority may take action administratively, without hearing, by its Chairman.

Section 7.02 Public Hearings and Public Notice

7.02.1 A public hearing shall be held to consider every new application for a license and transfer of a license to a new location, subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof. The Local Licensing Authority may opt to process applications for license renewals without a public hearing.

7.02.2 If a public hearing is held, it shall begin not less than ninety days after the date the complete application is submitted. The Authority shall post and publish public notice thereof not less than ten days before the hearing. The Authority shall give public notice by posting a sign in a conspicuous place on the license applicant's Premises for which a local license application has been made and by publication in a newspaper of general circulation in the County.

7.02.3 Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

7.02.4 Notice given by publication shall contain the same information as that required for signs.

Section 7.03 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the Local Licensing Authority shall make known its findings based on its investigation, in writing, to the applicant. If a public hearing has not already been set, the applicant may request a public hearing which request shall be granted unless the recommendation is for approval.

Section 7.04 License Findings

7.04.1 Before entering any decision approving, conditionally approving or denying the application, the Local Licensing Authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for operating the type of Marijuana Establishment

proposed.

7.04.2 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Colorado Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check: (i) if the State Licensing Authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority approves a license conditioned on the completion and successful review of the criminal background check by the State Licensing Authority.

Except for a license renewal application, the Licensing Agent shall not accept any application from a person the Licensing Agent knows to be under investigation or facing disciplinary action by Pueblo County or the Colorado Department of Revenue for a violation of this Chapter or state laws or regulations unless ordered to do so by the Pueblo County Liquor and Marijuana Licensing Board.

7.04.3 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a specific finding of fact as to whether the proposed Licensed Premises is located within any distance restrictions established pursuant to Section 1.09 of these Regulations.

Section 7.05 Decision on Application

7.05.1 The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.

Where reasonably necessary and otherwise consistent with the Colorado Marijuana Code and the provisions of this Chapter, the Local Licensing Authority may conditionally approve any application made under this Chapter and may also issue a conditional or stipulated license or place conditions on an existing license.

7.05.2 Within thirty days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Section 7.06 Notice of Decision

The Local Licensing Authority promptly shall notify the applicant and the State Licensing Authority of its decision. Notice to the applicant will be deemed given upon personal delivery or three calendar days after deposit in a depository of the US Postal Service, first class postage paid.

Section 7.07 Review of Local Licensing Authority Decision

7.07.1 If a license is conditionally approved or denied without a public hearing, the applicant may request a hearing by the Local Licensing Authority, by a writing delivered to it within twenty days after notice of the action has been given to the applicant.

7.07.2 If a license is conditionally approved or denied following a public hearing by the Local Licensing Authority, that decision shall be deemed final action and the applicant's sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part VIII. DUTIES OF LICENSEE

Section 8.01 Notice of Changes

8.01.1 Proposed Officer or Manager. A Licensee shall report in writing to the Local Licensing Authority, using the forms provided by the State Licensing Authority, the name, address, and date of birth of a proposed officer or corporate manager change thirty days prior to the change. The proposed officer or corporate manager must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before managing, or associating with the operation.

8.01.2 Change in Financial Interest. An Approved Business shall report each transfer or change of financial interest in the license to the Licensing Agent prior to any transfer or change. The Approved Business must also report to the Licensing Agent, within one day of discovering the same, any act, omission, or change in circumstance that could reasonably appear to result in the violation of any provision of this Chapter or of any other state or local law.

8.01.3 Change of Trade Name. A Licensee shall report in writing any change of trade name, before using it, to the Local Licensing Authority by submitting to the Local Licensing Authority a file stamped copy of the Statement of Trade Name of a Reporting Entity that was filed with the Secretary of State.

8.01.4 Modification of premises or Manufacturing Process. A Licensee shall report in writing any modification to premises or changes in its manufacturing processes from what was described in its approved application, or which could affect its ability to comply with the Approval Criteria in Part VI of these regulations at least 60 days prior to such changes taking place. The Local Licensing Authority shall decide whether such changes can be processed administratively, or if a public hearing will be required prior to approval.

Licensee must receive permission from the Local Licensing Authority to modify the licensed premises prior to making any changes or modifications to the licensed premises.

Section 8.02 Possession of Licensed Premises

8.02.1 At all times, a Licensee shall have possession of the Licensed Premises for which the License is issued by ownership, lease, or other written arrangement suited for possession of the Premises for the duration of the License. No application for a new license, for a change of location, or for a transfer of ownership shall be accepted unless the Licensing Agent receives sufficient proof that the Approved Business or applicant is in possession of the premises or will be entitled to possession of the premises for the entire period of the license.

1. Unless a condition of approval provides otherwise, an approved applicant must at all times after approval maintain possession of the premises to be licensed.
2. A licensee must maintain possession of its licensed premises at all times after licensure. Possession is a prerequisite of licensure and any loss of possession while licensed invalidates the license.

8.02.2 Loss of Possession Invalidates Licenses and Orders. Subject to subsection 8.02.4 below, if the Licensing Agent or his or her designee sustains a finding that a licensee or approved applicant has lost of possession of its licensed premises or its premises to be licensed, the corresponding license or approval order shall be rescinded and deemed invalid.

8.02.3 Showing Cause to Licensing Agent. In the event that it reasonably appears to the Licensing Agent, his or her designee, or the Code Enforcement Officer, or such similar position, that a licensee or approved applicant has lost possession of the licensed premises or premises to be licensed, then the same official may send a notice by certified mail requiring the Approved Business to show cause within 5 business days as to why the license should not be rescinded for loss of possession. The Approved Business shall show cause in writing to the Licensing Agent.

8.02.4 Stay of Rescission. If a finding of loss of possession is sustained, the Licensing Agent or his or her designee may stay the rescission of the license or approval order if the Approved Business demonstrates that: (1) the loss of possession of its licensed premises or premises to be licensed was the result of extraordinary circumstances beyond the control of a reasonably prudent business or approved applicant; and (2) the licensee or applicant will either regain possession of the premises within thirty days or secure possession of new and appropriate premises within thirty days. The Approved Business bears the burden of justifying a stay and of complying with any conditions of the stay. In addition, the Licensing Agent may stay the recession of any license or approval order if the Approved Business applied for a change of location prior to the loss of possession.

8.02.5 Effect of Rescission. The rescission of a license or approval order under this Section shall not constitute a violation of this Code, but nothing shall prevent the Marijuana Compliance Inspector from electing to seek a finding of a violation for loss of possession instead of seeking rescission under this Section.

Section 8.03 Reporting of Enforcement Action

A Licensee shall notify the Local Licensing Authority within four business days of any enforcement action commenced or taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the Licensee.

Section 8.04 Public Display

- A. The Licensee shall conspicuously display the local- and the state-issued licenses at all times on the Licensed Premises.
- B. All Retail Marijuana Establishments shall post a sign in a conspicuous location stating:
 - 1. IT IS ILLEGAL TO SELL OR TRANSFER MARIJUANA TO ANYONE UNDER THE AGE OF TWENTY-ONE.
 - 2. IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA TO ANOTHER STATE.
 - 3. THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW.

Section 8.05 On-site Access to Occupational Licenses and Registrations

All persons owning, managing, operating, employed by, working in or having access to restricted areas of a Licensed Premises of, any Licensee who are required by the Colorado Marijuana Code, to have occupational licenses and registrations must at all times have a valid license and/or registration from the State Licensing Authority. At all times when on the Licensed Premises, all such persons shall have on their person, and conspicuously display, their occupational licenses and registrations required by the State Licensing Authority.

Section 8.06 Condition of employing local labor

At a minimum fifty-one percent (51%) of a facility's annual payroll shall be attributable to employees or independent contractors permanently residing within Huerfano County. As a condition of approval the operator agrees to furnish the following annually on or before January 15 of each year:

- 1. A list of all employees and independent contractors that are permanent residents of Huerfano County, the percentage of payroll attributed to those residing in Huerfano County, and their local address.
- 2. Confirmation of residency for each employee listed above as a Huerfano County resident. Verification shall be made from the Huerfano County Clerk's Records for either vehicle or voter registration, or verification acceptable to the Code Enforcement Officer.

Section 8.07 Compliance with Laws

A Licensee shall at all times comply with and maintain the Licensed Premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations; Colo. Const. Art. XVIII, §§14 and 16, and the Colorado Marijuana Code; Huerfano County Building

and Land Use Regulations; Huerfano County public health regulations; applicable fire code; and all other state and local laws, rules and regulations applicable to the Establishment.

Any waiver of requirements pursuant to State laws or regulations issued by the State will not constitute a waiver of compliance requirements for local licensing purposes.

8.07.1 State Laws.

- (1) All applicants, licensees, or other persons subject to these regulations shall, at all times, be familiar with the requirements of this Chapter, of the Colorado Marijuana Laws, and of any application and reporting procedures set forth by the Licensing agent, including any updates or changes made to such requirements.
- (2) All applicants, licensees, or other person subject to these regulations shall, at all times, comply with all provisions of this Chapter, the Colorado Marijuana Laws, and any application or reporting procedures set forth by the Licensing Agent. Noncompliance with such laws or regulations and any violation under such laws or regulations constitutes a violation under this Chapter and shall be grounds to deny an application or for an enforcement action.
- (3) To the extent the state has adopted or adopts in the future any laws or rules stricter than or inconsistent with the provisions of this Chapter, those laws or regulations shall control.
- (4) To the extent the state has adopted or adopts in the future any laws or rules that require local licensing authority approval or the local licensing authority to opt-in, Pueblo County shall remain exempt from such changes unless and until the Board of County Commissioners approve the new law or rule.
- (5) Any waiver of requirements pursuant to State laws or regulations issued by the State will not constitute a waiver of compliance requirements for local licensing purposes pursuant to this Chapter, other Colorado Marijuana Laws, or other requirements under the Pueblo County Code.

Section 8.08 Notices of Changes in State License Status

A Licensee shall notify the Local Licensing Authority in writing if its state license of the same type for the same type of activity at the same Location as that issued by the Local Licensing Authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Huerfano County Land Use office within one business day of the action by the State Licensing Authority. The Licensee shall give a copy of a new or renewed state license to the Local Licensing Authority within four business days of its receipt from the state.

Section 8.09 Notices to Public Safety Agencies

8.09.1 Before commencing operation, a Licensee shall notify the local firefighting agency and Huerfano County Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Licensed Premises, the location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable.

8.09.2 Before commencing operation, a licensee also shall notify the local firefighting agency and Huerfano County Office of Emergency Management whether CO₂ or CO₂-generating is used on the Licensed Premises, the method and the location.

8.09.3 A licensee shall promptly, within no more than one week, notify its local firefighting agency and Huerfano County Office of Emergency Management of any changes in this information.

8.09.4 All notices under this Section 8.08 shall be in writing, with a copy sent to the Local Licensing Authority.

PARTIX. RENEWALS

Section 9.01 Time to Apply for Renewal License

9.01.1 A License is immediately invalid upon its expiration. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the Local Licensing Authority before its expiration, the Licensee may not operate after its expiration.

9.01.2 A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than thirty days before the date of expiration of the current license. A Licensee who files a complete renewal application and pays the requisite fees may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.

9.01.3 Notwithstanding the provisions of subsection 9.01.1 and 9.01.2, the Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the deadline for filing an application for renewal but the Local Licensing Authority shall not accept an application for renewal of a license filed more than ninety days after the date of its expiration. Reasonable grounds for waiving the renewal deadline must include that the Licensee lawfully may operate under its corresponding State license for the same activity at the same Location. A waiver will not be considered without filing a complete application and payment of all fees for renewal. Upon finding reasonable grounds exist for a waiver and its approval of an administrative extension of the expiring(ed) license, the Local Licensing Authority shall give written notice of the administrative extension. The renewal fee will be refunded if the administrative extension is not granted.

9.01.4 If a license has been administratively extended in writing, the Licensee may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.

9.01.5 The application for any renewal shall contain a duplicate of the application form(s) submitted to and accepted by the State Licensing Authority for the renewal of the license of the same type for the same activity at the same Location, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.

9.01.6 In the event a license is renewed after the expiration of the previous license, including by a late renewal application, the term of the renewed license shall run to the date one year following the date the previous license expired.

9.01.7 It is the obligation of the licensee to know all timing requirements under this Chapter and to submit their application on time. Nothing in this subsection shall give any licensee any claims to priority or exceptions for the application review process of the Local Licensing Authority.

Section 9.02 Action on Application for Renewal

Applications to renew a license shall be approved administratively by the Chairman of the Local Licensing Authority without public hearing unless the Licensee has had complaints filed against it, has a history of violations, there are allegations against the Licensee that could constitute Good Cause, or there are significant changes proposed to the licensed premises or operations that have potential impacts on the community, infrastructure or services, in which case a public hearing on the renewal application may be set. For purposes of this section, complaints include a recommendation by any referral department or agency to deny renewal.

9.02.01 The Licensing Agent or Local Licensing Authority may schedule a hearing on the application for renewal if it appears that one or more circumstances exist that may justify an adverse decision.

9.02.02 The Local Licensing Authority may refuse to renew a license if it finds one or more of the following:

- (1) The licensee or applicant has violated, does not meet, no longer meets, or has failed to comply with any of the terms, conditions, or provisions of this Chapter or of the Colorado Marijuana Laws;
- (2) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State Licensing Authority or of the Pueblo County Liquor and Marijuana Licensing Board as the Local Licensing Authority;
- (3) The licensed premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;
- (4) The Local Licensing Authority determines that the licensed premises have been inactive, without good cause, for a period of at least one year. It is the discretion of the Local Licensing Authority to determine whether a license has been active based upon the evidence and documentation submitted.

9.02.03 If the Local Licensing Authority finds after a hearing held pursuant to this section that there are grounds to refuse to renew, it may consider, except as otherwise required, the severity, frequency, and number of prior violations in deciding whether to refuse to renew the license.

9.02.04 If the Local Licensing Authority finds after a hearing held pursuant to this section that there has been a violation of a license condition, this Chapter or of the Colorado Marijuana Laws, the Local Licensing Authority has the discretion to apply a condition, fine, and/or suspension to the license in lieu of a refusal to renew the license. Any fines or suspensions shall be consistent with Section 5.12.100.H.

9.02.05 In the event that a hearing is scheduled, notice of such hearing shall be posted on the licensed premises for a period of 10 days prior to the hearing and the applicant shall be notified of such hearing at least 10 days prior to the hearing. Notification may be made electronically. No renewal application shall be denied without a hearing.

Section 9.03 Procedures for Action on Application

To the extent applicable, the provisions of Part VII shall govern processing and action on the application for renewal.

Section 9.04 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a renewal.

Part X. TRANSFERS

Section 10.01 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different Premises, or to a different Owner or Licensee, except in accordance with these Regulations. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Section 10.02 License Transfers Allowed

A Licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different Premises within unincorporated Huerfano County, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Colorado Marijuana Code.

Transfer of a license to a different premises shall require the same public noticing and public hearing requirements that would apply to a new application and outlined in Part VII.

Section 10.03 License Transfer Application

The application for any transfer shall contain a duplicate of the application form(s) submitted to and accepted by the State Licensing Authority for the transfer of the license, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority.

Section 10.04 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a transfer.

Section 10.05 Procedures; Action on Application

The Local Licensing Authority may hold a public hearing on the application to transfer. To the extent applicable, the provisions of Parts V and VII shall govern processing and action on the application for transfer.

Section 10.06 Period of Transferred License

Approval of the transfer of a license has no effect on the license expiration date. A transferred license will continue for the balance of the license term set forth in the license.

Part XI. ENFORCEMENT

Section 11.01 Inspection

11.01.1 The Local Licensing Authority shall have the rights of entry upon and into and inspection of the Premises and records of a Licensee to the fullest extent authorized by the Colorado Marijuana Code, and the state administrative regulations promulgated pursuant thereto.

11.01.2 The Local Licensing Authority or its designees shall at all times during the Licensee's business hours, during times of apparent activity, or upon request, be admitted to the Licensed Premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. The Local Licensing Authority may request to inspect during non-business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection.

Additionally, the County Weed Manager will have the right to inspect the property for noxious weeds at any time while a cultivation license is active. Upon the finding that any weeds need to be managed or remediated, such conditions may be added to the license by the Local

Section 11.02 Hearing; Suspension, Revocation of License

11.02.1 A license issued pursuant to these Regulations may be suspended or revoked by the Local Licensing Authority after a hearing for any of the following reasons:

- (1) Fraud, misrepresentation or a false statement of material fact contained in the license application;
- (2) A violation of any County, state or federal law or regulation with respect to the ownership or operation of the licensed Establishment or with respect to the Licensed Premises - other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64- including, without limiting the foregoing, the failure of a retail marijuana cultivation facility to timely report or timely pay its Huerfano County marijuana excise tax;
- (3) A violation of any of the terms and conditions of the license;
- (4) A violation of any of the provisions of these Regulations;
- (5) The corresponding state license has been suspended or revoked by the State Licensing Authority; or
- (6) The Licensed Premises have been inactive or have not carried out any of those activities for which the license was issued for at least one year.

11.02.2 A Licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing;

11.02.3 Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The Licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.

11.02.4 If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the Licensee, but standing alone establishes that the Licensee has engaged in a different violation of Section 11.02.1, these Regulations, the Colorado Marijuana Code, or an order of a state or local licensing authority, the Licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the Licensee, the Licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.

11.02.5.1 In deciding whether a license should be fined, suspended, or revoked in accordance with this section, and in deciding what conditions to impose in the event of a suspension, if any, the Local Licensing Authority shall consider:

- (1) The nature and seriousness of the violation;
- (2) Corrective action, if any, taken by the licensee;
- (3) Prior violation(s), if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
- (4) The likelihood of reoccurrence;
- (5) All circumstances surrounding the violation;
- (6) Whether the violation was willful;
- (7) The length of time the license has been held by the licensee;
- (8) The number of violations by the licensee within the applicable twelve-month period;
- (9) Previous sanctions, if any, imposed against the licensee;
- (10) Whether the licensee has a responsible vendor designation;
- (11) Whether the licensee supports other local businesses including without limitation the display of local art or use of local ancillary businesses;

- (12) Whether the licensee has contributed to or been involved in a charitable giving program; and
- (13) Any other factor making the situation with respect to the licensee or the licensed premises unique.

11.02.6 Notice of suspension or revocation shall be given by mailing the same in writing to the licensee at the licensee's last address of record with the Local Licensing Authority.

11.02.7 Any recommended stipulations or agreements between the licensee and the Local Licensing Authority shall be presented to the Local Licensing Authority at the hearing. The Local Licensing Authority in its discretion may:

- a) Accept such stipulation or agreement and dispense with the hearing;
- b) Allow limited testimony and evidence and, based thereon, accept such stipulation or agreement without a full hearing, or
- c) Reject the stipulation and require a full hearing.

11.02.7.1 Stipulations regarding violations of these Regulations may be executed by the Pueblo County Land use and Marijuana Compliance Inspector and a Licensee consistent with the following:

11.02.7.2 The Inspector may make determinations regarding the type of sanction to impose based upon the severity of the violation and in conformance with the following categories of violations:

- (1) License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the Local Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include license suspension, a fine per individual violations of up to \$1000.00 for each separate violation, and/or a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
- (2) License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate or potential negative impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient or consumer safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the Inventory Tracking System. The range of penalties for this category of violation may include license suspension, a fine per individual violation of up to \$5000 for each separate violation, and/or a fine in lieu of suspension of up to \$50,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
- (3) License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system, possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failure to report any transfer marijuana where reporting is required by Colorado law, knowingly adulterating or altering or attempting to adulterate or alter any Samples of Regulated Marijuana, violations related to co-located Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with State or Local License Authority investigators during the course of inspections or investigations, failure to comply with any requirement related to the Transfer of Sampling Units, violations directly targeting minors, or packaging or labeling violations that directly impact patient or consumer safety. Violations of this nature generally have an immediate or potential negative impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per

individual violation of up to \$10,000 for each separate violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

11.02.8.2 In no event shall the Inspector enter into stipulations under this subsection with a Licensee more than 3 times within a one-year period.

11.02.8.3. Nothing in this subsection shall preclude the Inspector from requesting that the Local Licensing Authority consider any alleged violation of this Chapter.

11.02.8 Requests to pay a fine in lieu of serving a suspension period shall be heard by the Local Licensing Authority before the suspension period is set to begin. Decisions regarding whether or not to approve requests to pay a fine in lieu of serving a suspension are within the discretion of the Local Licensing Authority.

11.02.9 The remedies provided in this section are in addition to any other remedy provided by applicable law.

11.02.5 The burden of proof is preponderance of the evidence and shall be on the person, department or agency alleging that grounds exist for suspension or revocation of the license.

11.02.6 Any decision made by the Local Licensing Authority pursuant to this Section 11.02 shall constitute the final decision of the County, is effective immediately, and may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

11.02.7 No fee previously paid by a Licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Section 11.03 These Enforcement Provisions are not Exclusive

In addition to all other remedies available to the County under these Regulations or by other law, including the Colorado Marijuana Code, the operation of a Marijuana Establishment without a valid license issued pursuant to these Regulations may be enjoined by the County in an action brought in a court of competent jurisdiction.

Section 11.04 Deference to State Licensing Authority

The Authority may defer to the state to enforce compliance with the requirements in the Colorado Marijuana Code.

PARTXII. FEES

Section 12.01 Fees Set by Resolution

The Board of County Commissioners may revise application, license and operating fees by resolution. Fees shall be set with the objective of fully offsetting the cost to the County of administering these Regulations.

Section 12.02 No Refund of Fees

No fee will be refunded in whole or part even if: the application is withdrawn; the license is denied, transferred, revoked, surrendered, suspended or otherwise is not valid for a full year; or the Establishment ceases or never commences operations before expiration or other termination of the license or its approval.

Section 12.03 Fees Application fees and all other fees necessary for the administration, regulation,

and implementation of this Chapter are as follows:

Initial Operating Fee for any type of license:	\$2,000.00
Administrative Fee for a transfer or change of financial interest of any type of license:	\$200.00
Administrative Fee for a complete transfer of ownership or change of location:	\$1,000.00
Operating Fee for renewal of any type of license:	\$1,000.00
Administrative Fee for modification of premises:	\$250.00
Late Fee for renewal of any type of license:	\$500.00
Post-expiration Late Fee for renewal of any license:	\$1,000.00

Section 12.04 Retail Marijuana Establishments - Application Fees

Application fees for Retail Marijuana Establishment licenses are determined by the Colorado Marijuana Code and collected by the State Licensing Authority.

Section 12.06 Operating Fees

Initial operating fees and operating fees cover the costs of administering and enforcing these regulations; upon renewal of any type of license are established in the fee schedule in Section 12.03 and are due upon application for license or renewal.

No operating fee is due for any Retail Marijuana Establishment license that is being converted from a Medical Marijuana Establishment license, which means the Licensee surrenders the medical marijuana license when the retail marijuana license is issued.

If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license, including a transfer or renewal, the cost of the consultant shall be charged to the applicant as an additional operating fee. Once the estimate is established, the Local Licensing Authority shall notify the applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Authority that the fee is not sufficient to cover all consulting costs associated with the application. If the Authority so determines, it shall notify the applicant in writing of the amount of the increase. Not later than ten days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.

Section 12.07 Late Filing Penalty

If a complete application for a renewal of any type of license is not submitted until after the renewal application deadline, the renewal application must be accompanied by a late renewal penalty of \$500.00. If a complete application for a renewal license is not submitted until after the expiration of a license, the renewal application must be accompanied by a late renewal penalty of \$1000.00.

Section 12.08 Payment of Fees

All fees are due and must be paid before a license of any type will be issued or effective.

APPENDIX A

WAIVER AND RELEASE OF LIABILITY
AND
AGREEMENT TO INDEMNIFY HUERFANO COUNTY

Release of Huerfano County From Liability to License Applicant and Licensee

By applying for a license pursuant to the Colorado Marijuana Code (CRS §44-10-101, et seq.) and (if it is approved and issued) by accepting a license, from the Huerfano County Board of County Commissioners acting as the Huerfano County Local Licensing Authority, the applicant/licensee, and each of them, waives and releases Huerfano County, and its elected officials, employees, agents, insurers and attorneys, and each of them, from any liability for injuries, damages, costs and expenses of any nature whatsoever that result or relate to the investigation, arrest or prosecution of business owners, operators, employees, clients or customers of the applicant/licensee for a violation of state or federal laws, rules or regulations relating to marijuana.

Agreement to Indemnify Huerfano County

By applying for a license pursuant to the Colorado Marijuana Code (CRS §44-10-101, et seq.) and (if it is approved and issued) by accepting a license, from the Huerfano County Board of County Commissioners acting as the Huerfano County Local Licensing Authority, the applicant/licensee, and each of them, jointly and severally if more than one, agrees to indemnify, defend and hold harmless Huerfano County, and its elected officials, employees, agents, insurers and attorneys, and each of them, against all liability, claims and demands, of any nature whatsoever, including, but not limited to, those arising from bodily injury, sickness, disease, death, property loss and property damage, arising out of or in any manner related to the operation of the medical marijuana business that is the subject of the license.

THE UNDERSIGNED AGREES TO THE RELEASE AND AGREEMENT ABOVE.

Signed on _____

Applicant _____
STATE OF _____ COUNTY OF _____,

The foregoing instrument was acknowledged before me this ____ day of _____, 20 ____
by _____ in their capacity as _____

SEAL

Notary Public _____

My Commission Expires: _____



MEMORANDUM

MEETING TYPE: Work Session
MEETING DATE: 8/24/2023
ITEM NAME: Marijuana Licensing
SUBMITTED BY: Sky Tallman

SUMMARY:

Points of interest:

- 1.08.5 – include hospitality and sales businesses in exclusion from 3-mile planning area? In this draft, only retail or medical marijuana stores excluded, primarily to avoid creating competition with in-town businesses. Hospitality was not included here since it is not currently permitted in the City or Town.
- 1.08.2 requires Cultivation facilities within 3-miles of a municipal boundary to have extraterritorial water tap. 1.08.3 requires cultivation facilities beyond 3-miles to demonstrate a legal source of water.
 - Would it be better to remove 1.08.2 and simply require all cultivation facilities to show a legal source of water, without anticipating that the City or Town will be willing or able to extend an extraterritorial tap 3-miles in any direction?
- 3.02 Allowing for Marijuana Hospitality Business licenses. These licenses allow for on-site consumption, but not sales. Hospitality Licenses without sales: MED provides a list of licensees holding this license type. They include:
 - Cannabis tours – tour guides that bring visitors to various marijuana facilities or offer events at which marijuana may be used.
 - social clubs and lounges – membership based (daily, weekly, monthly memberships)
 - A “cannabis-friendly ride service” and a party bus.
 - A consumption lounge serving coffee, pastries, clothing, accessories, CBD products, and art located next to a dispensary. Also hosts events, rents out conference rooms.
 - Several businesses offer painting classes.

- If marijuana is consumed on site but not sold on site, what sort of liability does the operator assume? What sort of risk does it pose to County or patrons?
 - How would this apply to AirBnBs, hotels, etc.?
 - Does it allow indoor smoking? – HB19-1230 makes smoking marijuana in hospitality spaces an exception to the “Colorado Clean Indoors Act.” Denver does allow for indoor smoking and requires compliance with odor control plan.
 - 1.07 (1) states: "No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location." Should this be amended to allow for a hospitality non-sales business to operate something like a party bus or ride service?
- 3.04.5 County excise tax: how will hospitality and retail be taxed? Same as non-marijuana businesses? Currently excise tax written in only applies to the first sale of unprocessed commercial cultivation. Can it also be applied to retail?
 - 5.01 (20) Establishment in a residential zone (defined as a zone intended primarily for residential uses that allows lot sizes under 35-acres), support from neighbors within 200 ft.
 - 6.01.1 Additional approval criteria for marijuana hospitality businesses -- I included these two criteria, but these were not taken from other codes. Are these reasonable criteria?
 - (1) Provide a safety plan that includes policies for preventing customers from driving under the influence and mitigating any other potential risks.
 - (2) Provide ventilation in smoking areas to minimize exposure to second-hand smoke. Outdoor smoking or vaping areas must be at least 20 ft. from any adjacent property or use.
 - 8.01 Notice required 30-days prior to change of ownership? Pueblo requires notification 10 days after an owner or officer ceases to manage, own, or otherwise be associated with the operation.
 - 12.03 Fees:
 - Pueblo County assesses operating fees for medical and retail, but doesn't charge an “application fee” because this is collected by the State.
 - Pueblo County has a tiered fee structure for cultivation licenses with higher annual fees for higher tiered (larger) cultivation facilities.
 - Should fee structure be the same for all marijuana licenses or should retail, cultivation and hospitality each have their own fee structures?

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SANDY'S REVISION 7/27/2023 12:51 PM 7/21/2023 12:20 PM

7.01 INTRODUCTION

7.01.01 Short Title

These regulations may be cited as the "Huerfano County Regulations for Areas and Activities of State Interest" or the "Huerfano County 1041 Regulations" or "these Regulations."

7.01.02 Purposes and Intent

A. The general purpose of these regulations is to facilitate the identification, designation, and regulation of areas or activities of state interest consistent with applicable statutory requirements and **criteria**¹ set forth in Section 24-65.1-101 et seq, C.R.S.

B. The specific purposes and intent are as follows:

- 1) To encourage planned and orderly, efficient, economical land use development;
- 2) Provide for the preservation of agriculture, forestry, industry, business, residential communities, and recreation in future growth;
- 3) Encourage uses of land and natural resources per their character and adaptability;
- 4) **Conserve** soil, **water** and forest resources;
- 5) Protect the beauty of the landscape;
- 6) Promote efficient and economical use of public resources;
- 7) Regulate projects that would otherwise cause excessive noise, **water, and/or air pollution**, or which would otherwise degrade or threaten the existing environmental quality within the County.
- 8) Ensure that **new domestic water and sewage treatment systems** shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic **water** and sewage treatment systems of adjacent communities.
- 9) Ensure that major **extensions of domestic water and sewage treatment systems** shall be permitted only in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
- 10) Require that **water development and use projects** shall emphasize the most efficient use of **water**, including, to the extent permissible under existing law, the recycling and reuse of **water**, and preservation of associated resources impacted by such projects.

¹ Per C.R.S. 24-65.1-402(3) the requirements in the County's regulations may be more stringent than the criteria contained in the statute's §§ 203 [areas of state interest] and 204 [activities of state interest].

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- 11) Ensure that urban development, population densities, and site layout and design of **storm water and sanitation systems** shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
- 12) Ensure that major facilities of public utilities are located to avoid direct conflict with adopted County land use plans, and otherwise serve the stated purposes of these regulations.
- 13) Provide that areas containing, or having a significant impact on, historical, natural, or archaeological resources of statewide importance are developed so as to be compatible with and not destructive to the historical, natural, and archaeological value of such resources.
- 14) Ensure that the site selection and development of new communities will not overload the facilities or services of existing communities of the region and will conform to the Huerfano County Comprehensive Plan and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.²
- 15) Ensure that development in natural hazard areas minimizes significant hazards to public health or safety or to property or the environment.
- 16) Provide protection of lands within the County from activities which would cause immediate or foreseeable material impacts to significant wildlife habitat or endanger wildlife species, both flora and fauna, or adverse socio-economic impacts;
- 17) Provide preservation of areas of historical and archeological importance;
- 18) Regulate the use of land on the basis of the impact thereof on the community or surrounding areas;
- 19) Ensure that development involving all areas and activities designated hereunder is consistent with these regulations, the Huerfano County Comprehensive Plan, and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity. **[Is this too duplicative of 14), above]**
- 20) Protect the public health, safety, welfare and the environmental **integrity of the County.**

7.01.03 Findings

The Board of County Commissioners finds that:

- A. All applicable notice and public hearing requirements have been followed;
- B. Based on duly noticed public hearings the Board has considered the current and foreseeable development pressures, and the applicable guidelines for designation issued by applicable state agencies; and
- C. These regulations are necessary because of the current and foreseeable development pressures on and within the County; and

² **NEED TO STAIGHTEN OUT THE OVERLAP AND DUPLICATION BETWEEN 14 & 19**

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D. These regulations are necessary to fulfill the purposes and intentions specified in Section 7.01.02, above.

7.01.04 Authority

These regulations are authorized by C.R.S. 24-65.1-101, et seq., and C.R.S. 29-20-101, et seq., These regulations are necessary for the preservation of the public health, safety and welfare.

7.01.05 Applicability

These regulations shall apply to all proceedings concerning the identification and designation of areas and activities of state interest, and the control of development in any area of state interest or the conduct of any activity of state interest, and regulation of the associated use of land pursuant to the authorities cited herein, which has been or may hereafter be designated by the Board of County Commissioners in the unincorporated areas of Huerfano County, whether on public or private land.

7.01.06 Relationship with Other Requirements

A. Where these regulations overlap with the County's requirements for zoning ~~special~~ **conditional** use approval, Subdivision Regulations or subdivision exemption or exemption plat review, or for Comprehensive Plan location and extent review pursuant to C.R.S. 30-28-110(1) these regulations shall control³, and a separate review process under conditional use review, zoning, subdivision regulations or subdivision exemption, or location and extent review shall not be required, unless expressly stated to the contrary in these regulations. Where these regulations overlap with other applicable County requirements, including but not necessarily limited floodplain regulations, all applicable regulations shall be followed and all required County permits or approvals shall be obtained.

B. Review or approval of a project by a federal or state agency or other authority does not preclude, and will not substitute for, the need to obtain a permit for that project under these regulations for impacts ancillary to such federal or state agency or other authority approvals, and subject to these regulations. However, where in the opinion of the Board of County Commissioners, federal or state review and approval processes adequately address the impacts that these regulations are designed to address, the County may agree to rely on that review and approval, and issue the applicable permit on that basis, in the Board of County Commissioners sole and reasonable discretion.

C. In the event these Guidelines and Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.

D. In the event these Guidelines and Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202 and 24-65.1-240, C.R.S., these regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.

E. These Guidelines and Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the County of Huerfano.

³ Sky, your thoughts? Should 1041 control over other regs as per 7.01.06.A?

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7.01.07 Maps⁴

The following maps are hereby incorporated into this Article by this reference, for the purpose of specifying or aiding in the identification of the boundaries of the adopted area of state interest with which each map is associated. To the extent any map identified below has not otherwise been officially adopted, it shall be considered to be officially adopted for purposes of administering these regulations by virtue of its inclusion in this Section 7.01.07.

- A. Exhibit A: The Official flood hazard area map for unincorporated Huerfano County, Colorado. Approved and adopted on July 26, 2011, by the Board of County Commissioners. All areas of Unincorporated Huerfano County not designated on this map must meet the requirement of the Flood Damage Prevention Resolution No: 88-13 adopted by the Board of County Commissioners on 31, August 1988.
- B. A map of areas of Huerfano County presently under **irrigation (map⁵ not available at time of adoption)**.
- C. Significant wildlife habitat areas (map not available at time of adoption)⁶

7.01.08 Duties of the Board of County Commissioners

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners to perform all functions pertaining to matters of state interest or otherwise pertaining to the regulation of the use of land as set forth in these regulations. The Board shall also be generally empowered to hear appeals from any person aggrieved by any decision of the County Staff made in the course of administering these regulations.

7.01.09 Severability

If any section, clause, provision, or portion of these regulations should be found unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby and are hereby declared to be necessary for the public health, safety, and welfare.

7.01.10 Definitions⁷

- A. "Applicant" means any person or entity applying for a permit under these regulations.

⁴ **Do we have these maps?**

⁵ **I'm aware of only one map of irrigated land. It is in the 1970s study by HCWCD' consultant. Measurement of irrigated land has been made a couple of times in the development of the Colorado Water Plan. We should check to see if those maps are available. I do have, for various years, the number of irrigated acres in the County. They are declining. Available through DWR**

⁶ **Available through CPW – maps exist for individual species, not clear if there is a map of generally significant habitat areas.**

⁷ **Do we want to define and address "Alluvial Fans" as in the Paradise Acres context?**

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B. "Aquifer Recharge Area" means any area where surface **waters** may infiltrate to a **water**-bearing stratum of permeable rock, sand, or gravel. This definition also includes wells used for disposal of **wastewater** or other toxic pollutants.⁸

C. "Area around a Key Facility" means an area immediately and directly affected by a key facility.

D. "Area of Special Flood Hazard" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

E. "Aspect" means the cardinal direction the land surface faces, characterized by north-facing slopes generally having heavier vegetation cover.

F. "Board of County Commissioners" or "the Board" or "BOCC" means the Board of County Commissioners of the County of Huerfano, State of Colorado.

G. "Change of **Water** Rights" means the activity of seeking administrative or judicial approval for the temporary or permanent use of **water** and **water** rights historically utilized in Huerfano County for uses or for use in other places than such **water** rights have been vested and decreed, as part of a municipal or industrial **water** project.

H. "Corrosive soil" means soil that contains soluble salts that may produce serious detrimental effects in concrete, metal, or other substances that are in contact with such soil.

I. "Debris-fan floodplain" means a floodplain that is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.

I.1 "Desiccated water rights" mean those irrigation water rights for which the historic consumptive use has dramatically declined over the years to very little or none.⁹

J. "Designation" means that legal procedure for designating areas or activities of state interest specified by 24-65.1-101, et seq., C.R.S., to be carried out by the Board of County Commissioners.

K. "Developer" means any person engaging or proposing to engage in development in an area of state interest or in conduct of an activity of state interest designated or proposed to be designated under these regulations.

L. "Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs but excludes any construction, activity, or use exempted from the County's permit process pursuant to this Article or under State Law.

M. "Domestic **water** or sewage treatment system" or "system" means a major domestic **water** or sewage treatment system, and includes **wastewater** treatment plants, **water** supply systems, and **water** treatment plants, more specifically defined as follows:

⁸ [Are these areas defined? Do we have maps?](#)

⁹ [Need provision at pp 16-18 making an activity of state interest the plumping up of desiccated water rights.](#)

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- 1) "Wastewater treatment plant" is the facility or group of units used for the treatment of industrial or domestic wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters.
- 2) "Water supply system" means the system of pipes, structures, and facilities through which a water supply is obtained, treated, and sold or distributed for human consumption or household use, if such system has at least **fifteen service connections** or regularly serves at least **twenty-five individuals**.¹⁰
- 3) "Water treatment plant" means the facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water

N. "Dry Up" means that activity which removes historically irrigated acreage from irrigation and results in a cessation of application of irrigation water and a subsequent "dry-up" of said historically irrigated acreage for purposes of placing water and water rights historically utilized for irrigation to other uses, or to similar uses in other places.

O. "Dry wash channel and dry wash floodplain" means a small watershed with a very high percentage of runoff after torrential rainfall.

P. "Efficient use of water" means the employment of methods, procedures, controls, and techniques to ensure the amount of water and the purpose for which water is used in the County will yield the greatest benefit to the greatest number of people. Such benefits will include but are not limited to economic, social, aesthetic, environmental, and recreational. **[Do we want to introduce "maximum utilization?"]¹¹**

Q. "Enclave" means an unincorporated area of land entirely contained within the outer boundaries of a municipality, provided that not more than 30 percent of the enclave is surrounded solely by annexed right-of-way.

R. "Expansive soil and rock" means soil and rock which contains clay and which expands to a significant degree upon wetting and shrinks upon drying.

S. "Extension" means a major extension and is an increase in hydraulic capacity, an upgrade in treatment or transmission capability, an increase in facility size, or a replacement of an existing facility in a new or altered location.

¹⁰ **Sky, do you feel these values remain appropriate? – I think they could be a little higher. 15 service connections does not seem significant enough to be an issue of statewide concern. Maybe 50. Individuals is a more problematic measurement because that changes over time or by season – a household or a tap is a more objective measurement.**

¹¹ **How would a maximum be determined? How many gallons of water to be used per pound of crop? Gallons per resident?...**

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T. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of **water** from channels and reservoir spillways;
- 2) the unusual and rapid accumulation of runoff or surface **waters** from any source; or
- 3) mudslides (i.e. mudflows) which are proximately caused by flooding as defined in Subsection (2) of this definition and which are sufficiently fluid so as to flow on and over the surface of normally dry land areas, as when earth is carried by a current of **water** and deposited along the path of the current, **such as on alluvial fans such as in Paradise Acres in 2019.**

U. "Flood hazard area" means an area containing or directly affected by a flood.

V. "Floodplain" means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus 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) Mainstream floodplains;
- 2) Debris-fan floodplains; and
- 3) Dry wash channels and dry wash floodplains.

W. "Geologic hazard" means 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, mudflows, and unstable or potentially unstable slopes;
- 2) Seismic effects;
- 3) Radioactivity; and
- 4) Ground subsidence.

X. "Geologic hazard area" means an area containing or directly affected by a geologic hazard.

Y. "Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by man-made phenomena such as underground mining.¹²

Z. "Historical or archaeological resources of statewide importance" means those resources which may have been officially included in the national register of historic places, designated by statute or included in an established list of places compiled by the state **or county**¹³ historical society, or as may be identified by the

¹² **Sky, do we want to expand this to wood preservation (carbon sequestration)? I think this is covered under the umbrella of man-made phenomena. The term is only used once on p. 40.**

¹³ **Need to engage or involve Huerfano County Historical Society since it has a list of historical sites in the County including GPS location, general description, and photograph. I don't think that the County can**

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Board regardless of whether or not such inclusion has occurred, including but not limited to those designated by the Board in accordance with C.R.S. 30-11 -107(1)(bb) as amended.

AA. "Industrial **Water** Project" means all activities, or any activity, whether phased or otherwise staged in development, related to projects involving manufacturing, mineral extraction or processing, coal and oil and gas development, commercial agricultural operations (**including marijuana cultivation**), commercial recreational services and facilities, and similar activities in which the use of **water** is an integral component¹⁴.

BB. "Key Facility" means a building, plant, development or other structure or facility which is integral to the area or activity for which a County permit under these regulations is sought.

CC. "Layman's description" means a general, non-legal description and the popular name, if any, of the tract of land on which the activity or development is to be conducted. The term "general description" means "layman's description."

DD. "Legal Description" means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

EE. "Mainstream floodplain" means an area adjacent to a perennial stream, which area is subject to periodic flooding.

FF. "Major facility of a public utility" means:

- 1) Central office buildings of telephone utilities;
- 2) Transmission lines, power generation facilities, and substations of electrical utilities; and
- 3) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives and includes extensions to those facilities.

GG. "Major publicly owned reservoir" means any body of **water** formed by an embankment or structure 10 feet in vertical height or having a surface area at high **water** line, in excess of 5 acres, or collection of smaller **water** storage structures cumulatively totaling 5 acres of surface area and utilized in concert, for which public funds have been used in the construction of all or any part of the dam or where a public entity or agency owns or administers the described property. ~~The ownership of stock in a mutual ditch or reservoir company does not constitute ownership or administration. Furthermore, any loan of funds for construction, operation, maintenance, repair, or replacement of all or any part of a dam does not constitute the use of public funds.~~

HH. "Matter of state interest" means an area of state interest or an activity of state interest or both as defined under 24-65.1-101, et seq., C.R.S.

delegate the designation to a nonprofit but it could be made a referral agency and we might want to acquire the list and reference it. John VanKueren (sp?) is the contact.

¹⁴ Perhaps there should be a threshold of use rather than use for types of activities – or one threshold for agricultural and another for non-ag... Perhaps 4 ac-ft/yr for ag, and 1 ac-ft/yr for non-ag?

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II. "Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff. **[Do we want to be more specific, i.e. calling out the circumstances of Paradise Acres, an alluvial fan?]**

JJ. "Municipal Water Project" means all activities, or any activity, whether phased or otherwise staged in development, related to or associated with a system, development, or project, and all related components thereof, intended to provide water supply or service to persons, not necessarily part of a municipality, for uses typically associated with "municipal" use, including but not limited to, domestic, irrigation, landscape, commercial, stockwater and augmentation uses, whether such water supply is derived from surface or subsurface sources, and whether or not such provision of supply involves a temporary or permanent change of water rights.

KK. "Municipality" means a home rule or statutory city, town, or a city and county or a territorial charter city.

LL. "Natural hazard" means a geologic hazard or a flood.

MM. "Natural hazard area" means an area containing or directly affected by a natural hazard.

NN. "Natural resources of statewide importance and/or local concern" means any material source such as timber, fresh water, or mineral deposit that occurs in a natural state and has economic value.

OO. "Net Effect" means the impact of an action or activity after mitigation.

PP. "New communities" means the major revitalization of existing municipalities or the establishment of urbanized growth centers in unincorporated areas. New communities shall not include those established through the municipal annexation of unincorporated territory. **[Sky, do we need to beef this up?]¹⁵**

¹⁵ It is a completely different definition from the one in the "Definitions" section, which is as follows:

New community or new communities:

1. The establishment of urbanized growth centers in the unincorporated territory of Huerfano County.

2. Any activity within the unincorporated territory of Huerfano County which falls within one or more of the following criteria is defined as "site selection and development of new communities" and requires application to the Planning Commission for a permit to conduct such activity:

01. Is planned for a population or work force of five hundred (500) persons or two hundred and fifty (250) dwelling units within five (5) years of implementation of the activity or for an ultimate population or labor force of two thousand five hundred (2,500) persons or one thousand twelve hundred and fifty (1,250) dwelling units.

02. Is planned for or requires the expansion and/or extension of any existing water and/or sewer district or association within any twenty-four (24) month period which is equal to or greater than fifty (50) percent of the population or land area served by the district or association at the beginning of said period.

03. Is planned for or requires a change in existing zoning that provides for a one hundred (100) percent or greater increase in allowable density on more than six hundred and forty (640) acres of land

04. Is planned for or requires an ultimate contiguous zoning district or special use permit for commercial, industrial and/or public use on three hundred and twenty (320) or more acres of land.

Both definitions are problematic – the one in this section because revitalization should not trigger a

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QQ. "Person" means any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, and includes without limitation any political subdivision, **district**, agency, instrumentality, or corporation of the State or the United States government.

RR. "Planning Commission" means the Huerfano County Planning Commission.

SS. "Proposed Project" means the construction and operation of a **proposed special development projects**,¹⁶ including Municipal **Water** Project or Industrial **Water** Project throughout its lifecycle, including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the County.

TT. "Public Utility" means a public utility as defined by state law, with the exception of utilities owned and operated by a municipality located within Huerfano County.

UU. "Radioactivity" means a condition related to various types of radiation emitted by natural or man-made radioactive minerals that occur in deposits of rock, soil, and **water**.

VV. "Regulations" means these regulations as finally enacted and approved, and as may be amended and supplemented in the future.

WW. "Reservoir" (except in the context of the separately defined term "major publicly owned reservoir") means an area of land where **water** is retained or an area intended for **water** retention, and which is used or proposed for use in whole or in part as part of a Municipal **Water** Project, Commercial Water Project, or Industrial **Water** Project or storage of **water** which is part of a domestic **water** treatment system.

XX. "Re-vegetation" means permanent re-establishment of native plant growth necessary for erosion control, soil conservation and environmental stability upon land from which historically applied irrigation **water** has been removed, such land being "dried up" from irrigation, as defined herein. Re-vegetation requirements may be either temporary or permanent, depending on the nature of the dry up and change of **water** rights applicable.

YY. "Seismic effects" means direct and indirect effects caused by an earthquake or an underground **nuclear** detonation.

ZZ. "Siltation" means a process that results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.

1041. In some cases, annexation should trigger a 1041 (something like Cougar Canyon in Trinidad, for example). The definition from Section 17 is also problematic because it sets the bar very high. Navajo Ranch Estates, for example is only 475 acres; Pinehaven is 391 acres, the zoned area around Gardner is just over one square mile -- 658 acres. Allowing for an increase in density is meaningless in a code that does not directly regulate density. The population threshold of 500 persons or 250 houses is also very large for Huerfano County – There are approximately 122 parcels in Gardner; 153 in Pinehaven; 184 in Navajo Ranch Estates; 164 in Black Diamond.

¹⁶ What are these, "proposed special?"

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AAA. "Shorelands" means all lands extending a minimum of 200 feet shoreward of the high **water** line, and all wetlands associated with a reservoir.

BBB. "Slope" means the gradient of the ground surface that is definable by degree or percent.

CCC. "Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

DDD. "Urbanized growth center" means an establishment of any use requiring urban services **and not otherwise allowed under the Huerfano County Land Use Code, the Huerfano County Comprehensive Plan, or associated intergovernmental planning agreements.**¹⁷

EEE. "Water related activities" include a Municipal Water Project, an Industrial Water Project or a domestic water or sewage system.¹⁸

7.02 DESIGNATION OF MATTERS OF STATE INTEREST

7.02.01 Board of County Commissioners to Make Designations

Designations and amendments of designations may be initiated in the following ways:

- A. The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- B. The Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest following public hearing before the Planning Commission. The Board of County Commissioners shall decide, in its sole discretion, and pursuant to the requirements of 24-65.1-101, et seq., C.R.S., whether or not to designate any or all of the requested matters of state interest so recommended.

7.02.02 Moratorium

- A. Whenever the Board of County Commissioners designates a matter of state interest, pursuant to 24-65.1-404, C.R.S., no person shall engage in any development in such area, and no activity shall be conducted, until the designation and guidelines or regulations for such an area or activity are finally determined and a permit has been issued thereunder.

7.02.03 Public Hearing Required

- A. The Board of County Commissioners shall hold a public hearing before designating any matter of state interest **or** ~~and~~ adopting regulations for the administration thereof. Said hearing shall be noticed and

¹⁷ **Why is this here? Shouldn't 1041 review be in addition to that provided elsewhere in the County LUC? I propose that we delete the highlighted language near the top of the page. – It's only reference in the section is in the definition of new communities. We might add to the definition the establishment of a metro district.**

¹⁸ Needs reference to scale? Term as applied below is sometimes hyphenated and sometimes not.

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held pursuant to 24-65.1 -404 through -407, C.R.S. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.

- B. The Board in its discretion may request that the Planning Commission hold a hearing and provide a recommendation to the Board on the proposed designation prior to the Board's hearing. Notice of any hearing before the Planning Commission shall be published no less than seven days before the Planning Commission hearing date in a newspaper of general circulation in the County.
- C. The Board of County Commissioners shall prepare a notice of any designation hearing which shall include:
 - 1) The time and place of the hearing;
 - 2) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined;
 - 3) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property and/or activities which would be included;
 - 4) The **County Planner**¹⁹ shall maintain a mailing list of those persons requesting they be placed on the list and paying to the Clerk an annual fee of twenty (\$20) dollars to cover the costs of production, handling and mailing of notices of all hearings pursuant to Sections 24-65.1-402(2)(b) and 24-65.1-501(2)(c), C.R.S. In order to have their name and address maintained and retained on the list, the person shall resubmit their name and address and pay said annual fee before January 31 of each year.

7.02.04 Factors to be considered at Designation Hearings

At the public hearing, the Planning Commission and Board of County Commissioners shall consider such evidence as they deem appropriate, including, but not necessarily limited to testimony and documents addressing the following considerations:

- A. The intensity of current and foreseeable development pressures;
- B. The matters and considerations set forth in any applicable guidelines for identification and designation issued by any applicable state agency;
- C. The boundaries of any area proposed for designation;
- D. Reasons why the particular area or activity is of state interest, the adverse impacts that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantage of development of such area or conduct of such activity in a coordinated manner;
- E. The extent to which other governmental entities regulate the area or activity proposed to be designated;

¹⁹ **Is this, "County Planner," still the correct title? How about something like "Land Use Department?" This is not something I would like to maintain and keep updated. Also, if the land use department is keeping a list, the fee should be paid to the land use department.**

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- F. The applicable criteria for administration of the proposed area or activity as set forth in these regulations and 24-65.1-201, et seq., C.R.S.;
- G. The legislative declarations stated in 24-65-102, 24-65.1-101, and 29-20-102, C.R.S.; and
- H. The Huerfano County Comprehensive Plan or any duly adopted intergovernmental agreements or comprehensive development plans adopted as part of, pertaining to, or affected by the area or activity under consideration.

7.02.05 Record of Designation Hearing

The Board will collect and preserve the following record of the designation process, at minimum:

- A. Notice of the hearing;
- B. Certificate of publication of the notice;
- C. Written testimony presented by any persons at the public hearing;
- D. An audio recording of the hearing; and
- E. The written resolution or order making appropriate findings supporting any designation and adopting the accompanying guidelines or regulations pursuant to Section 7.03.06, below.

7.02.06 Adoption of Designation and Regulation

- A. At the conclusion of the hearing, or within 30 days thereafter, the Board of County Commissioners may, by resolution, adopt, adopt with modification, or reject the proposed designation and accompanying guidelines or regulations.
- B. Each designation order adopted by the Board shall, at a minimum:
 - 1) Specify the boundaries of the designated area of state interest;
 - 2) State reasons why the designation is appropriate in light of the factors considered at the public hearings pursuant to Section 7.03.04, below; and
 - 3) Specify the regulations applicable to the designated matter of state interest.

7.02.07 Combined Designation and Permit Hearing

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated and for which regulations have not been adopted, the Board of County Commissioners may hold one hearing for determination of designation and regulations as well as for granting or denying the permit, provided all applicable notice requirements are adhered to.

7.02.08 Specific Designations

- A. Activities of State Interest. The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by applicable state agencies, as well as the other relevant factors set

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forth in Section 7.03.04, below, at duly noticed public hearings held in accordance with Part 4 of Article 65.1, C.R.S., does hereby **find and declare the following activities to be matters of state interest and does hereby adopt the accompanying regulations** requiring permits for these designated activities as further set forth herein:

- 1) Site selection and construction of major²⁰ new domestic **water** and sewage treatment systems;
- 2) Major extensions of existing domestic **water** and sewage treatment systems;
- 3) Efficient utilization of municipal and industrial **water** projects;
- 4) Site selection and construction of major facilities of a public utility;
- 5) Site selection and development of new communities;
- ~~6) Activities concerning changes of **water** rights or the use of **water** or land resources which may affect the agricultural nature and culture of Huerfano County, and the socio-economic stability thereof, and which may further effect the retention and quality of soil and other agricultural resources, including but not limited to dry up and re-vegetation requirements.~~
- ~~7) Activities which concern changes in reservoir operations for decreed **water** rights located within Huerfano County, and the socio-economic stability thereof, the result of which could be changes in the agricultural nature and culture of Huerfano County, and/or effects upon the retention and quality of soil and other agricultural resources, including but not limited to dry up and re-vegetation requirements.~~
- ~~8) Activities which may effect the quantity and/or quality of **water** bearing aquifers underlying lands in Huerfano County, including but not limited to, alluvial, confined and unconfined aquifers, both tributary and non-tributary.²¹~~
- 9) Site selection of Key Facilities.

The conduct of any of these activities within the boundaries of unincorporated Huerfano County shall be subject to the foregoing designations, as further set forth in these Regulations and/or regulations to be developed pursuant to the designations herein or matters of state interest which may hereinafter be designated by the board and subject of supplemental regulations hereto.

B. Areas of State Interest: The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by applicable state agencies, as well as the other relevant factors set forth in Section 7.03.04, below, at duly noticed public hearings held in accordance with Part 4 of Article 65.1, C.R.S., does hereby find and declare the following areas to be matters of state

²⁰ Major needs definition.

²¹ **These three activities, ## 6), 7) and 8), are beyond those for which the enabling act gives the power to designate and regulate. I have tried to integrate them into the criteria for selection of activities which are available for County designation.**

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interest and does hereby adopt the accompanying regulations requiring permits regarding these designated areas as further set forth herein:²²

- 1) Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community;
- 2) Areas containing or having significant impact upon historical or archaeological resources.
- 3) Areas containing or having significant impact upon natural resources of statewide importance; and
- 4) Natural Hazard areas, which are flood hazard areas and geologic hazard areas.
- 5) ~~Areas historically and presently irrigated, the dry up of which or cessation of irrigation would have significant impact upon soil, air and/or water quality;~~
- 6) ~~Areas historically and presently in agricultural production, the cessation of which would have significant economic and/or socio-economic impacts upon the citizens of Huerfano County.~~

Development in any of these areas within the boundaries of unincorporated Huerfano County shall be subject to the foregoing designations **and shall be protected and administered** as further set forth in these Regulations.

7.03 PERMITS REQUIRED FOR VARIOUS DESIGNATED AREAS AND ACTIVITIES INVOLVING WATER RELATED MATTERS

7.03.01 ~~Water and Sewage Treatment Activities~~ Water Related Projects Requiring Permits

A permit shall be required for any proposed project²³, including but not limited to major new domestic **water** or sewage treatment system, major extension to existing major domestic **water** or sewage treatment system, or Municipal or Industrial **Water** Project, which is proposed to be located in whole or in part in the unincorporated portions of Huerfano County, **and which will divert or store raw, augmentation or treated water** and meets any of the following criteria:

- A. New **water** supply systems (excluding reservoirs which are separately covered under (C), below), or new **water** treatment plants, or extensions of those systems or plants (excluding line extensions which are separately covered under (E), below), that serve **more than 25 year round residents [?]** or provide the equivalent amount of **water** service and are not located entirely within an **approved** service area **approved by the County**.
- B. New wast**water** treatment plants, or extensions to existing plants (excluding line extensions which are separately covered under (E), below).
- C. Construction of any new reservoir where:

²² **This was added to make clear the designation of these areas of state interest. I understood that the areas were designated along with the activities; just wanted to make sure.**

²³ Scale threshold needed. A project above X acre-feet?

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- 1) 30 percent or more [?] of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial **water** supplies or of **water** which is part of a domestic **water** treatment system; or
 - 2) less than 30 percent but more than one percent [?] of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial **water** supplies or of **water** which is part of a domestic **water** treatment system, and the reservoir has not been permitted pursuant to the **special use review**²⁴ provisions of the Huerfano County Land Use Code; or
 - 3) the reservoir is lined.
- D. Expansion of any existing reservoir for a Municipal or Industrial **Water** Project or domestic treated **water** use.
- E. Extensions to **water** supply and wastew**ater** systems where:
- 1) Use 12” or larger [?] distribution or transmission lines²⁵; or
 - 2) use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches [?]; and
 - 3) are not located entirely within an approved service area.²⁶
- F. Systems, extensions, or projects located partly or entirely on land which is owned or managed for open space, recreation, environmental protection, or other land preservation purposes, except land which is owned by the entity proposing the system, extension, or project.
- G. Systems, extensions, or projects located partly or entirely on land that has been designated as an area of state interest.
- H. Systems, extensions, or projects partly or entirely on land which is designated in accordance with the Huerfano County Comprehensive Plan **or otherwise** as any one of the following: a historic site, archaeologically sensitive area, natural hazard area, critical wildlife habitat, critical plant association, or wetland.
- I. Any system, extension, or proposed project which relies upon or uses **water** decreed to agricultural land in the unincorporated County, and which:
- 1) is proposed to be converted to any different type or place of use, including but not limited to industrial use, municipal use, or domestic treated **water** use as part of a Municipal **Water** Project or Industrial **Water** Project;

OR

²⁴ I'm not sure what is meant by "special use review." Could it be conditional use review?

²⁵ Sky? I think we should measure the scale by more than just diameter of supply line.

²⁶ I think this should be a service area approved by the Huerfano BOCC?

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- 2) requires total or partial dry up of the **below-described** ~~above referenced~~ agricultural land;²⁷
OR
- 3) serves primarily a municipality or other group of users located in a county other than Huerfano County;
OR
- 4) **Proposes to increase the historic use of desiccated water rights, at the expense of the land use supported by junior water rights, for the purpose of increasing the value of one or more senior desiccated water right.**
OR
- 5) **Proposes to adversely affect areas within Huerfano County historically and presently irrigated, the dry-up of which or cessation of irrigation would have significant impact upon soil, air and/or water quality.**
OR
- 7) **Proposes to adversely affect areas within Huerfano County historically and presently in agricultural production, the cessation of which would have significant economic and/or socio-economic impacts upon the citizens of the County.**

J. Any of the above which may ²⁸

- 1) **affect the agricultural nature and culture of Huerfano County, and the socio-economic stability thereof, and which may further affect the retention and quality of soil and other agricultural resources.**
OR
- 2) **cause changes in reservoir operations for decreed water rights located within Huerfano County, and the socio-economic stability thereof, the result of which could be changes in the agricultural nature and culture of Huerfano County, and/or effects upon the retention and quality of soil and other agricultural resources.**
OR
- 3) **may affect the quantity and/or quality of water bearing aquifers underlying lands in Huerfano County, including but not limited to, alluvial, confined and unconfined aquifers, both tributary and non-tributary.**

²⁷ Scale – of over X acres of land?

²⁸ Scale of impact needs to be described for any of these.

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~~This provision shall not apply to any agricultural water conversion which occurs as part of a use allowed under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 7.01 of this Code).~~²⁹

7.03.02 Specific **Water** and Sewage Treatment Activities **Exempted** from the Permit Process.

A 1041 permit shall **not** be required for any major new domestic **water** or sewage treatment system, major extensions to existing major domestic **water** or sewage treatment system, or municipal and industrial **water** project, which is proposed to be located in whole ~~or in part~~ in the unincorporated portions of Huerfano County, and which meets any of the following criteria:

~~A. Any system, extension, or project not covered under Section 7.03.01, above.~~

B. Systems, extensions, or projects which are located on unincorporated land that is an enclave within the municipality proposing the activity.

C. Upgrades to existing facilities that are required maintenance or otherwise required by federal, state, or county regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond design **or current** capacity, and provided further that the upgrade does not alter the location of the existing facility.

~~D. Any system, extension, or project proposed as part of a County exemption plat application (i.e., a replat of an existing platted subdivision where no new density is proposed).~~

~~E. Any system, extension, or project necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 7.01 of this Code), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.~~³⁰

7.03.03 Specific Public Utility Activities Requiring Permits

A permit shall be required for any major facility of a public utility, which is proposed to be located in whole ~~or in part~~ in the unincorporated portions of Huerfano County, and which meets any of the following criteria:

A. New natural gas or other petroleum derivative transmission lines that serve more than 25 year round residents and are not located entirely within an approved service area.

B. Extensions to natural gas or other petroleum derivative transmission lines which:

- 1) use 12" or larger distribution or transmission lines; or

²⁹ The highlighted language makes no sense. What am I missing?

³⁰ I didn't know what the highlighted text meant so I deleted it.

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- 2) use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches.
- C. Natural gas or other petroleum derivative storage areas.
- D. New electric transmission lines or extensions that are 115,000 volts or greater.
- E. ~~Power plants generating~~ Generation of 50 megawatts or more.³¹
- F. Substations of electrical utilities which control electricity in amounts of 115,000 volts or more.
- G. Central office buildings of telephone utilities.

7.03.04 Specific Public Utility Activities **Exempted** from the Permit Process

A permit shall not be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Huerfano County, and which meets any of the following criteria:

- A. **Any facility not covered under Section 7.03.03, above.**
- B. Facilities which are located on unincorporated land that is an enclave within the municipality proposing the activity.
- C. Any facility proposed as part of a County exemption plat application (i.e., a re-plat of an existing platted subdivision where no new density is proposed).
- D. Any facility necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S.), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.

7.03.05 Other Designated Areas and Activities Requiring a Permit

- A. Site selection and development of new communities.
- B. Development located in areas containing or having a significant impact upon historical, archaeological or natural resources of statewide importance, and/or socio-economic impacts within the County, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundary of the areas regulated hereunder shall be the area which physically contains the designated historical, archaeological or natural resource, or in the specific case of significant wildlife habitats the areas shown on the maps identified in Section 7.01.07 (C) of this Article, and an area within a radius of 1,500 feet from the area containing the resource. However, the County Staff may determine that development within a larger area (up to one mile in radius) may be regulated, provided that the

³¹ SIEA's demand for all of Huerfano County is 80MW

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County Staff identifies specific land use impacts by which the larger area will be immediately and directly affected within the stated purposes of this Article.

- C. Development located in flood hazard areas.
- D. If any proposed development is located partly within and partly out of the boundary of an area of state interest as designated in these regulations, the impacts of the entire development will be subject to review under these regulations. All construction or uses which compose or are directly associated with the development shall be considered to be part of the development, including but not necessarily limited to buildings, other associated structures, access roads or drives, utility lines, and parking areas.

7.03.06 Determination of whether a Proposed Activity or Development must go through the Permit Process

- A. The **County Staff** shall determine the applicability of Section 7.04 to the conduct of any proposed activity or development. The County Staff shall make this determination within **10 calendar days** **[?]** after the **Planner** ³² receives a written request from the applicant stating the reasons why the proposed activity or development is or is not subject to Section 7.04.
- B. If any person is aggrieved by the decision of the County Staff to include an activity within or exempt it from these regulations, that person may file an appeal to the Board with the County Staff, no later than ten days **[?]** after the date of the County Staff's written decision (with three days added for mailing if the decision is mailed). The appeal shall be accompanied by a statement why the County Staff's decision is incorrect.
- C. The Board shall schedule a public hearing on the appeal to be held no more than 30 days after the appeal is filed.
- D. For the purpose of deciding the appeal, the Board may require the developer to provide a description and declaration of the scope of the activity or development, including, but not necessarily limited to;
 - 1) The site of the proposed activity or development.
 - 2) The size, if proposed, of any transmission lines, storage tanks, dams and or reservoirs.
 - 3) The number of residents to be served by the activity, or in the case of wastewater treatment plants, the average flow, in gallons, of wastewater a day.
 - 4) The ~~increase in the County~~ change in population and traffic patterns that is projected as a result of the activity.
 - 5) The **water** rights on which the activity relies.
 - 6) Any geologic hazards areas or flood hazard areas mapped within one mile of the site.

³² **Three thoughts. We need to make this consistent with the current departmental names or position titles. Sky, I think it would be OK if the planning commission made the decision. Ten calendar days isn't very long for a complex matter or when things get busy. Sky?**

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7) ~~Potential Analysis of potential~~ socio-economic impacts of the proposed activity or development including life-cycle infrastructure costs to be incurred by the County, projected cost of providing public services, projected annual tax revenues to be generated upon completion of the project. Analysis should also include impact to labor market, including long-term jobs created, average wages, distance between housing and jobs, impact on existing businesses and populations.

8) Timeline and detailed description of any phases.

7)9) Capacity analysis of unplanned potential for expansion.

E. At the appeal hearing, the appellant will have the burden of proving that the County Staff erred in the decision to include or exclude the activity or development from these regulations.

7.03.07 Specific Uses Exempted from the Permit Process in Areas of State Interest

A. Operation, maintenance, repair and replacement of existing **water** and sewage collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities **do not expand the level of service beyond existing design capacity³³** and do not materially alter the location of the existing facility.

B. A building site within the boundaries of the Flood Hazard Area as set forth in Section 7.01.07 (a) that evidence demonstrates to the satisfaction of the Board is not within an area of special flood hazard.

7.04 APPLICATION PROCEDURES

7.04.01 Permits Required after Designation; Receipt of Application Form

A. Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest in whole or in part within the unincorporated area of Huerfano County must first obtain a permit pursuant to these regulations.

B. An application shall not be accepted unless the County Staff determines that it is complete pursuant to the application submittal requirements of this Section and of Section 7.04.07, below. If the application is considered incomplete by the County Staff, the County Staff shall specify what additional information is required. When a submitted application is considered to be complete by the County Staff, the County Staff shall note upon the application the date and hour of its receipt.

³³ I have trouble with “existing design capacity.” We have reservoirs in the County which have been breached due to safety reasons or have silted up due to poor operations. In each case junior water rights have been able to divert and grown reliant upon water passed by the breached or poorly maintained reservoir. Between this draft and the next, we need to think this through. I think the key concept here is expanding the level of service, not whether the design capacity is increased or decreased. To be consistent with my previous comments, I think the scale of increase should be a factor in whether it triggers a 1041. Adding one acre-foot of capacity or service to a reservoir should not trigger a major review, whereas adding 50 acre-feet of capacity may warrant it.

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- C. When an applicant seeks a permit to engage in development involving more than one area or activity of state interest regulated hereunder, the County Staff shall require that a single application be completed including all affected areas and activities.
- D. For any application to be considered complete under these Regulations, in addition to meeting the requirements of Section 7.04.07, below, the application shall include the entire development as contemplated or reasonably foreseeable for the subject property in question for at least a ten-year period. Said ten-year forecast shall in no way act as a limitation on the scope of the project or subject property which is the subject of the Application. The County shall have and maintain the absolute right to review all elements and components of the project or activity, and shall expressly be entitled to re-review all such elements and components at a later date should a component be added to the project or activity. There shall be no piece-mealing of projects for permit approval. For purposes of this Subsection, the subject property is the property on which the development is located, and any other contiguous property which is under the developer's ownership or control and is otherwise subject to regulatory jurisdiction under this Article. At a minimum, the application shall include all development which has been planned for the subject property as shown in any capital improvements plan, facilities master plan, or other acceptable master planning document which the applicant has approved as of the time of application or anticipates approving at anytime while the application is in process, including all proposed project phases. If the Applicant has not approved such a master plan covering at least a ten-year period, it shall approve such a plan before the application will be accepted as complete. The purpose of these requirements is to assure that development for a subject property is reviewed in a rational context of reasonably foreseeable development for the property, to avoid piecemeal analysis of applications, and to allow for a comprehensive consideration of the cumulative impacts of development under these Regulations.
- E. For any application submitted after the effective date of these regulations by the Board [?], the following requirements shall apply to any amendment to that approval which is submitted within a ten-year period after the date of the approval. Any such amendment shall be presumed to constitute piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 411 of this Article, unless the Applicant demonstrates one of the following circumstances:
- 1) The Board approved less than the complete development pursuant to Section 7.04.11 (B) (15) of this Article, and the subject amendment includes development reflected in the applicable master plan but not previously approved.
 - 2) The additional application addresses or corrects a matter of health or safety presented by the approved development.
 - 3) The amendment clearly equals or reduces the impact or scope of the approved development, in the context of the applicable criteria under Section 7.04.11 of this Article.

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- 4) The amendment implements an amendment to the Huerfano County Comprehensive Plan or a land use intergovernmental agreement to which the County is a party, and which was adopted after the County's approval of the development.

Any amendment for which the Applicant cannot demonstrate that one of the foregoing circumstances exists, shall not be approved, unless the Applicant clearly overcomes the presumption that the amendment constitutes piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 7.04.11 of this Article, or unless the County instead elects to re-review all elements and components of the entire project as a new application, with the costs associated therewith to be borne by the Applicant.

- F. The County Staff's determination regarding whether a permit application is complete under Subsections 7.04.01 (B) and 7.04.01 (D) and Section 7.04.07 may be appealed to the Board by any person aggrieved by the determination, provided that an appeal is filed with the Board no later than 30 days after the date of the County Staff's written determination (with three days added for mailing if the determination is mailed). The appeal shall be accompanied by a statement describing the specific reasons why the appellant alleges the determination was in error, based on the criteria listed in Subsections 7.04.01 (B) and 7.04.01 (D) and Section 7.04.07. The Board shall convene a duly noticed public hearing on the appeal, at which hearing the appellant shall have the burden of proving that the County Staff erred in the determination regarding the completeness of the application.
- G. Applicants shall be bound by and subject to reliance upon all statements and representations made by Applicant in an Application for a permit pursuant to these regulations, or subsequent regulations enacted pursuant to designations made herein or future designations of matters of state interest. Applicants shall be similarly bound to the contents of all reports, testimony and other evidence submitted in support of such an application, and the Board of County Commissioners may, in its sole discretion, require Applicants' strict compliance with such statements, reports, testimony, and other evidence.

7.04.02 Application Fee

For all applicants, (1) a non-refundable fee of \$300.00 [?] shall be required with each application; (2) before the application is deemed complete by the County Staff, certified funds in the amount estimated by the County to be sufficient for complete review by the County and its consultants shall be deposited with the County, and any amounts in excess of actual costs incurred in the review and processing of the permit application including all hearings conducted therefore, shall be refunded; (3) should the initial deposit prove inadequate to cover the costs for application review by the County, the Applicant shall make additional deposits to cover estimate future review costs. These components in total shall constitute the Application Fee. The fee shall be set by the Board of County Commissioners in its reasonable discretion.

7.04.03 Waiver of Submission Requirements

The County Staff may waive any part of the submission requirements which are not relevant to a decision on the application. The County Staff may not waive any requirements which are otherwise required by

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law, such as by Article 65.5 of Title 24, C.R.S. Any waiver by County Staff is subject to reconsideration by the Board of County Commissioners.

7.04.04 Intergovernmental Agreements

Upon request of the State of Colorado or a political subdivision of the state as defined by 29-1 -202(1), C.R.S., proposing to develop in an area of state interest or to engage in an activity of state interest, the requirements of these regulations may be met by the approval of an intergovernmental agreement in lieu of a permit application and review as provided by these regulations. In the event such an agreement is approved by the Board, no permit application to develop in the area or to conduct the activity of state interest may be required, in the discretion of the parties to such IGA, provided that all of the following conditions are met:

- A. The state or political subdivision/developer and the County must both be authorized to enter into the intergovernmental agreement.
- B. The purpose and intent of these regulations must be satisfied by the terms of the intergovernmental agreement.
- C. A public hearing must be conducted by the Board to publicly review and approve of the proposed intergovernmental agreement. Notice of the public hearing shall be published once at least 30 and not more than 60 days prior to the hearing in a newspaper of general circulation in the County.
- D. Both the Board and the governing body of the state or political subdivision/developer must approve the agreement in the manner required of each of them by the Colorado Constitution, state statutes and any applicable charter, ordinance or resolution.
- E. Exercise of the provisions of this section by the state or political subdivision/ developer will not prevent that entity from electing at any time to proceed under the permit provisions of these regulations. Additionally, any entity which has previously proceeded under the permit provisions of these regulations may at anytime elect to proceed instead under this Section.

7.04.05 General Process Outline **[leave this procedural stuff to Sky]**

The following is a general outline of the steps required for any permit decision under these regulations. Specific information regarding each of the referenced steps follows this section.

- A. Pre-application conference
- B. Application
- C. Referral to adjacent and/or nearby property owners and affected agencies
- D. Staff review
- E. Public review before the Planning Commission and Board of County Commissioners
- F. Post-approval requirements

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7.04.06 Pre-application Conference

- A. A pre-application conference is required of all applicants.
 - 1) The pre-application conference shall be held between the applicant the Land Use Department Staff.
 - a. This meeting is intended to provide an understanding of the applicable review procedures, requirements, and standards, and provide information pertinent to the application and the geographical area affected by the application.
 - b. The staff will explain the application procedures and the materials required for submittal.
 - c. The applicant shall bring a conceptual site plan to the conference.
 - 2) If the staff feels that the proposal raises any of the following issues, the applicant shall also meet with members of the appropriate County department to discuss the proposal.
 - a. For road, access, traffic concerns, and all vehicular movement patterns and volumes, the applicant will meet with a member of the Huerfano County Road & Bridge staff.
 - b. For **water** supply, sanitation, **water** quality or other public health concerns, the applicant will meet with members of the Environmental Health Section of the Huerfano County Health Department.
 - c. For open space or environmental concerns, the applicant will meet with a member or members of the Planning Commission to discuss any potential effects of the application on open space and environmental resources in the County.
- B. Any comments or commitments made by any member of the County's Staff during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.
- C. Pre-application conferences may be held individually with each department, or a joint conference for all, or some, of the departments may be scheduled.
- D. County staff will make available to the applicant any public information regarding the application which is in the County's possession.

7.04.07 Application Submittal Requirements

- A. Application
 - 1) Before any request for County approval under these regulations may be processed, a complete application, meeting the requirements of this Section must be filed with the Land Use Department.
 - a. The application must include a General Land Use Application Form designating all agents for the applicant and exhibiting the applicant's or agent's signature, and has all necessary

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information completed. The form shall be accompanied by all fees, maps, plans, and reports required by these regulations.

- b. The signature on an application form will be assumed to indicate the applicant's concurrence with all submissions and commitments made by their designated agent.
- c. A written description of the proposal.
- d. Any application which requires compliance with Article 65.5 of Title 24, C.R.S. shall not be considered to have been submitted as complete until the applicant has provided a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Huerfano County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.
- e. In addition, for purposes of the County convening its initial public hearing on any application involving property for which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

B. Professional Qualifications

- 1) A professional consultant may not be necessary for all applications. Applicants shall determine in what instances professional consultation may be necessary for purposes of preparation of an Application, and the **Board [Staff]** shall determine in its reasonable discretion whether the absence or adequacy of such professional consultation materially affects the completeness or acceptability of such application.
- 2) All data and plans submitted for review must show the qualifications of the individual in charge of the work.

C. Consultants

- 1) If the County does not have qualified staff to review certain elements of an application or referral agencies are not able to adequately advise the County regarding certain elements of an application, the Board of County Commissioners may authorize the review be performed by a consultant engaged or approved by the County Staff. Unless specifically resolved by the Board of County Commissioners to the contrary, the applicant shall pay all consultants' fees, based upon the nature and extent of consulting expertise required, and a deposit for the estimated costs thereof shall be included in the application fee, as discussed herein at Section 7.04.02.
- 2) A referral agency may impose a fee for the review of the application. No hearings will be held if any such referral agency's fee has not been paid.

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- D. Application requirements – All topics discussed in this paragraph are for purposes of providing examples of issues generally addressed in an application of this nature and the likely minimum contents of such application. The contents of any particular application are at the discretion of the applicant, and to the extent that such application may be deemed complete, the County will provide a review and consideration of such application pursuant to these regulations and any subsequent regulations enacted pursuant to designations contained herein, or subsequent designations of matters of state interest.
- 1) The following are general requirements for any map or plan required as part of the application for a County approval. Minimum requirements include:
 - a. The name of the proposed development or use and total number of acres under consideration.
 - b. Since all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.
 - c. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants of the applicant.
 - d. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.
 - e. A copy of the capital improvements plan, facilities master plan, or other applicable master planning document covering the subject development and property, as required in Subsection 7.04.01(D) above.
 - 2) The following requirements shall apply only to applications for **designated water-related matters** ~~the water and sewage treatment activities designated in Section 7.02.08(A)(1-3)~~ above.
 - a. Detailed plans for the activity or development including the proposed system capacity and service area plans and maps.
 - b. A description of all existing or approved proposed domestic **water** or sewage treatment systems within the jurisdiction of the applicant as well as adjacent communities (incorporated and unincorporated).
 - c. The design capacity of each domestic **water** or sewage treatment system and the distribution or collection network identified in (3) below.
 - d. A detailed inventory of total commitments already made for current **water** or sewage services in terms of taps or other appropriate measurement.
 - e. The source of the existing or new **water** supply for the proposed activity including applicable decreed **water** rights or plans, and information on any agricultural **water** rights decreed to land in unincorporated Huerfano County and converted **or to be converted** to provide the supply.
 - 3) The following requirements shall apply only to applications for major facilities of a public utility.
 - a. Detailed plans for the facility including, but not limited to, the associated system capacity and proposed service area plans and maps.

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- b. A description of existing and proposed service in the area to be served.
 - c. A description of the distribution network for the area proposed to be served.
- 4) The following requirements apply only to development located in Historical and Archeological Resource Areas of statewide importance.
- a. A state historical site survey form completed by a qualified professional, as may be acceptable to the State Historic Preservation Officer for all resources affected by the development, in the discretion of the Board of County Commissioners.
 - b. A description of the mitigating efforts to be taken to preserve the designated resource.
 - c. Plans and procedures for notification to the State Historical Society and State Archaeologist upon discovery of historical or archaeological resources, as may be required in the discretion of the Board of County Commissioners.
 - d. A report from the Huerfano County Historical Society regarding its understanding of the historical or archaeological resources at that site.**
- 5) The following requirements apply only to development located in Natural Resource Areas of statewide importance.
- a. A survey of habitat of applicable species, both fauna and flora, by a qualified professional.
 - b. A plan of construction and operations, which shall contain an analysis of the effects of the proposed development upon wildlife species within the designated wildlife habitat, both fauna and flora.
- 6) The following requirements apply only to development located in Natural Hazard Areas.
- a. For development in a natural hazard area as set forth in Section 7.02.08 (B)(4):
 - i. A flood hazard impact report that addresses the criteria for developing in a flood hazard area, certified by a registered Colorado Professional Engineer.
 - ii. Maps or reports addressing flood hazard areas must be prepared by a registered Colorado Professional Engineer, a hydrologist or other professional with appropriate expertise in the issues addressed in the map or report as determined by the Land Use County Staff.
 - b. For developments located within a natural hazard area which is a geologic hazard area:
 - i. A geology report documenting and assessing the nature and extent of the applicable geologic hazard, its impact on the proposed development, and proposed mitigation measures if any, prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, or an individual registered as a geologist by a state.
- 7) Requirements applicable to all applications

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- a. Detailed description of the scope and need for the proposed development or activity, including but not limited to:
 - i. The present population of the area to be served and the **projected** population to be served.
 - ii. The predominant types of users or communities to be served by the proposal, over the lifecycle of the project.
 - iii. The percentage of the design capacity at which the current system is now operating.
 - iv. If the proposal is a new **water** or **wastewater** treatment system or public utility facility and that system exceeds a ten year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
 - v. The relationship of the proposal to the applicant's long-range planning and capital improvements programs, including specific reference to the **County** master plan.
- 8) Environmental Impact Analysis, applicable to all applications.
 - a. Land use:
 - i. Specify whether the proposal conforms to local governments planning policies and master plans.
 - ii. Detail the agricultural productivity capability of the land affected by the proposal (SCS classification).
 - iii. Specify how the proposed development will utilize existing easements or rights-of-way for any associated transmission, distribution, or collector networks.
 - iv. Specify any additional right-of-way or easements for new or expanded transportation facilities.
 - b. **Water** resources:
 - i. On an appropriate map, indicate any flood hazard areas associated with the proposal. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the activity or development, should be included. Detail potential, adverse impacts related to the associated flood hazard area.
 - ii. Map and describe all **surface**³⁴ **waters**, including applicable state **water** quality standards, which may be affected by the project.
 - iii. Describe the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface **water** under both average and worst case conditions.

³⁴ **Does “surface” mean stream water? Better go back and check definitions.**

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- iv. Map and describe all **groundwater**, including any aquifers and aquifer recharge areas. Describe the potential impacts and net effect of the activity on **groundwater**, both quantity and quality. At a minimum, the description should include:
 1. Seasonal **water** levels in each platted subdivision of the aquifer affected by the activity.
 2. Artesian pressure in aquifers.
 3. **Groundwater** flow directions and levels.
 4. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
 5. For aquifers to be used as part of a **water** storage system, methodology and results of tests used to determine the ability of aquifer to impound **groundwater** and aquifer storage capacity.
 6. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
 7. Existing **groundwater** quality and classification.
 8. Location of all **water** wells and their uses.
 9. Location of all aquifer recharge areas.
 - v. Describe the impacts and net effect of the activity on wetlands and riparian areas.
 1. Map and describe wetlands, and riparian areas to be affected by the activity, including a description of each type of wetlands, species composition, and biomass, both fauna and flora.
 2. Describe the source of **water** interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, **groundwater** seepage, etc.).
 3. Describe impacts and the net effect that the project would have on the wetlands and riparian areas.
 4. Describe impacts on quantity and quality of **water** in Aquifer Recharge Areas.
- 9) Terrestrial and Aquatic Animals and Habitat, as applicable:
- a. Map and describe terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
 - b. Map and describe critical wildlife habitat and livestock range to be affected by the activity including migration routes, calving areas, summer and winter range, and spawning beds.

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- c. Describe the impacts and net effect that the activity would have on terrestrial and aquatic animals, habitat, and food chain.
- 10) Terrestrial and Aquatic Plant Life, as applicable:
- a. Map and describe terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
 - b. Describe the impacts and net effect that the activity would have on terrestrial and aquatic plant life, including plant life resulting from agricultural irrigation, dry up of the same, and revegetation efforts to mitigate the same.
- 11) Air quality, as applicable:
- a. Detail how many average daily trips will be generated by the proposal.
 - b. Explain any other adverse impacts on air quality anticipated from the proposal.
 - c. Describe how any state or federal air quality standards will be impacted and if the proposed transportation facility has been included in the region's air quality models to verify conformity with the air quality plan.
 - d. Describe the air sheds to be affected by the activity, including the seasonal pattern of air circulation and microclimates.
 - e. Describe the impacts and net effect that the activity would have on air quality during both construction and operation under both average and worst case conditions.
- 12) Significant environmentally sensitive factors, as applicable:
- a. Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its environs, and detail the potential impact of the proposal upon each feature:
 - i. Potential natural hazards
 - ii. Public outdoor recreation and open space areas.
 - iii. Unique areas of geologic, historic, and archaeological importance.
- 13) Visual aesthetics and nuisance factors, as applicable:
- a. Identify view sheds, scenic vistas, unique landscapes, or land formations.
 - b. Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution, or obnoxious odors which may stem from the proposal.
 - c. Identify and describe any structures, excavations, and embankments that will be visible as a result of this project.
- 14) Transportation impacts, as applicable:

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- a. Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the proposal through the submittal of a traffic impact analysis of the proposed transportation facilities. The traffic impact analysis should include but not be limited to the following:
 - i. Identify the facilities required to support the existing and future land uses being served by the proposed transportation facility.
 - ii. Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.
 - iii. Provide the existing and future Level of Service (LOS) before and after the proposed project is completed.
 - iv. All transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.
 - v. Submittal of a benefit/cost analysis of the proposed transportation improvements and identify the distribution of the burden of the cost for the proposed improvements to the project as well as the adjacent state or local road system.
- 15) Potential Socio-Economic impacts of the proposal, including but not limited to impacts related to the historical rural-agricultural culture of the County, employment impacts/opportunities and other related socio-economic factors.
- 16) Less damaging alternatives, applicable to all applications:
 - a. If the County Staff or Planning Commission determines that the nature or extent of the proposal involves the potential for significant environmental and/or socio-economic damage and warrants examination of specific, less damaging alternatives, the County Staff or Planning Commission may request that the Board require that the applicant evaluate and present information on such alternatives and mitigation as part of the application.
 - b. Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented, as well as mitigation alternative which might lessen such impacts.
- 17) For any application requiring compliance with Article 65.5 of Title 24, C.R.S., certification of compliance with Article 65.5 of Title 24, C.R.S., signed by the applicant confirming that the applicant or its agent has examined the records of the Huerfano County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.³⁵

³⁵ **Interesting requirement in that the Assessor doesn't maintain a separate schedule of severed mineral**

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18) Any application involving a water-related matter shall described its impact on:

- a. Water rights.**
 - i. In addition to the impact analysis, the application shall contain copies of decrees of the District Court or of the Water Court relating to the water rights involved.**
- b. Water structures, including headgates, ditches, wells, dams/reservoirs, etc.**
 - i. In addition to the impact analysis, the application shall contain copies of any orders of the appropriate Water Commissioner(s), the Division Engineer or the State Engineer regarding any of the water structures related to the water rights or irrigated lands involved.**
- c. All engineering, hydrological, or hydrogeological analysis related to the water rights involved.**
- d. Legal description and map of all irrigated acreage proposed to be dried up.**
- e. Give some thought to this....**

7.04.08 Referral Requirements

A. Referral of Applications – nothing herein is to be deemed to define the potential impact area of any project, but rather to define only where specific referrals are to be required.

1) When an application meeting the requirements of Section 7.04.07 is filed with the Land Use Department, and deemed complete by County Staff, the application materials shall be referred to interest holders in any property proposed to be **occupied** ~~physically disturbed~~ by the activity or development, property owners within **one mile** ~~1,500 feet~~ of any property proposed to be physically disturbed and appropriate referral agencies. Based on the specifics of the application, the County Staff may waive referral requirements if those requirements are unnecessary.

a. The applicant is responsible for preparing the referral packets³⁶ in the manner prescribed by the County Staff. An error made either intentionally or unintentionally by the applicant in the preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.

b. All mailings shall be by U. S. Mail, first-class postage prepaid, with the exception of referrals to offices and agencies in the Huerfano County interoffice mail delivery route. Referral Packets

B. Referral Packets

estates.

³⁶ **Would it be wise to provide that the referral packets could be in electronic form?**

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- 1) Each referral packet shall contain one copy of the site plan (full size or reduced to letter size) and application, and other materials as deemed appropriate by the Land Use County Staff. The number of referral packets required shall be determined by the County Staff.
 - 2) Referral notices shall be mailed ³⁷to agencies specified in this Section 7.04.08 and to each owner of an interest in any property proposed to be physically disturbed by the proposal, and to property owners within 1,500 feet of any property proposed to be physically disturbed, unless otherwise specified by County staff. Referral notifications may be distributed electronically.
 - 3) Referral notices shall also include the name of the proposal, name of owners of the affected property, permit number, general location, and number of acres, proposed use, and any other information deemed appropriate by the County Staff. The notice shall also include information on where to access referral packets on the County's website, and provide staff contact information in case the person receiving the notice wishes to request a hard copy of the referral packet. The complete application referral packet shall be available for public review in hard copy form at the County Land Use Department during business hours.
- C. Review of Applications by Agencies and Individuals – while this section provides for referral of applications to specific agencies and individuals for comment, such comments are advisory only, and no referral comments shall be binding upon the Board of County Commissioners.
- 1) Referral responses from agencies and individuals.
 - a. Referral responses must be received by the County Staff within **75** ~~30~~ days³⁸ of transmittal in order to insure that recommendations and findings are considered.
 - b. Failure of any office, agency district, or individual to respond within the above-mentioned time period, or within the period of an extension which may be expressly granted by the County Staff, will be regarded as a response with no conflict.
 - 2) The State Engineer may review the application to insure conformity with all applicable regulations of the Colorado Division of **Water** Resources and for comment on applicable **water** rights administration and determination concerns.
 - 3) The Colorado and County Health Departments may review the application for conformity with all applicable State and County health related regulations.
 - 4) The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.

³⁷ Certified mail?

³⁸ **To get thoughtful (maybe any) responses from districts requires more than 30 days. Decisions are made by the District's board which usually meets once a month.**

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- 5) The Colorado Public Utilities Commission may review all applications for major facilities of a public utility, and provide information on any decisions, orders, or findings which the Commission has made or proposes to make with respect to the facility, and any other pertinent information.
- 6) Colorado Department of Transportation may review the application for conformity to the State Highway Access Code, STIP and the regulations relative to the administration of state and federal transportation systems.
- 7) The Colorado Division of Wildlife may review all applications in areas affecting natural resources.
- 8) The County Land Use Department shall evaluate the application for conformance with the Comprehensive Plan, these regulations, sound planning, and comments from the referral agencies and individuals.
- 9) The Colorado **Water** Conservation Board may review the application for flood hazard impacts.
- 10) The City of Walsenburg, Town ~~or of~~ La Veta, or any other governmental jurisdictions or Special District may review the application for conformance and possible impact of their future land-use plans.

11) The Huerfano County Historical Society may review the application for any impacts on identified historical or archeological sites or features within the County.

12) The Huerfano County Water Conservancy District may review the application for the proposal's impact on the County's water resources.

- D. Post referral action if there are referral comments received by the Land Use Department which require a response from the applicant, the following actions shall occur:
- 1) The Land Use staff will transmit by first class mail, electronic mail, or hand delivery, the comments from referral agencies and individuals as soon as possible following the required referral response period.
 - 2) Within 30 days after transmittal of those comments, or by a later date specified by the County Staff, the applicant shall respond in writing to all issues raised during the referral process.
 - a. Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final Planning Commission and Staff recommendation.
 - b. If the County Staff or the Planning Commission finds that this new information results in a substantial change in the proposal, the County Staff may re-refer the amended application and supporting materials to those referral agencies and individuals outlined in Section 7.04.08, above. The processing schedule will be amended accordingly.
 - c. If the applicant is unable to supply responses within the 30 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 90 days.

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d. If the applicant fails to supply satisfactory responses within the specified time, the County Staff may either base the Land Use Staff recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review. In the case of the latter, the County Staff shall inform the applicant in writing.

3) The Land Use Staff shall make a recommendation based on its analysis of the record on the application, the referral comments, and the applicant's responses to the referral comments.

7.04.09 Notice of Permit Hearing³⁹

- A. Not later than 30 days after receipt of a completed application for a permit, the County Staff shall set and publish notice of a date, time, and place for a ~~joint~~ public hearing before the Board of County Commissioners and the Planning Commission.⁴⁰ The notice shall be published once in a newspaper of general circulation in Huerfano County, not less than 30 nor more than 60 days before the date set for the hearing. Notice shall also be mailed to the applicant, and to any other persons or agencies requesting notice of the hearing, at the same time the notice is published. Inadvertent failure to notify every such property owner, person, or agency shall not affect the validity of any hearing or any determination of the Board.
- B. Not less than thirty days before the date scheduled for the ~~joint~~ public hearing the applicant will send notice by, certified mail, return receipt requested, or by a nationally recognized overnight courier, to all property owners indentified in Section 7.04.08 (B) (2), and all mineral estate owner pursuant to CRS 24-65.5-103. Inadvertent failure to notify every such property owner, person, or agency shall not affect the validity of any hearing or and determination of the Board.
- C. The application shall be considered complete and therefore received by the Land Use Department for purposes of this Section 7.04.09, once the applicant supplies satisfactory responses to the referral comments as required by Section 7.04.08(D)(2), above, or, if no responses are required, within 60 days after the County Staff transmits information on the application to the referral agencies and individuals pursuant to Section 7.04.08(C), or at such later date as the County Staff may have approved under Section 7.04.08(C), above. Completeness of the application shall also be determined based upon the applicant's compliance with any applicable requirements of Article 65.5 of Title 24, C.R.S., as set forth in Section 7.04.07(A) (1)(D), above.
- D. Notwithstanding any other provision of this Article the Applicant shall be solely responsible for complying with any applicable requirements of Article 65.5 of Title 24, C.R.S. Therefore, if the application is one which requires compliance with Article 65.5 of Title 24, C.R.S., and if the applicant has certified as part of its application submittal that mineral estate owners or lessees owning less than full fee title in the property which is the subject of the application exist, the County's initial public hearing on the application (before the Planning Commission or the Board, as applicable) shall not be

³⁹ **All these notice and procedural matters should be conformed to the new simplified construct being adopted by the County Commissioners.**

⁴⁰ Who holds the public hearing?

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held unless the applicant provides a further signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, CR.S.

- E. In any case where information becomes known to the Planning Commission, Board, or County Staff that an applicant has failed to provide notice of an initial public hearing on an application as required Article 65.5 of Title 24, C.R.S. at least 30 days prior to the initial County public hearing on the application, as required by Article 65.5 of Title 24, C.R.S., the Planning Commission, the Board, or the County Staff on behalf of the Planning Commission or Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

7.04.10 Conduct of the Permit Hearings

- A. The Board shall conduct its public hearing in such a manner so as to solicit all relevant testimony from the applicant and members of the public.
 - 1) The Board and Planning Commission shall hear testimony and receive evidence and documents presented at the public hearing.
 - 2) The County Staff shall conduct and preserve the following record of the public hearing:
 - a. The permit application.
 - b. Any written statements or documents presented in support of or in opposition to the permit application.
 - c. The names and addresses (as available) of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence.
 - d. Any tape recording of the hearing.
 - e. The Planning Commission's recommendation.
 - f. The resolution of the Board granting or denying the permit application.
 - g. A copy of the permit, if issued.
- B. Any application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a Major Facility of a Public Utility as contemplated by Section 29-20-108, C.R.S., as amended, and which is presented to the Planning Commission for review, shall be considered to be a "preliminary application" under Section 29-20-108. Final County action on any such application shall thus be required to be taken within 120 days after submission of the application, or the application under Section 29-20-108 is deemed approved. Any such application for a major electrical or natural gas facility which is presented to only the Board, shall be considered to be a "final application" under Section 29-20-108, on which final County action shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection C.,

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"submission" shall be considered to be the submission of a complete application as required by this Regulation, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

7.04.11 Standards for Approval of a Permit Application

A. General Approval Requirements

- 1) A permit application for development of a matter of state interest may not be approved unless the applicant satisfactorily demonstrates that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in this Article. If the proposal does not comply with all of the applicable criteria, the permit shall be denied, unless the Board determines that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.
- 2) If the Board determines at the public hearing that sufficient information has not been provided to it to allow it to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received. The Board shall adopt a written decision on a permit application as soon as practicable after the completion of the permit hearing.

B. Standards for approval of all permit applications. Notwithstanding this Section 7.04.11.B., applicable standards may be waived pursuant to Section 7.04.03 of these Regulations.

- 1) The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposal, including surface, mineral, and **water** rights. The Board may, in its discretion, defer making a final decision on the application until necessary property rights, permits and approvals for the proposal are obtained.
- 2) The applicant has the necessary expertise and financial capability to develop and operate the proposal consistent with all requirements and conditions.
- 3) Adequate **water** supplies, as determined by the Board of County Commissioners, with referral comments from the State Engineer's Office, the Division Engineer's Office, **and** the Colorado Department of Health **and the Huerfano County Water Conservancy District** are available for the proposal if applicable.
- 4) The proposal will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan, or identifiable on or near the site.
- 5) The proposal shall not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this section, the following aspects of the environment shall be considered:

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- a. Air quality: The proposal shall not significantly deteriorate air quality. In determining impacts to air quality, these considerations shall apply.
 - i. Changes to seasonal ambient air quality
 - ii. Changes in visibility and microclimates
 - iii. Applicable air quality standards
- b. Visual quality. The proposal shall not significantly degrade visual quality. In determining impacts to visual quality, these considerations shall apply.
 - i. Visual changes to ground cover and vegetation, **water**falls and streams, or other natural features.
 - ii. Interference with view sheds and scenic vistas.
 - iii. Changes in appearances of forest canopies.
 - iv. Changes in landscape character types or unique land formations.
 - v. Compatibility of building and structure design and materials with surrounding land uses.
- c. Surface **water** quality. The proposal shall not significantly degrade surface **water** quality. In determining impacts to surface **water** quality, these considerations shall apply.
 - i. Changes to existing **water** quality, including patterns of **water** circulation, temperature, conditions of the substrate, extent, and persistence of suspended particulates and clarity, odor, color or taste of **water**.
 - ii. Applicable narrative and numeric **water** quality standards.
 - iii. Increases in point and non-point source pollution loads.
 - iv. Increase in erosion.
 - v. Increases in sediment loading to **water** bodies.
 - vi. Changes in stream channel or shoreline stability.
 - vii. Changes in storm **water** runoff flows.
 - viii. Changes in trophic status or in eutrophication rates in lakes and reservoirs.
 - ix. Changes in the capacity or functioning of streams, lakes, or reservoirs.
 - x. Changes in flushing flows.
 - xi. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
- d. Ground**water** quality. The proposal shall not significantly degrade ground**water** quality. In determining impacts to ground**water** quality, these considerations shall apply:

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- i. Changes in aquifer recharge rates, groundwater levels, and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- ii. Changes in capacity and function of wells within the impact area.
- iii. Changes in quality of well water within the impact area.
- e. Wetlands and riparian areas. The proposal shall not significantly degrade the quality of wetlands and riparian areas. In determining impacts to wetlands and riparian areas, these considerations shall apply:
 - i. Changes in the structure and function of wetlands.
 - ii. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
 - iii. Changes to aerial extent of wetlands.
 - iv. Changes in species' characteristics and diversity.
 - v. Transition from wetland to upland species.
 - vi. Changes in function and aerial extent of floodplains.
- f. Terrestrial and aquatic animal life. The proposal shall not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.
 - i. Changes that result in loss of oxygen for aquatic life.
 - ii. Changes in flushing flows.
 - iii. Changes in species composition or density.
 - iv. Changes in number of threatened or endangered species.
 - v. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.
 - vi. Changes to habitat and critical habitat, including streambed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.
 - vii. Changes to the aquatic and terrestrial food webs.
- g. Terrestrial and aquatic plant life. The proposal shall not significantly degrade the quality of terrestrial and aquatic plant life, including plant life resulting from agricultural irrigation, dry up of the same, and revegetation efforts to mitigate the same. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.

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- i. Changes to habitat of threatened or endangered plant species.
 - ii. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - iii. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
 - iv. Changes in threatened or endangered species.
- h. Soils and geologic conditions. The proposal shall not significantly degrade soils and geologic conditions, including soil impacts resulting from agricultural irrigation, dry up of the same, and revegetation efforts to mitigate the same. In determining impacts on soils and geologic conditions, these considerations shall apply.
- i. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and flood hazard areas.
 - ii. Changes to stream sedimentation, geomorphology, and channel stability.
 - iii. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
 - iv. Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.
 - v. Exacerbation of seismic concerns and subsidence.
- 6) The proposal will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
- 7) The proposal will not cause unreasonable loss of significant cultural resources, including but not necessarily limited to historical structures or sites and archaeological artifacts or sites, as identified in the Comprehensive Plan or identifiable on or near the site.
- 8) The proposal or its associated transmission collector or distribution system will not create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.
- 9) The proposal will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.
- 10) The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the County.
- 11) The proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
- 12) The planning, design and operation of the proposal will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.

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- 13) For those applications for which the County has required information on the environmental and socio-economic impacts and costs of alternatives under Section 7.04.07(D)(8-15) above, the proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed.
 - 14) The proposal is in accordance with the Huerfano County Comprehensive Plan and any applicable intergovernmental agreement affecting land use and development, including but not limited to any applicable land use designations. In cases where a person who is not a service provider with a County-approved service plan or service area, proposes a development within an approved service area, the Board shall not be compelled to consider the development be in compliance with the applicable adopted comprehensive plan or intergovernmental planning agreement simply by virtue of the fact that the development is located within, or is proposed to serve, an approved service area.
 - 15) The proposal represents the complete, reasonably foreseeable development for the subject property as required under Section 7.04.01(D), above, except that the Board may approve development constituting less than the complete development provided that the Applicant clearly demonstrates that a lesser proposal constitutes a discrete phase of the complete development as supported by the applicable master planning document required under Subsection 7.04.01(D), which can be logically and adequately reviewed as a separate project under the applicable criteria of these Regulations, and documents the relationship of such phase to future phases of the same project. Amendments to approvals of applications submitted after the effective date of February 22, 2011 shall be subject to the further requirements of Subsection 7.04.01(E), above.
- C. Additional standards for approval of **municipal and industrial water-related** projects.
- 1) The proposal shall emphasize the most efficient use of **water**, including, to the extent permissible under existing law, the recycling and reuse of **water**. Urban development, population densities, and site layout and design of storm **water** and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
 - 2) To promote the efficient utilization of **municipal and industrial water-related** projects, utilization of the following **water** sources shall be favored:
 - a. Utilization of existing municipal and industrial **water** supplies, for example, by lease, exchange, sale, or other disposition between persons or entities within Huerfano County, ~~or between persons or entities within Huerfano County and those outside Huerfano County.~~
 - b. **Water** supplies from sources which do not involve the removal of **water** from irrigated agriculture or open space or preserved lands in Huerfano County, or which do not involve increased use of native flows of **water** in the streams of Huerfano County.
 - c. **The proposal is not part of a scheme to export water from the County by change of water right, by the plumping of desiccated water rights, or otherwise.**

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D. Additional standards for approval of site selection and construction of major new domestic **water** and sewage treatment systems and major extensions of existing domestic **water** and sewage treatment systems.

- 1) ~~New domestic water and sewage treatment systems and~~ major extensions of existing domestic **water** and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants within the County and will ensure the orderly development of domestic **water** and sewage treatment systems of adjacent communities within the County.⁴¹
- 2) Major extensions of domestic **water** and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
- 3) ~~Proposed development would place~~ Existing **water** and sewage treatment systems servicing the area ~~must be~~ at or near operational capacity.
- 4) The scope and nature of the proposal will not compete with existing **water** and sewage services or create duplicate services.
- 5) The age of existing domestic **water** and sewage treatment systems, operational efficiency, state of repair or level of service is such that replacement is warranted.
- 6) Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado **Water** Control Division.

E. Additional standards for major facilities of a public utility.

- 1) Facilities shall be sited and constructed in areas which will result in the proper utilization of existing facilities and associated systems within or serving the County.
- 2) Facilities shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such facility can be accommodated within the financial and environmental capacity of the area to sustain such growth and development and are in accordance with the applicable County land use plans.
- 3) Existing facilities and associated systems servicing the area must be at or near operational capacity.
- 4) If a facility extension or replacement is proposed, the age of existing facilities and associated systems, their operational efficiency, and their state of repair or level of service are such that extension or replacement is warranted.
- 5) If a new facility is proposed, existing facilities cannot be feasibly upgraded or expanded.

F. Additional standards for site selection of new communities.

⁴¹ ~~This condition doesn't make sense.~~

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- 1) The design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities of the region.
- G. Additional standards for development in natural resource areas of statewide importance.
- 1) Development shall be designed to preserve the integrity of the resource.
 - 2) Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.
 - 3) The proposed development will not adversely affect **either surface or subsurface water** rights.
 - 4) The proposed development will not significantly deteriorate significant wildlife habitat.
 - 5) The proposed development will not significantly degrade existing natural scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.
- H. Additional standards for development in flood hazard areas.
- 1) Development shall preserve the integrity of the flood hazard area by not altering or impacting it in any way which is likely to pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment).
 - 2) Development which, in time of flooding, will likely pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment) shall be prohibited. In determining whether there will likely be a significant threat, the following factors shall be considered:
 - a. creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding;
 - b. use of flood protection devices or flood proofing methods;
 - c. nature or intensity of the proposed development;
 - d. increases in impervious surface area caused by the proposed development;
 - e. increases in surface runoff flow rate and amount caused by the proposed development;
 - f. increases in flood **water** flow rate and amount caused by the proposed development;
 - g. proximity and nature of adjacent or nearby land uses;
 - h. impacts to downstream properties or communities;
 - i. impacts on shallow wells, waste disposal sites, **water** supply systems, and sewage disposal or on-site wast**water** systems.

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- 3) Areas of Unincorporated Huerfano County not designated on the Flood Hazard Area Map must meet the requirement of the Flood Damage Prevention Resolution No: 88-13 adopted by the Board on 31, August 1988.
 - 4) Open space activities such as agriculture, passive recreation (recreation not requiring the development of playing fields, spectator stands or other significant structures), and mineral extraction, shall be presumed to be the favored form of development in the flood hazard area and shall be encouraged. Applications proposing other forms of development, which make a more intensive use of the land such as by increasing the structural coverage or impervious surface on the land, shall be presumed to generate adverse impacts on the flood hazard area and shall not be approved unless the applicant clearly demonstrates that the criteria of this Section 7.04.11(H) and of Section 7.04.11(B) have been met.
- I. Additional standards for development in geologic hazard areas.
- 1) Development shall not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
 - 2) Open space activities such as agriculture, passive recreation not requiring the development of playing fields, spectator stands or other significant structures, and mineral extraction, shall be encouraged provided they can be conducted in a manner which does not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
 - 3) Any approved development shall be designed in a manner that mitigates any significant risk posed by the geologic hazard, as confirmed by a registered professional engineer or other qualified expert in the field.
 - 4) Shallow wells, solid waste disposal sites, **water** supply systems, and on-site **wastewater** systems and sewage disposal systems shall be protected.
 - 5) Development shall comply with all applicable County Building Code and Health Department regulations.

7.04.12 Issuance of Permits

- A. The permit shall be issued on the form adopted by the Board of County Commissioners, which may be the Board's written resolution of decision on the application.
- B. The permit may be issued for an indefinite term or a specified number of years.

7.04.13 Financial Security

- A. Before any permit is issued, the Board may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by and made payable to the Board.
- B. The purpose of this financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit.

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- C. Any requirement for a financial guarantee shall be specified in the written decision of the Board on the permit application.

7.05 POST APPROVAL REQUIREMENTS

7.05.01 Enforcement of Permit Requirements

- A. When it comes to the attention of the Board that the provisions of any permit have been violated by the permittee, the Board, if it determines that enforcement action is appropriate, shall give the permittee written notice of the specific violation and of a hearing on the proposed violation which the Board shall schedule no sooner than 30 days after the date of the written notice. If the Board determines that an emergency situation exists the Board may schedule the hearing sooner than 30 days, provided that the permittee receives at least five working days' prior notice of the hearing.
- B. If the permittee fails to correct the violation by the public hearing date, and the Board determines at the public hearing that the violation exists, the Board, in its discretion, may impose an appropriate sanction, including but not necessarily limited to temporary suspension of the permit for a reasonable time certain; an order to correct the violation within a reasonable time certain; the requirement for additional financial guarantees; or revocation of the permit.
- C. The Board shall have the authority to seek an injunction or other appropriate relief in the appropriate state or federal district court if the permittee fails to correct the violation or to comply with any sanction imposed at the public hearing.
- D. Any permit issued under these regulations shall be deemed to include the granting of the permittee's consent to entry and inspections by the Board and its authorized representatives as may be necessary at any time during regular County business hours, without prior notice to the permittee, to determine compliance with the terms of the permit.
- E. Any person engaging in a development in a designated area of state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these regulations may be enjoined by the Board **or any other person** from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.
- F. To the extent the Board **or any other person** may be forced to seek injunctive relief as provided in this Section 7.05.01, any permittee, applicant or other person subject of such injunctive relief as may be awarded by a court of proper jurisdiction shall be liable to the County for costs and fees incurred in securing such injunctive relief, including reasonable attorney fees.