



PLANNING COMMISSION REGULAR MEETING AGENDA

March 13, 2025 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

1:30 PM - PUBLIC MEETING

Join via Google Meet: meet.google.com/jtn-scsu-ecp | Meeting ID: jtn-scsu-ecp

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. READING OF MINUTES
 - a. Minutes from January 23, 2025
4. OLD BUSINESS
5. NEW BUSINESS
 - a. Oil and Gas Regulations - Section 6.00
6. LGD UPDATES
7. DISCUSSIONS
 - a. Non-Conforming Lot with Building
8. ADJOURNMENT
9. UPCOMING MEETINGS
 - a. Upon Adjournment - Housing Regulations Workshop

Huerfano County wants to ensure that everyone has equal access to our programs, activities, and services. To request an Americans with Disability Act (ADA) accommodation, please call 719-738-3000 x200. Submit your request as early as possible, and no later than two business days before the event.



PLANNING COMMISSION MINUTES

January 23, 2025 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

1. 1:30 PM - PUBLIC MEETING

Join via Google Meet: meet.google.com/jtn-scsu-ecp | Meeting ID: jtn-scsu-ecp

2. ROLL CALL

Meeting called to order at 1:35

PRESENT

Beaver Edmundson

Dale Lyons

Myrna Falk

Lenna Rauber

Paul Smith

Mary White

ABSENT

Lonnie Brown

3. PLEDGE OF ALLEGIANCE

4. ELECTION OF THE CHAIR

Motion to appoint Beaver Edmundson Chair of the Board

Motion made by Falk, Seconded by Lyons.

Voting Yea: Edmundson, Lyons, Falk, Smith

Motion Passes.

5. READING OF MINUTES

a. Minutes from 12-12-2024

Motion to approve the minutes from December 2024 Meeting.

Motion made by Falk, Seconded by Lyons.

Voting Yea: Edmundson, Lyons, Falk, Smith

Motion Passes.

6. OLD BUSINESS

- a. Comp Plan Review

7. NEW BUSINESS

8. LGD UPDATES

9. DISCUSSIONS

- a. Oil and Gas Regulations Section 6.00
- b. Housing Regulation Updates

10. ADJOURNMENT

11. UPCOMING MEETINGS

Huerfano County wants to ensure that everyone has equal access to our programs, activities, and services. To request an Americans with Disability Act (ADA) accommodation, please call 719-738-3000 x200. Submit your request as early as possible, and no later than two business days before the event.

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
6.23	PLANNING COMMISSION ACTION	6-15
6.24	PLANNING COMMISSION DETERMINATION OF SATISFACTORY MITIGATION FOR MINOR FACILITIES	6-15
6.25	APPEAL OF DENIAL OR APPROVAL.....	6-15
6.26	NOTICE TO ADJACENT PROPERTY OWNERS	6-16
6.27	RESERVED	6-17
“MAJOR FACILITIES”		
6.28	RESERVED.....	6-17
6.29	APPLICATION SUBMITTAL PROCEDURE	6-17
6.30	DETERMINATION OF COMPLETENESS	6-17
6.31	NOTICE OF A JOINT PUBLIC HEARING	6-17
6.32	NOTICE UPON REQUEST	6-18
6.33	PLANNING COMMISSION REVIEW AND JOINT PUBLIC HEARING	6-18
6.34	BOARD OF COUNTY COMMISSIONERS’ REVIEW CRITERIA	6-19
6.35	RESERVED	6-19
“PERFORMANCE STANDARDS”		
6.36	COMPLIANCE	6-20
6.37	LAND USE COORDINATION STANDARDS	6-20
6.38	ENVIRONMENTAL QUALITY STANDARDS	6-23
6.39	SURFACE DISTURBANCE STANDARDS	6-29
6.40	SPECIAL EXCEPTION REQUESTS	6-30
6.41	OPERATIONAL CONFLICTS SPECIAL EXCEPTION	6-31
6.42	INFORMAL DISPUTE RESOLUTION	6-32

C:\Users\cyoung\Downloads\lgd 6.00 Oil & Gas word 2-14-25.docx

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103

**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**



EXHIBIT A CHEMICAL PRODUCTS 6-33
APPENDIX A CONDITIONAL USE PERMIT FEE SCHEDULE FOR OIL AND GAS APPLICATIONS

C:\Users\cyoung\Downloads\lgd 6.00 Oil & Gas word 2-14-25.docx

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.01 RESERVED

OIL AND GAS* "GENERALLY"

* **State Law References:** Oil, gas, mineral rights, C.R.S. § 30-11-301 et seq.; oil and natural gas, C.R.S. § 34-60101 et seq.

6.02 AUTHORITY OF ARTICLE

This article is authorized by C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., and 30-28-101 et seq.

6.03 PURPOSE OF ARTICLE

This article is enacted to protect and promote the health, safety, values, convenience, order, prosperity or general welfare of the present and future residents of the county. It is the county's intent by enacting this article to facilitate the development of oil and gas resources within the unincorporated area of the county while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this article and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with this article or other regulatory agency rules and regulations. Should it be established by competent evidence that a proposed major or minor facility cannot be operated in compliance with this article, county land use approval for such a facility may be denied.

10/12/2021 8:39:21 AM

Page 6-1

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.04 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Also, see Section 17.00 for additional definitions.

Abandonment means the permanent abandonment of a well and shall be based on the operator's filing of abandonment with the Colorado Energy and Carbon Management Division (ECMC).

Presumption of permanent abandonment of a major facility shall be based upon nonuse or non-operation for one year without notification to the Board of County Commissioners (BOCC) of the intent to resume operations under specified conditions.

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

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

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

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

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

Code means the Huerfano County Land Use Code.

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

CPW means Colorado Parks and Wildlife.

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

10/12/2021 8:39:21 AM

Page 6-2

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

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

Department means Huerfano County Land Use and Building Department

Designated agent means an agent designated by the applicant, owner or lessee.

Director means the director of the Huerfano County Land Use and Building Department

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

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

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

ECMC means the Colorado Energy and Carbon Management Division (Formerly COGCC)

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

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

Flowline means a pipeline connecting an individual well to production equipment or a pipeline connecting individual production equipment to a gathering line that transports gas, oil, or produced water. Pipelines over 10" requires an HB-1041 application, Section 7.03.03.

Gas well means a well capable of producing gases, including, but not limited to natural gas, Carbon dioxide or Helium.

Gathering line means a pipeline receiving produced gas, oil, or produced water from more than one well pad and thereafter transporting gas, oil, or water to a transmission line or centralized facility.

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

10/12/2021 8:39:21 AM

Page 6-3

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

Heavy equipment means drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding 5 tons.

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

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

Major oil and gas facilities means:

- (1) Centralized facilities.
- (2) Water injection or centralized water transfer stations and associated facilities serving multiple well pads.
- (3) Storage yards and construction staging yards in place for longer than six months.
- (4) Any facility or structure related to the production of oil and/or gas which contains engines and/or motors with a cumulative horsepower, de-rated for elevation, of 200 BHP.
- (5) Pipelines for which the power of eminent domain is available.
- (6) Any oil and gas facility not meeting the definition of minor oil and gas facility.

Minor oil and gas facilities means:

- (1) An individual well pad built with one or more wells and operated to extract hydrocarbons, produce liquid petroleum, natural gas, or other gasses including associated equipment required for such production.
- (2) Gathering lines and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.
- (3) Temporary storage and construction staging yards in place for less than six months.
- (4) An individual well site built and operated to produce petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements specified in this article for minor facilities.
- (5) Any of the facilities specified under subsection (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.

10/12/2021 8:39:21 AM

Page 6-4

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

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

NRCS means the Natural Resource Conservation Service.

Nuisance means a facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this article after being ordered to do so by the board of county commissioners.

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

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

Operator means that individual or firm engaged in all or a portion of the extraction operations at a well or other facility; usually the lessee, although day-to-day operations may be contracted to another firm.

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

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

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

Platted subdivision lot means any lot created pursuant to state law, which has received subdivision approval by the board of county commissioners since September 1, 1972.

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

Right-of-way means:

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

10/12/2021 8:39:21 AM

Page 6-5

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

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

Setback means the distance between the following, including but not limited to, a lot or property line, the closest projection of a building structure or permitted facility, wellhead, flow line, gathering line or a major facility boundary, Site means any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease.

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

Surface owner means the owner of the property on which the facility will be constructed.

Temporary equipment means equipment located onsite for a duration of time less than six months.

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

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

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

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

All other words used in this article shall be given their usual, customary and accepted meaning in the oil and gas industry.

6.05 GENERAL PROCEDURES

- (a) Development of oil and gas facilities within the unincorporated areas of the county, as to which the county's legal jurisdiction has not been preempted by state or federal law, shall be subject to the

10/12/2021 8:39:21 AM

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

provisions of this article and any other applicable regulations of the county, as well as any state or federal entities or agencies having jurisdiction over such development.

- (b) Construction, installation and operation of oil and gas facilities which are subject to this article shall not commence until approval has been granted by the Board of County Commissioners. The Land Use and Building department shall serve as the authorized representative of the board of county commissioners for the purposes of this article.
- (c) Planning Commission review and recommendation together with board of county commissioners' review and approval shall be required for all activities and facilities.

6.06 RESERVED

“ADMINISTRATION IN GENERAL”

6.07 SUBMITTAL REQUIREMENTS

Submittal requirements are as found in the following table:

	Elements	Minor	Major
1.	Application	X	X
	Elements	Minor	Major
2.	Letter of Intent to include:	X	X
	Operating plan	May be required*	X
	Estimated number of site visits by vehicles	X	X

10/12/2021 8:39:21 AM

Page 6-7

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

	Other site specific information, identified and requested at a preapplication conference.	May be required*	X
	Provide engine manufacturer's verification of the site rated horsepower. Within 10 days of the installation of an engine, the operator will provide the serial number to the county staff.	X	X
3.	Emergency response Plan	X	X
4.	Site plan (map prepared for survey and location purposed by the applicant's surveyor may be used as per state and federal requirements) including:	X	X
	North arrow, appropriate scale, overlain on aerial photography	X	X
	Existing improvements within map area	X	X
	Utility easements, right-of-way	X	X
	Irrigation ditches crossing or within 100 ft	X	X

10/12/2021 8:39:21 AM

Page 6-8

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

	Elements	Minor	Major
	Drainage plan (onsite, offsite including proposed storm water best management practices for facility and access roads)	X	X
	Proposed facilities including temporary use area, permanent well pad, flow lines, gathering lines, pits, equipment, etc.	X	X
	Other site specific information identified and requested at a preapplication conference.	May be required*	X
	Proof of current surface ownership of facility site	X	X
5.	Vicinity maps (county GIS maps may be used as base map) including;	X	X
	Township, range, and section	X	X
	Site boundary	X	X
	North arrow and scale	X	X
	Major geographic features, to include bodies of water, roads utility corridors	X	X

10/12/2021 8:39:21 AM

Page 6-9

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



	Current surface ownership within one-quarter mile of site, to include names of platted subdivisions and approximate location of residences	X	X
	Current surface ownership of parcels adjacent to proposed site	X	X
	Elements	Minor	Major
	Existing and proposed access	X	X
	Existing pipeline routes (gathering lines, transmission lines)	X	X
	Other site specific information identified and requested at a preapplication conference	X	X
6.	Weed and disturbance plan	X	X
7.	Visual mitigation plan refer to 8.2.38 (a) (b)	X	X
8.	Wildlife mitigation procedures	X	X
9.	Noise mitigation procedures	X	X
10.	Four color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed	X	X

10/12/2021 8:39:21 AM

Page 6-10

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

11.	Grading Plan	X	X
12.	Information regarding right of access and use of access roads and copies of any access agreements or road maintenance agreements if applicable	X	X

** Pursuant to discretion of Director of Planning.*

6.08 RESERVED

6.09 FEE SCHEDULE

The application fees to be imposed pursuant to this article are set forth in Appendix A and adopted by resolution of the board of county commissioners. Fees to be charged in association with the provisions of this article may be amended periodically by the board of county commissioners.

6.10 GENERAL STANDARDS FOR REVIEW

- (a) Oil and gas facilities shall meet the standards and policies set forth in the following documents:
 - (1) These county oil and gas regulations;
 - (2) The county land use regulations;
 - (3) The county master plan;
 - (4) County road and drainage design specifications and standards;
 - (5) The International Building Code as amended and adopted by Huerfano County;
 - (6) Plans and regulations of municipalities in the county, if applicable;
 - (7) Other applicable local, county, state and federal plans, policies and regulations.

10/12/2021 8:39:21 AM

Page 6-11

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (b) All applications may, at the discretion of the Planning Commission, be subject to joint public hearing. Where applications are scheduled for joint public hearing, the Board of County Commissioners and the Planning Commission shall conduct a joint public hearing, with notice of such hearing published in a newspaper of general circulation in Huerfano County at least (10) days prior to the scheduled hearing date. Notification of the hearing date, and subject of the hearing shall be sent to all listed owners of record of all adjacent properties, and properties owners within one-mile of the facility at least ten (10) business days prior to the scheduled hearing date In accordance with public noticing requirements in Section 8.00 of these regulations.
- (c) All applications, the record of comments shall consist of the contents of the project file plus the record of the Planning Commission meeting.

Commented [1]: Let's discuss if we want to do a joint public hearing, or a public hearing.

After recent code updates, we could follow the Common Procedures for a public hearing in Section 8.00. This would require adding Oil and Gas-specific requirements to Section 8.01 and 8.08

Commented [2]: One mile or two?

What about horizontal drilling? Notification based on surface area above drilled area?

6.11 DURATION, MODIFICATIONS AND PREEXISTING USES

- (a) Duration. Approval granted for minor and major facilities shall expire and be considered revoked if construction of the facility is not commenced within one year of the date of approval. Approval granted for minor facilities that are individual well sites shall expire or be considered revoked if drilling operations are not commenced within one year of the date of approval.
- (b) Modifications. Where a minor or major facility has been approved and the applicant desires to modify the subject facility by changes to previously permanent approved equipment, addition of new permanent equipment, site layout, new grading activities, operating plan, etc., an amendment to the original application shall be required. Changes to permanent equipment include but are not limited to changes of existing equipment or operations that result in greater land use impacts. Applicant shall submit a narrative, site plan, visual mitigation plan, and appropriate fees per the specifications outlined in this chapter. In cases where the amendment would consist of the addition of a major facility, a joint public hearing shall be required as described in Section 6.33 of this section, Major Facilities. Modifications which the applicant determines in good faith must be done on an emergency basis may be commenced without prior notice or approval by the Board of County Commissioners. The applicant shall provide the Board of County Commissioners with notification of such emergency modifications by filing a written amendment to the application, along with the appropriate fees, specifying the modifications made, within two working days of their commencement.
- (c) Permit Extensions. Approved facilities may be granted one permit extension for up to one year duration provided that a request for extension is submitted to the Board of County Commissioners before the

10/12/2021 8:39:21 AM

Page 6-12

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

original permit expires. Requests for extensions shall not be submitted for board review earlier than 45 days prior to the original permit’s expiration date. Permit extension requests will be processed without fee.

- (d) Effective date. This article shall become effective on the date specified in the adopting resolution of the board of county commissioners in accordance with state law.

6.12 CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND GAS FACILITIES

It is unlawful to construct, install, or cause to be constructed or installed, any oil and gas facility within the unincorporated areas of the county unless approval has been obtained pursuant to these regulations.

6.13 PENALTY

Subject to the provisions of C.R.S. § 30-28-124, any person, firm, corporation or legal entity which owns, leases or operates a minor or major oil and gas facility, and which constructs, installs or uses, or which causes to be constructed, installed or used, any minor or major oil and gas facility without first receiving approval from the board of county commissioners, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$100.00 per day of violation, per violation, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. In addition, the County may also seek civil penalties and relief pursuant to the provisions of C.R.S. Section [30-28-124.5](#)

Commented [3]: Covers violations of zoning provisions.

6.14 CIVIL ACTION

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this article, the county attorney, or where the board of county commissioners deems it appropriate, the district attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.15 FALSE OR INACCURATE INFORMATION

The board of county commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and the planning commission and staff shall be provided with an opportunity to be heard at the public meeting prior to the board of county commissioners rendering its decision.

6.16 PERFORMANCE SECURITY

The applicant shall provide one form of the following security to ensure compliance with mitigation requirements set forth in this article and specific conditions of approval for minor and major facilities: A performance bond (irrevocable letter of credit; or equivalent financial security acceptable to the county) in the amount of at least \$90,000 for each minor facility up to 15 facilities subject to uncompleted conditions of approval (maximum \$1,260,000); or \$80,000 performance bond for operators with more than 15 minor facilities subject to uncompleted conditions of approval (maximum \$2,000,000). The amount required for performance bonds may be adjusted by the Board of County Commissioners based on the following: 1). The most recent estimates of average plugging and site remediation costs published by the Colorado Energy and Carbon Management Commission (formerly COGCC); 2). Total project costs; or 3) Estimated total costs of remediation and other factors, and rounded to the nearest thousand. Performance bond requirements for major facilities will be determined on a case by case basis. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners by the applicable performance standards contained in this section with regard to the county permit. Examples of impact could include but are not limited to roads, noxious weeds, water wells, storm water insult. Specific minor and major facilities will be released from the bonding requirement after the applicant demonstrates to the Board of County Commissioners that all conditions of approval have been met. Reclamation activities which fall under ECMC jurisdiction are exempted from this performance security coverage. This provision is not meant to replace the ECMC's financial assurance requirement.

For sites requiring a visual mitigation plan, see Section 6.38(4)(b).

10/12/2021 8:39:21 AM

Page 6-14

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

6.17 RIGHT TO ENTER

For the purpose of implementing and enforcing this article, the applicant shall provide notice to the surface owner that county personnel may need to enter onto subject property at any time during the review of a minor or major facility application and thereafter upon reasonable notification to the operator. If entry is denied, the County shall have the right to discontinue the processing of any pending permit application, to halt the effectiveness of an issued permit, or to obtain an order from a court of competent jurisdiction to obtain entry.

6.18 EMERGENCY RESPONSE PLAN REQUIRED

Each operator with facilities in the county is required to provide an emergency response plan to the county office of emergency management. No applications for a minor or major facility shall be considered complete until the operator has provided such plan to the county. The plan shall be filed with the county and updated on an annual basis or within 10 working days as conditions change (responsible field personnel change, ownership changes, etc.). The emergency response plan shall, at a minimum, consist of the following information:

- (1) Table of content with page numbers
- (2) Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
- (3) An as-built facilities map showing the name, location and description of all minor and major facilities, including the size, type and content of all pipelines, pits and tanks. The map shall be prepared digitally on the county geographic information system parcel maps. To the extent allowed by law, the as-built facilities map shall be held confidentially by the county's office of emergency management, and shall only be disclosed in the event of an emergency. To the extent allowed by law, the county's office of emergency management shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).
- (4) Provide two copies of a written response plan for any potential emergencies that may be associated with the construction, drilling, completion or operation of the facilities. This plan should include any or all of the following: explosions, fires, gas, chemical, or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.

10/12/2021 8:39:21 AM

Page 6-15

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (5) Project specific emergency response plans are required for any project (minor or major) that involves drilling or penetrating through known zones of hydrogen sulfide gas. This plan shall be coordinated with and approved by the county's office of emergency management prior to beginning field operations.
- (6) Hazard specific placards on building exteriors containing such substances.
- (7) Provide a list of contractors and necessary resources to staff prior to the commencement of construction
- (8) Submit prior to construction to staff a site plan which includes the location of the drill site, all onsite structures and their uses, chemical storage location, designated mustering point, first aid stations, command center.
- (9) Identify evacuation route
- (10) Include contact information for the operations team leader
- (11) Identify method of communication in the case of power outage
- (12) Requirement of having at least 10,000 of water storage on site designated for the sole purpose of firefighting.
- (13) Provide Huerfano County with radio frequencies. Assess the ability of Huerfano county to access these frequencies.
- (14) Identify contact responsible to respond search and rescue operations
- (15) Provide to Huerfano County with hours of operation and anticipated traffic impact including nights, weekends, and holidays.
- (16) Plan for emergency and medical response, including in cases of injury or death.

Commented [4]: ?

6.19 RESERVED

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

“MINOR FACILITIES”

6.20 GENERALLY

Applications for county land use approval for proposed minor facilities shall be processed by county staff, provided the information in the application establishes that (a) the proposed use complies with the minimum requirements for such facilities as set forth in this article or (b) that the proposed facility's noncompliance with this article will be mitigated in accordance with the applicable standards and requirements for minor facilities.

6.21 APPLICATION SUBMITTAL PROCEDURE

The application shall be in the form prescribed by Section 6.07 of this code and shall include information and/or documentation establishing that the proposed minor facility is in compliance with all applicable requirements of this article. If the applicant asserts that the proposed use complies with requirements, the application shall contain a certification from the applicant or its designated agent (accompanied by a written designation of agent in the form prescribed by the county) that the proposed facility complies with all applicable provisions of these regulations, and that the information in the application, as well as in any documentation submitted, is true and accurate. If the applicant asserts that the proposed facility's noncompliance with this article will be mitigated, the application shall set forth the specific measures which will be employed at the facility to mitigate the land use impacts associated with the facility. Such identified mitigation measures shall comply with the standards and requirements for such facilities as set forth in these regulations.

6.22 DETERMINATION OF COMPLETENESS

Should the county staff determine that the application, as submitted, is not complete, it shall provide the applicant with written notice of the specific deficiencies within fifteen (15) business days of the initial submittal. No further action shall be taken on an application determined to be incomplete, until the specified deficiencies have been corrected to the satisfaction of the county staff. If the application is found to be complete, containing all information and/or documentation required by this article, the county staff shall then review the application for compliance with applicable standards and requirements. This review may include a field inspection of the proposed site.

6.23 PLANNING COMMISSION ACTION

10/12/2021 8:39:21 AM

Page 6-17

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

Review of a complete application and approval or denial will typically occur within **twenty-one business days**. More or less time may be required for review depending on the county staff's work load or requests for additional information made to the applicant. If a permit is not approved within twenty-one (21) business days, the county staff will contact the applicant with an estimate of when the application will be acted upon. Should the information in the application and any accompanying documentation establish that the proposed minor facility will be constructed and operated in compliance with all applicable standards and requirements of this article, then Planning Commission shall issue a recommendation of approval for the proposed minor facility. Should the Planning Commission determine that the proposed minor facility will not or cannot be constructed and operated in compliance with all applicable standards and requirements of this article, then it shall issue a recommendation of denial of the application, stating with specificity the grounds for its decision. At the request of either the applicant, surface owner, or other landowner receiving notice pursuant to Section 6.26 of this Code, Planning Commission may, at its discretion conduct a public site visit with these parties to evaluate locations, compliance with county code, and mitigation that may be required under Section 6.38 of this code. When possible this site visit will be coordinated with site visits required by rules of other governmental agencies. Where a site visit is not deemed necessary, the Planning Commission may hold an informal dispute resolution meeting pursuant to the Land Development Guide at a convenient community building.

Commented [5]: Keep?

6.24 PLANNING COMMISSION DETERMINATION OF SATISFACTORY MITIGATION FOR MINOR FACILITIES Measures.

Should the information in the application and any accompanying documentation establish that the proposed facility will be constructed and operated in such a manner that the land use impacts associated with the facility's noncompliance with this article are mitigated in accordance with the applicable standards and requirements, the Planning Commission shall issue recommendation of approval for the proposed minor facility. Should the Planning Commission determine that the mitigation plan for the facility does not meet the applicable standards and requirements, and the applicant fails or refuses to provide satisfactory evidence that such a mitigation plan is not possible under the facility's specific circumstances, it shall issue a recommendation of denial of the application, stating the specific grounds for its decision.

6.25 APPEAL OF DENIAL OR APPROVAL

10/12/2021 8:39:21 AM

Page 6-18

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

Should the applicant request county land use approval by the filing of a written appeal with the board of county commissioners, he must follow the requirements of Section 1.17.

6.26 NOTICE TO ADJACENT PROPERTY OWNERS

(1) Written notice shall be provided to surface owners for all facility applications to be mailed no less than 10 days prior to the date of a public hearing. Notice of the application shall be made in accordance with common procedures established in Section 8.00. In addition to general requirements, the following conditions shall apply to oil and gas permit applications:

Commented [6]: Previously required notice prior to submitting application to staff.

- a. To the current surface owners of the parcels of land within which the minor facility is proposed to be located, as well as the current surface owners of those parcels of land within one-mile of the well head, as such ownership is indicated for tax purposes in the current records of the county assessor's office. For the purposes of notice, the parcel owner shall receive notice if their property boundary is within one-mile from the point indicated as the wellhead (the wellhead is indicated by feet from section lines).
- b. In addition to requirements outlined in Section 8.00 of these regulations, the notice of the application for approval of a minor facility shall contain the following:
 - 1. A description of the proposed facility's site location, including a legal description, as well as a street address for the site, if available from the county's rural addressing system. The identification of the applicant and its designated agent for the application, if any; the current business address and telephone number for the applicant and its agent, if one has been designated, and a vicinity map per the specification of this chapter and brief description of the facilities and equipment proposed to be located at the site when operational.
 - 2. The submittal date of the application to staff. A statement that comments on the application should be submitted to staff within ten working days of its submittal.
 - 3. A statement informing the landowner that if they desire notice of the commencement of construction and drilling operations (if the application is approved) they should contact the applicant and county staff in writing. The applicant will provide written notice to the county staff and those landowners desiring notice no less than 10 days prior to the commencement of construction and drilling operations.

10/12/2021 8:39:21 AM

Page 6-19

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

4. The current mailing address, website address, telephone number for the county staff and ECMC, as well as a statement that additional information on the application will be available from the county staff within ten working days.
5. A statement concerning the county’s need to enter property which is the subject of a minor or major facility permit as follows: for the purpose of implementing and enforcing the county’s oil and gas regulations, county personnel may, from time to time, need to enter onto the property which is the subject of a minor or major facility application.
6. A statement that the applicant will, at their own expense, test the quality and quantity of water in any wells or surface water within one-mile of proposed drilling sites prior to the commencement of drilling. The county must be notified of consent to have well tested at or prior to the public hearing. Where horizontal or highly deviated boring is proposed, the radius shall include all wells within one mile measured from the entire length of the wellbore path as mapped from aerial view.

6.27 RESERVED

“MAJOR FACILITIES”

6.28 RESERVED REVIEW OF APPLICATIONS; ACTION BY BOARD OF COUNTY COMMISSIONERS

6.29 APPLICATION SUBMITTAL PROCEDURE

The major facility application shall consist of all items identified in Section 6.07 of this article. Prior to formal submittal of the application, Planning and Zoning shall meet with the applicant to discuss and identify any additional information required to adequately review the proposed facility.

6.30 DETERMINATION OF COMPLETENESS

10/12/2021 8:39:21 AM

Page 6-20

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

The staff will review the application for completeness. If the application is deemed complete, the staff will commence the planning commission review notification in accordance with Section 6.31. If the application is incomplete, the applicant will be notified of the deficiency and the application shall be withdrawn from the review process until the required information is submitted.

6.31 NOTICE OF A JOINT PUBLIC HEARING

Noticing procedures and requirements outlined in Section 8.00 of these regulations shall apply to applications for major facilities. Planning Commission may elect to conduct public hearing as a joint public hearing with the Board of County Commissioners.

- (1) Written notice shall be given individually to the owners, as listed by the county assessors, of any land adjacent to or located within one-mile of any portion of the subject site: such
- (2) in addition to requirements outlined in Section 8.00, notice of the public hearing shall include the following:
 - a. A description of the location (including a legal and practical description) and a description of proposed activity under review.
 - a. The name, address and telephone number of the applicant and/or its designated agent.
 - b. A statement that additional information may be obtained from the county staff noting office location, phone number, and time when information is available from examination.
 - c. A statement that the applicant will, at their own expense, test the quality and quantity of water in any wells or surface water within one-mile of proposed drilling sites prior to the commencement of drilling. The county must be notified of consent to have well tested at or prior to the public hearing. Where horizontal or highly deviated boring is proposed, the radius shall include all wells within one mile measured from the entire length of the wellbore path as mapped from aerial view.

6.32 NOTICE UPON REQUEST

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

Notice shall be sent to any person, agency or organization requesting their names and addresses be placed on a mailing list to receive notice of major facilities undergoing public review, and pay an annual fee, the amount of which shall be determined from time to time by the Board of County Commissioners. In order to have a name and address retained on said mailing list, the concerned shall resubmit their names and addresses and pay such fee before January 31st of each calendar year.

6.33 PLANNING COMMISSION REVIEW AND JOINT PUBLIC HEARING

The commission shall conduct a noticed public meeting for review of the proposed major facility and schedule a joint public hearing. All applications shall be scheduled for joint public hearing before the planning commission and the board of county commissioners in accordance with the provisions of this subcategory and in accordance with Section 8.00 of the Land Use Code.

Such commission actions shall contain appropriate findings or reasons in support of the recommendation concerning the facility's compliance with applicable standards and requirements, as well as the appropriateness of the facility in the location proposed in accordance with the review criteria set forth in Section 6.34.

The commission may table an application to a date certain in order to receive additional testimony or information. The applicant may request a continuation of the public meeting for good cause shown satisfactory to the commission. The commission shall render its verbal decision regarding a recommendation for approval, conditional approval, or denial with appropriate findings on the proposed facility forthwith after the evidentiary phase of the joint public hearing on the application has been closed.

The board of county commissioners' action on an application for a major facility shall be scheduled for the next regularly scheduled board of county commissioners hearing for planning agendas for which proper public notice has been given.

6.34 BOARD OF COUNTY COMMISSIONERS' REVIEW CRITERIA

The board of county commissioners' decision to approve or deny an application for a major facility shall be made and determined based upon competent evidence in the record of its compliance with all applicable performance standards and other requirements of this article and by applying the following evaluative criteria to the evidence in the record of proceedings before the board of county commissioners:

10/12/2021 8:39:21 AM

Page 6-22

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (1) Need. The demonstrated need for the facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements.
- (2) Suitability. Suitability of the location of the proposed facility given its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in accordance with applicable state, county and federal standards and criteria.
- (3) Adequacy of existing roads and access to the site. Factors for consideration are existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.
- (4) Site characteristics. Factors to be considered are topography, natural hazards (landslides, flooding, wildfire), cultural and historical uses on the proposed site and in the notice area and current resource values (open space corridor, prime farmland as designated by Natural Resource Conservation Service (NRCS) and wildlife habitat).
- (5) Compatibility. Compatibility with existing uses and those which can be projected, based upon present subdivision and land use approvals and planning district plans for properties located within the surrounding affected area, as determined by the board of county commissioners, based upon competent evidence in the record. A facility's compatibility with land uses in the surrounding area, which the board of county commissioners finds will be affected by its operation, shall be determined by the facility's estimated or projected ability to mitigate the impacts which it generates, as set forth in the facility operational plan, and in accordance with applicable county, state and federal rules, regulations and standards.

6.35 RESERVED

“PERFORMANCE STANDARDS”

6.36 COMPLIANCE

All oil and gas facilities granted approval by the board of county commissioners must comply with the standards contained in this division. For major facilities, staff shall determine the level of detail required in a submittal

10/12/2021 8:39:21 AM

Page 6-23

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

based on the potential adverse impacts of the proposed facility on the unique characteristics of the proposed site and activity

6.37 LAND USE COORDINATION STANDARDS

- (a) Purpose. The purpose of this section's standards for land use coordination is to minimize conflicts between differing land uses.
- (b) Setbacks.
- (1) A setback of at least 2,000 feet shall be required between the well head and the closest existing residential structure or areas zoned Urban Residential or Rural Residential, unless verified written consent is obtained from the affected surface property owner to a waiver of this standard.
 - (2) A setback of at least 200 feet shall be required between the well head of a minor facility and the closest property line, unless verified written consent is obtained from the affected property owner.
 - (3) Where site conditions or State or Federal regulations make it impractical for the applicant to meet the setbacks of this section, and a waiver is not obtained from the affected property owner, the applicant shall not be required to fully meet the above-described setbacks. The applicant shall, however, meet setbacks to the maximum extent possible and may be required to implement special mitigation measures as described in this article.
 - (4) Setbacks between a major facility and the closest existing residence or property lot line shall be determined on a site specific basis, based on the major facility review criteria identified in Sections 6.10, 6.34 and 6.36 as applicable, but not less than those required for a minor facility.
 - (5) Setback requirements for flow lines, gathering lines, and transmission lines from general residential, commercial, and industrial buildings shall be a minimum of 50 feet. The setback distance shall be measured from the nearest edge of the affected pipeline. County staff may require an applicant for a pipeline to provide a risk-based engineering study for all or part of its proposed pipeline right of way that may require the implementation of more stringent construction or operation standards or greater setbacks.

10/12/2021 8:39:21 AM

Page 6-24

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (6) At least 100 feet from public or private rights-of-ways as measured from the pad boundary;
 - (7) Outside of a 100-year floodplain or at least 500 feet from the edge of any perennial surface water-body, the ordinary high water mark of any perennial or intermittent stream or the edge of any riparian area, whichever is the greater distance, as measured from the pad boundary, unless Colorado Parks and Wildlife has waived or modified the setback from the stream, surface water, or the riparian area in compliance with Colorado Energy and Carbon Management Commission rules 309 and 1202.
- (c) Platted subdivisions.
- (1) In those instances where applicant accesses facilities through a private road or roads, applicant will use best efforts to negotiate a fair and reasonable road maintenance or road improvement agreement with the private entity or entities that access off the road for the purpose of paying or making in-kind contributions for its pro rata share of the cost of maintaining or improving the affected road(s). An applicant that fails to reach an agreement shall document its actions to the county and the existence, or lack thereof, of such executed agreements shall be noted in the application.
- (d) Sound emissions.
- (1) The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest existing residences or platted subdivision lots.
 - (2) All minor facilities with engines or motors (excepting well head compressor engines) shall be electrified if located within 1320 feet of distribution voltage. Applicant may provide information demonstrating that such electrification is infeasible. Staff shall review this information and may provide a waiver of this requirement. If distribution voltage is not currently within 1320 feet of the proposed minor facility, applicant will contact and provide the surface owner an opportunity at the surface owner's cost to extend distribution voltage to within 1320 feet of the proposed facility. Gas powered artificial lift equipment may be used prior to the time that a site facility is electrified. All minor and major facilities which are not electrically operated shall be equipped with quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent. Such equipment mufflers shall be properly installed and maintained in proper working order.

10/12/2021 8:39:21 AM

Page 6-25

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (3) All mechanized equipment associated with minor and major facilities shall be anchored so as to minimize transmission of vibration through the ground.
- (4) Special mitigation measures:
- a. Where a minor or major facility does not comply with the required setback or other portions of the performance standards, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
1. Nature and proximity of adjacent development (design, location, type).
 2. Prevailing weather patterns, including wind directions.
 3. Vegetative cover on or adjacent to the site.
 4. Topography.
- b. Based upon the specific site characteristics set forth in this section, the nature of the proposed activity and its proximity to surrounding development, and the type and intensity of the noise emitted, additional noise abatement measures may be required. The level of required mitigation may increase with the proximity of the facility to existing residences and platted subdivision lots, and/or the level of noise emitted by the facility. One or more of the following additional noise abatement measures, including but not limited to the following, may be required:
1. Acoustically insulated housing or cover enclosing the motor or engine.
 2. Vegetative screen consisting of trees and shrubs which may be placed within a fenced enclosure.
 3. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
 4. Acoustically insulated building enclosing the installation.
 5. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted; and proposed mitigation measures.

10/12/2021 8:39:21 AM

Page 6-26

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (5) Sound emissions shall at minimum be in accordance with the standards as adopted, and amended from time to time by ECMC. In all instances a major or minor facility must comply with sound emission standards designated for residential land uses unless a specific exemption is granted by the staff, the planning commission or the BOCC.
 - (6) Other special mitigation measures. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts nonmitigable because of proximity, density and/or intensity of adjacent land use.
- (e) Security and Safety.
- (1) Security fencing and a locked gate for minor and major facilities shall be required in the following locations:
 - a. Where there are four or more existing residences within 660 feet of the facility site perimeter;
 - b. Where there is a public or private school within 660 feet of the facility site perimeter;
 - c. Where there is any other existing structure with commercial occupancy as defined by the Building Code within 660 feet of the facility site perimeter; and
 - d. Where there is an existing recreational facility designated by an appropriate federal, state or local authority within 660 feet of the facility site perimeter.
 - (2) Safety practices in accordance with state and federal law, including the Occupational Safety and Health Act of 1970, Public Law 91-596 84 Stat. 1590 91st Congress, S.2193, December 29, 1970, as amended through January 1, 2004, shall be used at all times during drilling and production to minimize the danger to the general public.
 - (3) Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured and have blind flanges installed.
 - (4) All land within 25 feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.
 - (5) Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply pursuant to staff review.

10/12/2021 8:39:21 AM

Page 6-27

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

6.38 ENVIRONMENTAL QUALITY STANDARDS

(a) Location on private property. Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to determine land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities on private property:

- (1) The siting of a minor and major facility shall adhere to the standards outlined in this section to the maximum extent practical.
- (2) The standards in this code shall not cause the operator to site the facility in: a geologic hazard area or an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer, or in an area designated as Restricted Surface Occupancy for wildlife resources by Colorado Parks and Wildlife (CPW), unless specifically excepted through written consultation with CPW.
- (3) The County recognizes that in some instances, existing minor oil and gas facilities which initially met the requirements if this section would not meet the requirements of a current application where filed due to (i) the encroachment of other development into the setback area, (ii) because the regulation was not in effect when the original installation occurred, or (iii) because a waiver previously was obtained. In those instances, where the setback requirements of this section cannot be met currently, the use of the existing well pad site will be considered a legal nonconforming use not subject to the requirements of this section, provided that all land use performance standards are not in any way superseded by the placement of the new well on the existing or expanded well pad. The number of well pads shall not exceed four (4) within any single six hundred forty (640) acre governmental section of real property. To the extent reasonably practicable, operators shall share existing well pads and shall expand the well pads only as necessary to accommodate additional minor facilities. Notwithstanding the foregoing, nothing obtained in this section shall be construed so as to require the closure or abandonment of any existing oil or gas well. Special exceptions to this section may be granted when one or more

of the following factors apply in a manner such that use of only four well pads per governmental section is rendered impractical:

10/12/2021 8:39:21 AM

Page 6-28

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



- a) Topographic characteristics of the site;
 - b) Natural resource constraints (e.g. wetlands);
 - c) The location of utilities or similar services;
 - d) Demonstratively insurmountable technical issues related to the development or management of the mineral resource;
 - e) Other site conditions beyond the control of the applicant; or
 - f) Demonstrable safety concerns.
- (4) The following criteria shall be used to site an oil and gas facility. Facilities that cannot comply with the following criteria may be denied according to Sections 6.23 or 6.24 or may be required to mitigate the site as outlined in 6.37 (d) (4) and 6.38 (c) (9). The mitigation requirements may be waived by the community development director if existing topography and vegetation mitigate the land use impacts of the site. The county shall determine the compliance of the proposal using the following standards. Standards are ranked according to importance. Where conflicts between standards occur the higher ranked standard will be used.
- a. Minor facilities shall be constructed using existing infrastructure. This includes, but is not limited to, the use of existing roads, pipeline routes, and well pads within the existing drilling windows.
 - b. Minor facilities shall adhere to the setback and location requirements found in Section 6.37 (b)(1-3), (c)(1), and (d)(1&2).
 - c. Minor and major facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.
 - d. Minor and major facilities shall be sited to minimize the impact to agricultural operations.
 - e. Minor and major facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.
 - f. Minor and major facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the

10/12/2021 8:39:21 AM

Page 6-29

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

use of existing vegetation to screen or background and the construction of the facility in canyons or behind ridges and natural rock formations.

- g. Minor and major facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
- h. Minor and major facilities shall be sited to avoid crossing hills and ridges or silhouetting.
- i. Minor and major facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.
- j. The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a minor or major facility.

(b) Visual mitigation plan.

- (1) A visual mitigation plan shall be required for all new minor and major facilities. The plan shall incorporate the appropriate design elements of subsections (c)(1) through (c)(10) of this section and include the design information in subsection (b)(2) of this section.
- (2) The visual mitigation plan minimum requirements are as follows:
 - a. Compliance with the design elements of subsections (c)(1-10)
 - b. Scaled drawing.
 - c. Site boundary dimensions and descriptions.
 - d. Existing and proposed contours and pad elevations.
 - e. Existing conditions and site features that incorporate and surround such site to be developed.
 - f. Existing and proposed access.
 - g. Visual mitigation techniques to be employed at the facility.

10/12/2021 8:39:21 AM

Page 6-30

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- h. Orientation and dimensions of facilities and equipment that will be used once the facility is operational.
 - i. Description of existing and proposed vegetation.
 - j. Location, height and extent of perimeter berms, if applicable.
 - k. Type, location and amount of mulch materials, if applicable.
 - l. Type, location and height of fencing, if applicable.
 - m. Delineate drainage and runoff patterns and mitigation.
 - n. Direction and type of lighting, if applicable.
 - o. Written maintenance and irrigation plan for at least one year after revegetation.
 - p. Title block:
 - 1. Name of development;
 - 2. Name of applicant or developers;
 - 3. Project number;
 - 4. Date of preparation; and
 - 5. Section, township and range.
 - q. Performance security. For sites requiring a visual mitigation plan, performance security shall remain in place for at least two years after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvements or the amount required by Section 6.16, whichever is greater.
- (c) Visual impacts.
- (1) To the maximum extent possible, the applicant shall use structures and surface equipment of minimal size to satisfy present and future functional requirements.
 - (2) When clearing trees and vegetation for construction of minor and major facilities, the applicant shall feather and thin edges of vegetation.

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



- (3) The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
- (4) To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
- (5) Minor and major facilities shall be colored as follows:
 - a. Uniform or camouflaging, noncontrasting, nonreflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
- (6) The applicant shall minimize damage to existing trees and vegetation.
- (7) Pad dimensions for a minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance. This section may be waived by staff if well pad dimensions are related to a visual mitigation plan proposal to blend with the natural topographical conditions.
- (8) Within six months after well completion, the pad area (except the main access road and the immediate areas within 25 feet of the aboveground facilities) shall be reseeded with native grasses or existing vegetation acceptable to the surface owner and the Natural Resource Conservation Service (NRCS). At all times Best Management Practices will be used to prevent storm water discharges from impacting surface water quality.
- (9) One or more of the following landscape practices shall be applied, on a site specific basis as required:
 - a. Establishment of berms, ground covers, shrubs and trees..
 - b. Shaping slopes (cuts and fills) to appear as natural forms.
 - c. Cutting rock areas to create irregular forms.
 - d. Designing the facility to utilize natural screens.
 - e. Construction of fences such as woven wood or rock for use with or instead of landscaping.
- (10) Exterior lighting, when required, shall comply with BOCC Dark Skies regulations.

10/12/2021 8:39:21 AM

Page 6-32

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



(d) Wildlife.

- (1) The installation and operation of any oil and gas facility, pipeline, workover site, or oil and gas access road shall avoid causing degradation to the environment and wildlife or livestock including to wetlands, floodplain, ponds, creeks, streams and drainageways, migratory birds and raptors, and federal threatened and endangered species for both flora and fauna; any other applicable wildlife concerns including den sites for mammals, like coyotes and foxes; fish and other aquatic life; wildlife corridors; significant habitat. Referral to Division of Wildlife. Standard Operating Practices adopted by CPW for protection of wildlife resources during oil and gas development activities are herein incorporated into the Huerfano County Land Use Code by reference, and shall become part of the performance standards for any minor or major facility approval. Applicant shall notify CPW in the form described in Section 6.26 and shall identify in the notification the Standard Operating Practices adopted by CPW that apply to applicant's proposed facility. If applicant is unable to comply with CPW's Standard Operating Practices for wildlife protection due to conflicts with other provisions of the Huerfano County Land Use Code, applicant shall identify the conflict and propose alternate site-specific mitigation or best management practices for the protection of wildlife resources
- (2) Site specific. Standard Operating Practices adopted by CPW shall be included as appropriate in the site specific wildlife mitigation procedures required under subsection (d) (1) of this section. If applicant proposes alternate site-specific mitigation or best management practices to protect wildlife resources, the alternate site-specific mitigation or best management practices shall be approved by CPW in writing prior to permit approval.
- (3) Multiple site. In lieu of a site specific mitigation review for each facility, the applicant may submit to the staff a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under subsection (c) (2) of this section.
- (4) Nonmitigable impacts. Impacts from oil and gas facilities which threaten endangered species (as defined by the state division of wildlife), shall be considered nonmitigable and shall result in denial.

Commented [7]: Update to CPW

(e) Water.

- (1) If fresh or potable water is required for minor and/or major facility operation, the applicant shall identify the proposed source and amount of such water.

10/12/2021 8:39:21 AM

Page 6-33

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (2) Onsite containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal, state or county requirements.
- (3) Applicant shall offer to test water quality and quantity of all wells within one-mile of drilling site prior to drilling at the expense of the applicant. Property owners will be notified of this offer as part of notice of public hearing. Property owners wishing their well to be tested must express interest to the Department at or prior to the public hearing. Non-response to the offer shall be considered opting out. Where horizontal or highly deviated boring is proposed, the radius shall include all wells within one mile measured from the entire length of the wellbore path as mapped from aerial view.
- (4) Acceptable water samples shall be obtained and tested no less than three weeks prior to commencement of drilling in cooperation with the property owners. Records of test results shared with the County will be recorded with the Clerk and Recorder.
- (5) Applications for proposed oil and gas facilities shall demonstrate that the available water supply is the least detrimental to the environment among the available sources and adequate to meet the needs of the facility. Additionally, for a permit to be issued, the Colorado Division of Water Resources must determine that there has been adequate addressing of the complex geology of the northern Raton Basin in Huerfano County to grant a determination of nontributary ground water.
- (6) All applicants and operators shall make and keep a chemical inventory, by well or oil and gas facility. In addition to the inventory, the records shall include material safety data sheets, product information sheets, and other records necessary to describe the chemical constituents of each product listed in the inventory. Entities maintaining inventories under this section shall update these inventories bi-monthly throughout the life of the well or oil and gas facility. These records must be maintained in a readily retrievable and reviewable format. The Huerfano County Health Department may obtain information provided to county staff in a chemical inventory upon written request to the Department. Copies of said reports required by the Department shall be kept on file and available for inspection for the life of the applicable oil and gas facility. Upon the county administrator or planner's written request for information required to be maintained under this section, the record-keeping entity shall supply the requested information within three (3) business days in a format readily-reviewable by the county. Information provided to the Department under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade

Commented [8]: COGCC noticing requirements are: All Surface Owners, Building Unit and High Occupancy Building Unit owners and tenants, and residents, including tenants of both residential and commercial properties, within 1/2 mile of any Working Pad Surface included in the Oil and Gas Development Plan, or within 1 mile of any Working Pad Surface included in the Oil and Gas Development Plan if the Building Unit is within a Disproportionately Impacted Community. Notice to tenants may be accomplished by sending the notice to the residences addressed to "Current Resident."

Regardless of whether a location is considered a "disproportionately affected community" using the 1-mile radius seems reasonable.

10/12/2021 8:39:21 AM

Page 6-34

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless required, permitted, or authorized by other state or federal law. The county code enforcement officer and the authorized deputies shall have access to all well records wherever located. All owners, drilling contractors, drillers, service companies, or other persons engaged in drilling or servicing wells, shall permit the county officer or authorized deputy, at the county's risk, in the absence of negligence on the part of the owner, to come upon any lease, property or well operated or controlled by them, and to inspect the record and operation of such wells and to have access at all times to any and all records of wells; provided, that information so obtained shall be kept confidential and shall be reported only to the BOCC or their authorized agents

- (7) All pits shall be fenced in order to prevent access by persons, stock or wildlife.
- a. All pits shall be constructed in accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:

All pits shall be fenced in order to prevent access by persons, stock or wildlife unless the applicant provides alternate mitigation measures satisfactory to the county which achieve the goal of protecting against entry into pits by unauthorized persons, stock or wildlife.

- b. All pit liners and any materials not meeting the standards set forth in 2 CCR 404-1 Section 910 (inclusive of Table 910-1) shall be removed from the property upon completion of construction and disposed of at an approved facility.

- (8) All pit liners shall be removed from the property upon completion of construction.

(9) **Wetlands Protection:** Oil and gas facilities shall prevent adverse impacts to the environment and avoid causing degradation to wetlands within the county. Among other methods to achieve compliance with this standard, the proposed oil and gas facility shall not alter historic drainage patterns and/or flow rates or shall include mitigation measures approved by the county to compensate for anticipated drainage impacts.

- (f) Geologic hazard areas; floodplains.

- (1) Major facilities shall not be located in geologic hazard areas

10/12/2021 8:39:21 AM

Page 6-35

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (2) Major facilities shall comply with the adopted county floodplain resolution no: 88-13 when they are located in a 100-year floodplain area, and/or the adopted HB1041 regulation when within 250 feet of a area of state and local concern.

6.39 SURFACE DISTURBANCE STANDARDS

- (a) Purpose of section. The purpose of this section is to encourage minimal damage to surface activities and surface conditions.
- (b) Agricultural resources. Minor and major facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land. This standard may be waived if verified written consent is obtained from the surface owner.
- (c) Roads and access. Installation of facilities which are accessible by non-maintained roads included in the county road system, which the county road & bridge department determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, shall be permitted only if such roads are improved and maintained by the applicant to a level which the road and bridge supervisor determines is necessary to allow such traffic to use such roads in accordance with applicable state and county standards.
 - (1) Applicant will remove or require the removal of chains from its heavy equipment before entering a county road. All new roads shall have gravel access and well pads with a minimum of four inches (4") of Class 6 Aggregate Base Course as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction over a stabilized base, both of which shall be maintained throughout permanent operations of the well pad; and if mud and/or debris is tracked onto the county road by applicant's equipment, applicant shall remove same and restore the condition of the road as promptly as is reasonable under the circumstances.
 - (2) Applicant shall provide written documentation demonstrating that it has the right to use access roads located between the parcel on which a facility is to be located and the applicable county road or state highway.
 - (3) Where new access roads are created, a county road access permit will be required.

10/12/2021 8:39:21 AM

Page 6-36

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (d) Waste disposal.
- (1) When a minor or major facility becomes operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation.
 - (2) No burning of trash shall occur on the site without prior notice to dispatch and surface owner. All burning of trash shall be done within a container such as a wire cage or excavated pit covered with wire. All residual material from burning shall be removed from the site for proper disposal.
- (e) Weed control.
- (1) The applicant shall be responsible for ongoing minor and major facility sites and access road weed control during construction and operation of the facility, until abandonment and final reclamation is completed per county or other applicable agency regulations.
 - (2) The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by the County Land Use and Building Department, and other departments as may be requested.
 - (3) Drilling site must be inspected by the County prior to any construction activity for noxious weeds.
 - (4) Land Use and Building Department shall approve the re-vegetation and noxious weed plan prior to the commencement of drilling operations.
 - (5) All rigs shall be cleaned and washed prior to entering the County. County Staff must inspect all rigs prior to entering any county roads.
- (f) Minimization of disturbance.
- (1) Where minor and major facilities reduce or destroy existing vegetation, the applicant in consultation with the NRCS shall develop a revegetation plan for the remainder of the facility site, for approval by staff. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related activities.

10/12/2021 8:39:21 AM

Page 6-37

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



Upon abandonment of a facility, reclamation shall be conducted in accordance with county or other applicable agency regulations. (g) **Abandonment**

If any legal nonconforming oil or gas facility is abandoned for a period of one year or more, the facility shall not be renewed until the Director has determined that the renewed use will comply with the standards and requirements in this Section 2-605.E, Oil and Gas Operations.

(h) **Damage or Destruction**

A legal nonconforming oil or gas facility that is damaged or destroyed by an act of God or through any manner not willfully accomplished by or for the owner may be restored, regardless of the extent of damage or destruction. Restoration of the operation shall be contingent upon the following:

- (1) The owner has acquired the permits required for construction and for operation of the restored oil and gas facility.
- (2) The facility shall not be restored in a manner that expands the nonconforming use.
- (3) The facility shall be restored within one year of the date of damage or destruction. A one-time extension of up to one year may be granted by the Director upon findings that:
 - i. There would be a substantial hardship to the owner without the extension; and
 - ii. Within the first eight months after the destruction, the owner has substantially cleaned up and removed all unusable portions of the damaged facility.

6.40 **SPECIAL EXCEPTION REQUESTS**

(a) Special exceptions to these performance standards may be requested by the applicant. All applications where a special exception is requested will be processed as a major facility. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:

- (1) Topographic characteristics of the site;
- (2) Duration of use of the facility;
- (3) Proximity of occupied structures to the facility;
- (4) Ownership status of adjacent and/or affected land;
- (5) Construction of adequate infrastructure to serve the project; and
- (6) Planned replacement and/or upgrading of facility equipment.

10/12/2021 8:39:21 AM

Page 6-38

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



- (b) If the board of county commissioners finds, based upon competent evidence in the record, that compliance with these performance standards is impractical, a special exception may be granted by the board of county commissioners permanently or for a period of defined duration. Upon completion of the defined duration, the application shall receive additional review by the county in accordance with Sections 6.36 through 6.42 of this Code. The board of county commissioners, upon showing of good cause by the applicant, may:
- (1) Further extend the special exception;
 - (2) Require that the facility be brought into compliance with the performance standards; or
 - (3) Revoke the special exception approval.

6.41 OPERATIONAL CONFLICTS SPECIAL EXCEPTION

- (a) Special exceptions to these performance standards may be granted where the requirements actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed as a major facility and heard in a noticed public hearing by the board of county commissioners acting in a quasijudicial capacity, pursuant to C.R.S. §§ 30-28-117 and 30-28-118. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this division and those of the ECMC in the context of a specific application. For purposes of this section, an operational conflict exists where the county condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the state's interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where the county regulation prohibits an activity which the ECMC, or its valid regulations, has clearly authorized, or authorizes an activity which the ECMC, or its valid regulations, has clearly prohibited. Additional county requirements in areas regulated by the ECMC, which also fall within county land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant, shall be presumed not to present an operational conflict. If the board of county commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this division shall result in an operational conflict with the state statutory and regulatory

10/12/2021 8:39:21 AM

Page 6-39

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

scheme, a special exception to this division may be granted, in whole or in part, but only to that extent. The board of county commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.

- (b) If the applicant or any interested party wishes to seek judicial review of a final board of county commissioners' decision on the exception request, appeal to the district court shall be pursuant to Colorado Rules of Civil Procedure Rule 106(a) 4.

6.42 INFORMAL DISPUTE RESOLUTION

At the discretion of the code enforcement officer any complaint related to an alleged non-compliance with the provisions of this chapter by an applicant, operator, surface owner, or an adjacent landowner as identified in Section 6.26 may be referred to an informal dispute resolution process. The process shall be administered by Huerfano County Administrator in an attempt to reach a resolution of the complaint that is satisfactory to all interested parties. Where a resolution is reached, the resolution shall be reduced to writing and shall be binding on all participating parties.

6.43 Submit a copy to the Local Government Designee and Land Use and Building Department of all forms filed with the ECOM in conjunction with the project.

10/12/2021 8:39:21 AM

Page 6-40

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

EXHIBIT A

CHEMICAL PRODUCTS

- (1) Onsite containment, disposal, and disclosure and retention of information related to Chemical Products associated with minor and major facilities shall be conducted in accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:
- (2) All entities holding a permit issued under this section 90, shall make and keep appropriate records pertaining to chemical products covering their operations in the county, from which they may be able to make and substantiate the reports required by the ECOM, its director or, in the absence of state laws or regulations on this topic, as may be required by Huerfano County.
- (3) Beginning January 1, 2009 Owners or Operators shall maintain material safety data sheets for any Chemical Products brought to a wellsite for use downhole during drilling, completion, and workover operations including fracture stimulation. Material Safety Data Sheets (MSDS) shall be on site and available to staff as well as emergency personnel upon request.
- (4) Beginning June 1, 2009 Owners or Operators shall maintain a Chemical Inventory by wellsite for each Chemical Product used downhole or stored in an amount exceeding 500 pounds during any quarterly reporting period and the maximum capacity of fuel stored on the oil and gas location during drilling, completion, and workover operations including fracture stimulation. Entities maintaining Chemical Inventories under this section shall update these inventories quarterly throughout the life of the wellsite. These records must be maintained in a readily retrievable format. A County health department may obtain information provided to the Department or Director in a Chemical Inventory upon written request to the Director.
- (5) Where the composition of a Chemical Product is considered Trade Secret by the vendor or service provider, Owners or Operators shall only be required to maintain the identity of the Trade Secret Chemical Product and shall not be required to maintain information concerning the identity of chemical constituents in a Trade Secret Chemical Product or the amounts of such constituents. The vendor or service provider shall provide to the Department a list of the chemical constituents contained in a Trade Secret Chemical Product upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release of a Trade Secret Chemical Product or a complaint from a potentially adversely impacted landowner regarding impacts to public health, safety, welfare or the

10/12/2021 8:39:21 AM

Page 6-41

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a Trade Secret Chemical Product shall be disclosed by the vendor or service provider directly to the County planning engineer or his or her designee. The County planning engineer or designee may disclose information regarding those chemical constituents to additional County staff members to the extent that such disclosure is necessary to allow the staff member receiving the information to assist in responding to the spill, release or complaint, provided that such individuals shall not disseminate the information further. In addition, the County planning engineer may disclose information regarding those chemical constituents to a County public health department's director of environmental programs upon request by that individual. Any information so disclosed to the County planning engineer, a County staff member, or to a County public health department's director of environmental programs shall at all times be considered confidential and shall not become part of the Chemical Inventory nor shall it be construed as publicly available. The County public health department's director of environmental programs, or his or her designee, may disclose information regarding the chemical constituents contained in a Trade Secret Chemical Product to health department staff members under the same terms and conditions as apply to the county planning engineer.

- (6) The vendor or service provider shall also provide the chemical constituents of a Chemical Product to any health professional as may be provided under state law or regulation. In the event that no state law or regulation so provides, the vendor or service provider shall provide the chemical constituents of a Chemical Product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and a written confidentiality agreement. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such proprietary Chemical Product will assist in such diagnosis or treatment. The confidentiality agreement shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement

10/12/2021 8:39:21 AM

Page 6-42

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

of need, and a confidentiality agreement from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

- (7) Such books, records, inventories, and copies of said reports required by the Department or the Director shall be kept on file and available for inspection by the Department for a period of at least five years except for the Chemical Inventory, which shall be kept on file and available for inspection by the Department for the life of the applicable oil and gas well or oil and gas location and for five (5) years after plugging and abandonment. Upon the Director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the Director with the requested information within three (3) business days in a format readily-reviewable by

the Director, except in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the Director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain the confidentiality of said information. The Director shall notify the owner, holder, or beneficiary of any such protected information at least one business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

- (8) In the event that the vendor or service provider does not provide the information required under subsections (6) and (7) directly to the Department, the owner or operator is responsible for providing the required information.
- (9) All chemical products must be stored in an approved chemical containment facility covered, secured and locked.

10/12/2021 8:39:21 AM

Page 6-43

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103

**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**



8.01 USE OF THE COMMON PROCEDURES

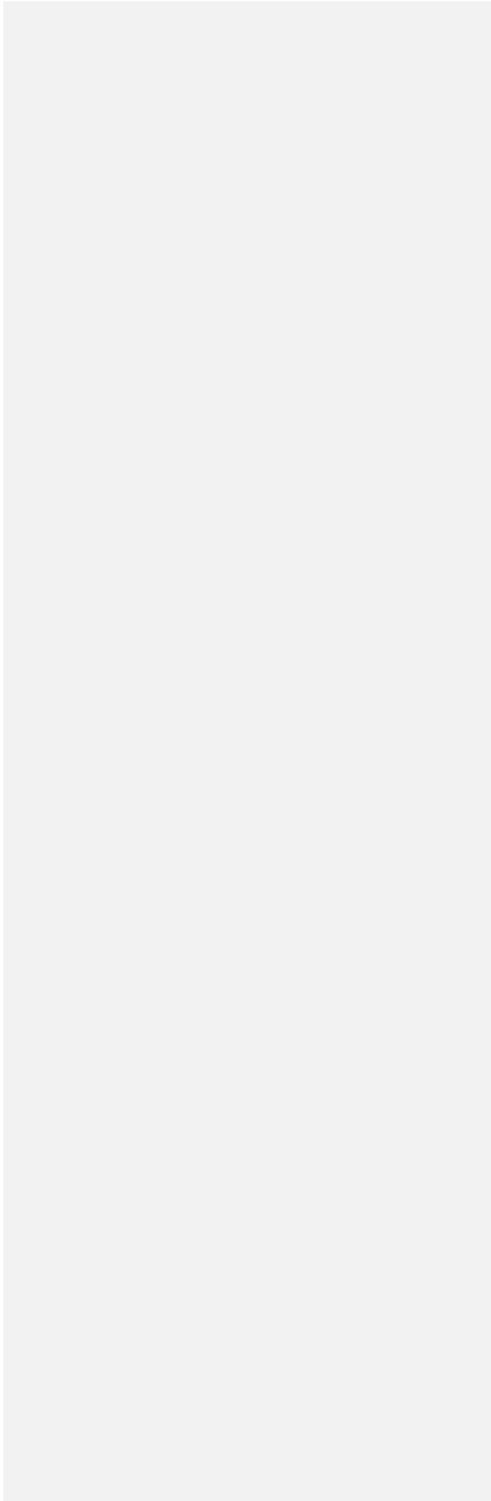
This Section describes the common procedures that shall be employed for reviewing and acting upon land use applications that require public hearings or review by boards and commissions. Land use applications may have additional requirements specific to that application type not articulated in this section. Land Use application types covered by this section are listed below along with a reference for the section of the County’s Land Use Regulations dedicated to each process:

Land Use Process	Reference
1. Rezoning of land.	§1.18
2. PUD and Non-PUD subdivisions of land.	§2.09, §3.00
3. Non-subdivision PUDs.	§3.00
4. Plat Amendments	§2.14
5. Vacation of Easements or rights-of-way	§2.15
6. Conditional Use Permits	§1.05, §1.06
7. Marijuana Conditional Use Permits	§18.00
8. Temporary Assembly Permits	§1.13
9. Variances	§1.04, §9.02.03 – 9.02.04
10. Oil and Gas permits	§6.10, §6.26, §6.31, §6.33, §6.34, §6.38
11. Any other public hearing procedure.	

Table 8.08 Public Noticing summary by Permit Type

Permit Type	Notice Radius	Additional Considerations
Conditional Use Permit	1320 ft in the Agricultural Zone District, Adjacent properties in other Zone Districts. The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote.	Sign posted on property 10 days prior to hearing
Rezoning	Adjacent property owners. The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote.	Sign posted on property 10 days prior to public hearing. Notifications shall include a vicinity map and a short narrative describing the current zoning, proposed rezoning and the nature of the proposed land use change.
Subdivisions	One public hearing for each phase: Sketch Plan, Preliminary Plat, and Final Plat. 1320 ft in agricultural zone; 500 ft. in all other zones. This distance provision may be expanded up to 2,500 ft, or to include identified properties that have the potential to be impacted by the proposal by a majority vote of the Planning Commission.	
Plat Amendment	No public noticing/public hearing required	
Vacation	1,320 in the Agricultural Zone; adjacent properties in other zones.	Include vicinity map in notices to neighbors.
PUD	Same as Subdivisions.	
Marijuana CUP	Same as Conditional Use Permit.	Additional fees apply. 1000 ft Setback.
Temporary Assembly Permits	If over 500 attendees, notice sent to property owners within 1, 200 feet.	Sign posted on property; noise ordinance 21-01; See requirements in Section 1.13.
Variance	Adjacent property owners. Adjacent mineral rights owners and lessees and easement holders.	Heard by the Board of Adjustment only. Hearing to take place within 30 days of submission of required materials

Sign Permits	N/A – Processed administratively.	
Camping Permits	N/A -- Processed administratively.	Demonstrate source of water and wastewater disposal plan.
Oil and Gas Permits	One mile	Applicant must offer to test any wells within one mile prior to drilling. See §6.38(e)(3). Joint public hearing may be required. Reference: §6.10, §6.26, §6.31, §6.33, §6.34, §6.38



8-5

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
6.23	PLANNING COMMISSION ACTION	6-15
6.24	PLANNING COMMISSION DETERMINATION OF SATISFACTORY MITIGATION FOR MINOR FACILITIES	6-15
6.25	APPEAL OF DENIAL OR APPROVAL.....	6-15
6.26	NOTICE TO ADJACENT PROPERTY OWNERS	6-16
6.27	RESERVED	6-17
	“MAJOR FACILITIES”	
6.28	REVIEW OF APPLICATIONS; ACTION BY BOARD OF COUNTY COMMISSIONERS RESERVED.....	6-17
6.29	APPLICATION SUBMITTAL PROCEDURE	6-17
6.30	DETERMINATION OF COMPLETENESS	6-17
6.31	NOTICE OF A JOINT PUBLIC HEARING	6-17
6.32	NOTICE UPON REQUEST	6-18
6.33	PLANNING COMMISSION REVIEW <u>AND JOINT PUBLIC HEARING</u>	6-18
6.34	BOARD OF COUNTY COMMISSIONERS’ REVIEW CRITERIA	6-19
6.35	RESERVED	6-19
	“PERFORMANCE STANDARDS”	
6.36	COMPLIANCE	6-20
6.37	LAND USE COORDINATION STANDARDS	6-20
6.38	ENVIRONMENTAL QUALITY STANDARDS	6-23
6.39	SURFACE DISTURBANCE STANDARDS	6-29
6.40	SPECIAL EXCEPTION REQUESTS	6-30
6.41	OPERATIONAL CONFLICTS SPECIAL EXCEPTION	6-31

C:\Users\MeetingsOfficeUser11\AppData\Local\Temp\tmp3A8F.tmpC:\Users\Sky\Documents\Urban
 Atelier\Contracts\Huerfano County\LUC Update\gd 6.00 Oil & Gas word 2-14-25.docx

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.42	INFORMAL DISPUTE RESOLUTION	6-32
EXHIBIT A	CHEMICAL PRODUCTS	6-33
APPENDIX A	CONDITIONAL USE PERMIT FEE SCHEDULE FOR OIL AND GAS APPLICATIONS	

C:\Users\MeetingsOfficeUser11\AppData\Local\Temp\tmp3A8F.tmpC:\Users\Sky\Documents\Urban
Atelier\Contracts\Huerfano County\LUC Update\gd 6.00 Oil & Gas word 2-14-25.docx

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.01 RESERVED

OIL AND GAS* “GENERALLY”

* **State Law References:** Oil, gas, mineral rights, C.R.S. § 30-11-301 et seq.; oil and natural gas, C.R.S. § 34-60101 et seq.

6.02 AUTHORITY OF ARTICLE

This article is authorized by C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., and 30-28-101 et seq.

6.03 PURPOSE OF ARTICLE

This article is enacted to protect and promote the health, safety, values, convenience, order, prosperity or general welfare of the present and future residents of the county. It is the county's intent by enacting this article to facilitate the development of oil and gas resources within the unincorporated area of the county while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this article and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with this article or other regulatory agency rules and regulations. -Should it be established by competent evidence that a proposed major or minor facility cannot be operated in compliance with this article, county land use approval for such a facility may be denied.

10/12/2021 8:39:21 AM

Page 6-1

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.04 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Also, see Section 17.00 for additional definitions.

Abandonment means the permanent abandonment of a well and shall be based on the operator's filing of abandonment with the Colorado ~~Oil and Gas Conservation Commission~~ Energy and Carbon Management Division (EOGCC/ECMC).

Presumption of permanent abandonment of a major facility shall be based upon nonuse or non-operation for one year without notification to the Board of County Commissioners (BOCC) of the intent to resume operations under specified conditions.

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

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

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

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

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

Code means the Huerfano County Land Use Code.

~~*CDOW means the Colorado Division of Wildlife.*~~

~~*EOGCC means the Colorado Oil and Gas Conservation Commission.*~~

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

CPW means Colorado Parks and Wildlife.

10/12/2021 8:39:21 AM

Page 6-2

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

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

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

Department means Huerfano County Land Use and Building Department

Designated agent means an agent designated by the applicant, owner or lessee.

Director means the director of the Huerfano County Land Use and Building Department

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

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

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

ECMC means the Colorado Energy and Carbon Management Division (Formerly COGCC)

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

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

Flowline means a pipeline connecting an individual well to production equipment or a pipeline connecting individual production equipment to a gathering line that transports gas, oil, or produced water. Pipelines over 10" requires an HB-1041 application, Section 7.03.03.

Gas well means a well capable of producing gases, including, but not limited to natural gas, Carbon dioxide or Helium. ~~Oil well eo2 well?~~

Gathering line means a pipeline receiving produced gas, oil, or produced water from more than one well pad and thereafter transporting gas, oil, or water to a transmission line or centralized facility.

10/12/2021 8:39:21 AM

Page 6-3

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



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

Heavy equipment means drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding 5 tons.

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

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

Major oil and gas facilities means:

- (1) Centralized facilities.
- (2) Water injection or centralized water transfer stations and associated facilities serving multiple well pads.
- (3) Storage yards and construction staging yards in place for longer than six months.
- (4) Any facility or structure related to the production of oil and/or gas which contains engines and/or motors with a cumulative horsepower, de-rated for elevation, of 200 BHP.
- (5) Pipelines for which the power of eminent domain is available.
- (6) Any oil and gas facility not meeting the definition of minor oil and gas facility.

Minor oil and gas facilities means:

- (1) An individual well pad built with one or more wells and operated to ~~extract hydrocarbons,~~ produce liquid petroleum ~~and/or~~ natural gas, ~~or other gasses~~ including associated equipment required for such production.
- (2) Gathering lines and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.
- (3) Temporary storage and construction staging yards in place for less than six months.
- (4) An individual well site built and operated to produce petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements specified in this article for minor facilities.

Formatted: Font color: Red

10/12/2021 8:39:21 AM

Page 6-4

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (5) Any of the facilities specified under subsection (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.
- (6) Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six weeks.

NRCS means the Natural Resource Conservation Service.

Nuisance means a facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this article after being ordered to do so by the board of county commissioners.

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

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

Operator means that individual or firm engaged in all or a portion of the extraction operations at a well or other facility; usually the lessee, although day-to-day operations may be contracted to another firm.

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

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

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

Platted subdivision lot means any lot created pursuant to state law, which has received subdivision approval by the board of county commissioners since September 1, 1972.

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

Right-of-way means:

10/12/2021 8:39:21 AM

Page 6-5

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

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

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

Setback means the distance between the following, including but not limited to, a lot or property line, the closest projection of a building structure or permitted facility, wellhead, flow line, gathering line or a major facility boundary, Site means any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease.

Standard Operating Practices means criteria developed by the County and ~~the Colorado Division of Wildlife~~ Colorado Parks and Wildlife for the protection of wildlife resources in the County during oil and gas development activities. Standard Operating Practices may be referred to herein as "SOPs".

Surface owner means the owner of the property on which the facility will be constructed.

Temporary equipment means equipment located onsite for a duration of time less than six months.

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

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

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

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

All other words used in this article shall be given their usual, customary and accepted meaning in the oil and gas industry.

10/12/2021 8:39:21 AM

Page 6-6

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

6.05 GENERAL PROCEDURES

- (a) Development of oil and gas facilities within the unincorporated areas of the county, as to which the county's legal jurisdiction has not been preempted by state or federal law, shall be subject to the provisions of this article and any other applicable regulations of the county, as well as any state or federal entities or agencies having jurisdiction over such development.
- (b) Construction, installation and operation of oil and gas facilities which are subject to this article shall not commence until approval has been granted by the Board of County Commissioners. The ~~Planning and Zoning~~ Land Use and Building department shall serve as the authorized representative of the board of county commissioners for the purposes of this article.
- (c) Planning Commission review and recommendation together with board of county commissioners' review and approval shall be required for all activities and facilities.

6.06 RESERVED

"ADMINISTRATION IN GENERAL"

6.07 SUBMITTAL REQUIREMENTS

Submittal requirements are as found in the following table:

	Elements	Minor	Major
1.	Application	X	X
	Elements	Minor	Major
2.	Letter of Intent to include:	X	X
	Operating plan	May be required*	X

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

	Estimated number of site visits by vehicles	X	X
	Other site specific information, identified and requested at a preapplication conference.	May be required*	X
	Provide engine manufacturer's verification of the site rated horsepower. Within 10 days of the installation of an engine, the operator will provide the serial number to the county staff.	X	X
3.	Emergency response Plan	X	X
4.	Site plan (map prepared for survey and location purposed by the applicant's surveyor may be used as per state and federal requirements) including:	X	X
	North arrow, appropriate scale, overlain on aerial photography	X	X
	Existing improvements within map area	X	X
	Utility easements, right-of-way	X	X
	Irrigation ditches crossing or within 100 ft	X	X

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

	Elements	Minor	Major
	Drainage plan (onsite, offsite including proposed storm water best management practices for facility and access roads)	X	X
	Proposed facilities including temporary use area, permanent well pad, flow lines, gathering lines, pits, equipment, etc.	X	X
	Other site specific information identified and requested at a preapplication conference.	May be required*	X
	Proof of current surface ownership of facility site	X	X
5.	Vicinity maps (county GIS maps may be used as base map) including;	X	X
	Township, range, and section	X	X
	Site boundary	X	X
	North arrow and scale	X	X

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

	Major geographic features, to include bodies of water, roads utility corridors	X	X
	Current surface ownership within one-quarter mile of site, to include names of platted subdivisions and approximate location of residences	X	X
	Current surface ownership of parcels adjacent to proposed site	X	X
	Elements	Minor	Major
	Existing and proposed access	X	X
	Existing pipeline routes (gathering lines, transmission lines)	X	X
	Other site specific information identified and requested at a preapplication conference	X	X
6.	Weed and disturbance plan	X	X
7.	Visual mitigation plan refer to 8.2.38 (a) (b)	X	X
8.	Wildlife mitigation procedures	X	X
9.	Noise mitigation procedures	X	X

10/12/2021 8:39:21 AM

Page 6-10

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

10.	Four color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed	X	X
11.	Grading Plan	X	X
12.	Information regarding right of access and use of access roads and copies of any access agreements or road maintenance agreements if applicable	X	X

* Pursuant to discretion of Director of Planning.

6.08 RESERVED

6.09 FEE SCHEDULE

The application fees to be imposed pursuant to this article are set forth in Appendix A and adopted by resolution of the board of county commissioners. Fees to be charged in association with the provisions of this article may be amended periodically by the board of county commissioners.

6.10 GENERAL STANDARDS FOR REVIEW

- (a) Oil and gas facilities shall meet the standards and policies set forth in the following documents:
 - (1) These county oil and gas regulations;
 - (2) The county land use regulations;
 - (3) The county master plan;
 - (4) County road and drainage design specifications and standards;

10/12/2021 8:39:21 AM

Page 6-11

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (5) The International Building Code as amended and adopted by Huerfano County;
- (6) Plans and regulations of municipalities in the county, if applicable;
- (7) Other applicable local, county, state and federal plans, policies and regulations.

- (b) ~~All applications may, at the discretion of the Planning Commission, be subject to joint public hearing. Where applications are scheduled for joint public hearing, the Board of County Commissioners and the Planning Commission shall conduct a joint public hearing, with notice of such hearing published in a newspaper of general circulation in Huerfano County at least (10) days prior to the scheduled hearing date. The applicant shall mail no~~Notification of the hearing date, and subject of the hearing ~~shall be sent~~ to all listed owners of record of all adjacent properties, and properties owners within ~~1320 feet~~one-mile of the facility at least ten (10) business 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. 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. The record of comments for this type of application consists of the record of project file plus the joint public hearing. In accordance with public noticing requirements in Section 8.00 of these regulations.~~
- (c) ~~For minor facility-~~All applications, the record of comments shall consist of the contents of the project file plus the record of the Planning Commission meeting.

Commented [1]: Let's discuss if we want to do a joint public hearing, or a public hearing.

After recent code updates, we could follow the Common Procedures for a public hearing in Section 8.00. This would require adding Oil and Gas-specific requirements to Section 8.01 and 8.08

Commented [2]: One mile or two?

What about horizontal drilling? Notification based on surface area above drilled area?

6.11 DURATION, MODIFICATIONS AND PREEXISTING USES

- (a) Duration. Approval granted for minor and major facilities shall expire and be considered revoked if construction of the facility is not commenced within one year of the date of approval. Approval granted for minor facilities that are individual well sites shall expire or be considered revoked if drilling operations are not commenced within one year of the date of approval.
- (b) Modifications. Where a minor or major facility has been approved and the applicant desires to modify the subject facility by changes to previously permanent approved equipment, addition of new permanent equipment, site layout, new grading activities, operating plan, etc., an amendment to the original application shall be required. Changes to permanent equipment include but are not limited to changes of existing equipment or operations that result in greater land use impacts. Applicant shall submit a narrative, site plan, visual mitigation plan, and appropriate fees per the specifications outlined in this

10/12/2021 8:39:21 AM

Page 6-12

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

chapter. In cases where the amendment would consist of the addition of a major facility, a joint public hearing shall be required as described in Section 6.2833 of this section, Major Facilities. Modifications which the applicant determines in good faith must be done on an emergency basis may be commenced without prior notice or approval by the Board of County Commissioners. The applicant shall provide the Board of County Commissioners with notification of such emergency modifications by filing a written amendment to the application, along with the appropriate fees, specifying the modifications made, within two working days of their commencement.

- (c) Permit Extensions. Approved facilities may be granted one permit extension for up to one year duration provided that a request for extension is submitted to the Board of County Commissioners before the original permit expires. Requests for extensions shall not be submitted for board review earlier than 45 days prior to the original permit's expiration date. Permit extension requests will be processed without fee.
- (d) Effective date. This article shall become effective on the date specified in the adopting resolution of the board of county commissioners in accordance with state law.

6.12 CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND GAS FACILITIES

It is unlawful to construct, install, or cause to be constructed or installed, any oil and gas facility within the unincorporated areas of the county unless approval has been obtained pursuant to these regulations.

6.13 PENALTY

Subject to the provisions of C.R.S. § 30-28-124, any person, firm, corporation or legal entity which owns, leases or operates a minor or major oil and gas facility, and which constructs, installs or uses, or which causes to be constructed, installed or used, any minor or major oil and gas facility without first receiving approval from the board of county commissioners, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$100.00 per day of violation, per violation, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. In addition, the County may also seek civil penalties and relief pursuant to the provisions of C.R.S. Section 30-28-124.5

Commented [3]: Covers violations of zoning provisions.

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.14 CIVIL ACTION

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this article, the county attorney, or where the board of county commissioners deems it appropriate, the district attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

6.15 FALSE OR INACCURATE INFORMATION

The board of county commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and the planning commission and staff shall be provided with an opportunity to be heard at the public meeting prior to the board of county commissioners rendering its decision.

6.16 PERFORMANCE SECURITY

The applicant shall provide one form of the following security to ensure compliance with mitigation requirements set forth in this article and specific conditions of approval for minor and major facilities: ~~\$7,500-A~~ performance bond (irrevocable letter of credit; or equivalent financial security acceptable to the county) in the amount of at least \$90,000 for each minor facility up to 15 facilities subject to uncompleted conditions of approval (maximum ~~\$1051,260,000~~); or ~~\$780,000~~ performance bond for operators with more than 15 minor facilities subject to uncompleted conditions of approval (maximum ~~\$1752,000,000~~); The amount required for performance bonds may be adjusted by the Board of County Commissioners based on the following: 1) The most recent estimates of average plugging and site remediation costs published by the Colorado Energy and Carbon Management Commission (formerly COGCC); 2) Total project costs; or 3) Estimated total costs of remediation and other factors, and rounded to the nearest thousand. Performance bond requirements for major facilities will be determined on a case by case basis. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners by the

10/12/2021 8:39:21 AM

Commented [4]: Align with COGCC requirements. When does COGCC ask for financial security paperwork?

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

applicable performance standards contained in this section with regard to the county permit. Examples of impact could include but are not limited to roads, noxious weeds, water wells, storm water insult. Specific minor and major facilities will be released from the bonding requirement after the applicant demonstrates to the Board of County Commissioners that all conditions of approval have been met. Reclamation activities which fall under ~~EOGCEECMC~~ jurisdiction are exempted from this performance security coverage. This provision is not meant to replace the ~~EOGCEECMC~~'s financial assurance requirement.

For sites requiring a visual mitigation plan, see Section 6.38(4)(b).

6.17 RIGHT TO ENTER

For the purpose of implementing and enforcing this article, the applicant shall provide notice to the surface owner that county personnel may need to enter onto subject property at any time during the review of a minor or major facility application and thereafter upon reasonable notification to the operator. If entry is denied, the County shall have the right to discontinue the processing of any pending permit application, to halt the effectiveness of an issued permit, or to obtain an order from a court of competent jurisdiction to obtain entry.

6.18 EMERGENCY RESPONSE PLAN REQUIRED

Each operator with facilities in the county is required to provide an emergency response plan to the county office of emergency management. No applications for a minor or major facility shall be considered complete until the operator has provided such plan to the county. The plan shall be filed with the county and updated on an annual basis or within 10 working days as conditions change (responsible field personnel change, ownership changes, etc.). The emergency response plan shall, at a minimum, consist of the following information:

- (1) Table of content with page numbers
- (2) Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
- (3) An as-built facilities map showing the name, location and description of all minor and major facilities, including the size, type and content of all pipelines, pits and tanks. The map shall be prepared digitally on the county geographic information system parcel maps. To the extent allowed by law, the as-built facilities map shall be held confidentially by the county's office of emergency management, and shall only be disclosed in the event of an emergency. To the extent allowed by law, the county's office of emergency

10/12/2021 8:39:21 AM

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

management shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).

- (4) Provide two copies of a written response plan for any potential emergencies that may be associated with the construction, drilling, completion or operation of the facilities. This plan should include any or all of the following: explosions, fires, gas, chemical, or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
- (5) Project specific emergency response plans are required for any project (minor or major) that involves drilling or penetrating through known zones of hydrogen sulfide gas. This plan shall be coordinated with and approved by the county's office of emergency management prior to beginning field operations.
- (6) Hazard specific placards on building exteriors containing such substances.
- (7) Provide a list of contractors and necessary resources to staff prior to the commencement of construction
- (8) Submit prior to construction to staff a site plan which includes the location of the drill site, all onsite structures and their uses, chemical storage location, designated mustering point, first aid stations, command center.
- (9) Identify evacuation route
- (10) Include contact information for the operations team leader
- (11) Identify method of communication in the case of power outage
- (12) Requirement of having at least 10,000 of water storage on site designated for the sole purpose of firefighting.
- (13) Provide Huerfano County with radio frequencies. Assess the ability of Huerfano county to access these frequencies.
- ~~(7)~~(14) Identify contact responsible to respond search and rescue operations
- (15) Provide to Huerfano County with hours of operation and anticipated traffic impact including nights, weekends, and holidays.
- (16) Plan for emergency and medical response, including in cases of injury or death.

Commented [5]: ?

10/12/2021 8:39:21 AM

Page 6-16

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

6.19 RESERVED

“MINOR FACILITIES”

6.20 GENERALLY

Applications for county land use approval for proposed minor facilities shall be processed by county staff, provided the information in the application establishes that (a) the proposed use complies with the minimum requirements for such facilities as set forth in this article or (b) that the proposed facility's noncompliance with this article will be mitigated in accordance with the applicable standards and requirements for minor facilities.

6.21 APPLICATION SUBMITTAL PROCEDURE

The application shall be in the form prescribed by Section 6.07 of this code and shall include information and/or documentation establishing that the proposed minor facility is in compliance with all applicable requirements of this article. If the applicant asserts that the proposed use complies with requirements, the application shall contain a certification from the applicant or its designated agent (accompanied by a written designation of agent in the form prescribed by the county) that the proposed facility complies with all applicable provisions of these regulations, and that the information in the application, as well as in any documentation submitted, is true and accurate. If the applicant asserts that the proposed facility's noncompliance with this article will be mitigated, the application shall set forth the specific measures which will be employed at the facility to mitigate the land use impacts associated with the facility. Such identified mitigation measures shall comply with the standards and requirements for such facilities as set forth in these regulations.

6.22 DETERMINATION OF COMPLETENESS

Should the county staff determine that the application, as submitted, is not complete, it shall provide the applicant with written notice of the specific deficiencies within fifteen (15) business days of the initial submittal. No further action shall be taken on an application determined to be incomplete, until the specified deficiencies have been corrected to the satisfaction of the county staff. If the application is found to be complete, containing all information and/or documentation required by this article, the county staff shall then review the application for

10/12/2021 8:39:21 AM

Page 6-17

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

compliance with applicable standards and requirements. This review may include a field inspection of the proposed site.

6.23 PLANNING COMMISSION ACTION

Review of a complete application and approval or denial will typically occur within twenty-one business days. More or less time may be required for review depending on the county staff's work load or requests for additional information made to the applicant. If a permit is not approved within twenty-one (21) business days, the county staff will contact the applicant with an estimate of when the application will be acted upon. Should the information in the application and any accompanying documentation establish that the proposed minor facility will be constructed and operated in compliance with all applicable standards and requirements of this article, then Planning Commission shall issue a recommendation of approval for the proposed minor facility. Should the Planning Commission determine that the proposed minor facility will not or cannot be constructed and operated in compliance with all applicable standards and requirements of this article, then it shall issue a recommendation of denial of the application, stating with specificity the grounds for its decision. At the request of either the applicant, surface owner, or other landowner receiving notice pursuant to Section 6.26 of this Code, Planning Commission may, at its discretion conduct a public site visit with these parties to evaluate locations, compliance with county code, and mitigation that may be required under Section 6.38 of this code. When possible this site visit will be coordinated with site visits required by rules of other governmental agencies. Where a site visit is not deemed necessary, the Planning Commission may hold an informal dispute resolution meeting pursuant to the Land Development Guide at a convenient community building. ~~The Planning Commission, at their discretion, may hold a public hearing in accordance with the guidelines of 6.10 b and 6.31~~

Commented [6]: Keep?

6.24 PLANNING COMMISSION DETERMINATION OF SATISFACTORY MITIGATION FOR MINOR FACILITIES Measures.

Should the information in the application and any accompanying documentation establish that the proposed facility will be constructed and operated in such a manner that the land use impacts associated with the facility's noncompliance with this article are mitigated in accordance with the applicable standards and requirements, the Planning Commission shall issue recommendation of approval for the proposed minor facility. Should the Planning Commission determine that the mitigation plan for the facility does not meet the applicable standards and requirements, and the applicant fails or refuses to provide satisfactory evidence that such a mitigation plan is

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

not possible under the facility's specific circumstances, it shall issue a recommendation of denial of the application, stating the specific grounds for its decision.

6.25 APPEAL OF DENIAL OR APPROVAL

Should the applicant request county land use approval by the filing of a written appeal with the board of county commissioners, he must follow the requirements of Section 1.17.

6.26 NOTICE TO ADJACENT PROPERTY OWNERS

(1) Written notice shall be provided to surface owners for all ~~minor~~ facility applications. ~~The applicant shall present proof of such notice by submitting a copy of the letter, a list of the land owners notified, and certified mail receipts. This notice shall to~~ be mailed no less than 10 days prior to the ~~application being submitted to the Planning Commissions Administrative Staff~~ date of a public hearing. Notice of the application shall be made ~~in accordance with common procedures established in Section 8.00. In addition to general requirements, the following conditions shall apply to oil and gas permit applications as follows:~~

Commented [7]: Previously required notice prior to submitting application to staff.

- a. To the current surface owners of the parcels of land within which the minor facility is proposed to be located, as well as the current surface owners of those parcels of land within ~~1/4 one-mile (1320 feet)~~ of the well head, as such ownership is indicated for tax purposes in the current records of the county assessor's office. For the purposes of notice, the parcel owner shall receive notice if their property boundary is within ~~a 1/4 one-mile (1320 feet)~~ from the point indicated as the wellhead (the wellhead is indicated by feet from section lines).
- b. ~~In addition to requirements outlined in Section 8.00 of these regulations, T~~the notice of the application for approval of a minor facility shall contain the following:
 - 1. A description of the proposed facility's site location, including a legal description, as well as a street address for the site, if available from the county's rural addressing system. The identification of the applicant and its designated agent for the application, if any; the current business address and telephone number for the applicant and its agent, if one has been designated, and a vicinity map per the specification of this chapter and brief description of the facilities and equipment proposed to be located at the site when operational.

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- 2. The submittal date of the application to staff. A statement that comments on the application should be submitted to staff within ten working days of its submittal.
- 3. A statement informing the landowner that if they desire notice of the commencement of construction and drilling operations (if the application is approved) they should contact the applicant and county staff in writing. The applicant will provide written notice to the county staff and those landowners desiring notice no less than 10 days prior to the commencement of construction and drilling operations.
- 4. The current mailing address, website address, telephone number for the county staff and COGCC/ECMC, as well as a statement that additional information on the application will be available from the county staff within ten working days.
- 5. A statement concerning the county’s need to enter property which is the subject of a minor or major facility permit as follows: for the purpose of implementing and enforcing the county’s oil and gas regulations, county personnel may, from time to time, need to enter onto the property which is the subject of a minor or major facility application.
- 5-6. A statement that the applicant will, at their own expense, test the quality and quantity of water in any wells or surface water within one-mile of proposed drilling sites prior to the commencement of drilling. The county must be notified of consent to have well tested at or prior to the public hearing. Where horizontal or highly deviated boring is proposed, the radius shall include all wells within one mile measured from the entire length of the wellbore path as mapped from aerial view.

Commented [8]: Terminology?

6.27 RESERVED

“MAJOR FACILITIES”

6.28 RESERVED REVIEW OF APPLICATIONS; ACTION BY BOARD OF COUNTY COMMISSIONERS

~~All applications for major facilities (as defined under Section 6.04 of this Article) shall be scheduled for joint public hearing before the commission and the board of county commissioners and planning commission in~~

10/12/2021 8:39:21 AM

Page 6-20

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

~~6.28. The major facility application shall consist of all items identified in Section 6.07 of this article. Prior to formal submittal of the application, Planning and Zoning shall meet with the applicant to discuss and identify any additional information required to adequately review the proposed facility.~~

Commented [9]: Added.

6.29 APPLICATION SUBMITTAL PROCEDURE

The major facility application shall consist of all items identified in Section 6.07 of this article. Prior to formal submittal of the application, Planning and Zoning shall meet with the applicant to discuss and identify any additional information required to adequately review the proposed facility.

6.30 DETERMINATION OF COMPLETENESS

The staff will review the application for completeness. If the application is deemed complete, the staff will commence the planning commission review notification in accordance with Section 6.31. If the application is incomplete, the applicant will be notified of the deficiency and the application shall be withdrawn from the review process until the required information is submitted.

6.31 NOTICE OF A JOINT PUBLIC HEARING

~~Noticing procedures and requirements outlined in Section 8.00 of these regulations shall apply to applications for major facilities. Planning Commission may elect to conduct public hearing as a joint public hearing with the Board of County Commissioners. Not less than 10 days, nor more than 30 days prior to the joint public hearing established to consider the major facility application, a legal notice of the joint public hearing before the board of county commissioners and the planning commission shall be published in a newspaper of general circulation within the county at the applicant's expense.~~

- (1) Written notice shall be given individually to the owners, as listed by the county assessors, of any land adjacent to or located within one-quarter of a mile ~~(1,320 feet)~~ of any portion of the subject site: such ~~as a well, pipeline, or other facility. The notice shall include the name of the applicant, the location of the proposed activity, and the date of the public hearing.~~
- (2) ~~In addition to requirements outlined in Section 8.00, the public notice of the public hearing shall take a form prescribed by Planning and Zoning and shall~~ include the following:
 - a. A description of the location (including a legal and practical description) and a description of proposed activity under review.

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

~~a. Time and place of the public hearing.~~

~~b.a.~~ The name, address and telephone number of the applicant and/or its designated agent.

~~b.~~ A statement that additional information may be obtained from the county staff noting office location, phone number, and time when information is available from examination.

~~b.c.~~ A statement that the applicant will, at their own expense, test the quality and quantity of water in any wells or surface water within one-mile of proposed drilling sites prior to the commencement of drilling. The county must be notified of consent to have well tested at or prior to the public hearing. Where horizontal or highly deviated boring is proposed, the radius shall include all wells within one mile measured from the entire length of the wellbore path as mapped from aerial view.

6.32 NOTICE UPON REQUEST

Notice shall be sent to any person, agency or organization requesting their names and addresses be placed on a mailing list to receive notice of major facilities undergoing public review, and pay an annual fee, the amount of which shall be determined from time to time by the Board of County Commissioners. In order to have a name and address retained on said mailing list, the concerned shall resubmit their names and addresses and pay such fee before January 31st of each calendar year.

6.33 PLANNING COMMISSION REVIEW AND JOINT PUBLIC HEARING

The commission shall conduct a noticed public meeting for review of the proposed major facility and schedule a joint public hearing. On the basis of competent evidence received at this meeting and the joint public hearing, the commission shall make the final decision on the proposed facility. Applicants shall file their findings with the county commissioners in accordance with the provisions of this subcategory and in accordance with Section 8.00 of the Land Use Code.

Such commission actions shall contain appropriate findings or reasons in support of the recommendation concerning the facility's compliance with applicable standards and requirements, as well as the appropriateness of the facility in the location proposed in accordance with the review criteria set forth in Section 6.34.

10/12/2021 8:39:21 AM

Page 6-22

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

The commission may table an application to a date certain in order to receive additional testimony or information. The applicant may request a continuation of the public meeting for good cause shown satisfactory to the commission. The commission shall render its verbal decision regarding a recommendation for approval, conditional approval, or denial with appropriate findings on the proposed facility forthwith after the evidentiary phase of the joint public meeting/hearing on the application has been closed.

The board of county commissioners' action on an application for a major facility shall be scheduled for the next regularly scheduled board of county commissioners hearing for planning agendas for which proper public notice has been given.

6.34 BOARD OF COUNTY COMMISSIONERS' REVIEW CRITERIA

The board of county commissioners' decision to approve or deny an application for a major facility shall be made and determined based upon competent evidence in the record of its compliance with all applicable performance standards and other requirements of this article and by applying the following evaluative criteria to the evidence in the record of proceedings before the board of county commissioners:

- (1) Need. The demonstrated need for the facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements.
- (2) Suitability. Suitability of the location of the proposed facility given its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in accordance with applicable state, county and federal standards and criteria.
- (3) Adequacy of existing roads and access to the site. Factors for consideration are existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.
- (4) Site characteristics. Factors to be considered are topography, natural hazards (landslides, flooding, wildfire), cultural and historical uses on the proposed site and in the notice area and current resource values (open space corridor, prime farmland as designated by Natural Resource Conservation Service (NRCS) and wildlife habitat).
- (5) Compatibility. Compatibility with existing uses and those which can be projected, based upon present subdivision and land use approvals and planning district plans for properties located within the

10/12/2021 8:39:21 AM

Page 6-23

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

surrounding affected area, as determined by the board of county commissioners, based upon competent evidence in the record. A facility's compatibility with land uses in the surrounding area, which the board of county commissioners finds will be affected by its operation, shall be determined by the facility's estimated or projected ability to mitigate the impacts which it generates, as set forth in the facility operational plan, and in accordance with applicable county, state and federal rules, regulations and standards.

6.35 RESERVED

“PERFORMANCE STANDARDS”

6.36 COMPLIANCE

All oil and gas facilities granted approval by the board of county commissioners must comply with the standards contained in this division. For major facilities, staff shall determine the level of detail required in a submittal based on the potential adverse impacts of the proposed facility on the unique characteristics of the proposed site and activity

6.37 LAND USE COORDINATION STANDARDS

- (a) Purpose. The purpose of this section's standards for land use coordination is to minimize conflicts between differing land uses.
- (b) Setbacks.
 - (1) A setback of at least ~~450~~2,000 feet shall be required between the well head and the closest existing residential structure or ~~platted building envelope~~areas zoned Urban Residential or Rural Residential, unless verified written consent is obtained from the affected surface property owner to a waiver of this standard.
 - (2) A setback of at least ~~150~~200 feet shall be required between the well head of a minor facility and the closest property line, unless verified written consent is obtained from the affected property owner.

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (3) Where site conditions or State or Federal regulations make it impractical for the applicant to meet the setbacks of this section, and a waiver is not obtained from the affected property owner, the applicant shall not be required to fully meet the above-described setbacks. The applicant shall, however, meet setbacks to the maximum extent possible and may be required to implement special mitigation measures as described in this article.
- (4) Setbacks between a major facility and the closest existing residence or property lot line shall be determined on a site specific basis, based on the major facility review criteria identified in Sections 6.10, 6.34 and 6.36 as applicable, but not less than those required for a minor facility.
- (5) Setback requirements for flow lines, gathering lines, and transmission lines from general residential, commercial, and industrial buildings shall be a minimum of 50 feet. The setback distance shall be measured from the nearest edge of the affected pipeline. County staff may require an applicant for a pipeline to provide a risk-based engineering study for all or part of its proposed pipeline right of way that may require the implementation of more stringent construction or operation standards or greater setbacks.

(6) At least 100 feet from public or private rights-of-ways as measured from the pad boundary;

~~(6)~~(7) Outside of a 100-year floodplain or at least 500 feet from the edge of any perennial surface water-body, the ordinary high water mark of any perennial or intermittent stream or the edge of any riparian area, whichever is the greater distance, as measured from the pad boundary, unless Colorado Parks and Wildlife has waived or modified the setback from the stream, surface water, or the riparian area in compliance with Colorado Energy and Carbon Management Commission rules 309 and 1202.

(c) Platted subdivisions.

- (1) In those instances where applicant accesses facilities through a private road or roads, applicant will use best efforts to negotiate a fair and reasonable road maintenance or road improvement

agreement with the private entity or entities that access off the road for the purpose of paying or making in-kind contributions for its pro rata share of the cost of maintaining or improving the affected road(s). An applicant that fails to reach an agreement shall document its actions to the county and the existence, or lack thereof, of such executed agreements shall be noted in the application.

(d) Sound emissions.

10/12/2021 8:39:21 AM

Page 6-25

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

- (1) The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest existing residences or platted subdivision lots.
- (2) All minor facilities with engines or motors (excepting well head compressor engines) shall be electrified if located within 1320 feet of distribution voltage. Applicant may provide information demonstrating that such electrification is infeasible. Staff shall review this information and may provide a waiver of this requirement. If distribution voltage is not currently within 1320 feet of the proposed minor facility, applicant will contact and provide the surface owner an opportunity at the surface owner’s cost to extend distribution voltage to within 1320 feet of the proposed facility. Gas powered artificial lift equipment may be used prior to the time that a site facility is electrified. All minor and major facilities which are not electrically operated shall be equipped with quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent. Such equipment mufflers shall be properly installed and maintained in proper working order.
- (3) All mechanized equipment associated with minor and major facilities shall be anchored so as to minimize transmission of vibration through the ground.
- (4) Special mitigation measures:
 - a. Where a minor or major facility does not comply with the required setback or other portions of the performance standards, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
 - 1. Nature and proximity of adjacent development (design, location, type).
 - 2. Prevailing weather patterns, including wind directions.
 - 3. Vegetative cover on or adjacent to the site.
 - 4. Topography.
 - b. Based upon the specific site characteristics set forth in this section, the nature of the proposed activity and its proximity to surrounding development, and the type and intensity of the noise emitted, additional noise abatement measures may be required. The level of required mitigation may increase with the proximity of the facility to existing

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

residences and platted subdivision lots, and/or the level of noise emitted by the facility. One or more of the following additional noise abatement measures, including but not limited to the following, may be required:

1. Acoustically insulated housing or cover enclosing the motor or engine.
 2. Vegetative screen consisting of trees and shrubs which may be placed within a fenced enclosure.
 3. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
 4. Acoustically insulated building enclosing the installation.
 5. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted; and proposed mitigation measures.
- (5) Sound emissions shall at minimum be in accordance with the standards as adopted, and amended from time to time by ~~COGCC~~ ECMC. In all instances a major or minor facility must comply with sound emission standards designated for residential land uses unless a specific exemption is granted by the staff, the planning commission or the BOCC.
- (6) Other special mitigation measures. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts nonmitigable because of proximity, density and/or intensity of adjacent land use.

(e) Security and Safety.

(1) Security fencing and a locked gate for minor and major facilities shall be required in the following locations:

- a. Where there are four or more existing residences within 660 feet of the facility site perimeter;
- b. Where there is a public or private school within 660 feet of the facility site perimeter;
- c. Where there is any other existing structure with commercial occupancy as defined by the Building Code within 660 feet of the facility site perimeter; and

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- d. Where there is an existing recreational facility designated by an appropriate federal, state or local authority within 660 feet of the facility site perimeter.
- (2) Safety practices in accordance with state and federal law, including the Occupational Safety and Health Act of 1970, Public Law 91-596 84 Stat. 1590 91st Congress, S.2193, December 29, 1970, as amended through January 1, 2004, shall be used at all times during drilling and production to minimize the danger to the general public.
- (3) Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured and have blind flanges installed.
- (4) All land within 25 feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.
- (5) Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply pursuant to staff review.

6.38 ENVIRONMENTAL QUALITY STANDARDS

- (a) Location on private property. Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to determine land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities on private property:
 - (1) The siting of a minor and major facility shall adhere to the standards outlined in this section to the maximum extent practical.
 - (2) The standards in this code shall not cause the operator to site the facility in: a geologic hazard area or an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer, or in an area designated as Restricted Surface Occupancy for wildlife resources by ~~the Colorado Division of Wildlife~~ Colorado Parks and Wildlife (~~CDOW~~CPW), unless specifically excepted through written consultation with ~~CDOW~~CPW.
 - (3) The County recognizes that in some instances, existing minor oil and gas facilities which initially met the requirements if this section would not meet the requirements of a current application where filed due to (i) the encroachment of other development into the setback

10/12/2021 8:39:21 AM

Page 6-28

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



area, (ii) because the regulation was not in effect when the original installation occurred, or (iii) because a waiver previously was obtained. In those instances, where the setback requirements of this section cannot be met currently, the use of the existing well pad site will be considered a legal nonconforming use not subject to the requirements of this section, provided that all land use performance standards are not in any way superseded by the placement of the new well on the existing or expanded well pad. The number of well pads shall not exceed four (4) within any single six hundred forty (640) acre governmental section of real property. To the extent reasonably practicable, operators shall share existing well pads and shall expand the well pads only as necessary to accommodate additional minor facilities. Notwithstanding the foregoing, nothing obtained in this section shall be construed so as to require the closure or abandonment of any existing oil or gas well. Special exceptions to this section may be granted when one or more

of the following factors apply in a manner such that use of only four well pads per governmental section is rendered impractical:

- a) Topographic characteristics of the site;
 - b) Natural resource constraints (e.g. wetlands);
 - c) The location of utilities or similar services;
 - d) Demonstratively insurmountable technical issues related to the development or management of the mineral resource;
 - e) Other site conditions beyond the control of the applicant; or
 - f) Demonstrable safety concerns.
- (4) The following criteria shall be used to site an oil and gas facility. Facilities that cannot comply with the following criteria may be denied according to Sections 6.23 or 6.24 or may be required to mitigate the site as outlined in 6.37 (d) (4) and 6.38 (c) (9). The mitigation requirements may be waived by the community development director if existing topography and vegetation mitigate the land use impacts of the site. The county shall determine the compliance of the proposal using the following standards. Standards are ranked according to importance. Where conflicts between standards occur the higher ranked standard will be used.

10/12/2021 8:39:21 AM

Page 6-29

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



- a. Minor facilities shall be constructed using existing infrastructure. This includes, but is not limited to, the use of existing roads, pipeline routes, and well pads within the existing drilling windows.
 - b. Minor facilities shall adhere to the setback and location requirements found in Section 6.37 (b)(1-3), (c)(1), and (d)(1&2).
 - c. Minor and major facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.
 - d. Minor and major facilities shall be sited to minimize the impact to agricultural operations.
 - e. Minor and major facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.
 - f. Minor and major facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation to screen or background and the construction of the facility in canyons or behind ridges and natural rock formations.
 - g. Minor and major facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
 - h. Minor and major facilities shall be sited to avoid crossing hills and ridges or silhouetting.
 - i. Minor and major facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.
 - j. The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a minor or major facility.
- (b) Visual mitigation plan.

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103

**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**



- (1) A visual mitigation plan shall be required for all new minor and major facilities. The plan shall incorporate the appropriate design elements of subsections (c)(1) through (c)(10) of this section and include the design information in subsection (b)(2) of this section.
- (2) The visual mitigation plan minimum requirements are as follows:
 - a. Compliance with the design elements of subsections (c)(1-10)
 - b. Scaled drawing.
 - c. Site boundary dimensions and descriptions.
 - d. Existing and proposed contours and pad elevations.
 - e. Existing conditions and site features that incorporate and surround such site to be developed.
 - f. Existing and proposed access.
 - g. Visual mitigation techniques to be employed at the facility.
 - h. Orientation and dimensions of facilities and equipment that will be used once the facility is operational.
 - i. Description of existing and proposed vegetation.
 - j. Location, height and extent of perimeter berms, if applicable.
 - k. Type, location and amount of mulch materials, if applicable.
 - l. Type, location and height of fencing, if applicable.
 - m. Delineate drainage and runoff patterns and mitigation.
 - n. Direction and type of lighting, if applicable.
 - o. Written maintenance and irrigation plan for at least one year after revegetation.
 - p. Title block:
 1. Name of development;
 2. Name of applicant or developers;

10/12/2021 8:39:21 AM

Page 6-31

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

3. Project number;
4. Date of preparation; and
5. Section, township and range.

q. Performance security. For sites requiring a visual mitigation plan, performance security shall remain in place for at least two years after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvements or the amount required by Section 6.16, whichever is greater.

(c) Visual impacts.

- (1) To the maximum extent possible, the applicant shall use structures and surface equipment of minimal size to satisfy present and future functional requirements.
- (2) When clearing trees and vegetation for construction of minor and major facilities, the applicant shall feather and thin edges of vegetation.
- (3) The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
- (4) To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
- (5) Minor and major facilities shall be colored as follows:
 - a. Uniform or camouflaging, noncontrasting, nonreflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
- (6) The applicant shall minimize damage to existing trees and vegetation.
- (7) Pad dimensions for a minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance. This section may be waived by staff if well pad dimensions are related to a visual mitigation plan proposal to blend with the natural topographical conditions.
- (8) Within six months after well completion, the pad area (except the main access road and the immediate areas within 25 feet of the aboveground facilities) shall be reseeded with native

10/12/2021 8:39:21 AM

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

grasses or existing vegetation acceptable to the surface owner and the Natural Resource Conservation Service (NRCS). At all times Best Management Practices will be used to prevent storm water discharges from impacting surface water quality.

- (9) One or more of the following landscape practices shall be applied, on a site specific basis as required:
- a. Establishment of berms, ground covers, shrubs and trees..
 - b. Shaping slopes (cuts and fills) to appear as natural forms.
 - c. Cutting rock areas to create irregular forms.
 - d. Designing the facility to utilize natural screens.
 - e. Construction of fences such as woven wood or rock for use with or instead of landscaping.

(10) Exterior lighting, when required, shall comply with BOCC [Dark Skies regulations](#) ~~Resolution no: 06-20 and subsequent regulations.~~

(d) Wildlife.

- (1) The installation and operation of any oil and gas facility, pipeline, workover site, or oil and gas access road shall avoid causing degradation to the environment and wildlife or livestock including to wetlands, floodplain, ponds, creeks, streams and drainageways, migratory birds and raptors, and federal threatened and endangered species for both flora and fauna; any other applicable wildlife concerns including den sites for mammals, like coyotes and foxes; fish and other aquatic life; wildlife corridors; significant habitat. Referral to Division of Wildlife. Standard Operating Practices adopted by ~~CDOW~~CPW for protection of wildlife resources during oil and gas development activities are herein incorporated into the Huerfano County Land Use Code by reference, and shall become part of the performance standards for any minor or major facility approval. Applicant shall notify ~~CDOW~~CPW in the form described in Section 6.26 and shall identify in the notification the Standard Operating Practices adopted by ~~CDOW~~CPW that apply to applicant's proposed facility. If applicant is unable to comply with ~~CDOW~~CPW's Standard Operating Practices for wildlife protection due to conflicts with other provisions of the Huerfano County Land Use Code, applicant shall identify the conflict and propose alternate site-specific mitigation or best management practices for the protection of wildlife resources

Commented [10]: Update to CPW

10/12/2021 8:39:21 AM

Page 6-33

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (2) Site specific. Standard Operating Practices adopted by CDOWCPW shall be included as appropriate in the site specific wildlife mitigation procedures required under subsection (d) (1) of this section. If applicant proposes alternate site-specific mitigation or best management practices to protect wildlife resources, the alternate site-specific mitigation or best management practices shall be approved by CDOWCPW in writing prior to permit approval.
 - (3) Multiple site. In lieu of a site specific mitigation review for each facility, the applicant may submit to the staff a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under subsection (c) (2) of this section.
 - (4) Nonmitigable impacts. Impacts from oil and gas facilities which threaten endangered species (as defined by the state division of wildlife), shall be considered non-mitigable and shall result in denial.
- (e) Water.
- (1) If fresh or potable water is required for minor and/or major facility operation, the applicant shall identify the proposed source and amount -of such water.
 - (2) Onsite containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal, state or county requirements.
 - (3) Applicant shall offer to test water quality and quantity of all wells within one-mile of drilling site prior to drilling at the expense of the applicant. Property owners will be notified of this offer as part of notice of public hearing. Property owners wishing their well to be tested must express interest to the Department at or prior to the public hearing. Non-response to the offer shall be considered opting out. Where horizontal or highly deviated boring is proposed, the radius shall include all wells within one mile measured from the entire length of the wellbore path as mapped from aerial view.
 - (4) Acceptable water samples shall be obtained and tested no less than three weeks prior to commencement of drilling in cooperation with the property owners. Records of test results shared with the County will be recorded with the Clerk and Recorder.
 - ~~(4)~~(5) Applications for proposed oil and gas facilities shall demonstrate that the available water supply is the least detrimental to the environment among the available sources and adequate to meet the needs of the facility. Additionally, for a permit to be issued, the Colorado Division of Water Resources must

Commented [11]: COGCC noticing requirements are: All Surface Owners, Building Unit and High Occupancy Building Unit owners and tenants, and residents, including tenants of both residential and commercial properties, within 1/2 mile of any Working Pad Surface included in the Oil and Gas Development Plan, or within 1 mile of any Working Pad Surface included in the Oil and Gas Development Plan if the Building Unit is within a Disproportionately Impacted Community. Notice to tenants may be accomplished by sending the notice to the residences addressed to "Current Resident."

Regardless of whether a location is considered a "disproportionately affected community" using the 1-mile radius seems reasonable.

10/12/2021 8:39:21 AM

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

determine that there has been adequate addressing of the complex geology of the northern Raton Basin in Huerfano County to grant a determination of nontributary ground water.

~~(5)~~(6) All applicants and operators shall make and keep a chemical inventory, by well or oil and gas facility. In addition to the inventory, the records shall include material safety data sheets, product information sheets, and other records necessary to describe the chemical constituents of each product listed in the inventory. Entities maintaining inventories under this section shall update these inventories bi-monthly throughout the life of the well or oil and gas facility. These records must be maintained in a readily retrievable and reviewable format. The Huerfano County Health Department may obtain information provided to county staff in a chemical inventory upon written request to the ~~Planning & D~~Department. Copies of said reports required by the ~~Planning & D~~Department shall be kept on file and available for inspection for the life of the applicable oil and gas facility. Upon the county administrator or planner's written request for information required to be maintained under this section, the record-keeping entity shall supply the requested information within three (3) business days in a format readily-reviewable by the county. Information provided to the ~~planning & D~~Department under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless required, permitted, or authorized by other state or federal law. The county code enforcement officer and the authorized deputies shall have access to all well records wherever located. All owners, drilling contractors, drillers, service companies, or other persons engaged in drilling or servicing wells, shall permit the county officer or authorized deputy, at the county's risk, in the absence of negligence on the part of the owner, to come upon any lease, property or well operated or controlled by them, and to inspect the record and operation of such wells and to have access at all times to any and all records of wells; provided, that information so obtained shall be kept confidential and shall be reported only to the BOCC or their authorized agents

~~(6)~~(7) All pits shall be fenced in order to prevent access by persons, stock or wildlife.

- a. All pits shall be constructed in accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:

10/12/2021 8:39:21 AM

Page 6-35

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

All pits shall be fenced in order to prevent access by persons, stock or wildlife unless the applicant provides alternate mitigation measures satisfactory to the county which achieve the goal of protecting against entry into pits by unauthorized persons, stock or wildlife.

- b. All pit liners and any materials not meeting the standards set forth in 2 CCR 404-1 Section 910 (inclusive of Table 910-1) shall be removed from the property upon completion of construction and disposed of at an approved facility.

~~(58)~~ All pit liners shall be removed from the property upon completion of construction.

(9) Wetlands Protection: Oil and gas facilities shall prevent adverse impacts to the environment and avoid causing degradation to wetlands within the county. Among other methods to achieve compliance with this standard, the proposed oil and gas facility shall not alter historic drainage patterns and/or flow rates or shall include mitigation measures approved by the county to compensate for anticipated drainage impacts.

(f) Geologic hazard areas; floodplains.

- (1) Major facilities shall not be located in geologic hazard areas
- (2) Major facilities shall comply with the adopted county floodplain resolution no: 88-13 when they are located in a 100-year floodplain area, and/or the adopted HB1041 regulation when within 250 feet of a area of state and local concern.

6.39 SURFACE DISTURBANCE STANDARDS

- (a) Purpose of section. The purpose of this section is to encourage minimal damage to surface activities and surface conditions.
- (b) Agricultural resources. Minor and major facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land. This standard may be waived if verified written consent is obtained from the surface owner.
- (c) Roads and access. Installation of ~~major~~ facilities which are accessible by non-maintained roads included in the county road system, which the county road & bridge department determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, shall be permitted only if such roads are improved and maintained by the applicant to a level which the road and bridge

10/12/2021 8:39:21 AM

Page 6-36

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103



**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**

supervisor determines is necessary to allow such traffic to use such roads in accordance with applicable state and county standards.

- (1) Applicant will remove or require the removal of chains from its heavy equipment before entering a county road. All new roads shall have gravel access and well pads with a minimum of four inches (4”) of Class 6 Aggregate Base Course as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction over a stabilized base, both of which shall be maintained throughout permanent operations of the well pad; and if mud and/or debris is tracked onto the county road by applicant’s equipment, applicant shall remove same and restore the condition of the road as promptly as is reasonable under the circumstances. ~~If the well proves to be a producing well, additional road maintenance plan to include road improvements may be required.~~
 - (2) Applicant shall provide written documentation demonstrating that it has the right to use access roads located between the parcel on which a facility is to be located and the applicable county road or state highway.
 - (3) Where new access roads are created, a county road access permit will be required.
- (d) Waste disposal.
- (1) When a minor or major facility becomes operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation.
 - (2) No burning of trash shall occur on the site without prior notice to dispatch and surface owner. All burning of trash shall be done within a container such as a wire cage or excavated pit covered with wire. All residual material from burning shall be removed from the site for proper disposal.
- (e) Weed control.
- (1) The applicant shall be responsible for ongoing minor and major facility sites and access road weed control during construction and operation of the facility, until abandonment and final reclamation is completed per county or other applicable agency regulations.

Commented [12]: I think this is implied in statement above in (c) that roads are to be “improved and maintained...”

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

- (2) The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by the ~~Huerfano County Extension Office~~ County Land Use and Building Department, and other departments as may be requested.
- (3) ~~Drilling site must be inspected by the County prior to any construction activity for noxious weeds.~~
- (4) ~~Land Use and Building Department shall approve the re-vegetation and noxious weed plan prior to the commencement of drilling operations.~~
- ~~(5)~~ All rigs shall be cleaned and washed prior to entering the County. County Staff must inspect all rigs prior to entering any county roads.

(f) **Minimization of disturbance.**

- (1) Where minor and major facilities reduce or destroy existing vegetation, the applicant in consultation with the NRCS shall develop a revegetation plan for the remainder of the facility site, for approval by staff. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related activities.
- ~~(2)~~ Upon abandonment of a facility, reclamation shall be conducted in accordance with county or other applicable agency regulations.

(g) - Abandonment

If any legal nonconforming oil or gas facility is abandoned for a period of one year or more, the facility shall not be renewed until the Director has determined that the renewed use will comply with the standards and requirements in this Section 2-605.E, Oil and Gas Operations.

(h) Damage or Destruction

A legal nonconforming oil or gas facility that is damaged or destroyed by an act of God or through any manner not willfully accomplished by or for the owner may be restored, regardless of the extent of damage or destruction. Restoration of the operation shall be contingent upon the following:

- (1) The owner has acquired the permits required for construction and for operation of the restored oil and gas facility.
- (2) The facility shall not be restored in a manner that expands the nonconforming use.

10/12/2021 8:39:21 AM

Page 6-38

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

(3) The facility shall be restored within one year of the date of damage or destruction. A one-time extension of up to one year may be granted by the Director upon findings that:

- i. There would be a substantial hardship to the owner without the extension; and
- ii. Within the first eight months after the destruction, the owner has substantially cleaned up and removed all unusable portions of the damaged facility.

6.40 SPECIAL EXCEPTION REQUESTS

- (a) Special exceptions to these performance standards may be requested by the applicant. All applications where a special exception is requested will be processed as a major facility. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:
- (1) Topographic characteristics of the site;
 - (2) Duration of use of the facility;
 - (3) Proximity of occupied structures to the facility;
 - (4) Ownership status of adjacent and/or affected land;
 - (5) Construction of adequate infrastructure to serve the project; and
 - (6) Planned replacement and/or upgrading of facility equipment.
- (b) If the board of county commissioners finds, based upon competent evidence in the record, that compliance with these performance standards is impractical, a special exception may be granted by the board of county commissioners permanently or for a period of defined duration. Upon completion of the defined duration, the application shall receive additional review by the county in accordance with Sections 6.36 through 6.42 of this Code. The board of county commissioners, upon showing of good cause by the applicant, may:
- (1) Further extend the special exception;
 - (2) Require that the facility be brought into compliance with the performance standards; or
 - (3) Revoke the special exception approval.

10/12/2021 8:39:21 AM

Page 6-39

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

6.41 OPERATIONAL CONFLICTS SPECIAL EXCEPTION

- (a) Special exceptions to these performance standards may be granted where the requirements actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed as a major facility and heard in a noticed public hearing by the board of county commissioners acting in a quasijudicial capacity, pursuant to C.R.S. §§ 30-28-117 and 30-28-118. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this division and those of the ~~COGCC~~ in the context of a specific application. For purposes of this section, an operational conflict exists where the county condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the state's interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where the county regulation prohibits an activity which the ~~COGCC~~, or its valid regulations, has clearly authorized, or authorizes an activity which the ~~COGCC~~, or its valid regulations, has clearly prohibited. Additional county requirements in areas regulated by the ~~COGCC~~, which also fall within county land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant, shall be presumed not to present an operational conflict. If the board of county commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this division shall result in an operational conflict with the state statutory and regulatory scheme, a special exception to this division may be granted, in whole or in part, but only to that extent. The board of county commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.
- (b) If the applicant or any interested party wishes to seek judicial review of a final board of county commissioners' decision on the exception request, appeal to the district court shall be pursuant to Colorado Rules of Civil Procedure Rule 106(a) 4.

6.42 INFORMAL DISPUTE RESOLUTION

At the discretion of the code enforcement officer any complaint related to an alleged non-compliance with the provisions of this chapter by an applicant, operator, surface owner, or an adjacent landowner as identified in Section 6.26 may be referred to an informal dispute resolution process. The process shall be administered by

10/12/2021 8:39:21 AM

Page 6-40

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103

**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**



Huerfano County Administrator in an attempt to reach a resolution of the complaint that is satisfactory to all interested parties. Where a resolution is reached, the resolution shall be reduced to writing and shall be binding on all participating parties.

6.43 Submit a copy to the Local Government Designee and Land Use and Building Department of all forms filed with the ECMC in conjunction with the project.

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



**HUERFANO COUNTY
 OIL AND GAS REGULATIONS
 SECTION 6.00**

EXHIBIT A

CHEMICAL PRODUCTS

- (1) Onsite containment, disposal, and disclosure and retention of information related to Chemical Products associated with minor and major facilities shall be conducted in accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:
- (2) All entities holding a permit issued under this section 90, shall make and keep appropriate records pertaining to chemical products covering their operations in the county, from which they may be able to make and substantiate the reports required by the ~~COGCC/ECMC~~, its director or, in the absence of state laws or regulations on this topic, as may be required by Huerfano County.
- (3) Beginning January 1, 2009 Owners or Operators shall maintain material safety data sheets for any Chemical Products brought to a wellsite for use downhole during drilling, completion, and workover operations including fracture stimulation. Material Safety Data Sheets (MSDS) shall be on site and available to staff as well as emergency personel upon request.
- (4) Beginning June 1, 2009 Owners or Operators shall maintain a Chemical Inventory by wellsite for each Chemical Product used downhole or stored in an amount exceeding 500 pounds during any quarterly reporting period and the maximum capacity of fuel stored on the oil and gas location during drilling, completion, and workover operations including fracture stimulation. Entities maintaining Chemical Inventories under this section shall update these inventories quarterly throughout the life of the wellsite. These records must be maintained in a readily retrievable format. A County health department may obtain information provided to the Department or Director in a Chemical Inventory upon written request to the Director.
- (5) Where the composition of a Chemical Product is considered Trade Secret by the vendor or service provider, Owners or Operators shall only be required to maintain the identity of the Trade Secret Chemical Product and shall not be required to maintain information concerning the identity of chemical constituents in a Trade Secret Chemical Product or the amounts of such constituents. The vendor or service provider shall provide to the Department a list of the chemical constituents contained in a Trade Secret Chemical Product upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release of a Trade Secret Chemical Product or a complaint from a potentially adversely impacted landowner regarding impacts to public health, safety, welfare or the

10/12/2021 8:39:21 AM

Page 6-42

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00

environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a Trade Secret Chemical Product shall be disclosed by the vendor or service provider directly to the County planning engineer or his or her designee. The County planning engineer or designee may disclose information regarding those chemical constituents to additional County staff members to the extent that such disclosure is necessary to allow the staff member receiving the information to assist in responding to the spill, release or complaint, provided that such individuals shall not disseminate the information further. In addition, the County planning engineer may disclose information regarding those chemical constituents to a County public health department's director of environmental programs upon request by that individual. Any information so disclosed to the County planning engineer, a County staff member, or to a County public health department's director of environmental programs shall at all times be considered confidential and shall not become part of the Chemical Inventory nor shall it be construed as publicly available. The County public health department's director of environmental programs, or his or her designee, may disclose information regarding the chemical constituents contained in a Trade Secret Chemical Product to health department staff members under the same terms and conditions as apply to the county planning engineer.

- (6) The vendor or service provider shall also provide the chemical constituents of a Chemical Product to any health professional as may be provided under state law or regulation. In the event that no state law or regulation so provides, the vendor or service provider shall provide the chemical constituents of a Chemical Product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and a written confidentiality agreement. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such proprietary Chemical Product will assist in such diagnosis or treatment. The confidentiality agreement shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement

10/12/2021 8:39:21 AM

Page 6-43

Huerfano County
 Land Use Department
 401 Main Street, Suite 309 Walsenburg, Colorado 81089
 719-738-1220 ext. 103



HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00

of need, and a confidentiality agreement from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

- (7) Such books, records, inventories, and copies of said reports required by the Department or the Director shall be kept on file and available for inspection by the Department for a period of at least five years except for the Chemical Inventory, which shall be kept on file and available for inspection by the Department for the life of the applicable oil and gas well or oil and gas location and for five (5) years after plugging and abandonment. Upon the Director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the Director with the requested information within three (3) business days in a format readily-reviewable by

the Director, except in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the Director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain the confidentiality of said information. The Director shall notify the owner, holder, or beneficiary of any such protected information at least one business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

- (8) In the event that the vendor or service provider does not provide the information required under subsections (6) and (7) directly to the Department, the owner or operator is responsible for providing the required information.
- (9) All chemical products must be stored in an approved chemical containment facility covered, secured and locked.

10/12/2021 8:39:21 AM

Page 6-44

Huerfano County
Land Use Department
401 Main Street, Suite 309 Walsenburg, Colorado 81089
719-738-1220 ext. 103

**HUERFANO COUNTY
OIL AND GAS REGULATIONS
SECTION 6.00**



8.01 USE OF THE COMMON PROCEDURES

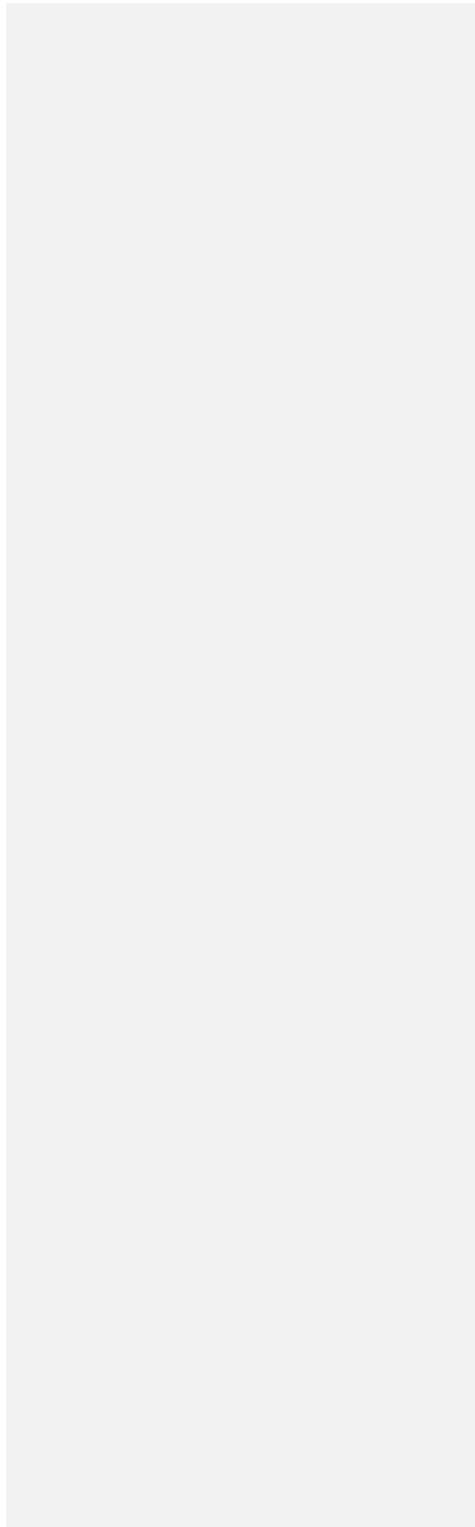
This Section describes the common procedures that shall be employed for reviewing and acting upon land use applications that require public hearings or review by boards and commissions. Land use applications may have additional requirements specific to that application type not articulated in this section. Land Use application types covered by this section are listed below along with a reference for the section of the County's Land Use Regulations dedicated to each process:

Land Use Process	Reference
1. Rezoning of land.	§1.18
2. PUD and Non-PUD subdivisions of land.	§2.09, §3.00
3. Non-subdivision PUDs.	§3.00
4. Plat Amendments	§2.14
5. Vacation of Easements or rights-of-way	§2.15
6. Conditional Use Permits	§1.05, §1.06
7. Marijuana Conditional Use Permits	§18.00
8. Temporary Assembly Permits	§1.13
9. Variances	§1.04, §9.02.03 – 9.02.04
<u>10. Oil and Gas permits</u>	<u>§6.10, §6.26, §6.31, §6.33,</u> <u>§6.34, §6.38</u>
11. Any other public hearing procedure.	

Table 8.08 Public Noticing summary by Permit Type

Permit Type	Notice Radius	Additional Considerations
Conditional Use Permit	1320 ft in the Agricultural Zone District, Adjacent properties in other Zone Districts. The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote.	Sign posted on property 10 days prior to hearing
Rezoning	Adjacent property owners. The Planning Commission may expand notification requirements to include identified properties that have the potential to be impacted by the proposal, by majority vote.	Sign posted on property 10 days prior to public hearing. Notifications shall include a vicinity map and a short narrative describing the current zoning, proposed rezoning and the nature of the proposed land use change.
Subdivisions	One public hearing for each phase: Sketch Plan, Preliminary Plat, and Final Plat. 1320 ft in agricultural zone; 500 ft. in all other zones. This distance provision may be expanded up to 2,500 ft, or to include identified properties that have the potential to be impacted by the proposal by a majority vote of the Planning Commission.	
Plat Amendment	No public noticing/public hearing required	
Vacation	1,320 in the Agricultural Zone; adjacent properties in other zones.	Include vicinity map in notices to neighbors.
PUD	Same as Subdivisions.	
Marijuana CUP	Same as Conditional Use Permit.	Additional fees apply. 1000 ft Setback.
Temporary Assembly Permits	If over 500 attendees, notice sent to property owners within 1, 200 feet.	Sign posted on property; noise ordinance 21-01; See requirements in Section 1.13.
Variance	Adjacent property owners. Adjacent mineral rights owners and lessees and easement holders.	Heard by the Board of Adjustment only. Hearing to take place within 30 days of submission of required materials

Sign Permits	N/A – Processed administratively.	
Camping Permits	N/A -- Processed administratively.	Demonstrate source of water and wastewater disposal plan.
<u>Oil and Gas Permits</u>	<u>One mile</u>	<u>Applicant must offer to test any wells within one mile prior to drilling. See §6.38(e)(3).</u> <u>Joint public hearing may be required.</u> <u>Reference: §6.10, §6.26, §6.31, §6.33, §6.34, §6.38</u>



8-5

Huerfano County Land Use
401 Main Street, Suite 304
Walsenburg, Colorado 81089
719-738-1220, Ext. 506



Item 7a.

March 6, 2025

Dear Landowner(s),

The property in Twin Lakes Ranches, lot number 117 (parcel number 30270), has been found to be non-conforming according to the County Land Use regulations.

However, the County Assessor's records show that there is house on the property before building permits were required. The County Land Use Department is granting permission for a like-for-like replacement on the property.

If you have any questions or concerns, please contact the Land Use Department.

Huerfano County Land Use
401 Main Street, Suite 304
Walsenburg, CO 81089

Proposed amendments to zoning code.

The following proposed updates to the Huerfano County Land Use Code are aimed at achieving the following goals:

1. Creating a new zone, The Homesteading Zone. This zone is needed to differentiate between agricultural land and large-lot residential subdivisions. Adjust Rural Residential and Agricultural zones to distinguish a the character of these zones from the Homesteading Zone.
2. Change how Development rights are created to separate the creation of new parcels from the creation of new development rights.
3. Address non-conforming parcels by establishing a new date by which lot-size conformity shall be determined.
4. Sunset PUD zoning conditions.
5. Update use table to incorporate new zone and differentiate from other zones.
6. Incremental development rights in Agricultural and Homesteading.

ORDINANCE NO.

AN ORDINANCE AMENDING THE HUERFANO COUNTY LAND USE CODE TO CREATE THE HOMESTEADING ZONE DISTRICT, AND TO AFFECT THE CREATION OF DEVELOPMENT RIGHTS, PLANNED UNIT DEVELOPMENTS, NON-CONFORMING LOTS AND THE USE TABLE

WHEREAS, C.R.S. §30-28, et.seq. of the Colorado Revised Statutes grants authority to the Board of County Commissioners of Huerfano County, Colorado to adopt land use codes to provide for the physical development of the unincorporated territory of said County; and

WHEREAS, C.R.S. §29-20-104 specifically provides that local governments have the authority to plan for and regulate the use of land in their respective jurisdictions; and,

WHEREAS, C.R.S. §29-20-101, et. seq. empowers the Board to plan for and regulate the use of land within the unincorporated County, including but not limited to, regulating the use of land on the basis of the impact thereof on the community or surrounding areas; regulating the location of activities and developments which may result in significant changes to population density; and otherwise planning for and regulating the use of land so as to provide for planned and orderly use of the land; and,

WHEREAS, the Huerfano County Board of County Commissioners (the “Board”) is authorized by C.R.S. §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement thereof; and

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

WHEREAS, the Board of County Commissioners of Huerfano County, Colorado (“Board”) finds that certain changes to the Land Use Code will help to facilitate development and improve the processes for obtaining land use permits,

WHEREAS, CRS 30-28-106 (III) requires master plans to include strategies to promote strategic growth and prevent rural sprawl and to limit the need to develop natural and agricultural lands for residential uses and the following updates help to bring the land use code into alignment with the recent update to the Comprehensive Plan

WHEREAS, existing land use patterns in Huerfano County require the creation of the Homesteading Zone to recognize the residential nature of certain large-acre subdivisions and protect and distinguish these areas from the agricultural nature of the Agricultural Zone and from the residential character of the Rural Residential Zone.

WHEREAS, the purpose of Planned Unit Developments (PUDs) is to allow a developer flexibility to carry out development that would otherwise conflict with existing zoning, the sunseting of unique zoning provisions applied to each PUD removes an unnecessary administrative burden and challenge for future owners or prospective owners to be able to access and understand the regulations unique to each PUD,

WHEREAS, it is in the public interest to recognize all existing parcels in the County as conforming based on their acreage, regardless of their zoning district.

WHEREAS, the Board finds it is in the interest of public health, safety and welfare that the Board adopt these amendments to the Huerfano County Land Use Regulations.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Huerfano County, Colorado, that the amendments to the Huerfano County Land Use Regulations are hereby amended as shown in Attachment A.

INTRODUCED, READ, AND ADOPTED on this ___th day of _____, 2024.



BOARD OF COUNTY COMMISSIONERS OF
HUERFANO COUNTY, COLORADO

BY _____

Arica Andreatta, Chairman

Mitchell Wardell, Commissioner

Attest: _____

County Clerk and Recorder and
ex officio clerk to said board.

Karl Sporleder, Commissioner

ATTACHMENT A

Amendments to Zoning Districts in Section 1.03.02

Note: *No changes made to UR, C, I, APO, or WIND districts.*

A Agricultural District

This district is created for the purpose of protecting the productive agricultural lands of Huerfano County from development 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

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”

Maximum lot coverage: ~~15 percent~~ For uses allowed by right, conditional uses and prohibited uses see Section 1.05. A single residential unit as accessory to a commercial agricultural use along with accessory agricultural structures.

RR Rural Residential District

This district is created for the purpose of allowing the establishment of moderate density (up to two dwelling units per parcel) 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.~~ Rural Residential development districts are sub-urban neighborhoods dependent on the services and jobs to be found in commercial districts, urbanizing residential districts or incorporated towns. The establishment of new districts should be in close proximity to such other districts or locations.

Commented [1]: Changed from 1/acre to 2/parcel. This allows ADUs. It also doesn't add more development rights to a parcel when lots are consolidated. Also makes district consistent with use table update.

~~Minimum district size: 20 acres~~ or five parcels, whichever is less

~~Maximum district size: 100 acres~~

Minimum lot area: 2 acres

Maximum lot area: average of up to 10 acres

Minimum lot width: 100 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”)

Maximum lot coverage: 30 percent ~~For uses allowed by right, conditional uses and prohibited uses see Section 1.05.~~

Commented [2]: For it not to be considered spot zoning, which is prohibited in Colorado, would a rezoning need to include at least two parcels, or a subdivision into at least two parcels?

HS Homestead District

This district is created to accommodate subdivisions with large-lots (35 or more acres) that are primarily residential in nature and located in the context of predominantly agricultural and rural areas

of unincorporated Huerfano County. Development in this district should minimize impact on the visual, scenic and other natural characteristics of the surrounding area and provide as necessary for the protection of critical wildlife habitat. This zone may include small-scale farming or ranching activities and a wide range of home occupations that do not generate significant traffic or noise. This is a zone intended to give people access to nature and to highlight rural, homestead living. To ensure public access to nature, Homestead zones must include public access trail easements that connect to any adjacent public lands and designate easements for an internal trail network with a length of at least one quarter of the road Right-of-Way serving the subdivision.

Commented [3]: I'm not sure if we would want to apply this upon a County-led rezoning, but it might be an important element for community-led efforts.

- Minimum District Size: 100 acres
- Minimum lot area: 35 acres
- Front yard setback 20 feet
- Side yard setback 20 feet
- Rear yard setback 20 feet
- Maximum structure height 40 ft
- Maximum lot coverage: up to two residential structures and four accessory structures

New Section 10.11

Development Rights

Section 10.11 Right to Develop

Purpose:

Huerfano County has a vast amount of undeveloped open range and natural landscape that should be preserved and protected for the enjoyment of future generations. The proliferation of large lot subdivisions of 35-acres or more and the vast number of vacant lots that have been created over the years have led to the potential loss of the natural assets that make Huerfano County a unique and attractive place to live. There are currently sufficient development rights on vacant County parcels to increase the population or number of dwelling units in the County by over 65%. Of the County's 12,529 non-exempt parcels, 8,217 are vacant. If a home were to be built on each vacant parcel that exists today, it would require a vast extension of roads and electric wires that would cut across the landscape, it would impact the water table and wildlife and the low-density, spread-out character of development would make it more costly and challenging to provide services such as police and fire protection, road maintenance, and school busing. By ceasing to create new development rights with the creation of each new parcel, and the ability to transfer development rights, the intent of the County is to direct future development to areas of the County that are already close to services, jobs, infrastructure and historical development and to protect from development those areas of the County where vast open ranges and wild landscapes persist.

10.11.1 No building permit shall be issued on any parcel created after January 1, 2025 that has not been granted a development right through a conditional use permit, as part of a major or minor subdivision, or through the transfer of a development right approved by the Board of County Commissioners and recorded on the deed to the parcel to include the date of the decision by the Board of County

Commented [4]: Part E of this section qualifies this. Our approach depends on how we want to treat TDR at this point.

Commented [5]: Modified to defer to CUP process.

Commissioners and the specific development rights conveyed to the property. Whenever two or more parcels are consolidated, the resulting parcel shall have the development rights of a single parcel. Whenever a single parcel is divided into two or more parcels, only one parcel will retain a development right. If one of the resulting parcels has an existing home or structure, the development right will remain with that parcel already developed or most developed.

A. In the Agricultural zone district, residential development rights shall be limited to those that support agricultural activity, and residential uses shall be considered accessory to agricultural uses. Residential uses in the agricultural zone shall be granted only as the result of a transferred development right or through a conditional use permit.

Commented [6]: Could be made to apply to Homesteading as well.

C. Transferred rights:
Sending parcel or parcels must conserve an amount of land not less than 80% of the land area of the receiving parcel. Where sending parcels are smaller than the receiving parcel, development rights from multiple parcels may be combined to equal a single right on a larger parcel.

D. Conditional Use Permit Conditions:
Approval of a conditional use permit to grant development rights should meet one of the following conditions:

1. Development serves a public interest and their creation would contribute to goals articulated in the adopted comprehensive plan. This can include the provision of at least two deed-restricted affordable housing units at [100%]AMI, or 15% of units for developments over 20 units.
2. Context and proximity to existing development. If a proposed residence is situated in a context where it is within 1,000 ft. of at least two other residential units or a commercial use that supports four or more permanent, on-site jobs, it should be considered compatible with context unless there are other unique circumstances that the Commission finds that make the development incompatible with context.
3. Demonstration of the cost/benefit to the County. If the applicant can show that the benefit to the County, measured in terms of anticipated economic benefit of the development outweighs the cost to the County of providing services, including police, fire, school district, road maintenance and other infrastructure maintenance.

Commented [7]: Because of low median income and high cost of building. Placed in approval section rather than appeals section.

Commented [8]: This would be a way to incentivize incremental development in Ag, and could also be used in Homesteading.

Commented [9]: New: conditions for approval.

E. In the approval of subdivisions, the Board of County Commissioners may require any of the conditions in 10.11.1 to be met for newly created parcels to be granted development rights in accordance with the designated zone district. The Board of County Commissioners may require any of the conditions in 10.11.1 as part of a rezoning to any zone district that allows a greater intensity of development.

10.11.1 Appeals Process

Applicant must present petition for development rights before the Huerfano County Planning Commission that provides sufficient evidence that one of the three conditions for approval will be met. The Planning Commission shall make a recommendation and send the case to The Board of County Commissioners, who may approve development rights on newly created parcels under the following conditions:

1. The development rights are removed from an equal or greater number of parcels containing at least 80% of the acreage as those parcels receiving new development rights and recorded on all affected deeds.

2. There is a public interest or mitigating circumstance that was not considered in denial of conditional use permit to create new development rights that contributes to goals articulated in the adopted comprehensive plan.

Commented [10]: Is this the right target? In a subdivision of 20 parcels, this would require 3 to contain deed-restricted units.

Commented [11]: Added.

1.16.01 Non-conforming Uses, Lots and Buildings

1. Meaning and Intent.

A non-conforming use, lot or building shall be any use ~~or lot~~ or building that lawfully existed at the date of adoption of these zoning regulations, or any lot that was properly recorded with the Huerfano County Clerk and Recorder as of January 1, 2025, and has been maintained following such adoption, but is prohibited by the provisions contained within these regulations and not otherwise exempt from non-conforming status. It is the intent of these zoning regulations to allow for the continuation of such non-conforming uses, lots and buildings, so long as they meet the provisions contained herein. But it is not the intent of these regulations to allow their enlargement nor to allow their continuation should they be discontinued for a period of 180 days or substantially damaged by fire or other cause. No recorded conforming or legal non-conforming parcels in existence as of January 1, 2025 shall be denied a development right on the basis of parcel size. The conformity of a lot does not impact rights to exempt domestic wells on parcels created prior to June 1, 1972, and it does grandfather previously unrecognized non-conforming uses.

Commented [12]: Not discussed in PC meeting. I assume we want to focus narrowly on lot size conformity and exclude use conformity.

Any parcel created after January 1, 2025 shall only have a development right if it is specifically granted by the Board of County Commissioners as per Section 10.11 of this Code and recorded on the deed. The deed shall record the date of the decision by the Board of County Commissioners and the specific development rights conveyed to the property. Whenever two or more parcels are consolidated, the resulting parcel shall have the development rights of a single parcel. Whenever a single parcel is divided into two or more parcels, only one parcel will retain a development right. If one of the resulting parcels has an existing home or structure, the development right will remain with that parcel already developed.

1.18.02 Special Rezoning Requirements and Provisions

All listed owners of record of adjacent properties shall be notified by certified mail in accordance with noticing guidelines in Section 8.05 and 8.08. Notifications for Rezoning 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.

If rezoning to a zone that allows a higher intensity of development, the Board of County Commissioners must approve additional development rights in accordance with Section 10.11 of this Code.

1.18.03 Submittal Requirements

1.17—37

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::

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 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.
6. 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.
7. 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.
8. Description of any planned development.10. Any additional information requested by staff or Planning Commission.

9. If rezoning to a zone district that allows a greater intensity of development, evidence of development rights to applies to all parcels.

2.02.08 Building Permits

No building or other structure shall be erected, nor shall a building permit be issued within a subdivision or proposed subdivision before a final plat and development rights associated with newly created parcels has have been approved by the Board of County Commissioners and recorded or filed in the Office of the County Clerk and Recorder; except, however, that temporary uses as provided for in section 1.12 of Huerfano County's General Zoning Regulation shall be allowable if they meet the requirements and provisions contained therein.

2.02.16 Development Rights

The right to develop dwelling units or commercial buildings on any parcel created after January 1, 2025 must be granted by the Board of County Commissioners in accordance with Section 10.11 of this Code and recorded with the subdivision plat and on the deeds to each newly created parcel. No building permit shall be issued for residential or commercial structures on parcels created after January 1, 2025 for which the Board of County Commissioners has not granted development rights in accordance with Section 10.11.

2.09.02 Preliminary Plan/General Submission

[add to list of submittal requirements as #37]

2.09.02(37)

37. Evidence of acquired development rights to apply to parcels, an agreement to make 15% of new housing units deed-restricted affordable units, or a conditional use permit granting development rights.

Amendment to PUD regulations:

3.03.05 Relationship of These Regulations to the Zoning Regulations Planned unit developments can be approved in any zoning districts established within Huerfano County, and the issuance of a PUD approval shall not change the zoning district(s) within which such PUD is established. Planned unit developments may include all uses allowed by right and any conditional uses allowed by the zoning

regulations in the district(s) in which the PUD would be located to be valid for a period up to ten years. Approval of a PUD application by the Board of County Commissioners and the granting of a PUD approval shall be considered de facto approval of the proposed conditional uses, and the applicant shall not be required to apply for or receive approval for a conditional use when such use is within the approved PUD proposal.

Upon written request by the applicant, the Planning Commission may recommend to the Board of County Commissioners that specific provisions of the County Zoning Regulations be waived or amended, if determined by majority vote that such waiver or amendment would promote the health, safety, welfare and convenience of the residents of Huerfano County.

PUD zoning regulations shall expire after a period of ten years and the PUD zone will revert to the zone district or districts in which the PUD is located and which most closely align with actual or intended use. All completed developments will be grandfathered in as uses by right and shall be exempt from section 1.16.01(2) Abandonment of Use, and all parcels will be considered conforming or legal nonconforming. The expiration of a PUD shall not affect any easements, conservation easements or open space. Where part of the provisions of a PUD were to allow for smaller lot sizes in exchange for conservation of land, conditions imposed by PUD to preserve land shall remain with the land. Such portions of the land that are intended to be conserved shall maintain the PUD zone until or unless conditions of conservation are recorded in the deed. PUDs older than ten years at the time of amendment of this section shall expire and revert to the zone district in which the PUD is located on January 1, 2026.

Use Table

2.16 VESTED PROPERTY RIGHTS

Final approval of a PUD or non-PUD final subdivision plat or a PUD development plan shall be considered approval of a site specific development plan as defined by Board of County Commissioners Resolution 12- 15 or as otherwise required by Section 24-68-101, et seq., Colorado Revised Statutes and shall result in a vested property right for a period of three (3) years as provided for in Section 24-68-101, et seq., Colorado Revised Statutes. Within fourteen (14) days after final approval of a site specific development plan, the County Planner or other person authorized by the Board of County Commissioners shall publish in a newspaper of general circulation in Huerfano County notice of the creation of a vested property right as described in Section 24-68-101, et seq., Colorado Revised Statutes.

All approved site specific development plans shall contain a note stating that the vested property right is vested for a period of three (3) years from the date that the vesting notice is published. The Board of County Commissions may, by majority vote, following review and recommendation by the Planning Commission, approve vested rights for a period of more than three (3) years upon payment of the required application fee and the approval of a development agreement in accordance with the provisions of Section 24-68-101, et seq., Colorado Revised Statutes. The zoning exemptions applied to a PUD shall apply for a period stated on the final subdivision plat of no more than ten years, after which, the subdivision will revert to the base zone.

Commented [13]: Is this strong enough? Not sure how to apply a deed restriction or note that would be attached to land
Commented [14]: I think this allows for the continuance of PUD protections without requiring land owners to go to a title company to add a deed restriction. It would make the interpretations of remaining PUDs more consistently interpretable as a conservation zone.

1.05 Use Table

		AA	HS	RR	UR	C	I	Ref
0.01	Up to two dwelling units on a	RC	R	R	R	R	C	1.06

0.02	single parcel of land Three to six dwelling units on a single, parcel of land. Over six dwelling units on a single parcel,	<u>EP</u>	P	C	R	R	C	1.06
0.03	including: Multiple family dwelling, co-housing facilities, condominiums or employee housing.	<u>EP</u>	P	C	C	R	C	1.06
0.04	<u>A single dwelling unit as accessory to an agricultural operation (Reserved)</u>	<u>R</u>	R	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	
0.05	Unpurged mobile homes built prior to 1976 and non-qualified manufactured homes.	P	P	P	P	P	P	N/A
0.06	Manufactured home parks and manufactured home subdivisions (see also Section A 7)	<u>EP</u>	C	C	C	C	P	1.06
0.07	Boarding and rooming houses and bed & breakfast establishments	C	C	C	C	<u>ER</u>	P	1.06
0.08	Guest ranches and vacation lodge	C	C	C	C	P	P	1.06
0.09	Rest, nursing, convalescent, retirement and assisted living facilities	C	C	C	C	<u>ER</u>	P	1.06
0.1	Jails, prisons, correctional institutes and youth facilities and work camps	C	P	P	P	C	C	1.06
0.11	Hospitals	<u>EP</u>	P	C	C	<u>PR</u>	P	1.06
0.12	Hotels and motels	<u>EP</u>	P	C	C	R	P	1.06
0.13	Restaurants and eating places	<u>EP</u>	C	C	C	R	C	1.06
0.14	Public schools and educational institution	<u>RP</u>	P	<u>RP</u>	R	<u>ER</u>	P	1.06
0.15	Private schools, educational institutes and training centers	C	C	C	C	<u>ER</u>	P	1.06
0.16	Day care, child care and nursery schools and homes	C	CR	<u>ER</u>	<u>ER</u>	<u>ER</u>	P	1.06
0.17	Churches and religious institutes	<u>RP</u>	C	R	R	C	P	1.06
0.18	Public airport	C	P	P	P	P	C	1.06
.18	Private airports and heliports	C	C	C	C	C	C	1.06
A	Public cemeteries	C	C	C	C	P	P	1.06

0.2	Parks, playgrounds, golf courses or playing fields	R	R	ER	ER	C	C	1.06
0.21	Essential public and government utility uses, facilities, services and buildings. Note that special H.B. 1041 regulations may also apply. Other utility uses, facilities and services including electric transmission lines and pipelines and all appurtenant facilities, uses and structures thereto. Note that special H.B.1041 regulations may also apply.	C	C	C	C	R	R	1.06 Or H.B.1041 Depending on Scale
0.22	Commercial radio and television transmitting and receiving stations, dishes and towers including telecommunications, microwave and cellular towers, antennae and dipoles (see height restrictions)	C	C	C	C	C	C	H.B. 1041
0.23	Private antennas over 35 feet in height	R	C	P	P	C	C	1.06
0.24	Sewage disposal areas, sludge, septic, landfills for non-hazardous substances and waste water treatment plants	C	C	C	C	C	C	1.06
0.25	Landfills and disposal sites for toxic, radioactive and otherwise hazardous materials	P	P	P	P	P	P	N/A
0.26	Agricultural crop production including orchards and accessory uses and buildings (agricultural property not associated with large lot subdivisions exempt from building permits)	R	R	R	R	R	R	N/A
0.27	Recreational domestic animal husbandry including barns and shelters	R	R	R	C	C	C	1.06
0.28	Animal production, including grazing and accessory uses and buildings but	R	R	R	C	C	C	1.06

excluding commercial feedlots

	See Item .31 (CAFO's)							1.06
0.3	Commercial feedlots							
	Confined Animal Feeding Operations (CAFO's)	C	C	P	P	P	C	1.06
0.31	Stands for the sale of agricultural products	R	R	R	C	R	C	1.06
0.32	Commercial riding stables	C	C	C	C	C	P	1.06
0.33	Kennels and veterinary clinics	C	R	P	P	C	C	1.06
0.34	Private and public zoos	C	C	C	C	C	C	1.06
0.35	Camping areas and campgrounds	C	C	C	C	C	P	1.06
0.36	Ski lifts and accessory structures and uses	C	C	C	C	C	P	1.06
0.37	Outdoor amusement facilities	C	C	C	C	C	P	1.06
0.38	Membership clubs and lodges	C	C	C	C	C	P	1.06
0.39	Professional service and business offices for the delivery of health, legal, accounting, travel agencies, real estate, technology, office service and similar services	<u>EP</u>	C	C	<u>ER</u>	R	C	1.06
0.4	Personal service outlets such as beauty and barber shops, laundromats, etc.	<u>EP</u>	C	<u>ER</u>	<u>ER</u>	R	C	1.06
0.41	Retail sales outlets except convenience outlets serving a neighborhood or local resident clientele, including repair and rental outlets	P	P	P	C	R	C	1.06
0.42	Retail convenience outlets serving a neighborhood or local residents	<u>EP</u>	C	C	C	R	P	1.06
0.43	Wholesale sales and/or distribution with open storage of goods	<u>EP</u>	P	P	P	C	R	1.06
0.44	Wholesale sales and/or distribution without open storage of goods	<u>EP</u>	P	P	C	R	R	1.06
0.45	Gasoline service stations	C	P	<u>EP</u>	C	R	<u>ER</u>	1.06
0.46	Vehicle repair facilities including storage garages	<u>EP</u>	C	P	C	R	C	1.06
0.47								

Commented [15]: Should these be separated? Kennels seem like a nuisance that should be conditional anywhere, while vet clinics are needed in the county and should be allowed at least in commercial areas by right.

	as a principal or an accessory use							
0.48	Motor vehicle parking lots	C	C	C	C	R	R	1.06
0.49	Rental self-and mini-storage lockers	CP	P	C	C	C	R	1.06
0.5	Commercial lumber yards and sawmills (Exemption: Home occupations see Section 1.11)	C	P	P	P	C	R	1.06
0.51	Manufacture or storage of gases or above ground storage of flammable liquids such as gasoline for other than residential or agricultural on-site use	C	C	C	C	C	C	1.06
0.52	Railroad facilities including repair sheds and switch yards and trucking terminals, excluding trucks	C	C	P	P	C	R	1.06
0.53	Junk, wrecking or vehicle storage yards, which shall be surrounded by an eight foot high solid fence or not visible from any public road (excluding agricultural equipment storage)	CP	P	P	P	C	C	1.06
0.54	Batch plants and hot mix plants and all appurtenant and accessible uses thereto	C	C	P	P	C	R	1.06
0.55	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	C	P	P	C	R	1.06
0.56	Manufacturing, production and other uses not otherwise listed that will cause excess noise, heat, dust, fumes or other adverse consequences	P	P	P	P	P	C	1.06
0.57	Rock quarries, sand and gravel excavating pits, pipelines, strip and underground coal mines and all appurtenances and accessory uses thereto,	C	C	P	P	P	C	1.06

0.58	Oil and gas wells	C	P	P	P	P	C	Section 6.00
	The exploration and mining of uranium or other radioactive substances or the disposal, storage or	C	P	P	P	P	C	
0.59	processing of such substances							
0.6	Shipping containers for storage purposes (Staff approval)	C	C	P	P	C	R	Land-use office
0.61	(Reserved)							
	Commercial and medical Marijuana retail stores and dispensaries	L	L	P	L	L	L	Section 18
0.62	Commercial/recreational/medical Marijuana cultivation facility	L	L	P	P	L	L	Section 18
0.63	Marijuana Hospitality – on-site consumption	L	L	P	L	L	L	Section 18
0.64	Commercial Marijuana product manufacturing and testing, product infusion facilities	L	L	P	P	L	L	Section 18
0.65	Commercial Marijuana cultivation facility	L	L	P	P	L	L	Section 18
0.66	Marijuana cultivation for personal use, when growing twelve (12) or less plants on a tract of land, per occupied dwelling, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.	R	R	R	R	R	C	1.06
0.67	Marijuana cultivation for personal use, when growing thirteen (13) or more plants on a tract of land, per occupied dwelling, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.	C	C	C	C	C	C	1.06
0.68	Any use not listed in this table	C	C	C	C	C	C	
0.69								

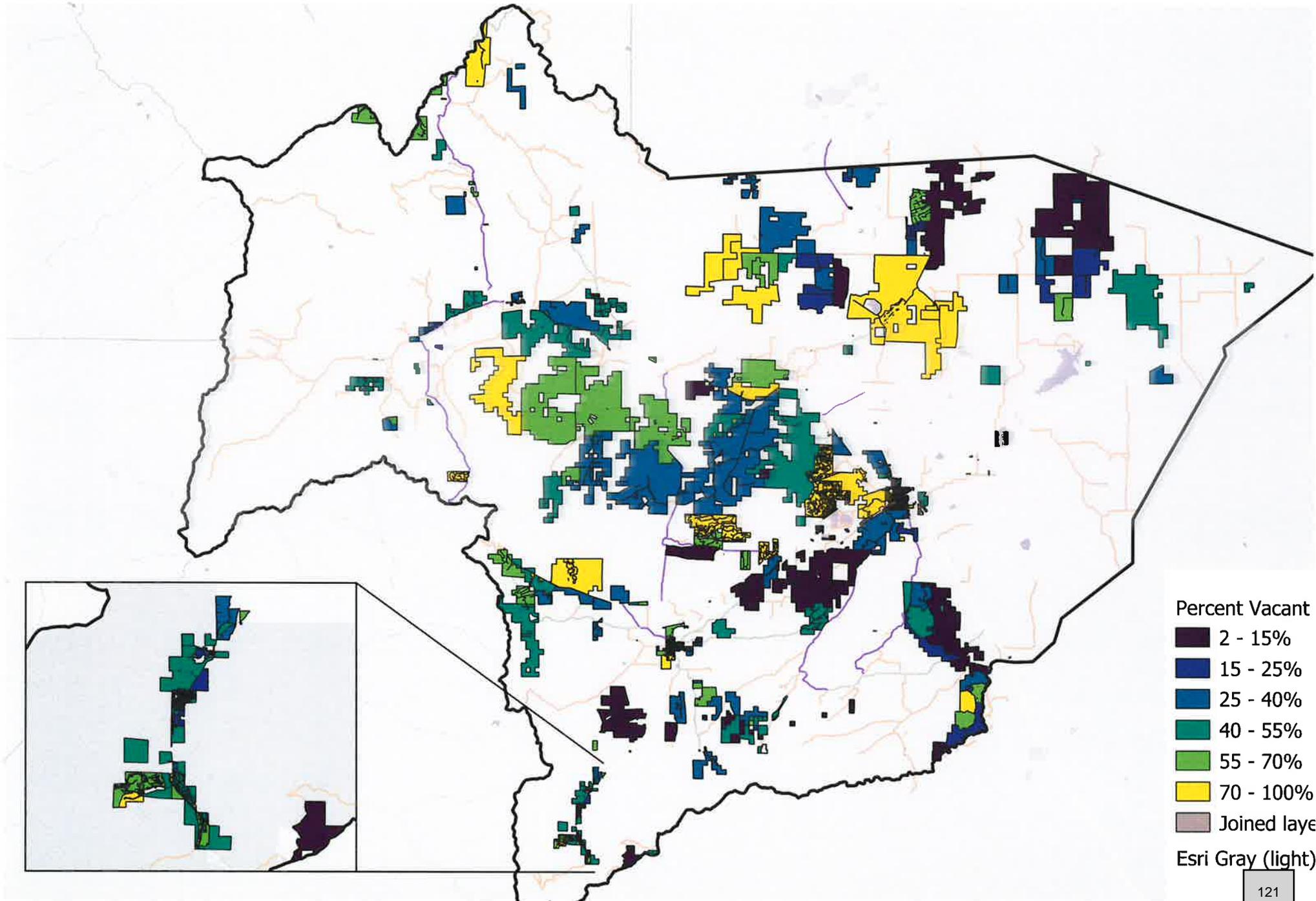
17.02 Definitions

[add the following]

Development Right: The eligibility to seek a building permit for a residential or commercial structure.

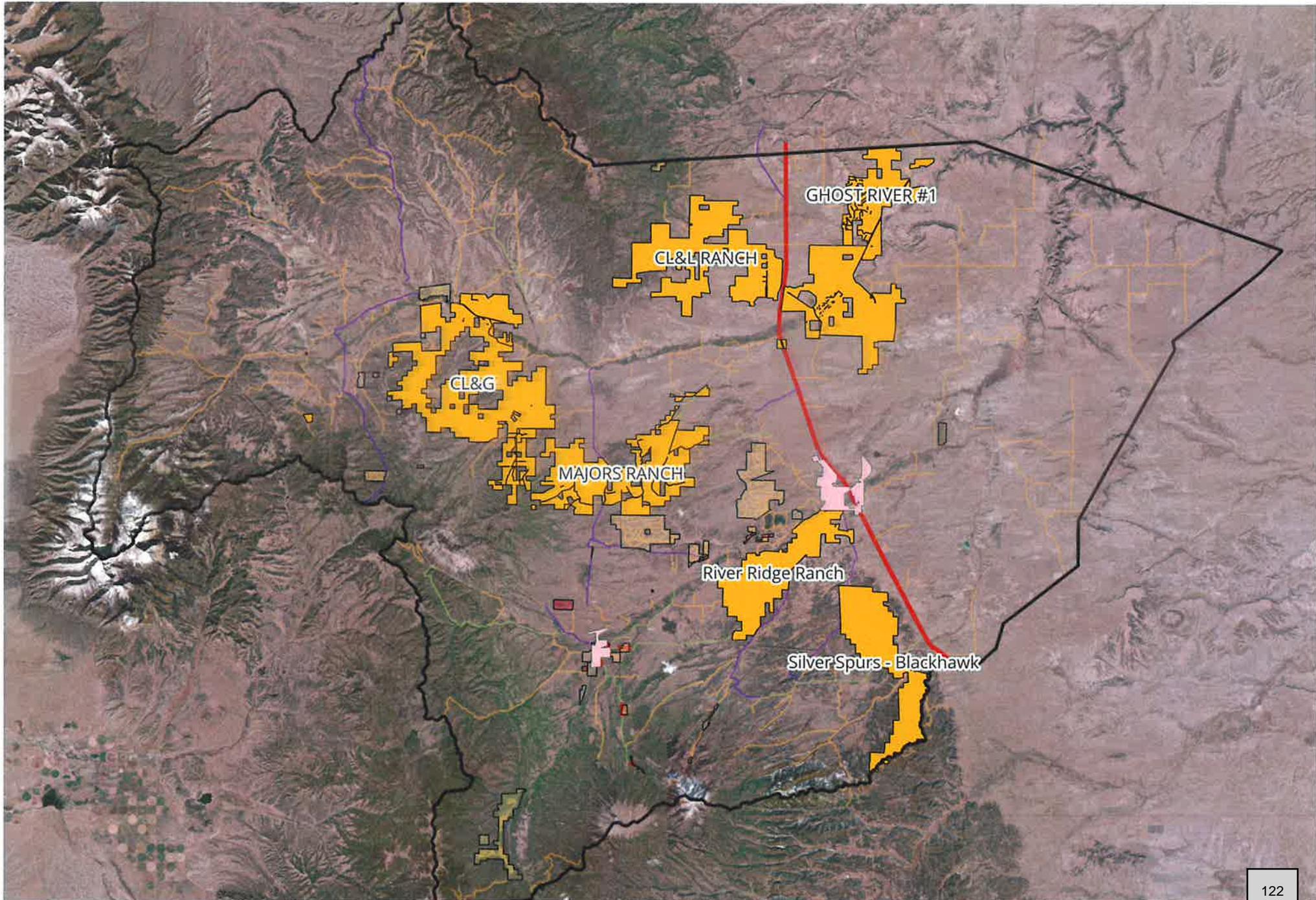
Subdivisions: Percent Vacant

Item 9a.



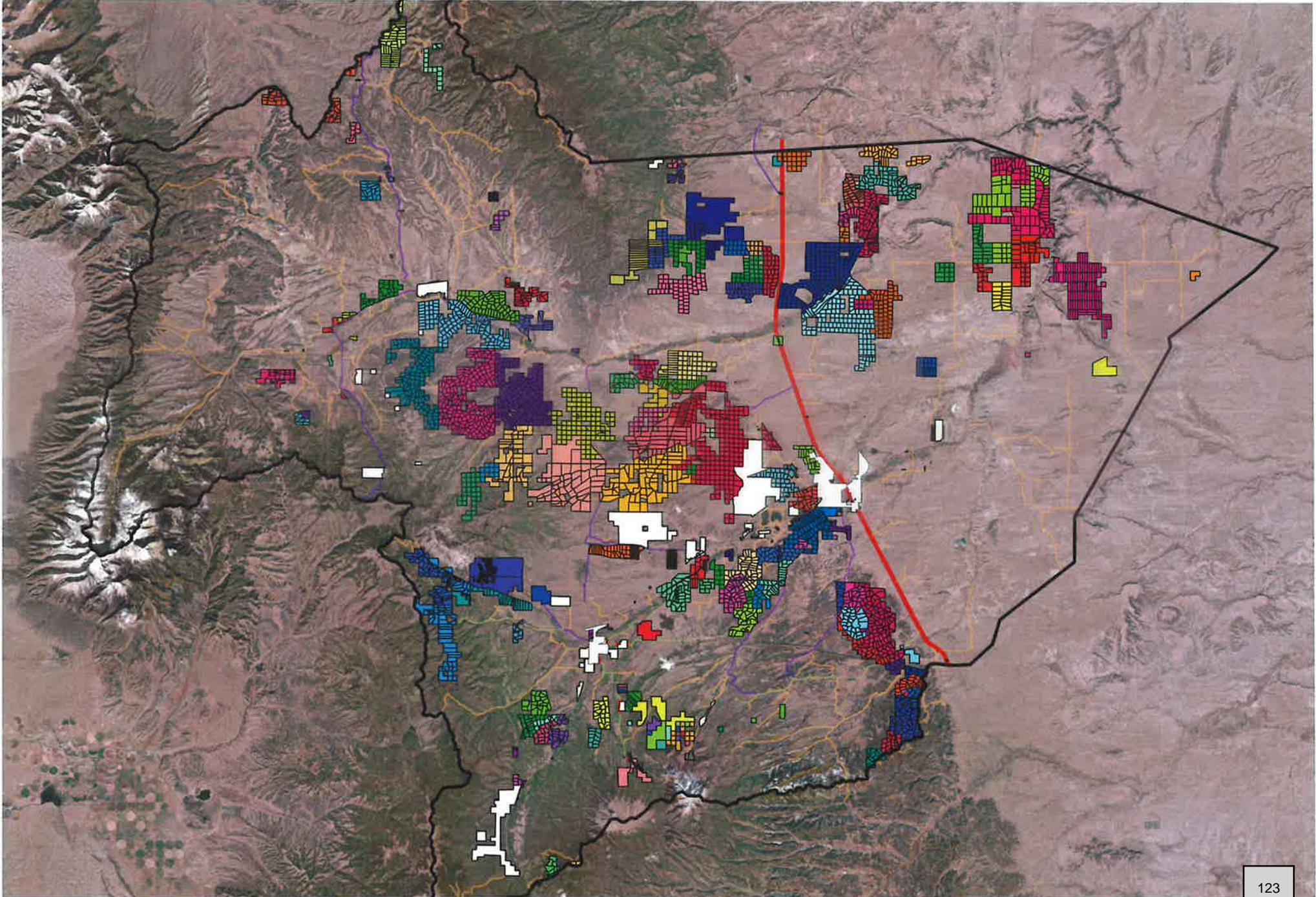
Non Agriculturally zoned areas and city limits grey

Potential areas for new zone district: Homestead Zone Item 9a.



Large Lot Subdivisions zoned Agricultural

Item 9a.



Non Agriculturally zoned areas and city limits grey

Colorado Counties, Inc.



COUNTY PERSPECTIVES

A report on 35 acre subdivision
exemption in Colorado

August, 2006

By Merry Davis

Colorado Counties, Inc. 800 Grant St., Suite 500, Denver, CO 80203

303.861.4076 (f) 303.861.2818 www.ccionline.org

Introduction

As a result of Colorado's growth trends and preferences, "rural sprawl" is increasingly impacting the complexion of Colorado's landscape. Individuals desiring an escape from crowded urban life are pursuing the purchase of large rural lots with the intention of building homes on them. This has resulted and continues to result in the loss of agricultural lands and open spaces. When these lots equal or exceed 35 acres in size, the development is exempt from subdivision regulation. Absent other regulatory tools, this exemption can impair both the ability of counties to provide and pay for services and their ability to manage land use within the county. Responses to the recently published 2004 Colorado County Land Use Survey indicate that land use plans relating to agriculture, growth management and open space rank high as areas of interest and concern.

Consider these provocative statistics published by the Environment Colorado Research and Policy Center in its March 2006 report, "Losing Ground: Colorado's Vanishing Agricultural Landscape":

- Between 1960 and 1990, the land area developed into exurban homes and rural ranchettes grew three times faster than the population growth rate.
- Two million acres of agricultural land was lost in tracts sized just big enough to avoid subdivision regulation (35 acres) from 1972 to 2000.
- 33% of Colorado counties report that agriculture plays a crucial economic role in their county.
- For every tax dollar they bring in, large lot rural developments in Colorado represent \$1.65 in infrastructure costs.
- The average real estate value of agricultural land increased 16% between 1999 and 2003, benefiting farmers and ranchers wishing to realize the value of their properties.

Population growth and land use are major areas of concern and interest for the counties of Colorado.

The Different Perspectives

The trend in "rural sprawl" has fueled both support and opposition to the 35-acre subdivision exemption for a variety of reasons.

Support for the 35-Acre Exemption

Land Values: According to the American Farmland Trust, farmers and ranchers in Colorado are recognizing land values exceeding agricultural production value by 30 to 100 times when selling to developers or real estate speculators. In many cases, this is great news for farmers and ranchers. Selling off a 35-acre parcel of land is equivalent to receiving a pension – the proceeds often fund their retirement. In other cases, the

appreciation in land value makes it possible for farmers and ranchers to obtain loans to continue funding their agricultural operations. This helps keep farmers and ranchers afloat during difficult economic times.

Preservation: Others see the development of 35-acre lots as an effective way to preserve open space and forests. They contend that development of large lots is far preferable to a scattering of developments made up of one-acre to five-acre parcels, especially in undeveloped mountainous areas.

Water: From a water resource standpoint, ownership of a 35-acre lot allows the landowner to obtain a domestic well permit. This is not a water right, but does enable the landowner to attempt to secure water for the residence, outbuildings, and irrigation for up to one acre of land and livestock. Some perceive the connection between the 35-acre (and greater) lot and the domestic well permit as a method to limit the impact of development on scarce water supplies. Parcels of land less than 35 acres are provided with a “household use only” permit, which allows water to be used only within the home. With this type of water permit, any outdoor use of water (for purposes such as washing a car and watering a garden or horses) is prohibited unless the water is hauled in; however, smaller lot sizes means many more homes may be served on a given 35 acres. A 35-acre lot provides water for only one residence, as well as the potential for a more desirable well permit.

Opposition to the 35-Acre Exemption

Costly for counties: Based on 2003 findings reported by the Environment Colorado Research and Policy Center, “the high cost of providing and maintaining infrastructure for sprawling development hurts taxpayers and contributes to the fiscal crises facing many local Colorado governments.” Costs associated with rural sprawl include the cost of building and maintaining roads, extending water and sewer lines, and providing emergency services. Occasionally, 35-acre lots are developed in areas that are completely inaccessible to fire protection. Simultaneously, the exurban developments do not generate sufficient tax revenue to provide the required infrastructure and services. Owners moving onto 35-acre parcels often aggravate counties and farmers and ranchers with nuisance complaints related to the active farming and ranching activities of their neighbors.

Poor use of land: Developments made up of 35-acre lots carve up open space into a maze of roads and long driveways. Counties have limited leverage to discourage the parceling out of land and where the parcels occur. According to David Theobald of the Colorado State University Natural Resource Ecology lab, “rural sprawl has a larger footprint - between five and ten times the amount of land as urban and suburban development – throughout the West.” (“The new pioneers of sprawl”, Amanda Paulson, Christian Science Monitor, March 29, 2004) That is, the impact of exurban development reaches much further than urban or suburban development. Others perceive the loss of farmland and open space to low-density development as a poor use of land and believe that it reflects inadequate planning.

Environmental impact: Colorado State University reports exurban sprawl can have a dramatic effect on wildlife because many native species cannot survive in exurban or large lot subdivisions. Consequences of rural sprawl include weedy flora and the inclusion of domestic animals in a rural environment, which diminishes the population of native songbirds and predators. Further, fragmentation caused by the large lot developments disrupts migration corridors. Often, the developed parcels of land occur on sensitive areas such as wetlands, rangelands or forests.

Rural landowners do not necessarily understand the impact their habitation of rural areas has on the environment or the responsibility it carries. The Picnic Rock fire, which destroyed more than 9,000 acres of wildlands in the Colorado foothills during the spring of 2004, started as a result of a 35-acre lot landowner burning trash on his property. The proximity of forest fuel to the lot provided the perfect conditions for a wildfire. Containment and extinguishment of the fire required 444 firefighting staff, one heavy air tanker, 7 fixed wing airplanes and 4 helicopters. Besides consuming wildlands, the fire also claimed 2 structures and caused numerous evacuations. The total cost of the fire was approximately \$2.3 million. The county was fortunate in that its share came to only about \$100,000; however, re-vegetation of the burned area will take many years.

County Management Practices

From a county perspective, the proliferation of 35-acre parcels of land has many implications. Prevention of rural sprawl benefits counties by minimizing the costs and the difficulty associated with the provision of services (i.e., road construction, fire/police/emergency protection). Agricultural land is perceived as economically important to many counties for the related jobs and support services it sustains but, in most cases, the lots resulting from 35-acre subdivisions are generally considered too small to productively farm or ranch. As large lots spread, agricultural land is lost and the task of managing land becomes increasingly difficult without forward-looking plans in place.

CCI conducted a survey of counties to determine the reaction of various counties to the creation of “ranchette” subdivisions and how they are attempting to manage the situation. Out of 64 counties, 37 responded to the survey. Of the respondents, 17 counties currently do not control 35 acre parcels, 9 counties rely on “density zoning” to control 35 acre subdivisions and 12 counties use other methods (in some cases, in addition to density zoning) to manage the development of these larger parcels.

When considering regulatory approaches, counties must consider the protection of landowners’ private property rights, the need for preservation of agricultural lands and open space, and the importance of allowing development to accommodate growth and market demands. Some of the approaches employed in Colorado and across the nation include:

- Density Zoning:** Density zoning, as a general concept, regulates the minimum lot size permissible for residential construction on subdivided land. In counties using density zoning to manage the development of subdivided land, the minimum lot sizes range from 60 acres up to 160 acres. Density zoning is being utilized in various forms by Adams, Custer, Elbert, Jackson, Morgan, Pitkin, Rio Blanco, Summit and Weld counties.
- Growth Management Regulations:** Pitkin County, in particular, has implemented a unique approach to deter subdivision of land into 35-acre parcels. Pitkin County has developed growth management regulations (GMQS), which require all new subdivisions of land to acquire a development right. The theory is that a parcel of land has a single development right attached to it. If the land is subdivided, there is still only a single development right. The landowner must acquire the development right for the new parcel by going through the growth management review process in Pitkin County. Pitkin County limits the amount of development square footage provided each year. Exemptions to the GMQS process are offered to owners of parcels exceeding 80 acres to encourage them to keep large parcels intact. Pitkin County is also evaluating the idea of conservation development, whereby parcels exceeding 200 acres would receive more transferable development rights (TDRs) in exchange for protecting the land from development.
- Cluster developments:** Cluster developments conserve land by limiting development to specified portions of the land site, preserving the remaining undeveloped portion as open space. Larimer County has experimented with cluster developments through its Rural Land Use Process (RLUP). This process provides incentives to landowners to help retain the rural and agricultural land of the county by allowing additional housing units to be built only if the units are located within a certain distance of one another. The remaining land is then preserved and protected from development by placing the land in a conservation easement or by applying a protective covenant. The RLUP requires that two-thirds of the land be preserved for agricultural uses, wildlife habitats or open space and that the covenant or easement must provide this protection for a minimum of 40 years. This approach attempts to balance the often opposing views of property rights advocates and environmental protectionists. Some of the benefits of this type of solution include: landowners and developers realize value through the ability to build additional housing units, existing agricultural lands and open space are protected, existing infrastructure is better utilized, costs are reduced for future infrastructure improvements, fewer road networks are required, and pollutant loads on water sources are reduced.
- Conservation easements:** A conservation easement is a legal agreement between a landowner and a land trust or government agency that limits a property's uses in order to protect benefits that flow from natural resource conservation. Such benefits could include conservation of agricultural land, open spaces, wildlife habitats, and/or scenic vistas. In Colorado, landowners may subject their land to a conservation easement and receive state tax credits in

return. This arrangement serves the dual purpose of permanently preserving agricultural land and open space while providing the landowner with the realization of some of the value of the land. Colorado law currently allows for tax credits on donated land of up to \$260,000. If a landowner is unable to use the tax credits, they may be sold (at a discount) to generate cash. As of January 1, 2007, the amount of these tax credits will increase to \$375,000. The actual amount of credits received by any landowner is dependent upon the appraised fair market value of the land. The use of conservation easements is not a method of directly regulating the development of 35-acre parcels. However, by providing a fiscal benefit, a conservation easement can help mitigate a landowner's desire to use the 35-acre exemption to divide a much larger parcel that may provide other community benefits if kept intact.

One concern about conservation easements has arisen in the Arkansas Valley, where landowners have subjected all or a portion of their land to conservation easements to ease the effects of weak crop prices. For them, it has been "a way to cash in without selling out." Some controversy has arisen, however, with respect to land values and the perception that some valuations have been inflated. Great Outdoors Colorado (GOCO) has rejected conservation easement applications from some Otero County landowners due to suspect appraisals of the land involved. The Lower Arkansas Valley Water Conservancy District decided to review appraisals it felt were inconsistent with the standards of the Internal Revenue Service. Some appraisers have been accused of valuing property based on unrealistic assumptions related to the future earnings potential of the land. This poses a risk to landowners donating land for conservation easements. They fear that if their appraisal is found to be faulty, they may be required to repay all or a portion of their tax credits, which would create a major hardship.

- **Transferable development rights (TDRs):** Transferable development rights allow landowners to transfer the right to develop one parcel of land to a different parcel of land. This tool may be used to shift development from agricultural land or open space to areas that are developed or prepared for development. It also allows the landowner transferring a TDR to realize tangible value from the transaction. The TDRs are typically transferred from a sending parcel of land to a receiving parcel of land and the sending parcel is subjected to a permanent conservation easement or other development restriction. The local government designates which areas are to be considered sending and receiving areas. Since TDR transactions generally occur between private landowners and developers, there is usually no need for local governments to raise large amounts of money to execute a TDR program, although some jurisdictions have established TDR "banks" from which development rights may be purchased. TDR programs allow preservation of rural lands while enabling higher density growth in urbanized or urbanizing areas. Communities are expressing a willingness to create denser urban areas to maintain agricultural lands and open spaces in their less developed areas. Counties utilizing this tool include: Adams, Boulder, Larimer, Mesa, Pitkin, and Summit.

- **1041 powers:** Regulation of land use may be effected through the use of “1041 powers,” which were granted to local governments by Colorado House Bill 74-1041 and are now codified in section 24-65.1-101, C.R.S., et seq. 1041 powers allow local governments to identify, designate and regulate 21 statutorily defined areas and activities of state interest. If land being subdivided into 35-acre lots is in an area designated pursuant to 1041 powers, the county may require compliance with its 1041 regulations. The 21 categories defined as areas or activities of state interest include: geological hazard areas, wildfire hazard areas, flood hazard areas, historical and archeological resource areas, and significant wildlife habitats. Eagle County and Pitkin County currently employ 1041 powers as one method to manage growth.
- **Site Plan Review:** Boulder County, responding to an increase in 35-acre subdivisions in areas with steep slopes, poor access and wildfire and erosion hazards, implemented a site plan review (SPR) process. The county does not believe it is able to prohibit building altogether but can condition how and where building will occur on a 35-acre parcel. An SPR is required to issue building permits for any development on vacant parcels. This provides the county with the opportunity to work with landowners to determine the best building sites and plans for the land to protect scenic vistas, wildlife migration corridors and habitats, and reduce the risk of wildfires.
- **Zoning Regulations:** Counties implement other zoning strategies to manage the impact of 35-acre development, as well. For example, Lincoln County has put into place a Rural Design Development process as an overlay to its agricultural zone, which covers almost all of the unincorporated area. The purpose of this regulation is to encourage flexibility and innovation in the initial development of “small” parcels of land (anything under 160 acres in Lincoln) by requiring special use review of permit applications that considers whether the development will: 1) promote safe, efficient and economic use of land, public facilities, transportation and services, 2) preserve open space to the greatest extent practicable, 3) achieve compatibility of land uses, and 4) improve the design, character and layout of development.

Similarly, Jackson County used zoning to create a “Ranching District”. This regulation stipulates that if a residence is to be built on a 35-acre lot within the district but not devoted to ranching, the owner must obtain a Special Use Permit. The permit application process allows the county to consider the impacts of the subdivision and related planned development before the permit is issued.

- **Voluntary Submission to Review:** Gunnison County, under a land use resolution, structured a voluntary compliance program known as the Large Parcel Incentive Process (LPIP). It applies to tracts of land that are at least 70 acres in size and is intended to provide incentives to Land Use Change Permit applicants “to preserve and enhance open space and to protect and promote agricultural uses.” To this end, the county offers the following incentives:
 - Expedited processing and review of proposals;

- Standards to provide more certainty with respect to the review process and methods to promote high quality and environmentally sensitive proposals;
- Development density bonuses;
- Statutory benefits regarding wells; and
- Lot size flexibility along with allowing larger sized residences.

Under this arrangement, a minimum of 75% of the subject land must be protected through the use of a conservation easement.

- **Rural Road Construction Permits:** Larimer County has stipulated that any access from a public road requires a permit and the design of that road should be one that is safe and functional while minimizing erosion and disturbance to natural landscapes. Before any road construction work may be done, a Rural Road Construction Permit must be issued. In deciding whether or not to issue a permit, the county will consider whether the design:
 - Causes minimal surface disturbance;
 - Avoids extensive cuts, fills and steep sections;
 - Provides for emergency access; and
 - Addresses impacts to drainage and maintains natural drainage patterns.

Road construction permits assist counties in having a say where structures are built on large lots and how and where the roads are constructed to access these structures.

- **Other methods:** Other options considered by counties to manage development on 35+ acre lots include:
 - Use of permits for grading, wetland special use and floodplain development;
 - Regulating the issuance of septic permits via the county health department;
 - Requiring that roads, access to public rights of way, road length and water storage/access are consistent with recommendations of the National Fire Protection Act;
 - Providing incentives to ranchers to improve environmental management of rangelands;
 - Helping ranchers and farmers find new ways to capitalize on land values;
 - Adopting “right to farm” ordinances to protect existing agricultural operations from nuisance lawsuits;
 - Developing and publicizing a “Code of the West” or similar guide to rural living that helps educate new rural landowners and residents; and
 - Changing state tax policy to make large lots less attractive.

Conclusion

Unchecked growth across Colorado's agricultural lands and open spaces will likely occur if not managed in a fair, realistic manner. Counties have an opportunity to determine the desires of their constituents and what priorities are driving those preferences with respect to how land is developed or preserved. Based on that knowledge, counties should employ the various techniques available and work regionally with other jurisdictions where possible to ensure that new development in Colorado comports with counties' ability to support that development, respects the rights of landowners, and maintains Colorado's western heritage.