

Rio Grande County Land Development Code

Planning and Zoning Commission Adoption December 3, 2019

Board of County Commissioners Adopted December 11, 2019

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Article 1. General Administration

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Section 1.01 General Provisions

A. Title

These regulations shall be cited as the "Rio Grande County Land Development Code" ("Land Development Code").

B. Authority

It is the intention of the Board of County Commissioners in adopting the Rio Grande County Land Development Code to fully exercise all relevant powers conferred by the laws of the State of Colorado, including but not limited to:

1. **Colorado Constitution.** All the powers reserved to the county by the Colorado Constitution.
2. **State Enabling Legislation.** All the powers granted to the county by the Colorado Revised Statutes (C.R.S.):
 - a. Title 16, Article 13, Part 3, C.R.S., Restraint and Abatement of Nuisances;
 - b. Title 24, Article 65.1, C.R.S., Areas and Activities of State Interest (1041 Regulations);
 - c. Title 24, Article 65.5-101, C.R.S., Notification of Surface Development;
 - d. Title 24, Article 67, C.R.S., Planned Unit Development Act;
 - e. Title 24, Article 68, C.R.S., Vested Property Rights Act;
 - f. Title 25, Article 10, C.R.S., Sewage Disposal;
 - g. Title 29, Article 20, C.R.S., Local Government Regulations of Land Use;
 - h. §29-22.5-101, C.R.S., Wildland Fire Planning;
 - i. Title 30, Article 11, C.R.S., County Powers and Functions;
 - j. Title 30, Article 11, C.R.S., County Regulation Under Police Power;
 - k. Title 30, Article 28, C.R.S., County Planning and Building Codes;
 - l. Title 34, Article 1 Part 3, C.R.S., Preservation of Commercial Mineral Deposits;
 - m. Title 38, Article 30.5, C.R.S., Conservation Easements; and
 - n. Title 43, Article 2, C.R.S., State, County, Municipal and Public Roads.

C. Purpose and Intent

Rio Grande County has a proud history and culture rooted in rural land uses and an agriculture-based economy. It is the intent of the Board of County Commissioners to foster, protect, and encourage the continuation of this rich history through the application of land uses standards and regulations. The Land Development Code is enacted for the

purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Rio Grande County, through:

1. The lessening of congestion in the streets and roads or reducing the waste of excessive amounts of roads;
2. Securing safety from fire, flood waters, and other natural and manmade dangers;
3. Providing adequate light and air;
4. The classification of land uses and the distribution of land development and utilization;
5. Avoiding undue congestion of population;
6. Facilitating the adequate provision of transportation, water, schools, sewerage and other public services and infrastructure;
7. Facilitating protection of the tax base;
8. Facilitating protection of farming and ranching uses and the industries that support them;
9. Securing economy in governmental expenditures; and
10. Fostering and protecting the county's agricultural industries and natural amenities.

D. Jurisdiction

This Land Development Code shall apply to all the unincorporated land and buildings, land uses, changes of land use, and development located within the limits of Rio Grande County, Colorado.

E. Building Permits

No building permit will be issued unless the plans for the proposed building's erection, construction, reconstruction, alteration, or use fully conform to all applicable provisions of this Land Development Code.

F. Enactment

This Land Development Code shall be enacted upon its approval by the Board of County Commissioners, after review and recommendation by the Planning Commission, pursuant to the procedures set forth in this Land Development Code.

G. Effective Date

This Land Development Code, including any future amendments, shall take effect immediately upon adoption by the Board of County Commissioners, unless otherwise set forth in the Board's motion of approval.

H. Repeal of Regulations

All county land use and development regulations contained in the Rio Grande County Land Development Code in effect at the time of adoption of this Land Development Code

are repealed, provided, however, all land use applications submitted for review prior to the effective date of this Land Development Code shall be reviewed pursuant to the process and under the criteria set forth in the prior regulations which were in force prior to that date. Such prior regulations are continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed repealed. In no event shall any resubmission of an application after its rejection or any development application filed after the effective date of these regulations be reviewed under any such prior regulations. Such repeal does not revive any other regulation, which had been voided by more recently repealed regulations. Such repeals shall not affect the prosecutions of any person for violation of the repealed regulation prior to its repeal.

I. Interpretation of the Provisions of this Land Development Code

1. The provisions of this Land Development Code shall be regarded as the minimum requirements for the protection of the public health, safety, and general welfare.
2. This Land Development Code shall be interpreted in a manner to further its underlying purposes.
3. If a conflict occurs between provisions of this Land Development Code, or between provisions of this Land Development Code and a state statute or other applicable codes and regulations, the more restrictive provision controls unless otherwise specified in this Land Development Code, or preempted by a direct conflict with state statute.
4. Unless otherwise specified in this Land Development Code, the requirements of this Land Development Code are presumed to apply to actions related to a change in land use as defined herein.

J. Rules of Construction of Language

1. Words and phrases shall be read in context and construed according to common usage. Words and phrases that have acquired a technical or particular meaning, by legislative definition or otherwise, shall be construed accordingly.
2. The particular controls the general.
3. The word “shall” is always mandatory.
4. The words “may” and “should” are permissive.
5. Unless the context clearly indicates otherwise, words used in the singular number include the plural and words used in the plural number include the singular.
6. If there is a conflict between figures and words expressing a number, the words govern.
7. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”

K. Computation of Time

1. In computing a period of days, the first day is excluded and the last day is included unless the last day of any period is a Saturday, Sunday or legal holiday, in which case the last day shall be the next working day.
2. Unless otherwise specified in this Land Development Code, the term “days” shall refer to calendar days.

L. Severability

1. If a court of competent jurisdiction adjudges any section, clause, provision or portion of this Land Development Code invalid, the remainder of this Land Development Code shall not be affected.
2. If the application of this Land Development Code to any lot, tract, property, or parcel of land is declared to be invalid by a decision of a court of competent jurisdiction, then the effect of such decisions shall be limited to the land involved. Such decision shall not affect this Land Development Code or the application of any provision thereof to any other lot, tract, property, or parcel of land.

M. Liability

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

N. Safety Clause

The Rio Grande County Board of County Commissioners hereby finds, determines and declares that this Land Development Code is necessary for the immediate preservation of the public peace, health, safety, and welfare of the County of Rio Grande.

O. Violations and Penalties

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

P. Saving Provisions

1. The enactment or amendment of this Land Development Code shall not apply to any permits that the county has approved under prior land use regulations or pending applications that the county has determined to be complete under prior land use regulations. Such applications shall be processed under the prior land use regulations until a final decision is rendered, as set forth in Section 1.01.H, *Repeal of Regulations*.
2. The enactment or amendment of this Land Development Code shall not be construed as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue.

3. The enactment or amendment of this Land Development Code shall not be construed as waiving any right of the county under any provision existing prior to the adoption of this Land Development Code.
4. The enactment or amendment of this Land Development Code shall not be construed as vacating or annulling any rights obtained by any person by lawful action of the county.
5. If any clause, section, or other part of the application of this Land Development Code shall be held by any court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the Board of County Commissioners that such clause, section, or other part of the application shall be considered eliminated and not affecting the validity of the remaining clauses, sections, or applications remaining in full force and effect.

Section 1.02 Vested Property Rights

A. General

Pursuant to this Land Development Code, a vested property right shall be deemed established for a period of three (3) years with the approval of a Site Specific Development Plan as defined in Section 1.02.B, *Site Specific Development Plan*. When a Site Specific Development Plan is approved, written approval shall confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the Site Specific Development Plan.

B. Site Specific Development Plan

For the purposes of this section, the following documents, when approved pursuant to this Land Development Code, shall constitute a Site Specific Development Plan establishing a vested property right:

1. A Final Plat for subdivision; a Minor Subdivision; a Statutory Exemption Plat; a Cluster Development; or a PUD Development Plan.
2. The document that represents an approved vested property right shall be so identified at the time of its approval.

C. Development Agreement and Extension of Vested Property Rights

The Board of County Commissioners may enter into a development agreement with the landowner for the extension of vested property rights where, in the discretion of the Board, an extension is warranted due to project size and/or phasing of the development. The Board may also consider an extension of vested property rights for economic cycles and/or market conditions.

D. Approval and Effective Date

A Site Specific Development Plan shall be deemed approved upon the effective date of the Board of County Commissioners' approval action, following a public hearing conducted in accordance with this Land Development Code. The Board's approval of a Site Specific Development Plan may include such terms and conditions as may be reasonably necessary to protect the public health, safety, and general welfare. The approval shall result in a vested property right, although failure to abide by such terms and conditions will result in forfeiture of the vested property right.

1. Within fourteen (14) days of approval of the Site Specific Development Plan by the Board of County Commissioners, the county shall publish a notice of Site Specific Development Plan approval and creation of a vested property right in a newspaper of general circulation in Rio Grande County. The period of time for exercise of vested property rights shall not begin to run until the date of publication of the notice.

E. Exceptions to Vesting of Property Rights

Once established pursuant to this section, a vested property right precludes any zoning or land use action by the county during the period of time that the property right is established to be vested that would alter, impair, prevent, diminish, or otherwise delay the development or use of the land subject to the Site Specific Development Plan consistent with the terms and conditions of the Site Specific Development Plan, except under one or more of the following conditions.

1. **Landowner's Consent.** With the consent of the affected landowner.
2. **Just Compensation Paid to Landowner.** The affected landowner receives just compensation for all costs, expenses, and liabilities incurred by the landowner, including but not limited to all fees paid in consideration for financing and all architectural, planning, marketing, legal and other consultants' fees incurred after approval of the Site Specific Development Plan by the county, together with interest at the current market rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.
3. **Hazards.** Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of the approval of the Site Specific Development Plan, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare.
4. **General Resolutions and Regulations.** The establishment of a vested property right shall not preclude the application of resolutions or regulations which are general in nature and are applicable to all property subject to land use regulations by the county, including but not limited to building, fire, plumbing, electrical and mechanical codes.

Section 1.03 Duties and Responsibilities of Review and Decision Making Bodies

A. Board of County Commissioners

1. **Membership and Term.** §1-4-205, C.R.S., County Commissioners, as amended, describe the membership requirements and term of office for members of the Board of County Commissioners.
2. **Powers and Duties**
 - a. The authority granted to the Board of County Commissioners under §30-11-107, C.R.S., as amended, includes, but is not limited to:
 - (1) Adoption and Amendment of Zoning and Subdivision Regulations;
 - (2) Regulations for Removal of Weeds and Rubbish;
 - (3) Adoption of Building Codes;
 - (4) Review of Service Plans for Special Districts; and
 - (5) Enter into Intergovernmental Agreements for Land Use and Development.

B. Planning Commission

The Rio Grande County Planning Commission (hereafter referred to as “Planning Commission”) is hereby established. Its operation shall be governed as follows:

1. **Membership**
 - a. The Planning Commission will consist of six (6) regular members and up to three (3) non-voting alternate members. All members shall be residents of Rio Grande County.
 - b. Members will be appointed by the Board of County Commissioners for a term of three (3) years. The terms of office of all members shall be staggered. The filling of vacancies and the removal of members for non-performance of duty or misconduct shall be provided for by the Board of County Commissioners.
 - c. In the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the Planning Commission or any other cause, an alternate member may take his or her place during such temporary disability and enjoy full voting privileges.
2. **Officers.** Members of the Planning Commission shall elect from among their members a Chairperson to serve for a term of one (1) year. Such election shall occur at the first meeting of the Planning Commission of each calendar year and such term shall continue until the election in the next calendar year. There is no limit to the number of terms a member may serve as Chairperson.
3. **Organization.** The Planning Commission may adopt additional rules of organization and procedures necessary to conduct its affairs.

4. **Compensation.** The members of the Planning Commission shall receive such compensation as may be fixed by the Board of County Commissioners, as well as reimbursement for actual expenses incurred in the performance of their duties.
5. **Duties.** In general, the Planning Commission shall be the land use-planning group for the county. It is responsible for preparation of a county master plan, zoning regulations and subdivision regulations. The Planning Commission will serve as an investigative and advisory group to the Board of County Commissioners in the administration of land use regulations, including preparation of needed amendments and additions to the regulations. It may also advise the Board on any other land use decisions when requested to do so by the Board. In addition, the following specific duties are assigned to the Planning Commission:
 - a. **Subdivisions.** Review subdivision proposals received by the county pursuant to criteria and requirements contained in Article 4, Division of Land of this Land Development Code.
 - b. **Conditional Use Applications.** Review applications for conditional use based on criteria and in accordance with procedures contained within Section 3.05, Conditional Use Permit of this Land Development Code.
 - c. **Amendments to Zoning Regulations.** Receive and study proposed text amendments to this Land Development Code, including the holding of public meetings if determined to be desirable and transmit its recommendation to the Board of County Commissioners.
 - d. **Special Land Divisions.** Review and recommend action on those cases being considered under Special Land Divisions pursuant to Table T-4.1, Land Division Processes of this Land Development Code.
 - e. **Manufactured Home Parks.** Review applications for Manufactured Home Parks for compliance with criteria contained in this Land Development Code.

C. Board of Adjustment

The Board of Adjustment (hereinafter referred to as "BOA") is hereby established. Its operation shall be governed as follows:

1. Membership

- a. The BOA shall consist of five (5) members appointed by the Board of County Commissioners and a nonvoting secretary. Not more than two (2) members may be current members of the Planning Commission. Members of the Board of Adjustment must be residents of Rio Grande County
- b. BOA members will be appointed by the Board of County Commissioners for a term of three (3) years.
- c. In addition to the regular members of the BOA, the Board of County Commissioners may appoint two alternate non-voting members for staggered three (3) year terms. In the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the BOA or

any other cause, an alternate member may take his or her place during such temporary disability and enjoy full voting privileges.

2. **Officers.** Members of the Board of Adjustment shall elect from among their members a Chairperson to serve for a term of one (1) year. Such election shall occur at the first meeting of the BOA of each calendar year and such term shall continue until the election of the next calendar year. There is no limit to the number of terms a member may serve as Chairperson.
3. The concurring vote of three members of the BOA shall be necessary to revoke any order, requirement, decision or determination of any administrative official charged with the enforcement of this Land Development Code or to decide in favor of the applicant any matter upon which it is required to pass under this Land Development Code or to effect any variation in this Land Development Code.
4. The Board of County Commissioners shall have the power to remove any member of the Board of Adjustment for cause after official public hearing in which the member shall have the right to counsel and to cross-examine witnesses.
5. **Proceedings of the Board of Adjustment**
 - a. The Board of Adjustment may adopt additional rules necessary to conduct its affairs and shall also provide for meetings of the BOA.
 - b. The Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings shall be open to the public.
 - c. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision, or if absent, or failing to vote, indicating such fact, all of which shall be a public record and immediately filed in the Office of the County Commissioners.
6. **Hearings, Appeals and Notices**
 - a. Appeals to the Board of Adjustment may be taken by any person aggrieved by any administrative decision based upon or made in the course of the administration or enforcement of the provisions of the Land Development Code. Application and review procedures for appeals are set forth in Section 3.11, Appeal.
7. **Powers of the Board of Adjustment. The BOA shall have the following powers:**
 - a. **Appeals.** The BOA may hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Land Development Code. The BOA may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from.

b. Variance

(1) The BOA may grant or deny variances from the provisions of the Land Development Code when the strict application of the regulations and/or standards would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property.

(2) In granting any variance, the BOA may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this regulation and/or standards.

(3) The BOA may not grant variances from the provisions of the Land Development Code governing the use of land or building or the provisions governing planned unit development. In granting or denying variances the BOA shall consider the criteria and standards set forth in Section 3.10, *Variance*.

Section 1.04 Right to Farm

A. General

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

B. Agricultural Activities and Operations Within the County Shall Not Be Considered to Be Nuisances

Colorado is a "Right to Farm State" pursuant to §35-3.5-101, C.R.S., as amended. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds, and smells of Rio Grande County agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and a healthy agricultural sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells as inconveniences, eyesores, noises, and odors. However, state law and county policy provide that ranching, farming, or other agricultural activities and operations within the Rio Grande County shall not be considered to be nuisances so long as they are operated in conformance with the law and in a non-negligent manner. Therefore, all landowners, residents, and visitors must be prepared to encounter sounds, smells, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, any one or more of which may naturally occur as a part of a legal agricultural operation compliant with all applicable local, state and federal rules and regulations.

C. Rights and Responsibilities of All Landowners

All owners of land, regardless of use, have obligations under state law and county regulations regarding maintenance of fences. Irrigators have the right to maintain irrigation ditches through established easements that transport water for their use and said irrigation ditches are not to be used for the dumping of refuse. Landowners are responsible for controlling weeds, keeping pets under control, and other aspects of using and maintaining property in accordance with county regulations. Residents and landowners are encouraged to learn about these rights and responsibilities and to act as good neighbors and citizens of the county.

Article 2. Zoning Regulations

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Section 2.01 General Provisions

A. Title

These regulations shall be cited as the "Rio Grande County Zoning Regulations" or "these Regulations."

B. Applicability

This article is not intended to abrogate, annul, govern over, or prevail over any permits or easements issued prior to the effective date of adoption of this article, except as expressly stated within this article.

Section 2.02 Zoning Map

A. Location and Boundaries

The location and boundaries of the zone districts established by these Regulations are shown on the Official Zoning Map of Rio Grande County (hereinafter referred to as “Zoning Map”) and incorporated into this Land Development Code.

B. Interpretation

If for any reason the location of a zone district boundary line is not readily determinable from the Zoning Map, the location of the zone district boundary line shall be determined by the Land Use Administrator in accordance with the following provisions.

1. Unless otherwise specified, zone district boundaries are the centerline of streets, alleys, railroads right-of-way, or such lines extended.
2. Where a zone district boundary line is given a position within or abutting a highway, road, street or alley right-of-way which does not appear to be located within any zone district (other than an overlay zone district), the zone district boundary line shall be deemed to be in the center of such right-of-way.
3. Where a zone district boundary line is shown as closely and approximately following subdivision plat lot lines, municipal boundary or county boundary lines, the zone district boundary line shall be deemed to coincide with such known lot lines or boundaries.
4. Where a parcel within a zone district has a boundary line shown by a specific dimension, that dimension shall control.
5. Where a zone district boundary line is located with reference to a fixture, monument, or natural feature, the location of the boundary with respect to the attribute shall control.
6. The location of a zone district boundary line located with reference to a natural feature shall be at the outer edge or boundary of the natural feature.
7. In all other circumstances, the location of the zone district boundary line shall be determined by scaling from the Zoning Map.

Section 2.03 Establishment of Zone Districts

A. Zone District Abbreviation Table

The Rio Grande County Zone District abbreviations are identified in Table T-2.1 below.

Table T-2.1 – Zone District Abbreviations

District Designations	Abbreviation
Recreation and Open Space Districts	
Open Space	OS
Agricultural Districts	
Agricultural Forestry District	AF
Agricultural Ranching District	AR
Agricultural Estate District	AE
Residential Districts	
Rural Residential District	RR
Residential District	R
Manufactured Home Park District	MH
Commercial Districts	
Commercial Business District	CB
Commercial Resort/Tourist District	CRT
Industrial Districts	
Light Industrial District	LI
Heavy Industrial District	HI
Overlay Districts	
Airport Overlay	AP

B. Open Space (OS) District

1. Intent

The OS District identifies areas for public or private open spaces. OS Districts are generally lots, tracts, or parcels of land within subdivisions or properties which are required to meet the open space requirements of these Regulations or are lots, tracts, properties, or parcels or areas not suitable for development due to natural features, topography, or geology which should be preserved for the safety and/or enjoyment of the public. Allowed uses, minimum lot size, and required setbacks allowed in the OS District are identified within Section 2.04, *Use, Lot Size, and Setback Tables*.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

C. Agricultural Forestry (AF) District

1. Intent

The AF District is intended to provide areas for large scale agricultural, farming, ranching, natural resource extraction, and recreational uses in a managed and efficient manner. Development densities and standards for this zone district are intended to encourage the conservation of forest resources, protection of the natural environment, and preservation of uninhabited areas. The AF District generally includes a majority of the mountainous areas of the western and southern portions of the county, characterized by forested lands with steep slopes and places where parcels may only be accessible seasonally.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

D. Agricultural Ranching (AR) District

1. Intent

The AR District is intended to provide areas where continued agricultural, grazing, farming and ranching uses are practiced on a large scale. The AR District includes the majority of the rural agricultural land within the county. Land use in the AR District is encouraged to provide for the maintenance of agricultural production and preservation of associated lifestyles. New residential development is encouraged to be designed according to Section 4.06, *Cluster Development*.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

E. Agricultural Estate (AE) District

1. Intent

The AE District is intended to be generally consistent with lower density residential land uses averaging up to two (2) dwelling units per thirty-five (35) acres and provide areas where continued agricultural, grazing, farming, and/or ranching uses may be practiced on a smaller scale.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

F. Rural Residential (RR) District

1. Intent

The RR District is intended to be generally consistent with medium density residential land uses within the county. Residential lots within this district should be a minimum of two (2) acres to meet private well and on-site wastewater treatment system (OWTS) requirements.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

G. Residential (R) District

1. Intent

The R District is intended to generally allow higher residential densities than other residential districts within the county and should be encouraged to be located in areas that are accessible to public water and sewer.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

H. Manufactured Home Park (MH) District

1. Intent

The MH District is intended to provide residential areas specifically for manufactured home parks. MH District allows for large and small manufactured homes on property that is typically not owned by the owner of the home. Existing mobile homes may continue to exist in the MH District pursuant to Article 8, *Nonconforming Uses and Structures*.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

I. Commercial Business (CB) District

1. Intent

The CB District is intended to provide a full range of retail and service uses. The permitted land uses within this district promote and encourage a suitable environment for commercial services to area residents and visitors. Design standards applicable to commercial uses in the CB District are related to adequacy of design to mitigate the impacts of traffic, noise, air pollution and nighttime activities. This zone district should generally be located within close proximity of necessary public infrastructure, utilities, and emergency services to adequately service the intended use.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

J. Commercial Resort/Tourist (CRT) District

1. Intent

The CRT District is intended to provide recreation, resort, tourist, and limited commercial oriented uses that provide lodging and activities for visitors and tourists. CRT Districts are mostly located along the major highway corridors. In general, permitted uses in this district are identified based upon a consideration of highway frontage and convenience to tourists, but the establishment of new commercial uses not bolstering the resort and tourism uses and patrons is not the intention.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

K. Light Industrial (LI) District

1. Intent

The LI District is intended to allow for uses including but not limited to scientific research, manufacturing, compounding, storage, assembling or treatment of products, distribution centers, food and beverage processing. The LI District is intended for industrial uses where non-offensive uses may be conducted outside a building and the offensive impacts of industry can generally be confined within an enclosed building.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

L. Heavy Industrial (HI) District

1. Intent

The HI District identifies areas where manufacturing or storage with external impacts are occurring or are anticipated. The HI District may also apply to areas where oil and gas drilling and production operations occur.

2. District Standards

- a. Permitted uses are identified in Table T-2.2.
- b. Lot size and required setbacks are identified in Table T-2.3.

M. Airport Overlay

See Section 2.09, *Overlay Districts* for the Rio Grande County Airport Overlay intention and district standards.

Section 2.04 Use, Lot Size, And Setback Tables

A. Zoning District Uses

Table T-2.2, *Table of Land Uses*, identifies allowed land uses within each of the established zone districts. Table T-2.2 also identifies uses that may be allowed when accessory to a principal use. The Land Use Administrator shall determine whether any use that is not specifically listed is allowed in a corresponding zone district and the level of review required, based upon the listed use which is most similar to the use not specifically listed.

B. Table of Land Uses Interpretation and Process

1. **Site Plan Approval.** Nonresidential and multi-family uses identified in Table T-2.2 must receive approval of a site plan in accordance with Section 3.08, *Site Plan*, prior to commencing any development activity regardless of whether such use is allowed by right or requires an administrative approval or conditional use permit.
2. **Administrative Approvals.** Any use identified as requiring Administrative Approval in Table T-2.2 is subject to site plan review in accordance with Section 3.08, *Site Plan*, prior to commencing any development activity.
3. **Conditional Uses.** Any use identified as requiring a Conditional Use in Table T-2.2 shall receive a Conditional Use Permit in accordance with Section 3.05, *Conditional Use Permit*.
4. **Uses not Allowed.** If a particular use does not have a letter corresponding to a zone district, that use is prohibited in the respective zone district.

Table T-2.2 – Table of Land Uses

		OS	AF	AR	AE	RR	R	MH	CRT	CB	LI	HI	
<i>R – Allowed by Right, A – Administrative Approval Required, C – Conditional Use Permit Required</i>													
Agricultural Uses	Agricultural Products Distribution and/or Storage		R	R	R						R	R	
	Agricultural Products Sales		R	R	R				R	R	R	R	
	Concentrated Animal Feeding Operation (CAFO)		C	C									
	General Farming and Ranching		R	R	R	R	R	R	R	R	R	R	
	Hazardous Agricultural Product Productions			C									
	Hemp Production			R								R	R
	Livestock Confinement Operation		R	R	R	R	R						

		OS	AF	AR	AE	RR	R	MH	CRT	CB	LI	HI
<i>R – Allowed by Right, A – Administrative Approval Required, C – Conditional Use Permit Required</i>												
	Logging Operation		C	R						C	R	R
Agricultural Uses (Cnt'd)	Nursery, Commercial		R	R	R	C				R	R	
	All Other Agricultural Uses		C	R	R	C						
Animal Services	Animal hospital, Veterinary clinic			R	R					R	R	
	Kennel			R	R					C	R	R
	Kennel, Boarding Facility			R	C	C				C	R	R
	Kennel, Breeding Facility			C	C	C					C	C
Child Care Facilities	Child Care Center			R	R	R	R			R		
	Family Child Care Home		R	R	R	R	R	R	R	R		
Community & Cultural Facilities	Cemetery	C	R	R	R					R	R	R
	Clubs and Lodges			R	R				R	R		
	Community Center	C		R	R	R	R	R	R	R		
	Museum	C		C						R		
	Religious Assembly Facility			R	R	R	R	R	R	R	R	R
	All Other Community and Cultural Facilities Uses			R	R	R	R			R		
Educational Facilities	All Educational Facilities			R	R	R	R	R	C	C	R	
Food & Beverage	Bar or Tavern								R	R		
	Brewery		C	C					C	R	R	R
	Microbrewery or distillery								R	R	R	R
	Restaurant, Brewpub			R					R	R	R	R

		OS	AF	AR	AE	RR	R	MH	CRT	CB	LI	HI
<i>R – Allowed by Right, A – Administrative Approval Required, C – Conditional Use Permit Required</i>												
	Restaurants with drive-up windows								R	R		
Food & Beverage (Cnt'd)	Winery		C	C	C							
	All Other Food and Beverage Uses								R	R		
Group Living	Group Home			C	C	C	R		C	C		
	Senior Housing				C	C	R			R		
	All Other Group Living Uses				C	C				C		
Healthcare Facilities	Hospital			R	R					R	R	
	Medical & Dental office or clinic								A	R	R	
	All Other Healthcare Facility Uses			R	R					R	R	
Household Living	Dwelling, multi-family			R	R	R	R		R	R		
	Dwelling, single-family attached			R	R	R	R		C	C		
	Dwelling, single-family detached		R	R	R	R	R	R	C	C		
	Manufactured Home		R	R	R	R	R	R	C	C		
	Mobile Home							C				
	Manufactured Home Park							R				
	Multi-family dwellings above or below commercial use			R	R	R	R		R	R		
Lodging Facilities	Bed and Breakfast			A	A	A			R	R		
	Boarding house, rooming house			R	R	R			R	R		
	Hotel/Motel								R	R	R	
	Vacation Rental		A	A	A	A	A		C	C		

		OS	AF	AR	AE	RR	R	MH	CRT	CB	LI	HI
<i>R – Allowed by Right, A – Administrative Approval Required, C – Conditional Use Permit Required</i>												
Lodging Facilities (Cnt'd)	All Other Lodging Facility Uses								R	R	R	
Manufacturing & Production	Manufacturing, fabrication or processing which <i>will not</i> cause noise, heat, dust, fumes, excessive traffic or parking or other adverse consequences that will impact the neighborhood			C						R	R	R
	Manufacturing, fabrication or processing which <i>will</i> cause noise, heat, dust, fumes or other adverse consequences that will impact the neighborhood			C						C	C	R
	Natural Resource Exploration, Extraction, and Production Uses		C	C	C	C	C	C	C	C	C	C
Parks & Open Space	All Park and Open Space Uses	R	R	R	R	R	R	R	R	R	R	R
Personal Services & Office	Personal Service Establishment			R	A	A			A	R	R	
	Professional or Business office			R	R				A	R	R	
	All Other Personal Service or Office Uses			R						R	R	
Public Utilities & Facilities	Public Buildings	C			R	R	R			R	R	R
	Public Utility Facilities	C	C	C	R	R	R	R	R	R	R	R
	Recycling Facility											C
	Telecommunications Facility	C	C	C	C	C	C	C	C	C	C	C
	Small Cell Facility	R	R	R	R	R	R	R	R	R	R	R
	All Other Public Utility and Facility Uses	C	C	R	R	R	R	R	R	R	R	R
Recreation	Campground	C	R	R	R				C			
	Outdoor amusement and entertainment facilities	C	A	C	C	C			A	C		

		OS	AF	AR	AE	RR	R	MH	CRT	CB	LI	HI
R – Allowed by Right, A – Administrative Approval Required, C – Conditional Use Permit Required												
Recreation (Cnt'd)	RV Park	C	R	R					R	C		
	Riding Stables	C	R	R	R	R						
	Shooting Range, Indoor	C	R	R					R	C	R	
	Shooting Range, Outdoor	C	R	R					C	C		
	All Other Recreation Uses	C	C	C	C				C			
Retail	General Retail Sales Store > 1,500 sf			C					R	R	R	R
	General Retail Sales Store < 1,500 sf			R	R	R	R		R	R	R	R
	Medical Marijuana Facility											
	Retail Marijuana Facility											
	Sexually Oriented Business									C		
Vehicles & Equipment	Airport or Heliport		C	C								C
	Automobile, Truck, Marine or RV sales			C					C	R	R	R
	Automobile Service and Repair			C						R	R	R
	Gasoline Distribution Outlets, Storage, and/or Station			C					C	C	R	C
	Motor Vehicle Parking Lot		R	R					R	R	R	R
	All Other Vehicle and Equipment Uses									C	A	R
Warehousing & Freight	Outdoor storage (screened or un-screened)			C						R	R	R
	Salvage yard			C							C	C
	Solid Waste Disposal			C								C

		OS	AF	AR	AE	RR	R	MH	CRT	CB	LI	HI
<i>R – Allowed by Right, A – Administrative Approval Required, C – Conditional Use Permit Required</i>												
Warehousing & Freight (Cnt'd)	Wholesale establishment and/or distribution <i>with</i> outdoor storage of goods			C	C				C	C	R	R
	Wholesale establishment and/or distribution <i>without</i> outdoor storage of goods			C	C					R	R	R
Accessory Uses	Accessory building and use		R	R	R	R	R	R	R	R	R	R
	Accessory dwelling unit (ADU)		R	R	R	R	R		R	R	R	R
	Cottage Industry 2,000sf or less		R	R	R	R	C		C	C		
	Cottage Industry Greater than 2,000sf		C	C	C	C	C					
	Home Occupation		R	R	R	R	R	R				
	Outdoor storage of snow		R	R	R	R	R	R	R	R	R	R
	Solar Energy Facility		R	R	R	R	R	R	R	R	R	R
Temporary Structures & Uses	Special Events	A	A	A	A	A	A	A	A	A	A	A
	Temporary Structure/Use	A	A	A	A	A	A	A	A	A	A	A

C. Zone District Dimensional Standards

1. Lot Size, Setbacks, and Maximum Height

Minimum requirements for lot size, setbacks, and maximum height are summarized for each zone district in Table T-2.3, *Zone District Dimensional Standards*, below.

Table T-2.3 – Zone District Dimensional Standards

	<i>AF</i>	<i>AR</i>	<i>AE</i>	<i>RR</i>	<i>R</i>	<i>MH</i>	<i>CRT</i>	<i>C</i> ¹	<i>LI</i> ¹	<i>HI</i> ¹
Lot Dimensions (min)										
Lot Size ³	160 ac.	35 ac.	5 ac.	2 ac.	7,000 sf	2,500 sf	7,000 sf	10,000 sf	35,000 sf	35,000 sf
Lot Width	500'	200'	100'	80'	60'	100'	150'	150'	150'	600'
Setbacks										
Front	100'	25'	25'	25'	25'	25'	25'	50'	50'	100'
Side	100'	25'	25'	25'	10'	10'	10'	10'	10'	100'
Corner (street side) ²	150'	50'	50'	50'	25'	25'	25'	25'	50'	100'
Rear	100'	25'	25'	25'	10'	25'	20'	20'	20'	100'
Structures										
Height (max)	45'	45'	45'	35'	35'	16'	40'	60'	40'	60'
Notes										
<p>¹ All loading and unloading facilities in the C, LI and HI zone districts facing a public road shall maintain a one hundred (100) foot setback from a public road and/or major highway.</p> <p>² Corner (street side) setbacks shall only be as required for the first 150' as measured from the intersection of two public roads for the purpose of maintaining visibility as determined by Road and Bridge standards. Beyond 150', the required side setback shall apply.</p> <p>³ No lot shall be divided which will result in a new lot becoming less than two (2) acres in size, unless a public wastewater system is provided and all resulting lots are tied into it. All lots which were legally established prior to June 1st, 2023, are exempt from this requirement, if all other OWTS standards can be met.</p>										

2. Exemptions from Required Dimensional Standards

a. **Setbacks.** Required setback areas shall be unobstructed from the ground to the sky, with the following exceptions.

(1) Fire escapes and balconies may extend into a required setback area as follows:

- (a) Side yard maximum 18"
- (b) Rear yard maximum 4'

(2) Patios, walkways, and similar flat work not extending above grade by more than six (6) inches may extend any distance into a required setback area.

(3) Access ramps and other construction compliant with ADA regulations may extend any distance into a required setback area.

b. **Height Limitations.** Unless specifically regulated elsewhere in this Land Development Code, the following type of structures or structural parts are not subject to the building height limitations of this Land Development Code: chimneys, storage tanks, water towers, religious building spires, belfries, domes, monuments, fire and hose towers, observation towers, utility poles, transmission towers, flag poles, radio and television towers, masts, aerials, cooling towers, elevator shafts, grain elevators, ranch and farm accessory uses, silos, outdoor movie screens, solar collectors, and other similar projections.

Section 2.05 General Use Regulations

The following standards and regulations shall apply to the specific use in addition to any and all applicable provisions of this Land Development Code.

A. Campgrounds

1. **Purpose.** The principal business of a campground shall be to provide sites for tents only. RVs and mobile homes are prohibited within a campground.
2. **Lot Size.** Campgrounds shall be a minimum of two (2) acres in area.
3. **Accessory Uses.** The following uses are accessory to a campground:
 - a. Service buildings associated with the campground, including utilities, management office, sanitary facilities, and recreation facilities.
 - b. One residential dwelling unit or permanent RV for the purpose of housing a resident manager or caretaker may be allowed.
4. **Parking.** A minimum of one (1) parking space shall be provided for each campsite within the campground.

B. Group Home Facilities

1. **Distance Separation Standards.** A group home facility shall not be located within three-hundred (300) feet of another group home facility.
 - a. **Separation by Physical Barrier.** The county may permit two such facilities to be located closer than three hundred (300) feet apart if they are separated by a physical barrier such as an arterial collector, a commercial district, or a topographic feature that the Land Use Administrator determines adequate to mitigate the need for additional distance separation.
2. **Parking Standards.** A group home shall provide one off-street parking space for visitors and one for each employee, in addition to off-street parking otherwise required pursuant to Section 6.02.B, *Off-Street Parking and Loading Standards*.
3. **Maximum Occupancy.** In no case shall the total number of persons residing on premises, including staff, be more than one (1) person per four-hundred (400) square feet of usable building floor area.
4. **License Required.** Any group home that requires a state license to operate shall be so licensed before operation commences.

C. Kennels

1. **Purpose.** These provisions are set forth to limit the impacts of boarding kennels and breeding kennels on adjacent property owners and to preserve the characteristics of the neighborhood within which these uses are located.

2. Standards

a. All kennels shall have a minimum of five-hundred (500) foot setback from all adjacent properties that are zoned AF, AR, AE, RR, R, or MH.

b. All kennels located within the AF, AR, AE, or RR zone district shall have a minimum of five-hundred (500) foot setback.

3. Written Narrative. In addition to the requirements set forth in Section 3.05, *Conditional Use Permit*, the following items shall be described in the application for a boarding kennel or a breeding kennel:

a. The method of feces disposal;

b. Drainage improvements necessary to protect adjacent rivers, streams or other bodies of water from contaminated surface stormwater runoff;

c. The number and species of animals to be kept on the property and the duration each is anticipated to stay on the property;

d. Description of proximity to adjacent properties, adjacent property uses and zone districts, any potential impacts on adjacent properties including, but not limited to, noise, lighting, odors, traffic, and waste, and proposed methods to mitigate those impacts; and

e. Description of operations including, but not limited to, if and when animals will be kept outside and the impact noise may have on adjacent property owners, length of stay anticipated for animals, how noise, lighting, and odors will be mitigated, and any other impact on adjacent properties.

D. Livestock Confinement Operations

1. Livestock Confinement Operations, including Confined Animal Feeding Operations (CAFO) and Animal Feeding Operations (AFO), must meet federal standards and meet or exceed Colorado's Confined Animal Feeding Regulations.

E. Manufactured Home Parks

1. Design Standards

The following design standards and specifications shall apply to all dwelling units located within a manufactured home park in addition to other applicable standards set forth in Article 6, *Design Standards*.

a. **Minimum Size.** All manufactured home parks shall be on property that is a minimum of two (2) acres in area.

b. **Setback Requirements.** All manufactured homes located within a manufactured home park shall meet the following setback distances:

(1) Fifty (50) feet from any state or federally designated highway;

(2) Twenty-five (25) feet from any other public right-of-way.

c. **Minimum Separation**

(1) All manufactured home units shall be sited so there remains a minimum of twenty (20) feet between units.

(2) Enclosed additions to a manufactured home shall be considered a part of the respective unit in measuring minimum required distances.

d. **Utility Requirements**

(1) All manufactured home parks shall provide an accessible, adequate, and safe supply of water and sanitary sewer service to each manufactured home space. Such improvements shall be designed in accordance with Section 6.01.E, *Source of Water* and Section 6.01.F, *Central Water Distribution and Wastewater Systems*.

(2) All manufactured homes shall be complete with sanitary, heating, and electrical systems when delivered to the site. Building permits shall be obtained through the Rio Grande County Building Department, the Colorado Division of Housing, and other regulatory agency, as applicable, for final utility connections.

e. **Foundation Requirements.** All manufactured homes shall be installed on a foundation meeting the manufacturer specifications and Colorado Division of Housing standards.

f. **Skirting**

(1) Skirting shall be installed and shall be provided with doors to permit convenient access to sewer, water, electrical, and gas connections.

(2) Skirting material shall be weatherproof, fire-resistant, and durable.

2. **Maintenance**

The permittee or the operator of a manufactured home park shall maintain the park, its facilities and equipment, in a manner which always keeps them in good repair and in clean and sanitary condition at all times. Residents shall be responsible for keeping their individual spaces free from debris and refuse.

F. **Manufactured Homes**

1. All manufactured homes shall be approved by the Colorado Division of Housing or shall be constructed in compliance with county-adopted International Residential Code (IRC) regulations.
2. Manufactured homes may be used as a single-family dwelling unit as identified in Table T-2.2.
3. All manufactured homes shall be permanently attached to a permanent foundation.

G. Mobile Homes

1. Mobile homes are not allowed to be used as permanent dwelling units in any zone district.
2. Mobile homes existing prior to January 1, 2020 may continue to be used provided the provisions of Article 8, *Nonconforming Land Uses and Structures*, are met.

H. RV Parks

1. **Purpose.** The principal business of an RV park shall be to provide sites for RV's, travel trailers, camper vehicles, and tents. Mobile homes and manufactured homes are prohibited within RV parks.
2. **Minimum Size.** RV parks shall be a minimum of two (2) acres in area.
3. **Accessory Uses.** The following uses are accessory to an RV park:
 - a. Service buildings associated with the RV park, including utilities, management office, equipment storage, sanitary facilities, laundry facilities, and recreation facilities.
 - b. One residential dwelling unit or permanent RV for the purpose of housing a resident manager or caretaker may be allowed.
4. **Standards**
 - a. Wheels and/or similar devices shall not be removed from RV's parked within an RV park, nor shall any fixture be added, or barrier be placed which will prevent the RV from being moved under its own power or by a passenger vehicle.
 - b. Skirting of RV's is permitted, provided it can easily be removed and there are proper openings for ventilation.
 - c. One (1) parking spot in addition to the RV parking spot shall be provided for each RV space.
 - d. Each RV parking spot shall be a minimum of 1,600 square feet.
5. **Site Improvements**
 - a. **Access.** Entrances into RV parks or onto RV park access roads off state or federal highways when large motor homes or travel trailers will be accessing, must be rounded by at least a thirty-six (36) foot radius arc to provide convenient and safe ingress and egress to the highways without traffic obstruction.
 - b. **Water Supply and Distribution.** If an RV park proposes use of domestic water, the water supply and distribution system shall be in compliance with Section 6.01.E, *Source of Water* and Section 6.01.F, *Central Water and Wastewater Systems*.
 - c. **Sewage Disposal.** If an RV park proposes use of a sewage system, the sewage system shall be designed, constructed and maintained in accordance with state laws and Section 6.01.F, *Central Water and Wastewater Systems*.

I. Salvage Yards

1. Salvage yards shall have a minimum of five hundred (500) foot setback from any AF, AR, AE, RR, R, and MH district.
2. Salvage yards located within the AR zone district shall have a minimum of five-hundred (500) foot setback.
3. Junk or salvage yards shall be screened with an eight (8) foot high opaque, solid wood or masonry fence.

J. Storage Areas and Facilities

1. **Storage of Hazardous Materials.** Flammable or explosive solids or gases shall be stored according to the manufacturer's standards and shall comply with the national, state and local fire codes and written recommendations from the appropriate local fire protection district.
2. **Materials and Wastes Contained on Property.** No materials or wastes shall be deposited on any property in a form or manner that may be transferred off the property by any reasonably foreseeable natural cause or force.
3. **Outdoor Storage Enclosed or Concealed.** Outdoor storage areas shall be enclosed or have adequate provisions to conceal these facilities from adjacent property.

Section 2.06 Accessory Uses and Structures

A. General Provisions

1. The purpose of this section is to authorize the establishment and continuation of land uses and structures that are incidental and customarily subordinate to principal uses. This section is intended to allow a broad range of accessory uses and structures, so long as they are listed in the table of allowed uses and comply with the standards set forth in this section to reduce potentially negative impacts on adjacent properties.
2. Accessory uses and structures are allowed pursuant to the following provisions:
 - a. Table T-2.2, *Table of Land Uses* identifies allowed accessory uses and structures within each zone district.
 - b. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, structures, and activities typically associated with the principal use, unless specifically prohibited in this section.
 - c. All accessory uses are subject to the provisions of this Section 2.06, *Accessory Uses and Structures*, in addition to use-specific standards set forth in Section 2.05, *General Use Regulations*.
3. Relationship to principal use or structure.
 - a. Except as otherwise expressly allowed in this Land Development Code, an accessory use or structure shall not be established or constructed before the establishment of the principal use or structure.
 - b. If the principal use or structure is destroyed or removed, the accessory use or structure shall no longer be allowed.
 - c. Accessory uses shall not be permitted as the exclusive use of any property.
4. Location of accessory uses and structures.
 - a. No accessory use or structure shall be located within any platted or recorded easement or over any known utility, or in any areas designated as a fire lane or emergency access route.
 - b. No accessory structure shall impede the access to or function of an area required for the circulation or parking of vehicles.
 - c. Accessory uses and structures shall comply with the minimum applicable zone district setbacks.

B. Standards for Specific Accessory Uses and Structures

1. Accessory Dwelling Unit (ADU)

- a. An ADU established pursuant to this Land Development Code shall not count towards any applicable limitation on the number of allowed dwelling units for the property.

- b. An ADU shall conform to all setback, height and other dimensional limitations of the underlying zone district.
- c. An ADU shall be secondary and subordinate to the primary dwelling unit, and accessory to the principal use of the property.
- d. An ADU shall not exceed fifty (50) percent of the floor area of the principal structure.
- e. **Prohibited as Accessory to Multi-Family Dwelling Units.** An ADU shall not be allowed in conjunction with duplex or multifamily units.
- f. **Adequate Utilities Required.** An ADU is required to be served by adequate facilities for potable water supply and sewage disposal, as outlined in Section 6.01, *Basic Approval Standards*.
- g. **Parking.** The following parking requirements shall apply to all ADUs and are in addition to the number of parking spaces required for the primary use.
 - (1) Studio or one-bedroom ADU: 1 parking space
 - (2) Two or more bedroom ADU: 1 parking space/bedroom
- h. An ADU shall not be sold separately from the principal unit on the property.
- i. Construction or modification of an ADU shall comply with the standards set forth in this Land Development Code and with all applicable building code requirements.
- j. An ADU may be attached or detached from the structure housing the principal use.
- k. Accessory Dwelling Units shall not be allowed on lots less than one (1) acre.

2. Accessory Storage Buildings and Containers

- a. Storage buildings and unmodified containers are permitted as an accessory use in certain residential and agricultural zoning districts subject to the following limitations:
 - (1) All accessory storage buildings and containers shall meet all required setbacks for the zone district as set forth in Table T-2.3, Zone District Dimensional Standards.
 - (2) No more than two (2) cargo containers will be allowed as accessory storage units on any property zoned Residential (R).
 - (3) Manufactured (small or large) or mobile homes shall not be used as an accessory storage building, container or parked on a parcel except as permitted by this Land Development Code.

3. Cottage Industry

a. **General Standards.** Cottage industries may include a wide variety of retail, service, office, or manufacturing uses. The following cottage industry standards are intended to permit residents to engage in cottage industries that are accessory to and compatible with existing residential land uses and to ensure that cottage industries do not adversely affect the integrity of residential areas. A cottage industry shall only be considered an accessory use, if all of the following standards are met.

(1) The cottage industry shall be permitted only in zone districts identified in Table T-2.2, Table of Land Uses, and

(2) The cottage industry shall be permitted only on lots over two (2) acres; and

(3) Public access hours of operation shall be limited to between 8:00 a.m. and 6:00 p.m.; and

(4) All exterior aspects of the operation shall not disrupt the residential character of the area; and

(5) The cottage industry shall meet all parking and loading standards set forth in Section 6.02.B, Off-Street Parking and Loading Standards for the type of commercial use proposed; and

(6) All outdoor storage shall be screened in accordance with Section 6.02.C, Fences, Walls and Hedges; and

(7) The cottage industry shall be limited to three (3) non-residential workers; and

(8) Where a proposed Cottage Industry has patrons physically present on the property, the cottage industry shall be limited to an increased generation of fifty (50) percent more than the existing average daily trips (ADT) of the primary residential use. It shall be a requirement of this Section that compliance be demonstrated by a qualified professional; and

(9) The cottage industry shall not include eating and/or drinking establishments; and

(10) Farming and ranching uses accessory to a residential principal use are exempt from these cottage industry standards.

b. **Conditional Use.** Where an applicant desires to obtain a Conditional Use Permit pursuant to Section 3.05, *Conditional Use*, or if all of the standards listed above cannot be met, the following processes shall be applicable.

(1) For any cottage industry unable to meet all of these standards, a conditional use may be requested regardless of the level of approval in Table T-2.2.

(2) If a cottage industry is determined to not be accessory to the existing residential uses, the principal use of the property shall switch to the proposed non-residential use and all applicable zone district standards, use standards,

and approval procedures shall be applied for as required by the Land Development Code.

- c. **Commercial Well Required.** Compliance with all Division of Water Resources requirements shall be required at the time of application submittal.

4. Home Occupations

- a. **Purpose and Objective**

The purpose and objective of these home occupation provisions are to provide for the operation of commercial activities on lots, parcels, properties, or tracts of land used for residential purposes under certain conditions. The intent of this section is to allow the reasonable and complementary use of premises for non-residential purposes that do not negatively impact the residential character of an area. It is not to encourage the expansion or proliferation of commercial and industrial areas throughout the county.

- b. **General Provisions**

- (1) All home occupations shall be incidental to a primary residential use.
- (2) All home occupations are required to obtain a home occupation permit from the Land Use Administrator.
- (3) All necessary license, certifications, approvals, or other authorizations shall be received by the issuing or regulating authority prior to commencing any home occupation activity. Proof of such shall be provided to the Land Use Administrator and shall be kept current throughout the duration of the home occupation use.

- c. **Standards**

Home occupations are subject to the following standards:

- (1) Home occupation shall be operated entirely within a residential structure or a permitted accessory structure.
- (2) Home occupation shall not exceed twenty-five (25) percent of the gross square footage of the primary structure.
- (3) Where a permitted accessory structure is used for the home occupation, additional off-street parking shall be provided, if required by the Land Use Administrator, in a manner not detracting from the character of the surrounding area.
- (4) The home occupation activity shall be contained within a closed building, except for a family day care home.
- (5) Home occupations shall require no remodeling of the exterior of the dwelling or the accessory structure that changes the residential character.

(6) Home occupations shall not generate vehicular traffic in excess of that typically generated by residential dwellings. No parking or storage of commercial vehicles shall be permitted on the site.

(7) A home occupation shall not produce noise or obnoxious odors, vibrations, glare, fumes or electrical interference detectable by normal sensory perception outside the property boundary.

(8) A home occupation shall employ no more than one (1) person in addition to those who are permanent residents of the dwelling unit.

(9) A home occupation is required to comply with any state or federal regulations.

(10) Any type of business or use that would detract from the residential character are prohibited.

(11) Farming and ranching uses accessory to a residential principal use are exempt from these home occupation standards.

5. Solar Energy Devices

a. Solar energy devices shall maintain the same setbacks as are required for principal buildings and, if freestanding, shall not exceed ten (10) feet in height.

Section 2.07 Temporary Uses and Structures

A. General Provisions

1. The purpose of this section is to authorize the establishment of certain uses and structures for a limited period of time. This section is intended to ensure that such uses and structures do not negatively affect adjacent land, are discontinued upon the expiration of a set time period, and do not involve the construction or alteration of any permanent building or structure.
2. **Approval Process for Temporary Uses and Structures.** Prior to establishing any temporary use or structure, an applicant shall file an application for a temporary use permit with the Land Use Administrator. After review, the Land Use Administrator shall approve, approve with conditions, or deny the temporary use permit.
3. In addition to any condition imposed by the Land Use Administrator, temporary use permits may be limited in duration and the degree to which the permit may or may not be transferred.

B. Temporary Uses

1. Temporary uses are permitted in each zone district (unless restricted to particular zone district) subject to the conditions and time limits of the temporary use permit, and to other applicable regulations of the district in which the use is permitted. All temporary uses are required to obtain a temporary use permit from the Land Use Administrator in accordance with Section 3.07, *Temporary Uses and Structures*.
2. In addition to the provisions in Section 2.07.B.1 above, the following temporary uses shall meet the applicable standards and provisions below:
 - a. **Christmas Tree Sales.** Display of Christmas trees are not required to comply with the setback requirements of this code provided that no tree or structure shall be displayed within a sight distance triangle, obstruct the safe ingress or egress upon the property the temporary use is located, or be located in any public right-of-way.
 - b. **Auctions, flea markets, carnivals, circuses and bazaars.** These uses are permitted for the duration of the event plus setup and removal time.
 - c. **RVs and Camping on Vacant Land.** RVs are allowed on vacant land in the county under the following circumstances:
 - (1) A temporary use permit has been issued by the Land Use Administrator for placement of the RV or camping on vacant private property.
 - (2) RVs and/or camping on vacant private property shall not exceed one-hundred and eighty (180) collective days in any one calendar year for private use only.
 - (a) No more than two (2) camping units at a time per parcel may be permitted. Special temporary event permitting may be allowed for larger

groups for up to two (2) weeks per calendar year, provided that the event is a private gathering with no renting or charging for campsites.

(3) There shall be no compensation paid for temporarily locating RVs and/or camping units on private property under this provision. Any payment for such activity or use would be considered an RV Park or Campground as defined and regulated by the Land Development Code.

(4) RVs and/or camping on vacant private property may only be allowed on property one-half (1/2) acre or larger.

(5) The RV(s) or tent(s) is/are located on land owned by the RV or tent owner or permission has been granted by the property owner in writing to park an RV or camp on the land.

(6) Wheels and/or similar devices shall not be removed from the RV, nor shall any fixture be added, or barrier be placed which will prevent the RV from being moved under its own power or by a passenger vehicle.

(7) Skirting of RV is permitted provided such skirting can easily be removed and there are proper openings for ventilation.

d. **Vacation Rentals.** The standards and procedures contained in this Section shall apply to all applications for new vacation rentals, including additions and or alterations to existing vacation rentals within the unincorporated areas of Rio Grande County.

(1) Permit and Application Requirements:

(a) A Temporary Use Permit shall be applied for, reviewed, and approved by the County Zoning Administrator in accordance with Sections 3.07, Temporary Use Permit.

(b) Prior to permit approval, both new and renewal vacation rental applications must provide a copy of paid tax documentation.

(c) A copy of the current applicable HOA or POA covenants and/or bylaws if the rental is located in a subdivision where there is an active HOA or POA. If required by the covenants or bylaws, vacation rental applications must include a letter of approval from the HOA or POA.

(d) A copy of an active certificate of liability insurance policy must be provided with the application. This documentation will be required annually with a renewal application.

(2) The following standards shall apply to all vacation rentals:

(a) Vacation rentals shall only be conducted in a legally constructed dwelling or a titled, registered, and legally parked recreational vehicle on private property.

- (b) Utility rooms, mechanical rooms, laundry rooms, closets, and/or garages shall not be used as sleeping areas, as determined by reasonable assessment of the Land Use Administrator.
- (c) Vacation rentals shall have a property manager consisting of the owner or a responsible party representing the owner that resides within Rio Grande County or an adjacent county, to manage the use at any time it is occupied.
- (d) Any change to the owner or property manager's contact information shall be provided to the Rio Grande County Land Use Department within five (5) business days of the change.
- (e) The property owner's name and contact number, property manager's name and contact number, maximum occupancy limit, and vacation rental rules and regulations shall be posted in a conspicuous location within each unit.
- (f) The proper filing and payment of Colorado Sales Tax licensing, sales tax, and filing of Rio Grande County Lodging Tax are required for all vacation rentals. Failure to report sales tax and/or lodging tax filing and payment may result in the revocation of a vacation rental permit. A copy of the sales tax license shall be attached to the vacation rental application or a statement certifying that a rental company (e.g., VRBO, Vacasa, Airbnb, or similar company) will be used to rent the property and the rental company is required to collect and pay all sales and lodging tax.
- (g) Certified fire extinguishers shall be mounted in a readily accessible and visible location for immediate use within all vacation rentals. At a minimum, one fire extinguisher shall be provided on each story of a rental and specifically at the following locations:
 - i. In each room with a cooking appliance, fireplace, heating appliance, or water heater.
 - ii. Inside and adjacent to any door leading to a deck, porch, or patio with a cooking appliance, fireplace, heating appliance, or water heater.
- (h) Smoke alarms shall be located in each sleeping room, as well as outside each separate sleeping area in the immediate vicinity of all bedrooms, and on each story of the vacation rental, including basements. An egress/fire escape ladder must be readily accessible and visible on all levels of a vacation rental above the first floor.
- (i) Carbon monoxide detectors shall be installed within fifteen (15) feet of each sleeping room.
- (j) Vacation rental properties must have a permitted driveway and a legal physical address sign that is visibly posted.

(k) Owners and or property managers shall regularly provide trash removal to ensure trash is contained and properly disposed of.

(l) Guests must park on the property where the vacation rental is located and not on public roads or cause a nuisance on or around adjacent properties.

3. Temporary structures are permitted in each zone district (unless restricted to particular zone district) subject to the conditions and time limits of the temporary use permit, and to other applicable regulations of the district in which the structure is located. All temporary structures are required to obtain a temporary use permit from the Land Use Administrator in accordance with Section 3.07, *Temporary Uses and Structures*.
4. In addition to the provisions in Section 2.07.C.1 above, the following temporary structures shall meet the applicable standards and provisions below:
 - a. **Contractors Office as Accessory to Construction Project.** Contractors' office/living quarters and equipment sheds accessory to a construction project are permitted in all zone districts. This use may be continued only during the duration of such project.
 - b. **Real Estate Offices Incidental to a New Housing Development.** Real estate offices incidental to a new housing development are permitted in all residential zone districts. This use may continue until there are no additional new homes for sale within the housing development.

Section 2.08 Telecommunication Facilities

A. General Provisions

1. All proposed telecommunication facilities shall be subject to the following regulations. Prior to the issuance of any building or electrical permit for any telecommunication facility regulated under this article, a conditional use permit shall be applied for, reviewed, and approved by the county in accordance with Section 3.05, *Conditional Use Permit*.
2. The purpose and intent of this section is to accommodate the telecommunication needs of residents and businesses while protecting the public health, safety, and welfare of the community. These telecommunication facilities regulations are adopted to:
 - a. Facilitate the provision of wireless telecommunication services to the residents and businesses of the county;
 - b. Minimize adverse visual effects of towers through design and siting standards;
 - c. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
 - d. Encourage and maximize the use of existing and approved towers, buildings, and other structures to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

B. Applicability

The standards and procedures contained in this article apply to all applications for telecommunication facilities. The planned unit development process is not available to vary the standards applicable to telecommunication facilities. The applicant shall demonstrate that its proposed telecommunication facility meets all standards and provisions of this article.

1. The standards and provisions of this article do not apply to the following:
 - a. Towers or antennas which are owned or operated by a federally licensed amateur radio station operator or used exclusively for receive-only antennas. All other applicable zoning district requirements must be met.
 - b. Residential dish or antenna or other installation of any dish or antenna of less than three feet in diameter or seven square feet of frontal surface area.
 - c. Towers in existence as of the effective date of this Land Development Code may be maintained/replaced with a tower or facility of equal or less visual impact without obtaining a conditional use permit. The Land Use Administrator shall determine if a conditional use permit is required following a review of the request.

C. General Requirements

Unless otherwise provided by this article or other applicable law, the following general requirements shall apply to all telecommunication facilities located within the unincorporated areas of Rio Grande County.

1. **Federal Requirements.** All towers and antennas must meet or exceed the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within the time period required by the controlling federal agency. Failure to bring a tower or antenna into compliance with revised standards or regulations shall be a violation of this article and constitute grounds for removal of the tower or antenna at the owner's expense.
2. **Radio Frequency Standards**
 - a. All owners of telecommunication facilities shall comply with federal standards for radio frequency emissions.
 - b. If at any time any operational telecommunications facility within the county is found to not meet federal standards, the county may require corrective action within a reasonable period of time. If not corrected, the county may require removal of the telecommunication facility at the owner's expense. Any reasonable costs incurred by the county to determine compliance, including reasonable consultant fees, shall be paid by the owner.
3. **Design Standards.** Telecommunication facilities shall meet the following standards:
 - a. Designed and maintained to minimize visual impact; carry gravity and wind loads required by law; and use concealment or stealth methods, such as camouflaging transmission towers to look like light poles or trees;
 - b. Architecturally integrated with existing buildings, structures and landscaping, including height, color, massing, placement, design and shape;
 - c. Located when possible on existing vertical infrastructure such as utility poles, public buildings, or utility structures;
 - d. Roof mounted antennas shall be located as far away as feasible from the edge of the building:
 - (1) All roof-mounted facilities and accessory equipment shall be set back from the roof or parapet edge so that visibility from the street or adjacent residential properties is minimized to the greatest extent possible.
 - (2) If roof-mounted equipment is visible from the street or adjacent residential properties, facilities and accessory equipment shall be screened by materials that are architecturally compatible with and colored to match the building or structure to which they are attached.

(3) No roof-mounted facility, including antenna or accessory equipment, shall exceed twelve (12) feet in height, as measured from the roof deck.

(4) Roof-mounted accessory equipment shall not be permitted on a sloped roof, unless it can be demonstrated that it is not visible from the street or adjacent residential areas.

e. Antennas attached to the building should be painted or otherwise treated to match the exterior of the building:

(1) Such facilities shall be architecturally compatible with and textured and colored to match the building or structure to which they are attached.

(2) The antenna shall be mounted as flush to the wall as technically possible. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet.

(3) Panel antennae shall not extend above the building wall or parapet to which they are mounted.

(4) Whip antennae shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.

f. Equipment shelters and antennas shall not extend more than ten (10) feet from the top of the building unless expressly approved as a part of the required conditional use permit;

g. Exterior tower or telecommunication facility equipment building(s) or cabinet(s) shall not contain more than four hundred (400) square feet of gross floor area, shall not be more than twelve (12) feet in height, and shall maintain the minimum setback, requirements of the zone in which it is located.

4. **Co-location of Telecommunication Facilities**

a. Shared use/co-location of telecommunication facilities on existing structures, towers, or buildings in a manner that precludes the need for the construction of a freestanding structure is encouraged.

b. A proposal for a new tower shall not be approved unless the Board of County Commissioners determines that the telecommunications facility for the proposed antenna cannot be accommodated by an existing or approved tower or antenna support structure.

c. The applicant shall further demonstrate that at least one of the following conditions is present:

(1) The planned new equipment and antenna would exceed the structural capacity of the existing or approved tower or antenna support structure as documented by a qualified Colorado licenses engineer, or in the alternative, that the existing or approved tower or antenna support structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost;

- (2) Existing or approved towers and antenna support structures within the search area cannot accommodate the planned telecommunications facilities at a height necessary to function reasonably, as documented by a qualified Colorado licensed engineer; or
 - (3) Other unforeseen reasons make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
5. **Advertising Prohibited on Tower.** The use of any portion of a tower for sign or advertising purposes, including company name, banners, streamers etc., shall be strictly prohibited, except as required by any federal agency.
 6. **Max Tower Loads.** No telecommunication tower shall be permitted beyond its loading capacity.
 7. **Height and Setbacks**
 - a. The height of the telecommunication tower shall not exceed two hundred (200) feet. Tower height shall be measured from the ground level.
 - b. Other height, bulk, lot coverage, and setback requirements for a telecommunication facility, shall be controlled by the zoning district within which it is located. Accessory equipment shall be compatible with the surrounding area and must conform with all zoning requirements.
 8. **Building Permit Required.** Any structures on a telecommunication facilities site shall obtain a building permit from the Rio Grande County Building Department.
 9. **No Parking of Equipment on the Site.** Mobile or immobile equipment not used in direct support of a tower, or in the housing of equipment needed to operate the tower, shall not be stored or parked on the site, unless new construction or repairs are being made.
 10. **Abandoned Facilities.** All abandoned or unused telecommunication facilities shall be removed by the owner/operator within ninety (90) days of the cessation of use. Should the owner fail to remove the facilities, the county may do so at its option, and the costs thereof shall be a charge against the owner and recovered by certification of the same to the county treasurer for collection in the same manner as real estate taxes, or by any other means available under law.
 11. **Transfer of Approved Telecommunications Tower.** An approved telecommunication tower may be transferred to a successor who must adhere to and assigns all of the conditions, which apply, to the initial application and any amendments. Changes of ownership must be submitted to the Land Use Administrator to ensure all interested parties are in agreement with the conditions of approval.
 12. **Maintenance.** Every owner of a telecommunications facility shall take special care to operate, repair and maintain all such facilities so as to prevent failures and accidents which cause damage, injuries or nuisances to the neighborhood and public. All wires, cables, fixtures and other equipment shall be installed in compliance with the requirements of the National Electric Safety Code and all FCC,

FAA, state and local regulations, and in such a manner that will not interfere with radio communications, electronic transmissions or all other electromagnetic communications or otherwise cause a safety hazard.

D. Additional Submittal Requirements for Telecommunication Facilities

In addition to the application material requirements for conditional use permits outlined in Section 3.05.B.3, *Application Submittal Requirements*, telecommunication facilities are required to submit the following items:

1. **Certification to Withstand High Winds.** A statement from a licensed Colorado professional engineer that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222 latest revision standards; and shall describe the tower's capacity, including an example of the number and type of antennas it can accommodate.
2. **A Certification that Tower will not cause Unreasonable Electromagnetic Interference.** A licensed Colorado professional engineer must certify that the proposed telecommunication facility will not cause unreasonable electromagnetic or other interference with the antennas on existing towers, structures or utility structures or the antennas of existing transmission towers, facilities or utility structures or that such existing facilities would interfere with the applicant's uses such that co-location is not possible.
3. **Site Improvement Plan.** In place of the required submittal requirements for a conditional use permit as outlined in Section 3.05.B.3.c, *Site Improvement Plan*, a telecommunication facility shall submit a Site Improvement Plan with the following items:
 - a. Provide a vicinity map of the project location,
 - b. Graphically identify the project's lease area and or telecommunication compound, by a surveyed metes and bounds, which locates the proposed tower, cabinets, and equipment buildings,
 - c. Graphically identify the tower's fall zone/radius based on tower height,
 - d. Graphically identify the site's access drive and surface material,
 - e. Graphically identify requested fencing and access gates,
 - f. Provide elevations for the tower, graphically identifying the tower height and antenna locations/heights; and,
 - g. Provide elevations for equipment buildings and proposed fencing, graphically identifying heights and materials.

E. Standards for Small Cell Facilities and Networks

1. **Applicable Requirements.** Small cell facilities and small cell networks, shall comply in all respects with the requirements of this article applicable to all telecommunication facilities, with the following exceptions:

- a. Setback;
 - b. Design(except as addressed at subsection E.5 below); and
 - c. Location (except as addressed at subsection E.2 below).
2. **Location.** Small cell facilities are permitted in county rights-of-way, upon facilities in these rights-of-way and on public easements owned by the county. Small cell facilities on private property are permitted in all zone districts.
- a. Small cell facilities and networks in public rights-of-way and easements shall be reviewed by the road and bridge department and Land Use Administrator.
 - b. Small cell facilities and networks on private property shall be reviewed by the Land Use Administrator.
 - c. All small cell facilities shall be required to obtain a building permit applicable for compliance with the requirements for such facilities.
3. **Height.** All small cell facilities shall not exceed two feet above the light pole, traffic signal or other facility or structure to which they are attached, or the maximum height in the relevant zone district, whichever is less. When new utility poles are proposed as an alternative for a small cell, their height shall not exceed the average height of existing utility/light poles in the vicinity.
4. **Spacing.** No small cell facility shall be located within one thousand (1,000) feet of any other such facility.
5. **Design**
- a. Small cell facilities shall be designed to blend with and be camouflaged in relation to the structure upon which they are located (e.g.: painted to match the structure or same material and color as adjacent utility poles). To the greatest degree possible, support equipment shall be located underground.
 - b. Small cell facilities and small cell networks in public rights-of-way shall comply with the following requirements:
 - (1) Small cell facilities are permitted in county rights-of-way, upon facilities in these rights-of-way and on public easements owned by the county under the following priority:
 - (a) First, on a county-owned utility pole, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the county.
 - (b) Second, a county-owned utility pole with attachment of the small call facilities in a configuration approved by the county.
 - (c) Third, on a third-party owned utility pole, (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the county.

(d) Fourth, on a traffic signal pole or mast arm in a configuration approved by the county, or in the case of a CDOT facility, by CDOT.

(e) Fifth, on a freestanding or ground-mounted facility which meets the definition of and requirements for an alternative tower facility in a location and configuration approved by the county.

6. **Permitting.** All small cell facilities and networks shall be reviewed pursuant to the procedure within this article. The county may accept applications for a small cell network, provided each small cell facility shall be separately reviewed. The county may take up to ninety days to process a complete application.
7. **Indemnification.** The operator of a small cell facility which is permitted to locate on a county right-of-way or easement or on a county-owned utility pole, traffic signal or other structure owned by the county, or within a county-owned right-of-way or easement, shall, as a condition of permit approval, indemnify the county from and against all liability and claims arising as a result of that location or attachment, including repair and replacement of damaged poles and equipment, such indemnification in a form approved by the county attorney.
8. **Bonding.** All permits for location of small cell facilities on real property not owned by the small cell permittee shall include as a condition of approval a bond, in form approved by the county attorney, to guarantee payment for any damages to the real property and removal of the facility upon its abandonment.
9. **Permit Expiration.** A permit for a small cell facility shall expire twelve (12) months after approval unless construction of the permitted structure has been initiated.

F. Approval Process

The county shall review and act upon all applications for permits for telecommunication facilities within the following time periods:

1. Within thirty (30) days the county will give written notice of incompleteness if so determined, specifying the code section(s) that requires such missing information. This determination pauses the remaining deadlines until a complete application is filed.
2. Within sixty (60) days the county will act on applications that are not a substantial change.
3. Within ninety (90) days the county will act on applications for small cell facilities or colocation applications that are not a substantial increase in the size of a tower.
4. Within one-hundred and fifty (150) days the county will act on applications for new facilities, colocation applications that are a substantial increase in the size of the tower or substantial increase of an existing telecommunication facility.

The final action of the county on any application shall be in writing and shall advise the applicant of the reasons for approval, approval with conditions, or denial.

G. Third Party Review

1. Telecommunication service providers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of telecommunication facilities, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances, there may be a need for expert review by a third party of the technical data submitted by the telecommunication facility service provider. The county may require such a technical review to be paid for by the applicant for a telecommunication facility. The selection of the third party expert may be made at the discretion of the county, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the telecommunication facility(ies) and not a subjective review of the site selection. The expert review of the technical submission shall address the following:
 - a. The accuracy and completeness of the submission;
 - b. The applicability of analysis techniques and methodologies;
 - c. The validity of conclusions reached;
 - d. Any specific technical issues designated by the county.
2. Based on the results of the third party review, the county may require changes to the application for the facility that comply with the recommendation of the expert.

Section 2.09 Overlay District Regulations

A. Rio Grande County Airport Overlay

The regulations of this section may be known and may be cited as "Rio Grande County Airport Overlay Protection Zone Regulations" or "Airport Overlay".

1. **Applicability.** In order to carry out the provisions and regulations of the Airport Overlay, certain airport overlay zones have been created which include all of the land lying within the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to a particular airport. The airport overlay is applicable to the two following airports:
 - a. The Astronaut Kent Rominger Airport
 - b. The Monte Vista Airport
2. **Purpose.** The purpose of the Airport Overlay is to minimize exposure of residential and other sensitive land uses to aircraft and their potential impacts, including noise, to minimize risks to public safety from aircraft accidents, and to discourage traffic congestion and incompatible land uses proximate to, and within, the Airport Overlay.
3. **Airport Overlay Zones.** An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are established and defined as follows:
 - a. **Runway Approach Zone.** The zone beneath the airports runway approach surfaces which is a surface that expands outward uniformly to a width of fifteen-hundred (1,500) feet at a horizontal distance of five-thousand (5,000) feet from the primary surface. Its centerline being a continuation of the centerline of the runway.
 - b. **Transitional Zones.** The zones beneath the airport's transitional surfaces, which is a surface extending outward and upward, at right angles to the runway centerline and extended runway centerline, from the sides of the primary surface and the approach surfaces at a slope of 7 to 1.
 - c. **Horizontal Zone.** The zones beneath the airports horizontal surfaces which are by swinging arcs of five-thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to these arcs. The horizontal zone does not include the approach and transitional zones.
 - d. **Conical Zone.** The zones beneath the airports conical surfaces which are defined as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of four-thousand (4,000) feet. The conical zone does not include the transitional zone.
4. **Height Limitations.** No structure or tree shall be erected, altered, allowed to grow or be maintained in the airport overlay zones to a height excess of the applicable height limit herein established for such zone. Where an area is covered by more than one height limitation, whether such limitations are imposed by these

regulations or by regulations of any other governmental entity having jurisdiction, or both, the more restrictive limitation shall prevail.

5. **Use Restrictions.** No use may be made of land or water within any of the airport overlay zones so as to:
 - a. Create electrical interference with the navigational signals or radio communications between the airport and aircraft;
 - b. Make it difficult for pilots to distinguish between airport lights and other lights;
 - c. Cause glare directed skyward in the direction of aircraft so as to interfere with air traffic;
 - d. Impair visibility in the vicinity of the airport;
 - e. Attract birds that can be reasonably expected to interfere with aircraft or the use of the airport; or
 - f. Otherwise endanger or interfere with the landing, take-off, or maneuvering of aircraft at the airport or in the vicinity of the airport.
6. **Review Procedures.** Review for compliance with the requirements of the Airport Overlay shall follow the procedure for the review of the underlying application.
7. **Submittal Requirements.** In addition to any other submittal requirements required by Article 3, *Zoning Applications and Review Procedures*, an application for new development, rezoning, or subdivision approval for land in the Airport Overlay shall include the following:
 - a. An aviation easement signed by the landowner that acknowledges flight operations above the land, recorded in the office of the county clerk and recorder. The reception number or book and page of the recorded easement shall be noted on subsequent approved plans and plats involving the land.
 - b. A study which shows compliance with the FAA, 14 CFR Part 77, and if a plat is required, a plat note on the final plat or exemption plat stating that the plat is in compliance with 14 CFR Part 77.
8. **Nonconforming Uses**
 - a. These regulations shall not require any change in the construction, alteration, or intended use of any structure, the construction, alteration, or use of which began prior to the effective date of this Land Development Code and is diligently prosecuted; provided, however, that when the nonconforming structure is destroyed or damaged it shall comply with Article 8, Nonconforming Land Uses and Structures.
 - b. The owner of any nonconforming structure or object of natural growth is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as required by the 14 CFR Part 77, to indicate to the operators of aircraft in the vicinity of the airport the presence of such

nonconforming structures or objects of natural growth. Such markers and lights shall be installed, operated, and maintained at the expense of the owner of such nonconforming structure or object of natural growth.

9. Variances

a. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use their property not in accordance with the rules prescribed in these regulations, may apply for a variance from such regulations in accordance with Section 3.10, Variance. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space.

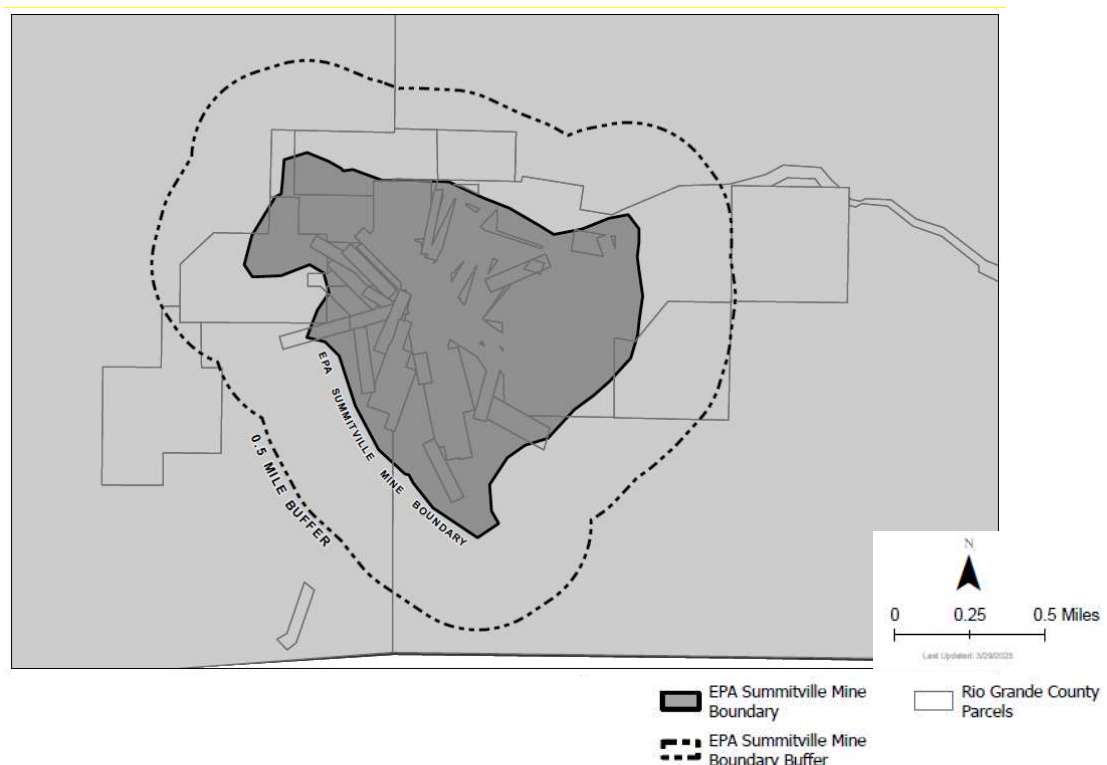
b. Hazard Marking and Lighting. Any permit or variance granted may require the owner of the structure or tree in question to allow Rio Grande County or the airport authority to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard. The cost and expense thereof to be paid by the person granted a variance.

B. Summitville Mine Overlay

1. Summitville Mine Overlay Defined

The Summitville Mine Overlay is the area owned by Rio Grande County that makes up the former mining site, along with a 2640' (1/2 mile) wide buffer area along the site's outer perimeter as shown below:

Figure F-2.1 – Summitville Mine Overlay



2. Purpose

The Summitville Mine property was declared a superfund site by the Environmental Protection Agency (EPA) and as a result underwent extensive environmental remediation. Once all remediation efforts were complete, the EPA transferred all ownership rights of the mine's parcels to Rio Grande County. This transfer resulted in the County taking perpetual responsibility for the protection of the site and its remediation treatments.

It is the purpose of this Section to ensure that all physical development and land improvement that is proposed within the buffer area has no adverse effect on the site and or any remediation treatments present. In doing so, both environmental harm and the County's financial liability can be minimized, where development is proposed.

3. Applicability

The buffer standards set forth in this Section are applicable to the Summitville Mine Overlay. All the land use applications required by Article 3. Zoning Applications and Review Procedures, Article 4. Division of Land, Article 5. Planned Unit Development, and Article 7. Natural Resource Extraction proposed within the Summitville Mine Overlay shall require compliance with this Section.

4. General Provisions

The following provisions shall be applicable to all physical development and land improvement that is proposed within the buffer area.

- a. Prior to any land-disturbing activity, a pre-application meeting shall be held with the Land Use Administrator to discuss both the proposal and its impact on the buffer area.
- b. Prior to any land-disturbing activity, the following shall be submitted concurrently with any other submittal requirements required:
 - (1) A site plan showing all proposed physical development and the limits of its disturbance.
 - (2) Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range and the overlay.
 - (3) A topographic survey showing all significant on-site features including natural and manmade features on the lot.
 - (4) A soil study.
- c. All contact and license information for all contractors who will be working on-site.
- d. A Summitville Mine Land Disturbance Agreement shall be executed and submitted to the Clerk and Recorder prior to the commencement of work.

- e. Prior to commencing any approved physical development and land improvement, all property lines and corners within the buffer area shall be staked and flagged by a licensed Colorado surveyor.

Article 3. Zoning Applications and Review Procedures

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Section 3.01 General Provisions

A. Purpose

This article lays out the application types, requirements, and review procedures for requests associated with zoning changes and land use approvals within the unincorporated areas of Rio Grande County.

B. Multiple Applications

1. **Concurrent Review Permitted.** Where multiple applications concern the same property, the Land Use Administrator may permit concurrent review of the applications for efficiency and practicality.
2. **Continued work on Application.** Applicants shall continuously and diligently pursue their application(s). An applicant who fails to respond to staff comments or requests for a period of four (4) months shall be administratively withdrawn by the Land Use Administrator. An applicant may request, in writing, an extension to the Land Use Administrator. The Land Use Administrator may allow such extension if it is determined that good cause exists to extend the application time frame.

Section 3.02 General Application Review Procedures

This section outlines the review procedures that are common to all applications regulated within Article 3, *Zoning Applications and Review Procedures*. Table T-3.1, *Zoning Application Types and Processes*, identifies the various application types and associated review procedures regulated by this article. The submittal requirements, review procedures, and approval criteria for each application type are laid out in subsequent sections of this article as identified in Table T-3.1. All documents and materials identified in this Section 3.02, *General Application Review Procedures* and the particular application type section shall be required.

A. Table of Zoning Application Types and Processes

Table T-3.1 – Zoning Application Types and Processes

	Pre-Application Meeting (§3.02.B.1)	Completeness Review (§3.02.B.3)	Referrals (§3.02.B.4)	Notice of Hearing (§3.02.B.6)	Land Use Administrator	Planning Commission (§3.02.B.7)	BOCC (§3.02.B.7)	BOA (§3.02.B.7)
<i>R=Required; O=Optional; PH=Required Public Hearing; Rec=Recommendation; D=Decision</i>								
Map Amendment (§3.03)	O	R	R	R <i>Publication Mailing</i>	Rec	R <i>PH / Rec</i>	R <i>PH / D</i>	
Text Amendment (§3.04)	O	R	R	R <i>Publication</i>	Rec	R <i>Rec</i>	R <i>PH / D</i>	
Conditional Use Permit (§3.05)	O	R	R	R <i>Publication Mailing</i>	Rec	R <i>PH / Rec</i>	R <i>PH / D</i>	
Minor Amendment to Conditional Use Permit (§3.06)	O	R	O		D			
Temporary Use Permit (§3.07)	O	R	O		D			
Site Plan (§3.08)	O	R	O		D			
Administrative Adjustment (§3.09)	O	R	O		D			
Variance (§3.10)	O	R	R	R <i>Publication Mailing</i>	Rec			R <i>PH / D</i>
Appeal (§3.11)	O	R	O	R <i>Publication Mailing</i>	Rec			R <i>PH / D</i>

B. General Review Procedures

The following procedures shall apply to all classifications of development applications which are required under this article.

1. Pre-Application Meeting

If the applicant or Land Use Administrator requests a pre-application meeting, the following process shall be followed:

- a. Prior to the formal submission of the application, the applicant shall contact the Land Use Administrator to schedule and request an informal pre-application meeting. Following receipt of a request, the pre-application meeting should be set for a date within ten (10) days of the date of the applicant's request. The Land Use Administrator shall advise the applicant of the date and time of the pre-application meeting.
- b. The applicant shall be prepared to discuss the proposed application with the Land Use Administrator. The applicant is encouraged to present such plats, plans, diagrams, or other preliminary information sufficient to permit the conceptual review of the proposed application.
- c. The purpose of the pre-application meeting is to assist the applicant in understanding the county's application review processes and to permit the Land Use Administrator to determine the applicable process(es) and regulations for the proposed application.

2. Application Submittal Requirements

All of the following information and materials shall be submitted to the Rio Grande County Land Use Department in a form acceptable to the Land Use Administrator. Additional information and materials required to be submitted for specific application types identified in Table T-3.1 are specified in subsequent sections of this article and shall also be submitted in order to receive a determination of completeness.

a. Basic Application Materials

The following materials are required for all applications regulated by Article 3, *Zoning Applications and Review Procedures*, unless waived by the Land Use Administrator.

(1) **Application Form.** An application form for the request shall be obtained from the Rio Grande County Land Use Department. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, applicant, or their designee.

(a) **Authorized Agent.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.

(b) **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all owners

or an association representing all the owners, by which all owners consent to or join in the application.

(2) Fees

(a) **Application Fees.** All applications must be accompanied by the appropriate application fee. A schedule of fees is available through the Rio Grande County Land Use Department.

(b) **Payment of Consultant Fees.** The cost of consultant and referral agency review are the responsibility of the applicant.

- (i) The county may require a deposit for payment of consultant and referral agency review fees, based upon estimated consultant review costs, at the time of application and in addition to the application fees.
- (ii) The county may suspend the application review process pending payment of consultant costs.
- (iii) The county may require additional deposits to be made if the deposit drops below twenty-five (25) percent of the original deposited amount.

(3) **Proof of Ownership.** Proof of ownership in the form of a copy of the property deed or a title commitment which has been issued within sixty (60) days of the application submittal along with copies of all documents listed in the exceptions.

(4) **Legal Description.** Legal description of the property subject to the development application.

(5) **Adjacent Property Owners.** List of all property owners within fifteen-hundred (1,500) feet of the subject property. Such list shall be generated using the Rio Grande County Assessor's most recent information available.

(6) **Mineral Interest Owners.** List of all mineral interest owners with interests severed from the subject property.

(7) **Vicinity Map.** A map locating the project limits, parcel(s), and property within Rio Grande County. The vicinity map shall clearly show the boundaries of the subject property and all property within a three-mile radius of the subject property.

(8) **General Written Narrative.** A general written narrative identifying the development team, existing conditions of the property, proposed uses, density, lot layout, end users, financing, public dedications (including rights-of-way, parks, open space, infrastructure), and describing the purpose of the project, how the request meets the applicable approval criteria, furthers the goals and objectives specified in the Master Plan, and identifying any potential impacts on adjacent properties and public infrastructure and how those impacts are proposed to be mitigated.

3. Completeness Review

When a completeness determination is required pursuant to Table T-3.1, the following shall apply:

- a. Within ten (10) days following receipt of an application, the Land Use Administrator shall administratively review the application and determine whether it includes all the application content requirements of the Land Development Code for the requested application type.
- b. All plans, reports, maps and other information required for the application must be complete and legible. A failure of the application to meet the requirements of the zoning regulations and this Land Development Code may delay the processing of the application until the application is sufficient and complete.
- c. When the Land Use Administrator determines that the application is complete as submitted, the Land Use Administrator shall schedule the application for review in accordance with the provisions set forth in this Article 3, *Zoning Applications and Review Procedures*.
- d. In the event the Land Use Administrator determines that the application is incomplete, the Land Use Administrator shall inform the applicant in writing of the deficiencies in the application. No further processing of the incomplete application shall be undertaken until the Land Use Administrator determines that the applicant has remedied the application's deficiencies.

4. Referral Agencies

In accordance with Table T-3.1, applications shall be referred to any of the below referral agencies the Land Use Administrator determines is necessary to the complete and comprehensive review of the request. Referral of applications to other agencies shall be for a minimum time frame of fourteen (14) days. However, the time frame for review and comment may be extended if the application presents technical issues which require additional review, additional information is provided by the applicant, or the application is modified. Referral agencies include, but are not limited to, the following:

- a. Bureau of Land Management (BLM)
- b. Colorado Department of Transportation (CDOT)
- c. Colorado Division of Reclamation, Mining & Safety
- d. Colorado Division of Water Resources
- e. Colorado Parks and Wildlife
- f. Colorado State Forest Service
- g. Counties and/or municipalities within a three-mile radius of any portion of the proposed zoning application.
- h. Ditch companies

- i. Fire Protection District(s) or department(s)
- j. Rio Grande County Departments (Assessor, Clerk and Recorder, Attorney, Health Department, Building Department, Road and Bridge, Sheriff Office, etc.) as appropriate
- k. Rio Grande Water Conservation District
- l. San Luis Valley Rural Electric Cooperative
- m. San Luis Valley Water Conservancy District
- n. School district(s)
- o. Soil conservation district board or boards within the County (NRCS)
- p. Utility service providers and districts
- q. US Army Corp of Engineers
- r. US Environmental Protection Agency (EPA)
- s. US Forest Service
- t. Xcel Energy / Public Service of Colorado
- u. Any other entity or agency deemed necessary by the Land Use Administrator.

5. Staff Report

The Land Use Administrator shall review the application to determine if the proposal satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the applicable standards of this Land Development Code have been satisfied. The staff report should identify issues raised through staff and referral agency review, potential mitigation requirements, any recommended conditions for approval, and any additional information pertinent to the review of the application.

6. Notice Requirements

All public notices of hearings required by these zoning regulations shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed appropriate to apprise the public of the general nature of the action proposed. When required, notice shall be given in accordance with the requirements set forth in Table T-3.1 and may include notice by publication or mailing, or a combination of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public.

a. Notice by Publication

When notice by publication is required for a public hearing by Table T-3.1, notice of the hearing shall be published in the designated newspaper of Rio Grande County at least fifteen (15) days before the date of the hearing.

b. Notice by Mailing

(1) When notice by mailing is required for a public hearing by Table T-3.1, public notices shall be sent by first class mail to all property owners identified under Section 3.02.B.2.a, *Basic Application Materials*. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

(2) When notice by mailing is required for a public hearing, mailed notice shall be addressed to owners of property within fifteen hundred (1,500) feet of the subject property boundary as their names and addresses appear in the real property records of the Rio Grande County Assessor.

(3) **Mineral Estate Notice.** Per §24-65.5-103, C.R.S. if the surface estate and mineral estate are severed, the owners of severed mineral estates shall be entitled to notification not less than thirty (30) days before the date scheduled for the public hearing for the application.

7. Public Hearings

When an application requires a public hearing before the Planning Commission, the Board of County Commissioners, or the Board of Adjustment in accordance with Table T-3.1, the following shall apply:

a. The county shall set the date and time of a public hearing. Notice of the public hearing shall be issued in accordance with Table T-3.1 and Section 3.02.B.6, *Notice Requirements*.

b. At the public hearing, the reviewing body shall review the application for conformance with the applicable review standards and approval criteria for the request.

c. Any public hearing or other action of the body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.

d. When required, the Planning Commission recommendation shall be forwarded to the Board of County Commissioners. Following a public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the application or continue the matter to a date certain.

e. The applicant shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by this Land Development Code. Any decision by the reviewing body to recommend, or to act to, approve, conditionally approve, or deny an application shall be based

upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the reviewing body shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

C. Post Approval

1. **Review.** Prior to recording of the approved documents, the applicant shall submit all final documents reflecting any conditions of approval to the Land Use Administrator for final review and acknowledgement.
2. **Recording.** Any documents required to be recorded with the Rio Grande County Clerk and Recorder shall be fully executed by the applicant and filed for execution by the county and recording. Recording of all documents shall be completed within a reasonable period of time from the date of approval by the approving body.
3. **Effective Upon Recording.** The approval does not become effective until all approved documents have been properly recorded with the Rio Grande County Clerk and Recorder.

Section 3.03 Zoning Map Amendment

A. General Provisions

Map amendments are changes to the officially adopted Rio Grande County Zoning Map. The review process for zoning map amendments are set forth in Section 3.03.B, *Review Procedures*.

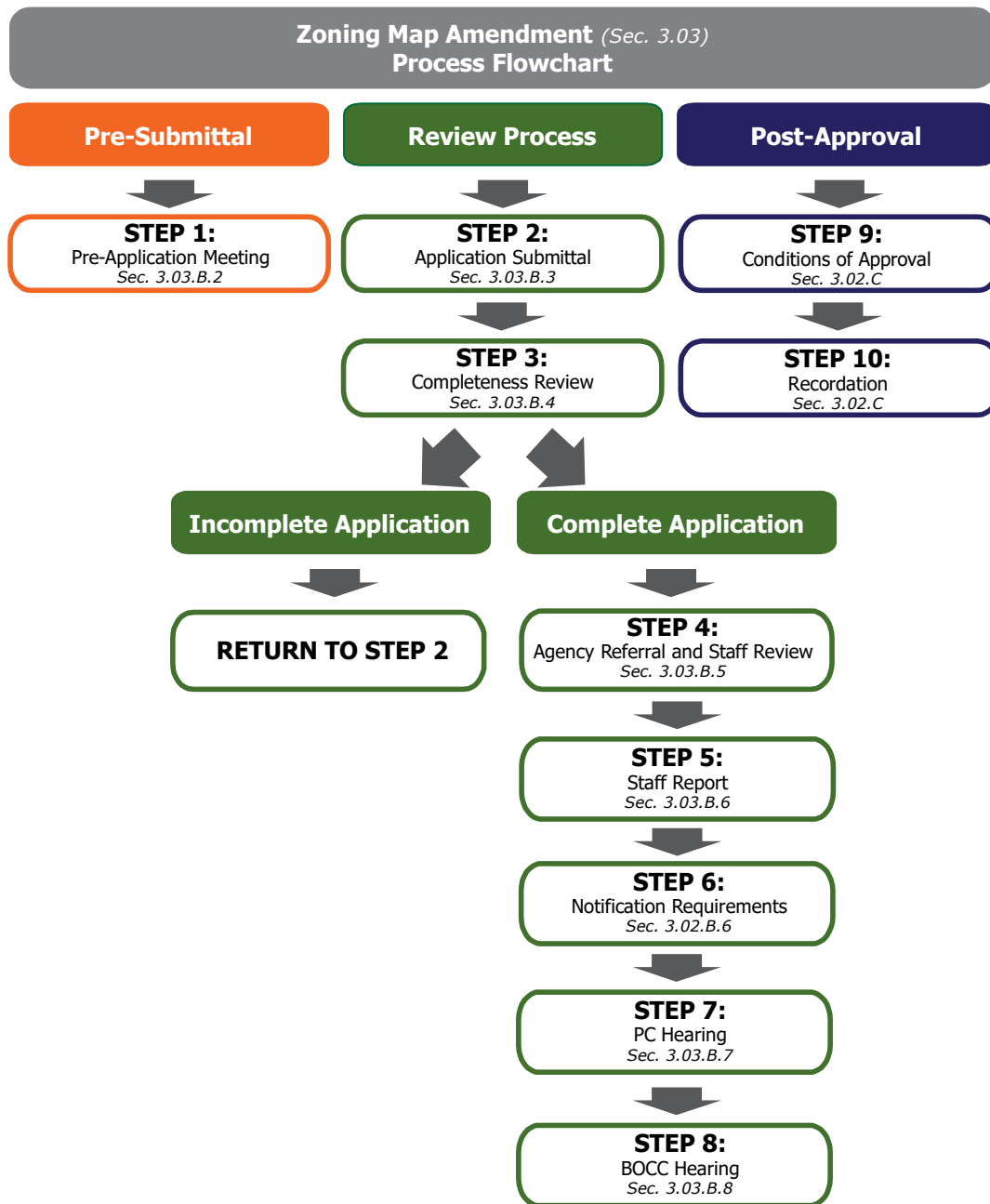
1. **When Zoning Map Amendments Should be Considered.** For the purpose of establishing and maintaining sound, stable and desirable development within the county, the rezoning of some parcels of land is permitted but as a statement of policy the rezoning of land is to be discouraged. Rezoning should only be considered if:
 - a. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the goals and policies of the Master Plan;
 - b. The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area;
 - c. The proposed rezoning is necessary in order to provide land for a use which was not anticipated at the time of the adoption of the Rio Grande County Zoning Map, and that such rezoning will be consistent with the goals and policies of the Master Plan and this Land Development Code; or
 - d. The area for which rezoning is requested is of such a nature and so located that the proposed rezoning will not adversely affect existing or anticipated uses or property values in the vicinity, and the proposed rezoning will not result in land uses that are incompatible with the Master Plan.
2. **Authorization to Initiate.** Any amendment to the Rio Grande County Zoning Map may be initiated by the Board of County Commissioners, the Planning Commission, or by application of a property owner or their authorized agent.

B. Review Procedures

1. Review Flowchart

Figure F-3.1, *Zoning Map Amendment Flowchart*, depicts the zoning map amendment application review process described in greater detail in this section.

Figure F-3.1 – Zoning Map Amendment Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a zoning map amendment request. The Land Use Administrator may waive or alter any of the

submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 3.02.B.2.a, *Basic Application Materials*.

b. **Written Narrative.** A written narrative shall be submitted addressing all of the following items and any other information.

- (1) A general written narrative describing the purpose of the project;
- (2) The source and quantity of water required for the proposed use(s) within the project;
- (3) The method of wastewater treatment and anticipated quantity of wastewater generated;
- (4) When water or wastewater service would be provided by a municipality or a water or sanitation district or other public entity, written confirmation that such entity is willing and able to provide such service;
- (5) A description of any natural or man-made hazard within or in the vicinity of the land within the application and a statement describing how the anticipated impact of such hazards would be mitigated if the proposed request requires such mitigation;
- (6) A vicinity map showing to scale the proposed project area in relationship to the surrounding municipal and unincorporated area;
- (7) A description of any unique features, such as historical sites, unique landforms or scenic vistas, contained within the project area;

c. **Site Improvement Plan**

- (1) The size of the map shall be of a size that is legible for reasonable review and interpretation, as determined by the Land Use Administrator.
- (2) A scale that is one (1) inch equals two hundred (200) feet or another suitable scale if approved by Land Use Administrator;
- (3) Legal description of the parcel;
- (4) North arrow, scale, and legend;
- (5) A vicinity map at a suitable scale;
- (6) Outline of the parcel boundary or the portion of the parcel that the application applies to;
- (7) The location and name of any streams, ponds, waterways, and irrigation ditches within the property boundaries;
- (8) The location and names of all roads and highways abutting the site;
- (9) All existing and proposed structures and their dimensions;

- (10) The location, dimensions and design of any existing signs on the site;
- (11) All utility easements or rights-of-way for telephone, gas, electric, water and sewer lines;
- (12) The location of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, walks and walkways;
- (13) General location, arrangement and dimensions of parking spaces, aisles, bays and other similar information; and
- (14) A notation on the site improvement plan of all existing or potential natural or manmade hazards on or adjacent to the site and a narrative description of an acceptable plan for the mitigation of the impact of such identified hazards.

d. **Supplemental Materials.** The following items are also required to be submitted to the Land Use Department:

- (1) Proof of minimum guaranteed water supply.

e. **Additional Requirements**

- (1) Any other information deemed necessary by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 3.02.B.5, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the map amendment application in a manner consistent with Table T-3.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 3.03.C, *Approval Criteria*.

8. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a map amendment shall be made by the Board of County Commissioners in a manner consistent with Table T-3.1 and be based upon the criteria set forth in Section 3.03.C, *Approval Criteria*.

C. Approval Criteria

The following criteria shall be found to be met by the application and supplemental materials in order for the Planning Commission and/or the Board of County Commissioners to recommend approval or approve a map amendment.

1. The map amendment is a correction of an error in an ordinance establishing the zoning for a specific property (if applicable);
2. The map amendment is consistent with the intent of applicable portions of the Master Plan in the reasonable judgement of the approving body;
3. The land is suitable for potential development or subdivision;
4. The map amendment is compatible with surrounding land uses;
5. The proposed map amendment is justified by changed or changing conditions in the character of the area proposed to be rezoned;
6. There are adequate facilities available to serve development for the type and scope anticipated by the proposed zone district compared to the existing zone district, while maintaining adequate levels of service to existing development;
7. The map amendment is consistent with the stated purpose of the proposed zoning district; and
8. Compared to the existing zone district, the map amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the project.

Section 3.04 Text Amendment

A. General Provisions

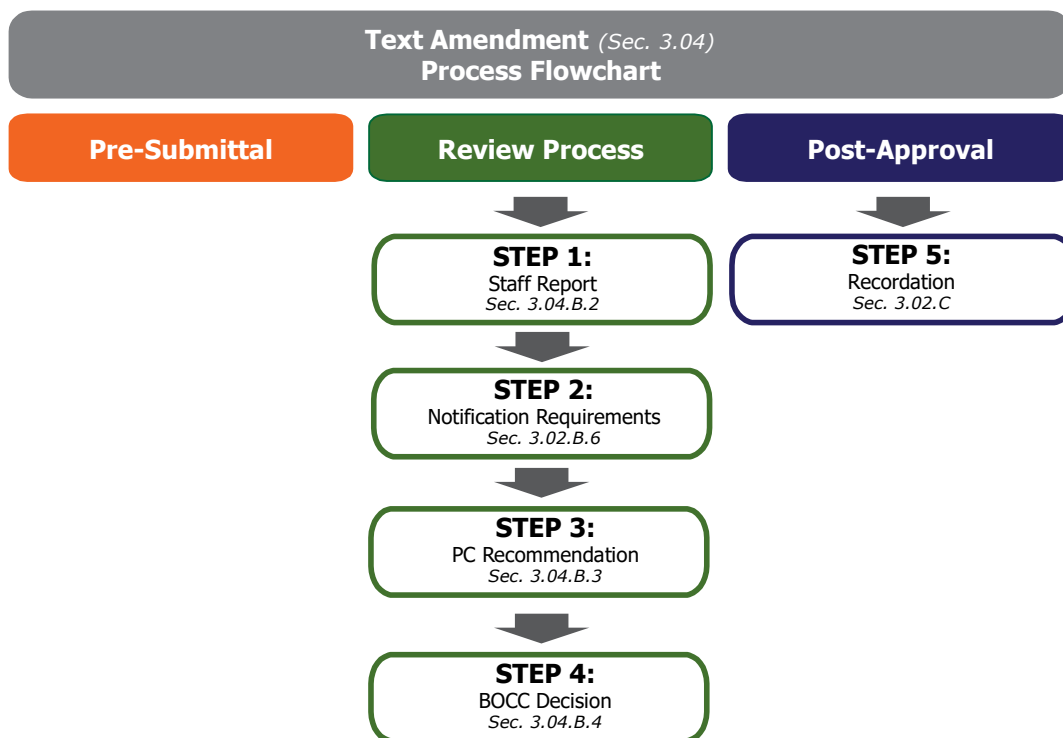
Text amendments are changes to the officially adopted Rio Grande County Land Development Code. Such amendments may be submitted, reviewed and approved pursuant to this section to respond to changed conditions, changes to public policy, or to advance the general welfare of the county. The review process for text amendments shall be reviewed as set forth in §30-28-116, C.R.S. and in Section 3.04.B, *Review Procedures*. A text amendment may only be initiated by the Planning Commission, Board of County Commissioners, Board of Adjustment, or the Land Use Administrator.

B. Review Procedures

1. Review Flowchart

Figure F-3.2, *Text Amendment Flowchart*, depicts the text amendment application review process described in greater detail in this section.

Figure F-3.2 – Text Amendment Flowchart



2. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 3.02.B.5, *Staff Report*.

3. Review and Recommendation by Planning Commission

The Planning Commission shall review the text amendment application in a manner consistent with Table T-3.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the review criteria set forth in Section 3.04.C, *Approval Criteria*.

4. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a text amendment shall be made by the Board of County Commissioners in a manner consistent with Table T-3.1 and be based upon the review criteria set forth in Section 3.04.C, *Approval Criteria*.

C. Approval Criteria

The following criteria shall be found to be met by the application and supplemental materials in order for the Planning Commission and/or the Board of County Commissioners to recommend approval or approve a text amendment.

1. The text amendment is consistent with the intent of applicable portions of the Master Plan in the reasonable judgement of the approving body; and
2. The proposed text amendment is necessary to correct an omission or error in the code;
3. The proposed text amendment is necessary to adapt to a change in conditions within the county; or
4. Changes in public policy are needed to advance the general welfare of the county.

Section 3.05 Conditional Use Permit

A. General Provisions

Conditional uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Rio Grande County at large. Conditional uses may be permitted subject to such conditions and limitations as the county may prescribe. The intent is to ensure that the location and operation of the conditional use is in accordance with the development objectives of the county and the Master Plan and will not be detrimental to other uses or properties. All conditional uses shall meet all applicable site development standards as detailed in the Land Development Code. The review process for conditional uses is set forth in Section 3.05.B, *Review Procedures*.

1. Existing Conditional Use Permits

Conditional Use Permits issued prior to the effective date of this Land Development Code shall be allowed to continue as long as the use is consistent with the conditions of the permit and the provisions of Article 8, *Nonconforming Land Uses and Structures* and is renewed as required by the Conditional Use Permit.

2. Conditional Use Permit Limitations

- a. It is the county's policy to accommodate conditional uses applied for, and conditions and modifications will be offered as a means of mitigating the adverse effects of the use in order to make it possible to approve rather than deny the application.
- b. Issuance of a conditional use permit shall authorize only the particular use for which it is issued.
- c. A conditional use that has been approved must be in operation within twelve (12) months from the date of the approval by the Board of County Commissioners or the conditional use approval becomes null and void and must be resubmitted for review and approval pursuant to Section 3.05, *Conditional Use Permit*.
- d. A conditional use permit extension may be applied for and shall be reviewed by the Board of County Commissioners.
- e. The conditional use permit is non-transferable to a future owner or to a different property.
- f. If the conditional use is discontinued for a period of twelve (12) months, regardless of any intent to resume operations, the use shall not be allowed to resume thereafter, without applying for a new conditional use permit pursuant to Section 3.05, *Conditional Use Permit*.

g. If the conditions of approval are not maintained, it shall be considered a violation of this Land Development Code, punishable in a manner set forth in Article 11, *Enforcement*. In addition, the county may revoke the permit.

3. Review and Revocation of a Conditional Use Permit

a. At such intervals as the Board of County Commissioners may have specified in its original decision, or when there is an alleged violation of the provisions of a conditional use permit, the Land Use Administrator shall review the terms, conditions, and other provisions of conditional use permit(s) issued by Board of County Commissioners.

b. Upon review of the permit terms, conditions, and provisions, the Land Use Administrator shall make recommendations to the Board of County Commissioners at its next available meeting to remedy any violations, the reasons for such recommendations, and specific time period(s) in which violations of the provisions of the permit shall be corrected.

(1) The Board of County Commissioners may apply any and all remedies and penalties set forth in the Land Development Code to correct violations of a conditional use permit.

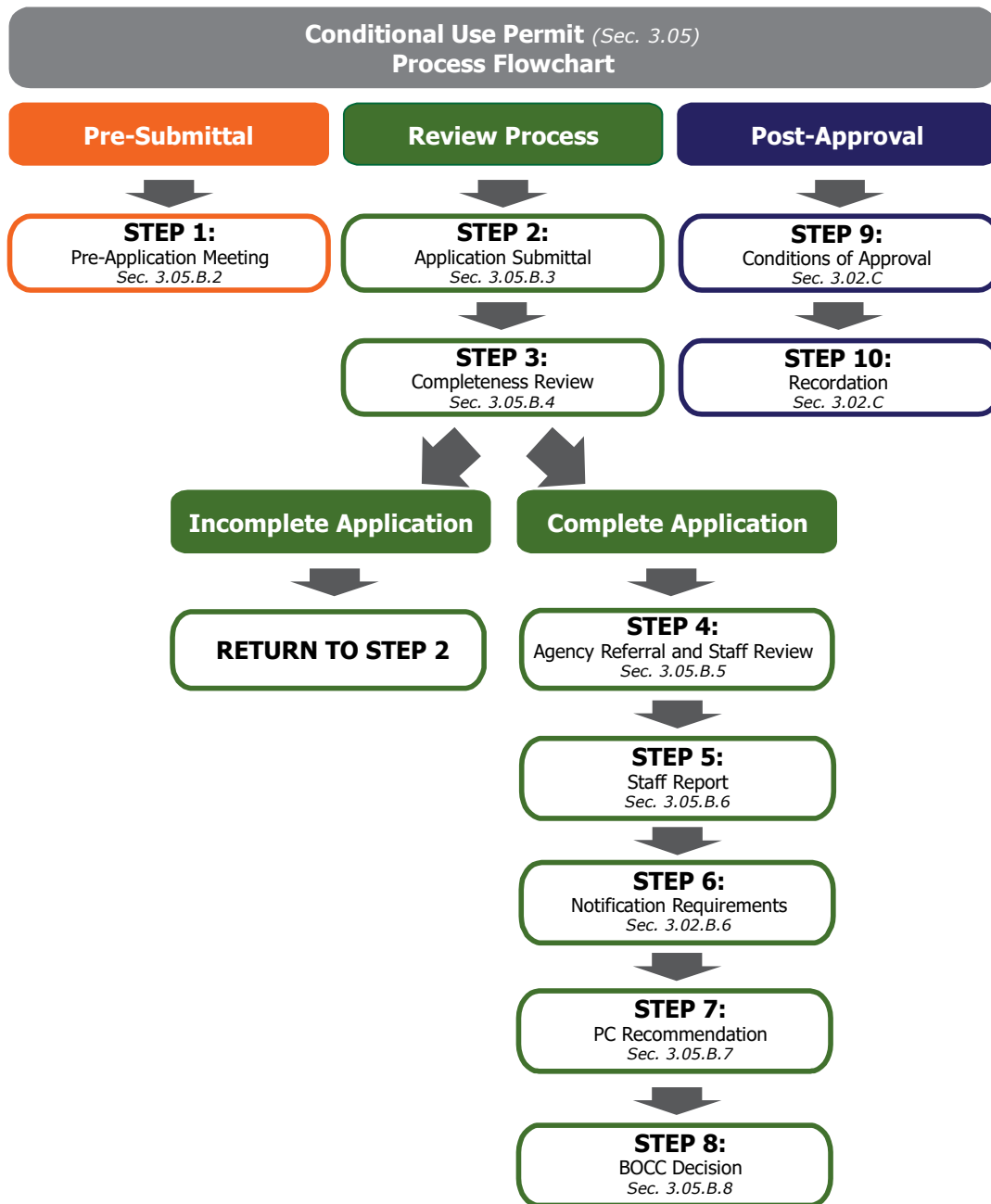
c. If the Board of County Commissioners finds that terms, conditions, and/or provisions of a conditional use permit have been violated, the conditional permit shall be revoked, and such use shall be considered in violation of the Land Development Code.

B. Review Procedures

1. Review Flowchart

Figure F-3.3, *Conditional Use Permit Flowchart*, depicts the conditional use permit application review process described in greater detail in this section.

Figure F-3.3 – Conditional Use Permit Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for conditional use requests. The Land Use Administrator may waive or alter any of the submittal

requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.

b. **Written Narrative.** A written narrative shall be submitted addressing all of the following items and any other information:

- (1) A general written narrative describing the purpose of the project;
- (2) Description of the current land use(s) on the property, the characteristics of the land within the property boundaries, and the current land use on all adjoining property;
- (3) A time schedule for construction and/or operation;
- (4) Description of how the use will be operated;
- (5) How ongoing maintenance of the use and site will be provided;
- (6) How the use's impacts on surrounding properties will be minimized and mitigated;
- (7) A statement describing how the proposed use would be in compliance with the provisions of the Master Plan;
- (8) The proposed sources of water and sanitary sewer; and
- (9) A listing of additional local, state and/or federal permits required prior to commencing the proposed land use and notation of which permits have been applied for and which, if any, have been granted.

c. **Site Improvement Plan**

- (1) The size of the map shall be of a size that is legible for reasonable review and interpretation, as determined by the Land Use Administrator.
- (2) A scale that is one (1) inch equals two hundred (200) feet or another suitable scale if approved by Land Use Administrator;
- (3) Legal description of the parcel;
- (4) North arrow; scale, and legend;
- (5) A vicinity map at a suitable scale;
- (6) Outline of the parcel boundary or the portion of the parcel that the conditional use applies to;
- (7) The location and name of any streams, ponds, waterways and irrigation ditches within the property boundaries;
- (8) Current and proposed grading and drainage patterns including:
 - (a) Drainage arrows depicting surface flow;

- (b) Drainage facilities and improvements; and
- (c) A grading plan depicting existing and proposed site contours at two-foot intervals.

(9) The location and names of all roads and highways abutting the site;

(10) All existing and proposed structures and their dimensions;

(11) The location, and dimensions of any existing and proposed signs on the site;

(12) All utility easements or rights-of-way transmission and/or service lines;

(13) The location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, walks and walkways;

(14) General location, arrangement and dimensions of parking spaces, width of aisles, width of bays, angle of parking and other similar information;

(15) A notation on the site improvement plan of all existing or potential natural or manmade hazards on or adjacent to the site and a narrative description of an acceptable plan for the mitigation of the impact of such identified hazards; and

(16) Any other information deemed necessary by the Land Use Administrator to assist in the review of the application.

d. **Supplemental Materials.** The following items are required to be submitted to the Land Use Department:

(1) Drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed.

(2) Traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure.

(3) Proof of minimum guaranteed water supply appropriate for the requested use.

e. **Additional Requirements**

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

(2) For Telecommunications Facilities, see Section 2.08, *Telecommunication Facilities*, for additional application submittal requirements.

(3) For Natural Resource Extraction Permits, see Section 7.03 *Description of Submittal Requirements*, for additional application submittal requirements.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 3.02.B.5, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the conditional use application in a manner consistent with Table T-3.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 3.05.C, *Approval Criteria*.

8. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a conditional use application shall be made by the Board of County Commissioners in a manner consistent with Table T-3.1 and be based upon the criteria set forth in Section 3.05.C, *Approval Criteria*.

C. Approval Criteria

The following criteria shall be found to be met by the application and supplemental materials in order for the Planning Commission and/or the Board of County Commissioners to recommend approval or approve a conditional use permit.

1. The application complies with all requirements imposed by this code;
2. The application complies with all applicable laws and regulations;
3. The application is consistent with the intent of applicable portions of the Master Plan in the reasonable judgement of the approving body;
4. The proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;

5. The proposed use is compatible with surrounding land users and uses;
 - a. Reasonable suggestions and objections from persons in the neighborhood are a measure of compatibility and should be taken into consideration.
6. The proposed use does not result in undue traffic congestion or traffic hazards;
and
7. The proposed use does not adversely affect soil, water, air, value and aesthetics, and if so to what extent, can these adverse effects be reasonably mitigated in the particular area.

Section 3.06 Minor Amendment to a Conditional Use Permit

A. General Provisions

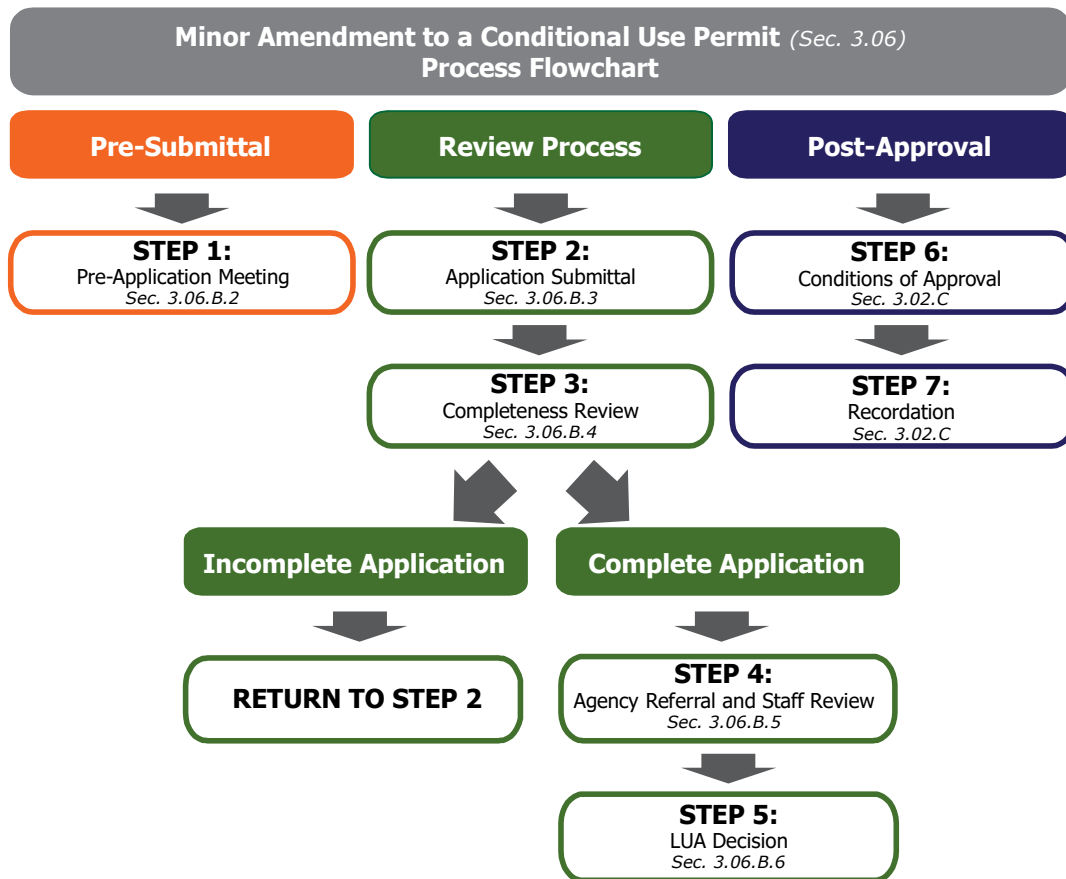
1. Minor amendments to conditional use permits are those that do not alter the basic intent and character of the approved conditional use and are deemed necessary in light of technical or engineering considerations not first discovered during actual construction; or could not have been reasonably anticipated during the initial review process. Minor amendments shall not include changes in use.
2. Any change not qualifying as a minor amendment shall be processed as a new conditional use request.
3. No conditional use permit may receive more than one (1) minor amendment. For purposes of this subsection, a minor amendment may include multiple amendments consolidated and submitted as one minor amendment to a conditional use permit application. Any additional amendments, minor or otherwise, shall be processed as a new conditional use application pursuant to Section 3.05, *Conditional Use Permit*.
4. The review process for a minor amendment to conditional use permit is set forth in Section 3.06.B, *Review Procedures*. These minor amendments may include, but are not limited to:
 - a. Variations to the location of an approved building footprint of not more than five (5) feet;
 - b. Minor deviations in the location of infrastructure (roads and utilities);
 - c. Pedestrian or vehicular circulation throughout or adjacent to the project;
 - d. Changes to the gross floor area of not more than ten (10) percent of the approved square footage;
 - e. Modifications to include necessary operations to enhance the area or clear the site;
 - f. Modification to the day by which the conditional use permit is in operation;
 - g. Other minor changes to a conditional use permit as determined by the Land Use Administrator;

B. Review Procedures

1. Review Flowchart

Figure 3.4, *Minor Amendment to a CUP Flowchart*, depicts the minor amendment to a conditional use permit application review process described in greater detail in this section.

Figure F-3.4 – Minor Amendment to a CUP Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for minor amendment to a conditional use permit requests. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

- a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.
- b. **Written Narrative.** A written narrative shall be submitted addressing all of the following items and any other information.
 - (1) A general narrative of the conditional use permit issued by the county and any conditions or provisions included in such permit;

(2) A description of the minor amendment being requested and justification and rationale for such request; and

(3) Any impacts the amendment may have on the use, adjacent properties, and/or public infrastructure.

c. **Site Improvement Plan**

(1) The site improvement plan shall include all items required for a conditional use set forth in Section 3.05.B.3.c, *Site Improvement Plan*.

d. **Supplemental Materials**

(1) The supplemental materials shall include all items required for a conditional use set forth in Section 3.05.B.3.d, *Supplemental Materials*.

e. **Additional Requirements**

(1) Any additional information deemed necessary by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Review and Decision by Land Use Administrator

The Land Use Administrator shall review the minor amendment to a conditional use permit application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an application requesting a minor amendment to a conditional use permit based on the criteria set forth in Section 3.06.C, *Approval Criteria*.

C. Approval Criteria

A minor amendment to a conditional use permit may be approved by the Land Use Administrator if the application is found to meet the approval criteria of a conditional use permit set forth in Section 3.05.C, *Approval Criteria*.

Section 3.07 Temporary Use Permit

A. General Provisions

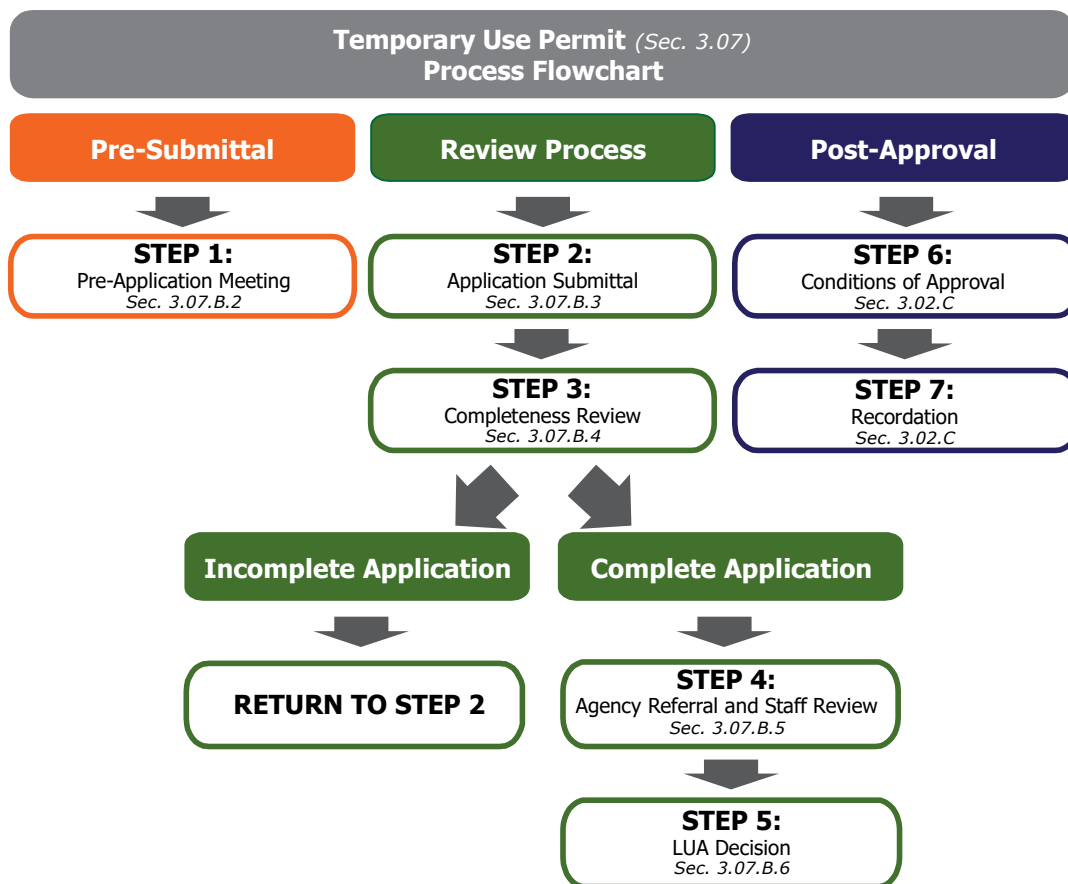
Temporary uses or structures are uses and/or structures that will be used for a specified period of time, is not permanent, or is for a special event or purpose. Allowed temporary uses are those identified in Section 2.07, *Temporary Uses and Structures*. The review process for a temporary use permit is set forth in Section 3.07.B, *Review Procedures*.

B. Review Procedures

1. Review Flowchart

Figure F-3.5, *Temporary Use Permit Flowchart*, depicts the temporary use permit application review process described in greater detail in this section.

Figure F-3.5 – Temporary Use Permit Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for temporary use permit requests. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.

b. **Site Improvement Plan**

(1) The size of the map shall be of a size that is legible for reasonable interpretation, as determined by the Land Use Administrator;

(2) A scale that is one (1) inch equals two hundred (200) feet or another suitable scale if approved by Land Use Administrator;

(3) Legal description of the parcel;

(4) North arrow;

(5) Outline of the parcel boundary or the portion of the parcel that the temporary use or event applies to;

(6) A vicinity map at a suitable scale;

(7) The location and name of any water features or irrigation ditches within the parcel;

(8) The location and names of all roads and highways abutting the site;

(9) All existing and proposed structures and their dimensions;

(10) The location, and dimensions and design of any existing and proposed signs on the site;

(11) All utility easements or rights-of-way for telephone, gas, electric, water and sewer lines;

(12) The location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, walks and walkways;

(13) General location, arrangement and dimensions of parking spaces, width of aisles, width of bays, angle of parking and other similar information;

(14) A notation on the site improvement plan of all existing or potential natural or manmade hazards on or adjacent to the site and a narrative

description of an acceptable plan for the mitigation of the impact of such identified hazards; and

- (15) Current and proposed grading and drainage patterns including:
 - (a) Drainage arrows depicting surface flow;
 - (b) Drainage facilities and improvements; and
 - (c) A grading plan depicting existing and proposed site contours at two-foot intervals.

c. Additional Requirements

- (1) Any other information deemed necessary by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies*, and review the application for conformance with the requirements and standards of this Land Development Code.

6. Decision by Land Use Administrator

The Land Use Administrator shall review the temporary use application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an application for a temporary use based on the criteria set forth in Section 3.07.C, *Approval Criteria*.

- a. The decision of the Land Use Administrator may be appealed to the Board of Adjustment in accordance with Section 3.11, *Appeal*.

C. Approval Criteria

The following criteria shall be met by the application and supplemental materials in order for the Land Use Administrator to issue a temporary use permit.

- 1. The owner of the property on which the temporary use, structure or event is proposed consents in writing to the issuance of the permit;
- 2. Local governmental agencies have the resources to dedicate to the use, structure or event;
- 3. The use, structure or event is not too intrusive or destructive to the community;
- 4. The proposed use, structure or event is compatible with surrounding land users and uses;

5. The use, structure or event complies with all requirements imposed by this code;
and
6. The use, structure or event complies with all applicable laws and regulations;

Section 3.08 Site Plan

A. General Provisions

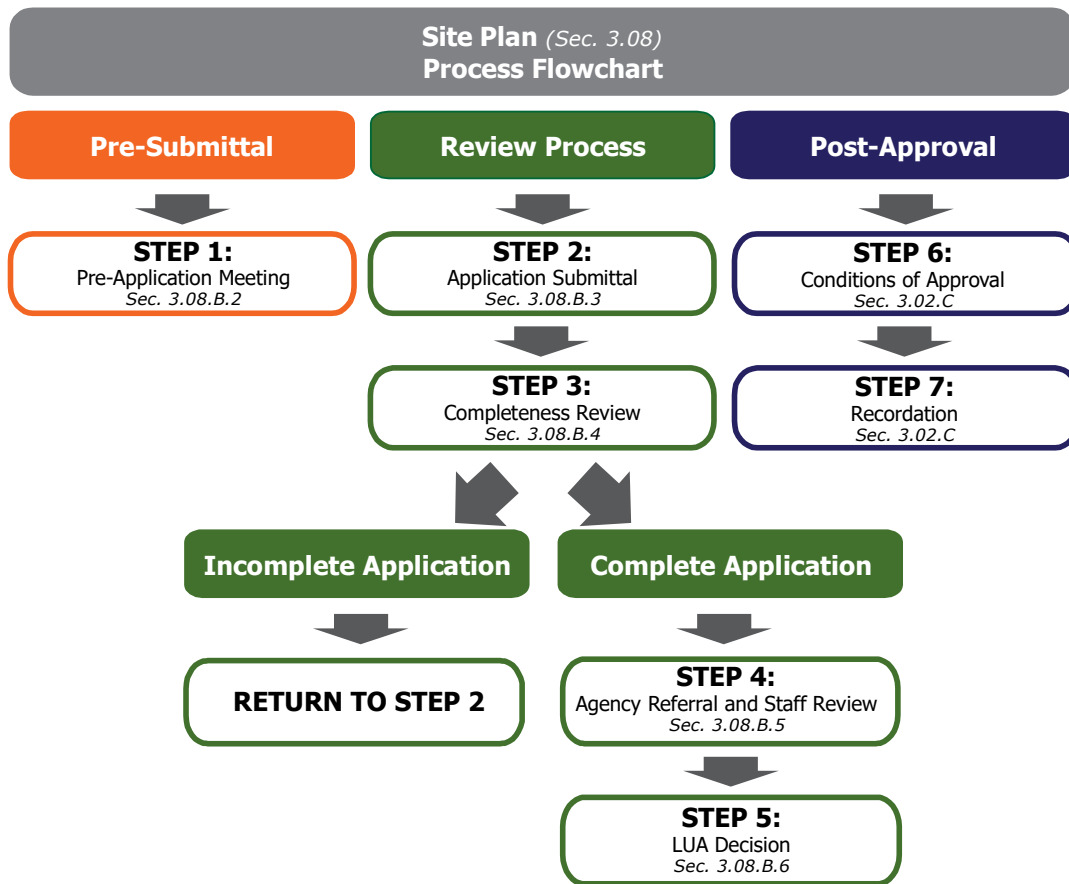
1. The purpose of a site plan is to ensure that nonresidential and multifamily uses comply with access, parking, setbacks, signage, and other site design standards as required by the Land Development Code. When site plan review is required, structures shall not be constructed or installed and uses may not begin until a site plan showing the proposed development has been approved in accordance with the procedures and provisions of this section. The review process for site plans is set forth in Section 3.08.B, *Review Procedures*.
2. The following projects require site plan approval:
 - a. All new uses and structures which are not exempted in Section 3.08.A.3;
 - b. Any modification of an existing use, structure, or site where, in the opinion of the Land Use Administrator, significant changes to the use, structure, or site are proposed; or
 - c. Any modification of an existing structure where the exemption limits set forth in Section 3.08.A.3 are exceeded.
3. The following projects are exempt from site plan approval:
 - a. Farming and ranching uses when the farming or ranching use is the primary use of the property in any zone district;
 - b. Single-family attached or detached dwellings; or
 - c. Any proposed modification of an existing structure where less than twenty (20) percent of gross floor footage of the existing structure is being modified, provided that the modification does not exceed one thousand (1,000) gross square feet.

B. Review Procedures

1. Review Flowchart

Figure F-3.6, *Site Plan Flowchart*, depicts the site plan application review process described in greater detail in this section.

Figure F-3.6 – Site Plan Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for site plan requests. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

- a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.
- b. **Written Narrative.** A written narrative shall be submitted addressing all of the following items and any other information.
 - (1) A general written narrative describing the purpose of the project;
 - (2) The proposed vehicular access including ingress, egress, internal circulation, and parking;

- (3) The source and quantity of water required for the proposed use(s) within the area to be developed;
- (4) The method of wastewater treatment and anticipated quantity of wastewater generated;
- (5) When water or wastewater service would be provided by a municipality or a water or sanitation district or other public entity, written confirmation that the public entity in question is willing and able to provide the service in question;
- (6) A description of any natural or man-made hazard within or in the vicinity of the subject parcel and a statement describing how the anticipated impact of such hazards would be mitigated if the proposed development requires such mitigation;
- (7) A description of any unique features, such as historical sites, unique landforms or scenic vistas, contained within the subject parcel.

c. Site Improvement Plan

- (1) The size of the map shall be of a size that is legible for reasonable interpretation, as determined by the Land Use Administrator.
- (2) A scale that is one (1) inch equals two hundred (200) feet or another suitable scale if approved by Land Use Administrator;
- (3) Legal description of the parcel;
- (4) North arrow, scale and legend;
- (5) A vicinity map at a suitable scale;
- (6) Outline of the parcel boundary or the portion of the parcel that the site plan applies to;
- (7) The location and name of any streams, ponds, waterways and irrigation ditches within the property boundaries;
- (8) A land use table identifying total areas of building footprints, parking areas, landscaped areas, and other uses making up the total parcel area;
- (9) Current and proposed grading and drainage patterns including:
 - (a) Drainage arrows depicting surface flow;
 - (b) Drainage facilities and improvements; and
 - (c) A grading plan depicting existing and proposed site contours at two-foot intervals;
- (10) The location and names of all roads and highways abutting the site;
- (11) All existing and proposed structures and their dimensions with dimensional ties to nearest property lines;

- (12) The location, and dimensions and design of any existing and proposed signs on the site;
- (13) All existing and proposed utility easements, service or transmission lines, or rights-of-way for telephone, gas, electric, water and sewer lines;
- (14) The location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, walks and walkways;
- (15) Location, dimensions, and types of living and non-living vegetation being proposed on the site;
- (16) General location, arrangement and dimensions of parking spaces, width of aisles, width of bays, angle of parking and other similar information; and
- (17) A notation on the site improvement plan of all existing or potential natural or manmade hazards on or adjacent to the site and a narrative description of an acceptable plan for the mitigation of the impact of such identified hazards.

d. **Supplemental Materials.** The following items are also required to be submitted to the Land Use Department:

- (1) Drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed.
- (2) Traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure.
- (3) Proof of minimum guaranteed water supply appropriate for the requested use.

e. **Additional Requirements**

- (1) Any other information deemed necessary by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies*, and review the application for conformance with the requirements and standards of this Land Development Code.

6. Decision by Land Use Administrator

The Land Use Administrator shall review the site plan application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny a site plan based on the criteria set forth in Section 3.08.C, *Approval Criteria*.

- a. The decision of the Land Use Administrator may be appealed to the Board of Adjustment in accordance with Section 3.11, Appeal.

C. Approval Criteria

Prior to making a decision on a site plan application, the Land Use Administrator shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

1. The application complies with all requirements imposed by this code;
2. The application complies with all applicable laws and regulations;
3. The proposed use is compatible with surrounding land users and uses; and
4. The proposed use does not result in undue traffic congestion or traffic hazards.

Section 3.09 Administrative Adjustment

A. General Provisions

An administrative adjustment may be requested by an applicant to adjust any dimensional standard set forth in Article 2, *Zoning Regulations*, by no more than ten (10) percent of the required dimensional standard. An administrative adjustment shall be submitted and reviewed in compliance with this Section 3.09, *Administrative Adjustment*.

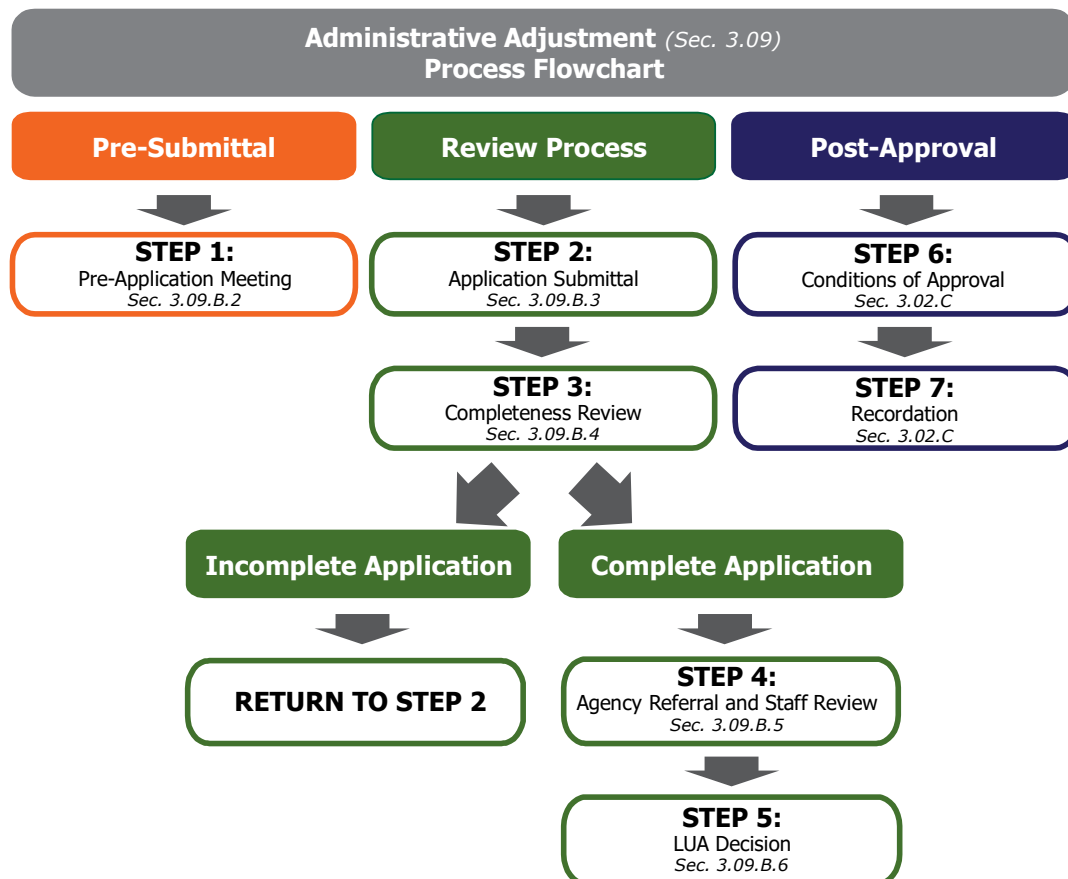
1. The request for an administrative adjustment must be made in writing to the Land Use Administrator.
2. If an applicant desires over ten (10) percent relief from a dimensional standard set forth in Article 2, *Zoning Regulations*, the applicant must pursue a variance in accordance with Section 3.10, *Variance*.

B. Review Process

1. Review Flowchart

Figure F-3.7, *Administrative Adjustment Flowchart*, depicts the administrative adjustment application review process described in greater detail in this section.

Figure F-3.7 – Administrative Adjustment Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for administrative adjustment requests. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

- a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.
- b. **Written Narrative.** A written narrative shall be submitted addressing all of the following items and any other information.
 - (1) Explanation of the request(s) and justification for why the standard for which an adjustment is being requested is unable to be met;
 - (2) Any efforts the applicant or property owner has made to meet the minimum standards;
 - (3) Justification for the request and how the request is the minimum required standard(s); and
 - (4) Description of how the request meets each of the criterion set forth in Section 3.09.C, *Approval Criteria*.
- c. **Site Improvement Plan**
 - (1) All existing, required, and proposed dimensional standards clearly depicting the location and increase of the administrative adjustment request.
 - (2) A table identifying the required standard(s) and the numerical value being requested by the administrative adjustment.
- d. **Additional Requirements**
 - (1) Any additional information requested by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies*, and review the application for conformance with the requirements and standards of this Land Development Code.

6. Decision by Land Use Administrator

The Land Use Administrator shall review the administrative adjustment application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an administrative adjustment based on the approval criteria set forth in Section 3.09.C, *Approval Criteria*.

- a. The decision of the Land Use Administrator may be appealed to the Board of Adjustment in accordance with Section 3.11, Appeal.

C. Approval Criteria

The land use administrator may approve an administrative adjustment upon a finding that:

1. The request is consistent with the intent, purpose, and goals of this Land Development Code;
2. The administrative adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:
 - a. Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
 - b. Support by an objective or goal from the purpose and intent of the zoning district within which the project is located; or
 - c. Proposed to protect sensitive natural resources or better integrate development with the surrounding environment.

Section 3.10 Variance

A. General Provisions

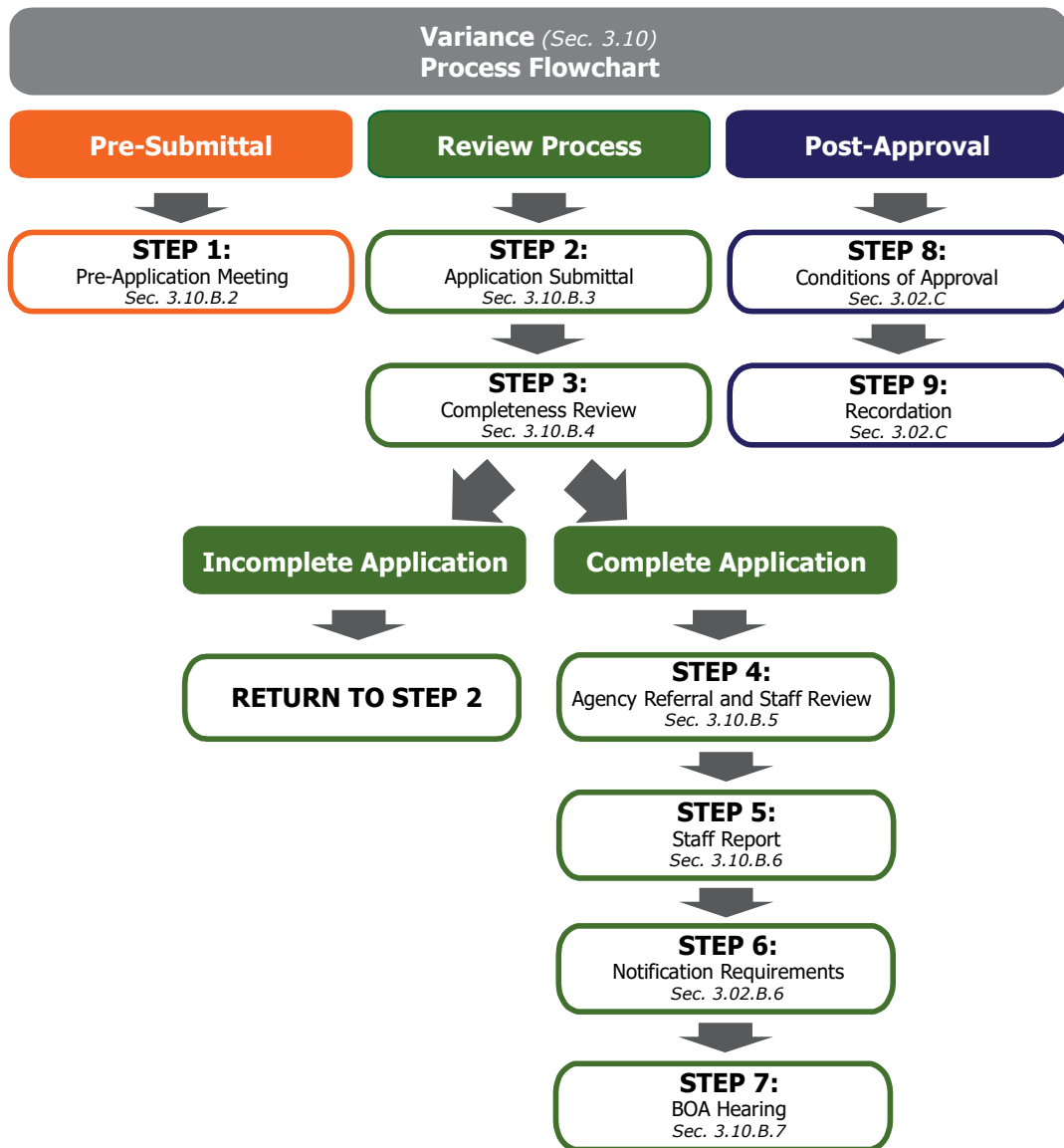
Variations are deviations from the zoning dimensional standards set forth in Article 2, *Zoning Regulations*, that would not be contrary to the public interest when, owing to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness or the shape of a specific piece of property, the literal enforcement of the provisions of this Land Development Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

B. Review Procedures

1. Review Flowchart

Figure 3.8, *Variance Flowchart*, depicts the variance application review process described in greater detail in this section.

Figure F-3.8 – Variance Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for variance requests. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

- a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.
- b. **Written Narrative.** A written narrative shall be submitted addressing all of the following items and any other information.
 - (1) Explanation of the request(s) and justification for why the standard for which the variance is being requested is unable to be met;
 - (2) Any efforts the applicant or property owner has made to meet the minimum standards;
 - (3) Justification for the request and how the request is the minimum required standard(s);
 - (4) Description of how the request meets each of the criterion set forth in Section 3.10.C, *Approval Criteria*; and
- c. **Site Improvement Plan**
 - (1) All existing, required, and proposed dimensional standards clearly depicting the location and increase of the variance request.
 - (2) A table identifying the required standard(s) and the numerical value being requested by the variance.
- d. **Additional Requirements**
 - (1) Any additional information requested by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies*, and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 3.02.6, *Staff Report*.

7. Review and Decision by Board of Adjustment

The Board of Adjustment shall conduct a review of the variance application in a manner consistent with Table T-3.1 to evaluate compliance with applicable standards. Following its review of the application, the Board of Adjustment shall approve, approve

with conditions, or deny the application based on the criteria set forth in Section 3.10.C, *Approval Criteria*.

C. Approval Criteria

The Board of Adjustment may only approve a variance upon a finding that the following criteria have been met:

1. Literal enforcement of the standard or requirement would place an unnecessary and unreasonable hardship upon the applicant;
2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the neighborhood and surrounding area;
3. The proposed variance will not have adverse effect on the intent of the applicable portions of the Master Plan in the reasonable judgement of the Board of Adjustment; and
4. That the demonstrable hardship is not self-imposed.

Section 3.11 Appeal

A. General Provisions

Administrative interpretations and final decisions of the Land Use Administrator may be appealed to the Board of Adjustment. Recommendations to a decision-making authority are not subject to appeal pursuant to this Section 3.11, *Appeal*.

1. Appeal to Court

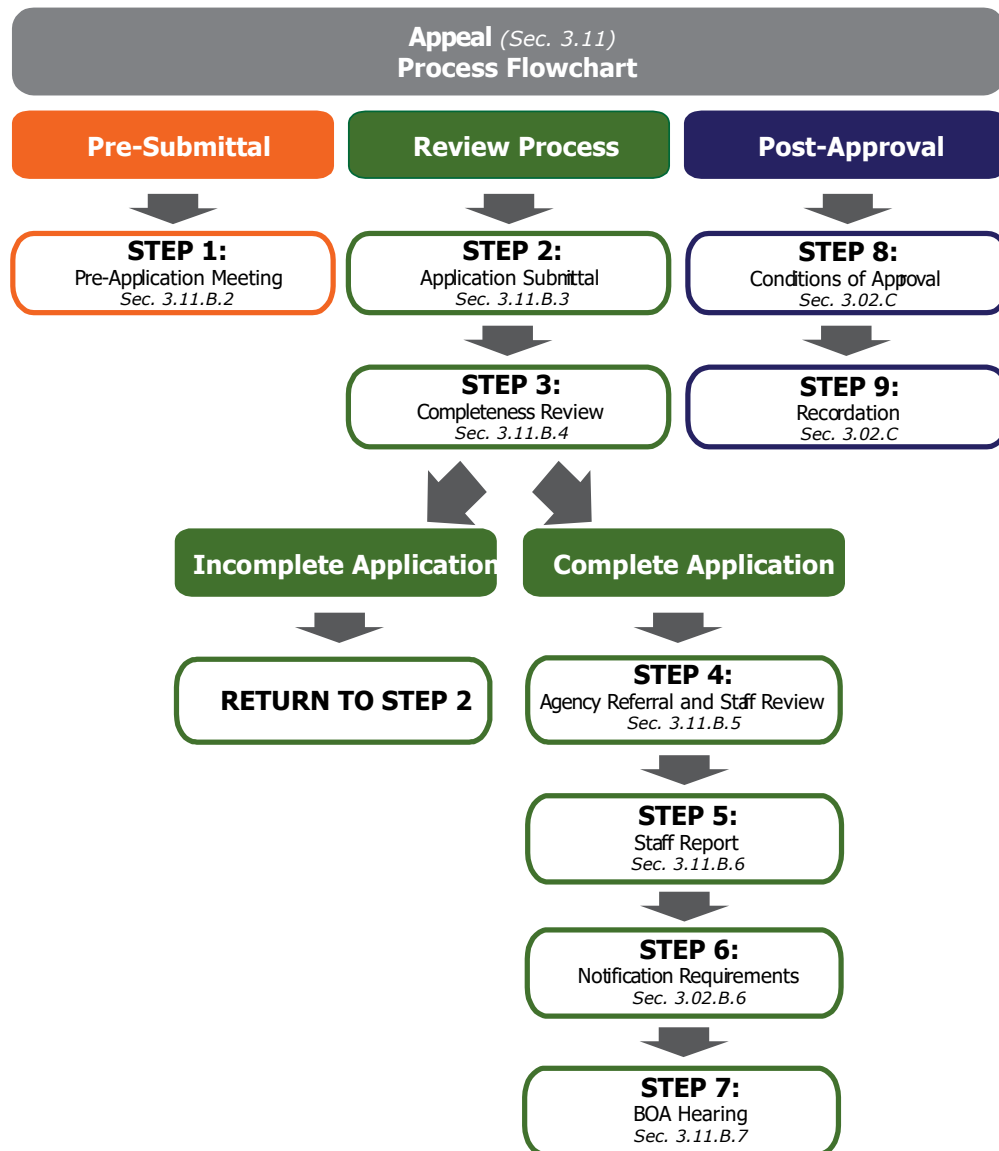
Any person applying to the courts for a review of any decision made under the terms of this section shall apply for review within thirty (30) days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings and the application for review shall be in the nature of certiorari under Rule 106 (a) (4) of the Colorado Rules of Civil Procedure. The county shall be entitled to appeal any decision of the District Court under said Rule 106 proceedings.

B. Review Procedures

1. Review Flowchart

Figure F-3.9, *Appeal Flowchart*, depicts the appeal application review process described in greater detail in this section.

Figure F-3.9 – Appeal Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 3.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for appeal requests. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic Application Materials.** All items set forth in Section 3.02.B.2.a, *Basic Application Materials*.

b. **Written Narrative including the following:**

(1) A short statement indicating the nature of the application, the application number, the date of the decision by the Land Use Administrator;

(2) A copy of the written decision of the Land Use Administrator; and

(3) A short but specific statement setting forth the relief being sought and the grounds on which the relief should be granted. The statement shall include the particular section number(s) of the code with which the applicant believes the written decision by the Land Use Administrator does not comply.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 3.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 3.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 3.02.B.5, *Staff Report*.

7. Review and Decision by Board of Adjustment

The Board of Adjustment shall conduct a review of the appeal application in a manner consistent with Table T-3.1 to evaluate compliance with applicable standards. Following its review of the application, the Board of Adjustment shall approve, approve with conditions, or deny the application based on the criteria set forth in Section 3.11.C, *Approval Criteria*.

C. Approval Criteria

The Board of Adjustment may only approve an appeal upon a finding that the following criteria have been met:

1. Literal enforcement of the standard or requirement would place an unnecessary and unreasonable hardship upon the applicant;
2. The granting of the appeal will not be materially detrimental to the public welfare or injurious to other property in the neighborhood and surrounding area;
3. The appeal will not have adverse effect on the intent, goals, and policies of the Master Plan;

4. The appeal will not be averse to the intent of the applicable portions of the Master Plan in the reasonable judgement of the Board of Adjustment;
5. Evidence of the manner in which the provision has been interpreted in the past, if applicable; and
6. The positive or negative impact of the requested appeal on the achievement of the purposes of the Land Development Code.

Article 4. Division of Land

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Section 4.01 General Provisions

A. Purpose

This article lays out the application requirements and review procedures for requests to divide land within the unincorporated areas of Rio Grande County.

B. Types of Land Division

Division of land in Rio Grande County are classified by the county as either a Minor Subdivision, a Major Subdivision, or a Special Land Division. All divisions of land will require approval of either a subdivision plat, exemption plat, or survey plat as set forth in Section 4.02, *General Land Division Review Procedures*.

C. Sale Prohibited Prior to Subdivision Plat Approval

No person with any interest in land located within a subdivision or a proposed subdivision shall transfer or agree to sell or offer to sell or sell any land before the subdivision plat for the subdivision has been approved by the Board of County Commissioners and recorded with the County Clerk and Recorder.

D. Land Division Approval Prior to Building Construction

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

E. Multiple Applications

1. **Concurrent Review Permitted.** Where multiple land division applications concern the same property, the Land Use Administrator may permit concurrent review of the land division applications for efficiency and practicality.
 - a. It is recommended that each of the three major subdivision application steps shall be processed separately. However, the Land Use Administrator may administratively agree to permit the consolidation and concurrent processing of a sketch plan and preliminary plan or a preliminary plan and final plat where the Land Use Administrator determines that the issues associated with the proposed major subdivision are not substantial and that an adequate review of the anticipated impacts of the proposed subdivision can be accommodated during a consolidated and combined review.
2. **Continued Work on Application.** Applicants shall continuously and diligently pursue their land division applications. An applicant who fails to respond to staff comments or requests for a period of four (4) months shall be administratively withdrawn by the Land Use Administrator. An applicant may request an extension to the Land Use Administrator. The Land Use Administrator may allow such extension if it is determined that good cause exists to extend the application time frame.

F. Amendment to a Recorded Plat

If it is determined by the Land Use Administrator or surveyor of record that there is a minor survey, clerical, or drafting error in a recorded plat or map regulated under this Article 4, *Division of Land*, an affidavit of correction shall be submitted to the Land Use Administrator with verification of the correction by the surveyor of record of the plat and at least one (1) additional Colorado licensed Professional Land Surveyor who shall bear no relationship to and have no financial interest in the subdivision or other potential conflict of interest.

Section 4.02 General Land Division Review Procedures

This section outlines the review procedures that are common to all division of land applications regulated within Article 4, *Division of Land*. Table T-4.1, Land Division Processes, identifies the various application types and associated review procedures regulated by this article. The submittal requirements, review procedures, and approval criteria for each application type are laid out in subsequent sections of this article as identified in Table T-4.1. All documents and materials identified in this Section 4.02, *General Land Division Review Procedures* and the particular application type section shall be required.

A. Table of Land Division Processes

Table T-4.1 – Land Division Processes

	Pre-Application Meeting (§4.02.B.1)	Completeness Review (§4.02.B.3)	Referrals (§4.02.B.4)	Notice of Hearing (§4.02.B.6)	Land Use Admin	Planning Commission (§4.02.B.7)	BOCC (§4.02.B.7)	Recording (§4.02.C)
<i>R=Required; O=Optional; PH=Required Public Hearing; Rec=Recommendation; D=Decision</i>								
Minor Subdivision (§4.04)	O	R	R	R <i>Publication Mailing</i>	Rec	PH Rec	PH D	R
Major Subdivision (§4.03)								
Sketch Plan (§4.03.B.1)	R	R	R		Rec	Rec	PH D	
Preliminary Plan (§4.03.B.2)	R	R	R	R <i>Publication Mailing</i>	Rec	PH Rec	PH D	
Final Plat (§4.03.B.3)		R	R		Rec		D	R
Special Land Divisions								
Boundary or Lot Line Revisions (§4.05)	O	R	O		D			R
Cluster Development (§4.06)	O	R	O	R <i>Publication Mailing</i>	Rec	PH Rec	PH D	R
Condominium Subdivision (§4.07)	O	R	O	R <i>Publication Mailing</i>	Rec	PH Rec	PH D	R
Exempt Division of Land (§4.08)	O	R	O		D			R
Lot Consolidation (§4.09)	O	R	O		D			R
Plat Vacation (§4.10)	O	R		R <i>Publication Mailing</i>	Rec		R PH/D	R
Resubdivision (§4.11)	O	R	O	R <i>Publication Mailing</i>	Rec	R PH/Rec	R PH/D	R

	Pre-Application Meeting (§4.02.B.1)	Completeness Review (§4.02.B.3)	Referrals (§4.02.B.4)	Notice of Hearing (§4.02.B.6)	Land Use Admin	Planning Commission (§4.02.B.7)	BOCC (§4.02.B.7)	Recording (§4.02.C)
<i>R=Required; O=Optional; PH=Required Public Hearing; Rec=Recommendation; D=Decision</i>								
Right-of-way Vacation (§4.12)	O	R	O	R <i>Publication Mailing</i>	Rec	Rec	R <i>PH/D</i>	R
Statutory Exemption Plat (§4.13)	O	R	O		D			R

Where a conflict exists between this Table T-4.1 and the text of this Article, the text in this article *shall control*.

B. General Review Procedures

The following procedures shall apply to all land division applications which are required under this article.

1. Pre-Application Meeting

If the applicant or Land Use Administrator requests one, the following process shall apply:

- a. Prior to the formal submission of the land division application, the applicant shall contact the Land Use Administrator to schedule and request an informal meeting. Following receipt of a request, the pre-application meeting shall be set for a date within ten (10) days of the date of the applicant's request. The Land Use Administrator shall advise the applicant of the date and time of the pre-application meeting.
- b. The applicant shall be prepared to discuss the proposed land division application with the Land Use Administrator. The applicant is encouraged to present such plats, plans, diagrams, or other preliminary information sufficient to permit the conceptual review of the proposed land division application.
- c. The purpose of the pre-application meeting is to assist the applicant in understanding the county's land division processes and to permit the Land Use Administrator to determine the applicable process and regulations for the proposed land division application.

2. Application Submittal Requirements

a. Basic Application Materials

The following materials are required for all applications regulated by Article 4, *Division of Land*, unless waived by the Land Use Administrator:

- (1) **Application Form.** An application form for a division of land shall be obtained from the Rio Grande County Land Use Department. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, applicant, or their designee.

(a) **Authorized Agent.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.

(b) **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all owners or an association representing all the owners, by which all owners consent to or join in the application.

(2) **Fees**

(a) **Application Fees.** All applications must be accompanied by the appropriate application fee. A schedule of fees is available through the Rio Grande County Land Use Department.

(b) **Payment of Consultant Fees.** The cost of consultant and referral agency review are the responsibility of the applicant.

(i) The county may require a deposit for payment of consultant and referral agency review fees, based upon estimated consultant review costs, at the time of application and in addition to the application fees.

(ii) The county may suspend the application review process pending payment of consultant costs.

(iii) The county may require additional deposits to be made if the deposit drops below twenty-five (25) percent of the original deposited amount.

(3) **Proof of Ownership.** Proof of ownership in the form of a copy of the property deed or a title commitment which has been issued within sixty (60) days of the application submittal along with copies of all documents listed in the exceptions.

(4) **Legal Description.** Legal description of the property subject to the division of land application.

(5) **Adjacent Property Owners.** List of all property owners within fifteen hundred (1,500) feet of the subject property. Such list shall be generated using the Rio Grande County Assessor's most recent information available.

(6) **Mineral Interest Owners.** List of all mineral interest owners with interests severed from the subject property.

(7) **Vicinity Map.** A map locating the project limits, parcel(s), and property within Rio Grande County. The vicinity map shall clearly show the boundaries of the subject property and all property within a three-mile radius of the subject property.

(8) **General Written Narrative.** A general written narrative identifying the development team, existing conditions of the property, proposed uses, density, lot layout, end users, financing, public dedications (including rights-of-way,

parcs, open space, infrastructure), and describing the purpose of the project, how the request meets the applicable approval criteria, furthers the goals and objectives specified in the Master Plan, and identifying any potential impacts on adjacent properties and public infrastructure and how those impacts are proposed to be mitigated.

3. Completeness Review

When a completeness determination is required pursuant to Table T-4.1, the following shall apply:

- a. Within ten (10) days following receipt of a land division application, the Land Use Administrator shall administratively review the application and determine whether it includes all the application content requirements of the Land Development Code for the requested application type.
- b. All plans, reports, maps and other information required for the application must be complete and legible. A failure of the land division application to meet the requirements of the land division regulations and Land Development Code may delay the processing of the application until the application is sufficient and complete.
- c. When the Land Use Administrator determines that the land division application is complete as submitted, the Land Use Administrator shall schedule the land division application for review in accordance with the provisions set forth in this Article 4, *Division of Land*.
- d. In the event the Land Use Administrator determines that the land division application is incomplete, the Land Use Administrator shall inform the applicant in writing of the deficiencies in the application. No further processing of the incomplete land division application shall be undertaken until the Land Use Administrator determines that the applicant has remedied the application's deficiencies.

4. Referral Agencies

In accordance with Table T-4.1, land division application shall be referred to any of the below referral agencies the Land Use Administrator determines is necessary to the complete and comprehensive review of the request. Referral of land division applications to other agencies shall be for a minimum time frame of fourteen (14) days. However, the time frame for review and comment may be extended if the land division application presents technical issues which require additional review, or if additional information is provided by the applicant, or the land division application is modified. Referral agencies include, but are not limited to, the following:

- a. Bureau of Land Management (BLM)
- b. Colorado Department of Transportation (CDOT)
- c. Colorado Division of Reclamation, Mining & Safety
- d. Colorado Division of Water Resources

- e. Colorado Parks and Wildlife
- f. Colorado State Forest Service
- g. Counties and/or municipalities within a three-mile radius of any portion of the proposed zoning application.
- h. Ditch companies
- i. Fire Protection District(s) or department(s)
- j. Rio Grande County Departments (Assessor, Clerk and Recorder, Attorney, Health Department, Building Department, Road and Bridge, Sheriff Office, etc.) as appropriate
- k. Rio Grande Water Conservation District
- l. San Luis Valley Rural Electric Cooperative
- m. San Luis Valley Water Conservancy District
- n. School district(s)
- o. Soil conservation district board or boards within the County (NRCS)
- p. Utility service providers and districts
- q. US Army Corp of Engineers
- r. US Environmental Protection Agency (EPA)
- s. US Forest Service
- t. Xcel Energy / Public Service of Colorado
- u. Any other entity or agency deemed necessary by the Land Use Administrator.

5. Staff Report

The Land Use Administrator shall review the land division application to determine if the proposal satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the applicable standards of the land Development Code have been satisfied. The staff report should identify issues raised through staff and referral review, potential mitigation requirements, any recommended conditions for approval, and any additional information pertinent to the review of the land division application.

6. Notice Requirements

All public notices of hearings required by these land division regulations shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed appropriate to apprise the public of the general nature of the action proposed. When required, notice shall be given as set forth in Table T-4.1 and may include notice by publication or mailing, or a combination

of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably misled or misinformed the public.

a. **Notice by Publication**

When notice by publication is required for a public hearing by Table T-4.1, notice of the hearing shall be published in the designated newspaper of Rio Grande County at least fifteen (15) days before the date of the hearing.

b. **Notice by Mailing**

(1) When mailed notice is required for a public hearing by Table T-4.1, the county shall mail public notices by first class mail to all property owners identified under Section 4.02.B.2.a, *Basic Application Materials*. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

(2) When notice by mailing is required for a public hearing, mailed notice shall be addressed to owners of property within fifteen hundred (1,500) feet of the subject property boundary as their names and addresses appear in the real property records of the Rio Grande County Assessor.

(3) **Mineral Estate Notice.** Per §24-65.5-103 C.R.S. if the surface estate and mineral estate are severed, the owners of severed mineral estates shall be entitled to notification not less than thirty (30) days before the date scheduled for the public hearing for the land division application.

7. Public Hearings

When a land division application requires a public hearing before the Planning Commission or the Board of County Commissioners as set forth in Table T-4.1, the following shall apply:

a. The county shall set the date and time of a public hearing to be held by the Planning Commission. Notice of the public hearing shall be issued in accordance with Table T-4.1 and Section 4.02.B.6, *Notice Requirements*.

b. At the public hearing, the reviewing body shall review the land division application for conformance with the applicable review standards and approval criteria for the request.

c. Any public hearing or other action of the reviewing body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.

d. When required, the Planning Commission recommendation shall be forwarded to the Board of County Commissioners. Following a public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the land division application or continue the matter to a date certain.

e. The applicant shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth in this Land Development Code. Any decision by the reviewing body to recommend, or to act to, approve, conditionally approve, or deny a land division application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the reviewing body shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

C. Post Approval

1. **Review.** Prior to recording of the approved documents, the applicant shall submit all final documents reflecting any conditions of approval to the Land Use Administrator for final review and acknowledgement prior to recording the documents.
2. **Recording.** Any documents required to be recorded with the Rio Grande County Clerk and Recorder shall be filed for recording within a reasonable period of time from the date of approval by the approving body.
3. **Approval of Improvement Agreement.** A final plat shall not be filed for recording until the Board has approved an Improvement Agreement pursuant to this article.
4. **Effective Upon Recording.** A plat does not become effective until it is properly filed for recording with the Rio Grande County Clerk and Recorder.
5. **Public Sale of Lots.** A division of land becomes complete and eligible for public sale of lots and development only after the plat and associated approved documents have been properly recorded with the Rio Grande County Clerk and Recorder.

Section 4.03 Major Subdivision

A. General Provisions

Division of land applications which are defined as a major subdivision in Article 13, *Definitions*, shall be reviewed in compliance with the provisions of this Section 4.03.B, *Review Procedures*. Major subdivisions require three separate stages of approval.

1. **Sketch Plan Review.** The process for sketch plan review is set forth in Section 4.03.B.1, *Sketch Plan Review*.
2. **Preliminary Plan Review.** The process for preliminary plan review is set forth in Section 4.03.B.2, *Preliminary Plan Review*.
3. **Final Plat Review.** The process for final plat review is set forth in Section 4.03.B.3, *Final Plat Review*.

B. Review Procedures

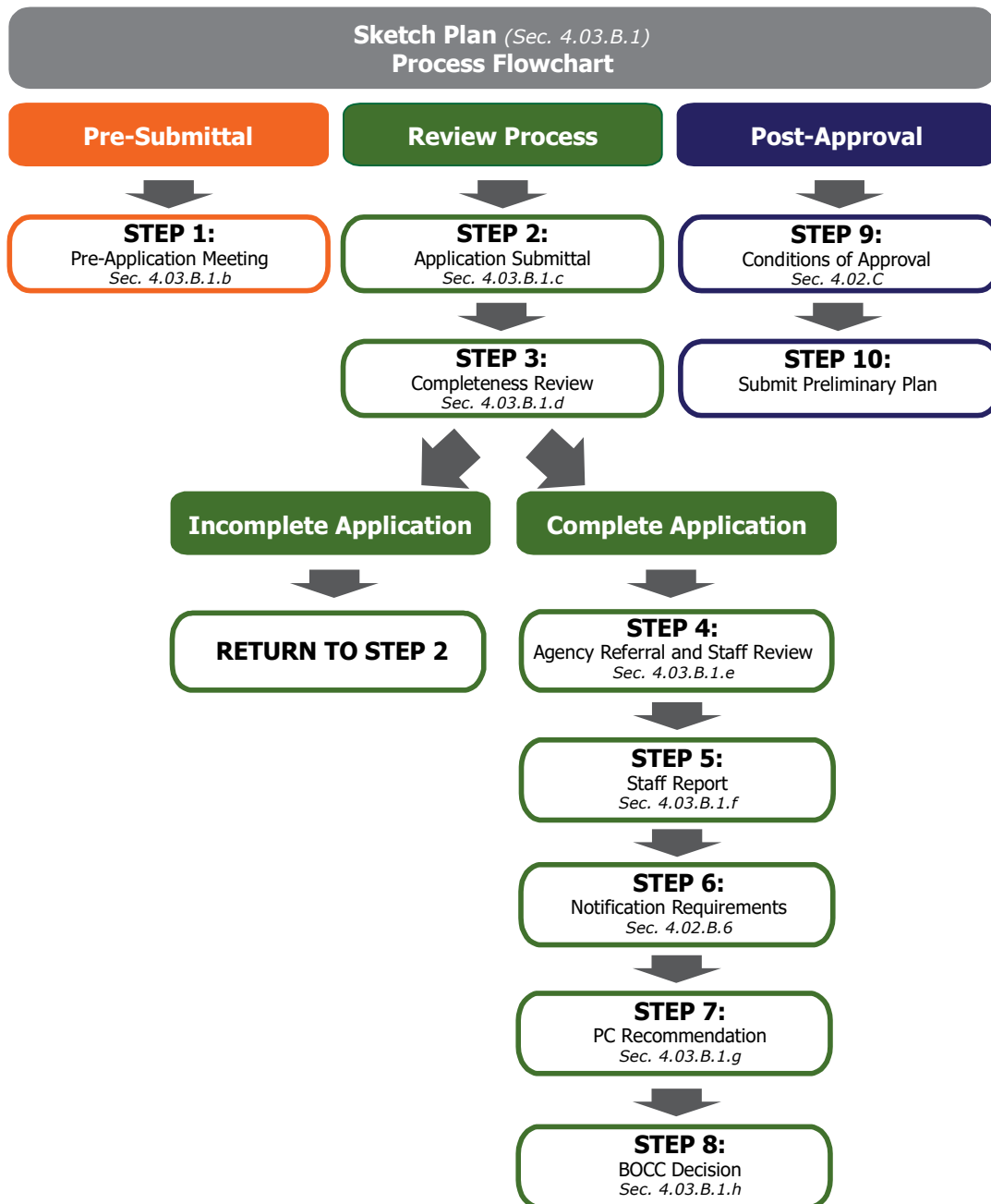
1. Sketch Plan Review

The sketch plan review process is intended to review at a conceptual level the feasibility and design characteristics of the proposed division of land based on the applicable standards set forth in Article 4, *Division of Land*, and Article 6, *Design Standards*. The sketch plan review process is set forth in Section 4.03.B.1, *Sketch Plan Review*, and requires the following:

a. Review Flowchart

Figure F-4.1, *Sketch Plan Flowchart*, depicts the sketch plan application review process described in greater detail in this section.

Figure F-4.1 – Sketch Plan Flowchart



b. **Pre-Application Meeting**

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

c. **Application Submittal Requirements**

The following are the application materials required to be submitted for a sketch plan request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

(1) **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

(2) **Sketch Plan.** The applicant shall submit a copy of the sketch plan map at a size and scale legible and suitable for non-technical review of the proposal. The sketch plan map shall include the following information and supplemental materials. The Land Use Administrator may require, or the applicant may wish to submit, a more detailed version of all or part of the sketch plan map.

- (a) A title clearly identifying the plat as a "Sketch Plan";
- (b) Legal description of the property;
- (c) North arrow, scale, and legend;
- (d) A vicinity map at a suitable scale;
- (e) Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range;
- (f) Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the development and storm drainage;
- (g) Significant on-site features including: natural and artificial drainage ways, streams, ponds, waterways, wetland areas, irrigation ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development;
- (h) Existing and proposed parking areas, driveways, emergency turn-outs and emergency turnarounds, sidewalks, and paths and their dimensions;
- (i) Existing and proposed roads, railroad tracks, irrigation ditches, fences and utility lines on or adjacent to the parcel and their dimensions;

- (j) Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the property and their dimensions; and
- (k) Schematic and narrative representation of the proposed land use(s) including:
 - (i) Existing and proposed zoning of land to be subdivided;
 - (ii) Total proposed subdivision area in acres and a percentage breakdown of areas devoted to specific land uses, with acreage and square footage, (e.g. percentage and area of residential development and/or nonresidential development; percentage and area of open space; percentage and area of parking and driveways, and so forth);
 - (iii) Approximate lot sizes;
 - (iv) Total number, size, general location, and type of proposed dwelling units;
 - (v) Location, size, and use of major improvements;
 - (vi) Total number of square feet of proposed nonresidential floor space;
 - (vii) Off-street parking areas and anticipated number of spaces;
 - (viii) Recreation areas and open space;
 - (ix) School sites;
 - (x) Approximate location of wastewater treatment system, including location and size of leach field, service lines, and treatment facilities to serve the proposed use;
 - (xi) Source and capacity of the water supply, including approximate location and size of well(s) and/or water lines to serve the proposed use;
 - (xii) Location and size of existing and proposed utilities and service facilities; and
- (l) Current and proposed grading and drainage patterns including:
- (m) Drainage arrows depicting surface flow;
 - (i) Drainage facilities and improvements; and
 - (ii) A grading plan depicting existing and proposed site contours at two-foot intervals.

(3) **Land Suitability Analysis.** The land suitability analysis is a written analysis of conditions on-site and off-site which have an influence on the proposed use of the land. The land suitability analysis shall include the following information:

- (a) A description of site features such as streams, areas subject to flooding, lakes, high ground water areas, vegetative cover, climatology, and other significant natural and man-made features;

- (b) A description of the existing drainages and impoundments, natural and manmade;
- (c) A description of soil characteristics of the site;
- (d) A description of the geologic characteristics of the area including any potential natural or man-made hazards;
- (e) A description of the topography and the slope determination;
- (f) A description of the source of water supply, the existing and future domestic and agricultural requirements, and the capacity of the source of water supply to meet existing and future requirements. The description shall include detail of historic irrigation, tailwater issues, and water demands;
- (g) A description of the relationship of the subject parcel to floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal, the slope of the land, the effect of sewage effluents, and the pollution of surface runoff, stream flow and groundwater;
- (h) A description of the Floodplain and Flood Fringe designations affecting the subject property;
- (i) A description of the existing environmental conditions:
 - (i) Existing flora and fauna habitat, wetlands, migration routes;
 - (ii) Significant archaeological, cultural, paleontological, and historic resource areas; and
 - (iii) Potential radiation hazard that may have been identified by the state or the Rio Grande County Public Health Department.
- (j) A description of the existing and historic use of adjacent property and neighboring properties within a 300' radius;
- (k) A description of all easements defining, limiting or allowing use types and access;
- (l) Access:
 - (i) A description of historic public access to or through the site; and
 - (ii) A description of access to adjoining roads and sight distance and intersection constraints.

(4) **Conceptual Landscape Plan.** The landscape plan shall not include any plants or species identified as noxious weeds or invasive species by the Rio Grande County Weed District or on the USDA Colorado State Noxious Weed list. When landscaping is proposed, the landscape plan shall include the following elements:

- (a) Location of all lot lines and improvements to the property and location of any easements of record;

- (b) Location of all existing and proposed buildings, driveways, parking lots, walkways, sidewalks, and other impervious surfaces to remain or exist on the property;
- (c) Location of any existing and proposed irrigation system(s) if being proposed;
- (d) A plant schedule which identifies plants, species, and minimum size to be installed on the property;
- (e) Identification of areas where existing vegetation will be preserved; and
- (f) Identification of areas where landscaping will be installed and the proposed groundcover materials.

(5) **Supplemental Materials.** The following items are required to be submitted to the Land Use Department:

- (a) Conceptual drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed.
- (b) Conceptual traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure.
- (c) Proof of minimum guaranteed water supply appropriate for the requested use.

(6) **Additional Requirements**

- (a) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

d. **Completeness Review**

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

e. **Evaluation by Staff and Referral Agencies**

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

f. **Staff Report**

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

g. Review and Recommendation by Planning Commission

The Planning Commission shall review the sketch plan application in a manner consistent with Table T-4.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the review criteria set forth in Section 4.03.C, *Approval Criteria*.

h. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a sketch plan shall be made by the Board of County Commissioners in a manner consistent with Table T-4.1 based upon the review criteria set forth in Section 4.03.C, *Approval Criteria*.

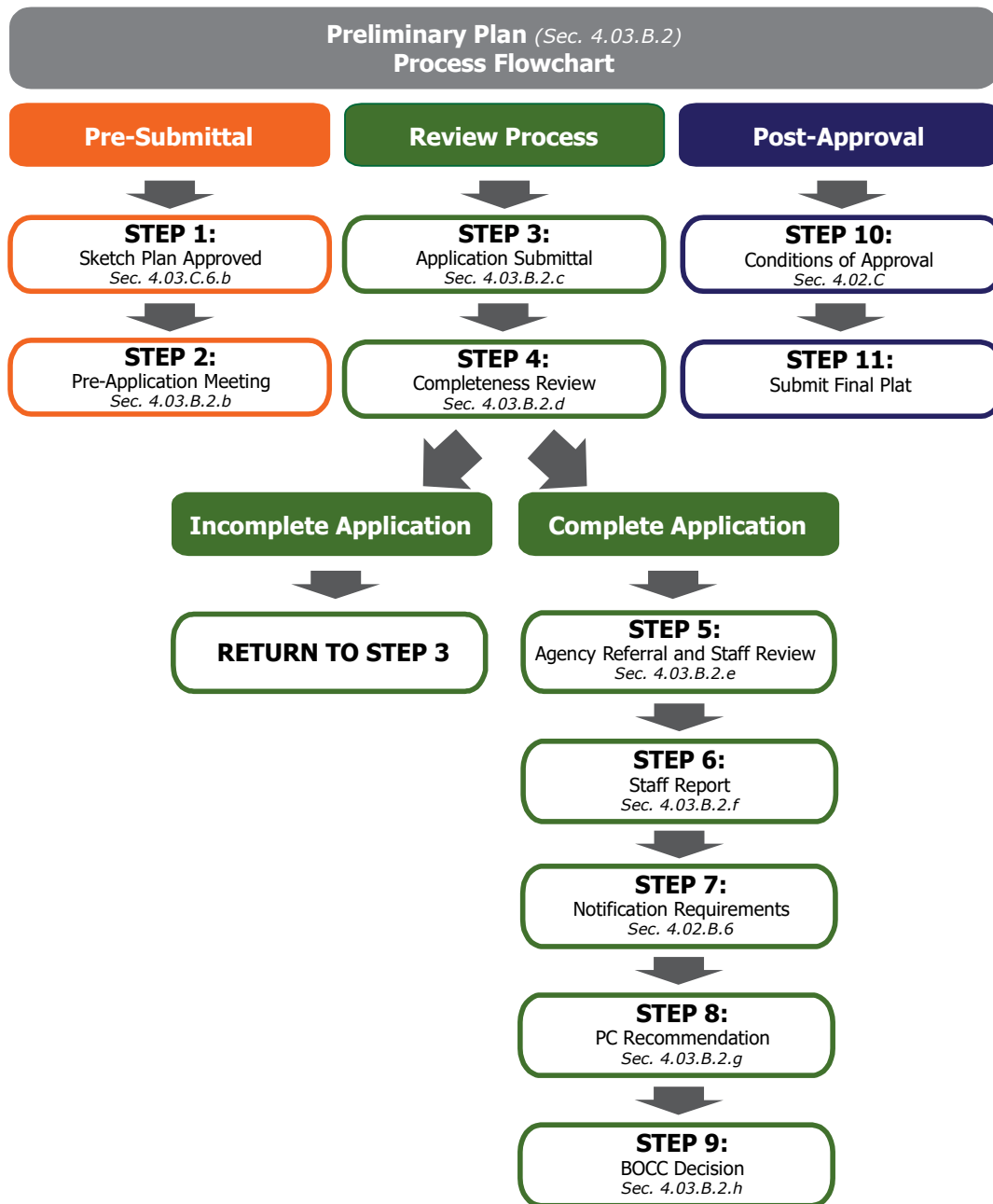
2. Preliminary Plan Review

The preliminary plan review process will consider the feasibility and design characteristics of the proposed division of land based on the applicable standards set forth in Article 6, *Design Standards*. The preliminary plan process will also evaluate preliminary engineering documents.

a. Review Flowchart

Figure F-4.2, *Preliminary Plan Flowchart*, depicts the preliminary plan application review process described in greater detail in this section.

Figure F-4.2 – Preliminary Plan Flowchart



b. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

c. Application Submittal Requirements

The following are the application materials required to be submitted for a preliminary plan request. The Land Use Administrator may waive or alter any of

the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

(1) **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

(2) **Preliminary Subdivision Plan.** The preliminary subdivision plat shall contain the following information submitted to the Land Use Department on 24" x 36" sheets at a scale suitable for technical review of the application.

- (a) A title clearly identifying the plat as a "Preliminary Subdivision Plan";
- (b) Legal description of the property;
- (c) North arrow, scale, and legend;
- (d) A vicinity map at a suitable scale;
- (e) The name and address of the owner(s) of record of the land being platted and the same information for the applicant(s), if other than the owners;
- (f) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the final plat;
- (g) The township, range, section and quarter section(s);
- (h) Location and full description of all monuments as required by this article and by Title 38, Article 51, C.R.S.:
 - (i) Permanent monuments shall be set on the external boundary of the subdivision pursuant to §38- 51-101, C.R.S. and
 - (ii) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (i) Information adequate to locate all monuments shall be noted on the plat;
- (j) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive.
- (k) The location, layout, dimensions, areas and uses of all outlots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities.
- (l) Site data in chart form presenting:
 - (i) Total area of the proposed subdivision; total area of the developed buildings, driveways and parking areas; total area of non-residential floor space;
 - (ii) Total number of proposed lots; breakdown of the lot total by number of lots per use (i.e. residential use, business or

- commercial and industrial use, and other public and non-public uses);
 - (iii) Total number of proposed off-street parking spaces;
 - (iv) Total number of dwelling units; total number of dwelling units per structure proposed; and
 - (v) Total gross density proposed.
- (m) Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range;
- (n) Topography at the following minimum contour intervals:
- (i) Subdivision with one or more lots less than two (2) acres in size, topography shown at two (2) foot contour intervals.
 - (ii) Subdivision with all lots two (2) acres or greater in size, topography shown at five (5) foot contour intervals.
 - (iii) Areas having slopes thirty (30) percent or more, or other significant topographic conditions, topography shown at five (5) foot contour intervals.
- (o) Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development;
- (p) Known, identified or designated one hundred (100) year flood plains and localized areas subject to periodic flooding. The distance between the mean identifiable high water mark of any creeks, streams or rivers and the nearest proposed development within the site shall also be shown;
- (q) Public access to site, and internal circulation. Location, dimension, alignment and names of all existing and proposed streets, drives, alleys and roads on or adjoining the property. The general location and right-of-way width for all arterials and collectors shall be shown;
- (r) The location of and preliminary engineering for any existing or proposed wastewater systems, water mains, culverts, storm drains, sidewalks, gutters, fire hydrants along with the width and depth of pavement or sub-grading to be provided, the depth of burial of all underground lines, pipes and tubing and typical cross sections of the proposed grading of roadways and sidewalks;
- (s) Uses and grantees of all existing and proposed easements and rights-of-way on and adjacent to the property, shown by location and dimension;

- (t) The location, use and gross square footage of proposed structures within the subdivision;
 - (i) Anticipated number of employees for proposed commercial or industrial uses.
- (u) Building envelopes in hazardous areas to protect trees and other natural resources, if deemed appropriate by planning staff;
- (v) Location and layout of lots and blocks, with lots and blocks numbered consecutively, and the dimensions and acreage of each lot;
- (w) Areas for landscaping, and delineation of the type and extent of vegetative cover on the site;
- (x) Zoning districts on the site and any zoning changes to be requested;
- (y) Existing land uses and zoning on adjoining properties;
- (z) Public or private sources of utility services and facilities; and
- (aa) Location and dimension of land to be held in common, open space devoted to community use, and land to be dedicated to county.

(3) **Preliminary Landscape Plan.** The landscape plan shall not include any plants or species identified as noxious weeds or invasive species by the Rio Grande County Weed District or on the USDA Colorado State Noxious Weed list. When landscaping is proposed, the landscape plan shall include the following elements:

- (a) Topographic information at two (2) foot contour intervals.
- (b) Location of all lot lines and improvements to the property and location of any easements of record.
- (c) Location of all existing and proposed buildings, driveways, parking lots, walkways, sidewalks, and other impervious surfaces to remain or exist on the property;
- (d) A plant schedule which identifies plants, species, and minimum size to be installed on the property;
- (e) Identification of areas where existing vegetation will be preserved;
- (f) Identification of areas where landscaping will be installed; and
- (g) If an irrigation system is proposed, an irrigation plan depicting the location of irrigation lines and spray heads, irrigation zones, spray areas of each head, and make and model of irrigation system and sprinkler heads.

(4) **Land Suitability Analysis.** If updates, amendments, or modifications are needed pursuant on the review and approval of a sketch plan, an updated land suitability analysis may be required. The components which shall be included

in such an analysis are set forth in Section 4.03.B.1.c(3), *Land Suitability Analysis*.

(5) Preliminary Engineering Reports and Plans

- (a) Preliminary plan and profile design of all proposed streets, sidewalks, trails, walkways, and bikeways;
- (b) Preliminary plan and profile design of all surface drainage and storm sewer conveyance facilities including, but not limited to, inlet locations, size and location of pipes, retention or detention facilities, and required water quality and erosion control measures;
- (c) Preliminary engineering design of any bridges, culverts, or other drainage structures to be constructed;
- (d) Mitigation of any geologic hazard(s) impacting the project site;
- (e) Preliminary plan and profile design of all wastewater collection and water supply and distribution system improvements necessary; and
- (f) Preliminary cost estimates for all public improvements.

(6) Supplemental Materials

- (a) Draft improvement agreement meeting all standards and requirements set forth in Section 4.14, *Improvement Agreement*.
- (b) Preliminary drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed.
- (c) Preliminary traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure.
- (d) Draft covenants, restrictions, and by-laws, if applicable.
- (e) Proof of minimum guaranteed water supply appropriate for the requested use.

(7) Additional Requirements

- (a) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

d. **Completeness Review**

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

e. **Evaluation by Staff and Referral Agencies**

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

f. **Staff Report**

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

g. **Review and Recommendation by Planning Commission**

The Planning Commission shall review the sketch plan application in a manner consistent with Table T-4.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 4.03.C, *Approval Criteria*.

h. **Review and Action by the Board of County Commissioners**

The final decision to approve, approve with conditions, or deny a sketch plan shall be made by the Board of County Commissioners in a manner consistent with Table T-4.1 and be based upon the review criteria set forth in Section 4.03.C, *Approval Criteria*.

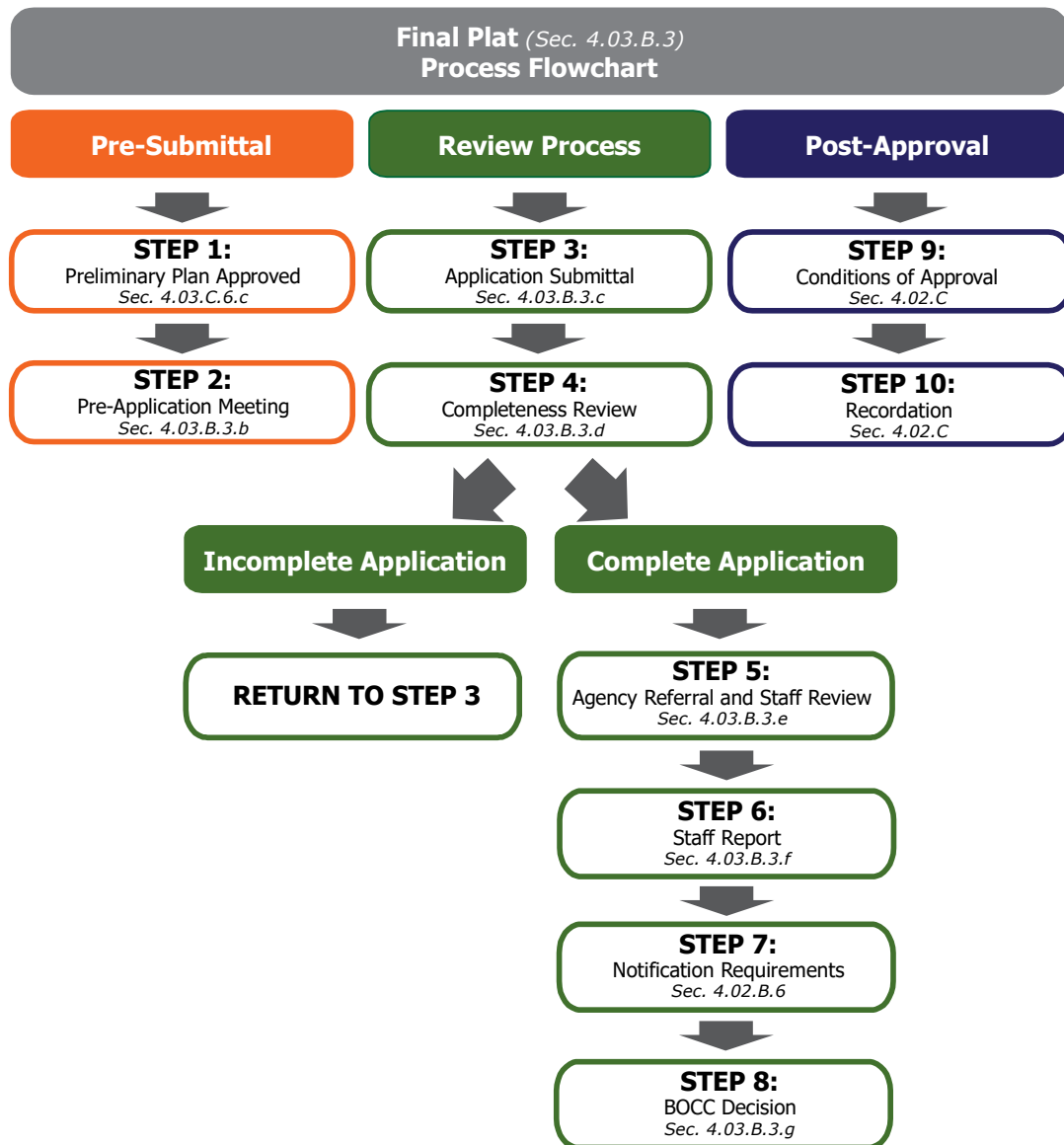
3. Final Plat Review

Unless otherwise provided by this Land Development Code, the applicant must receive preliminary plan approval before beginning the final plat process. The final plat review process will evaluate the final engineering documents, reports, and studies.

a. **Review Flowchart**

Figure F-4.3, *Final Plat Flowchart*, depicts the final plat application review process described in greater detail in this section.

Figure F-4.3 – Final Plat Flowchart



b. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

c. Application Submittal Requirements

The following are the application materials required to be submitted for a final plat request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

(1) **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

(2) **Final Subdivision Plat.** The final subdivision plat shall contain the following information, in a format prescribed by the county. The final plat shall be prepared in a clear and legible manner measuring 24" x 36" with clear margins of two (2) inches on the left-hand side and one-half (1/2) inch on the remaining sides.

- (a) A title clearly identifying the plat as a "Final Subdivision Plat";
- (b) Legal description of the property;
- (c) North arrow, scale, and legend;
- (d) A vicinity map at a suitable scale;
- (e) Final Plat shall be scaled at one (1) inch to two-hundred (200) feet;
- (f) The name and address of the owner(s) of record of the land being platted and the same information for the applicant(s), if other than the owners;
- (g) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the final plat;
- (h) The township, range, section and quarter section(s);
- (i) Location and full description of all monuments as required by this article and by Title 38, Article 51, C.R.S.:
 - (i) Permanent monuments shall be set on the external boundary of the subdivision pursuant to §38- 51-101, C.R.S. and
 - (ii) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (j) Information adequate to locate all monuments shall be noted on the plat;
- (k) Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township and range;
- (l) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;
- (m) Lot location and layout;
- (n) All lots and blocks shall be numbered consecutively;
- (o) The dimensions of all lots and the acreage of each lot shown to two decimal places;

- (p) No ditto marks shall be used for dimensions;
- (q) All unidentified angles will be presumed to equal ninety (90) degrees;
- (r) Location and width of existing and proposed roadways, road rights-of-way and parking areas within the site;
- (s) All street and road names shall be shown;
- (t) If any road in the subdivision is a continuation or approximately a continuation of an existing public road, the conformity or the amount of conformity of the new road to the existing roads shall be accurately shown;
- (u) Names and widths of all existing or recorded streets and roads intersecting the plat boundaries or paralleling them within two hundred (200) feet, the names and map numbers of all bordering subdivisions, and any municipal limits within two hundred (200) feet of the boundaries of the plat;
- (v) Area of the site, area of individual parcels, and areas of all development including developed driveways, parking and buildings;
- (w) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned;
- (x) The purpose and owner(s) of all easements and statements from all utility companies, as applicable, that the stated services will be provided to the proposed development after platting. A plat note may be necessary to provide complete information regarding the purpose of the easement;
- (y) The boundary lines and dimensions, shown accurately, of all property to be reserved and dedicated, with the means of access to such property clearly shown and its intended uses noted;
- (z) A legally acceptable land description and dedication block placed on the plat by the applicant dedicating streets, rights-of-way, utility easements, public sites and other such features. The transfer to the county of dedicated land shall take place by a legally acceptable instrument prior to or concurrent with Final Plat acceptance, but before recording of the final plat;
- (aa) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear;
- (bb) Identification of lots with slope in excess of thirty (30) percent and any other lots where special studies are required prior to obtaining a development permit;

- (cc) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any;
- (dd) All lands within the boundary of the subdivision shall be accounted for as a lot, tract, parcel, open space, street, right-of-way, alley and so forth, and all areas of such lands shall be shown on the plat to the nearest one hundredth of an acre;
- (ee) All plat notes required by the county under preliminary plan approval or as a condition of final plat approval;
- (ff) The following signature and certificate blocks:
 - (i) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;
 - (ii) Certification by the project surveyor certifying to the accuracy of the survey and plat;
 - (iii) Certification of the Rio Grande County Planning Commission approval;
 - (iv) Certification for approval of the Rio Grande County Board of County Commissioners; and
 - (v) Certification for the Rio Grande County Clerk and Recorder.

(3) **Final Landscape Plan.** The landscape plan shall not include any plants or species identified as noxious weeds or invasive species by the Rio Grande County Weed District or on the USDA Colorado State Noxious Weed list. When landscaping is proposed, the landscape plan shall include the following elements:

- (a) Topographic information at two (2) foot contour intervals;
- (b) Location of all lot lines and improvements to the property and location of any easements of record;
- (c) Location of all existing and proposed buildings, driveways, parking lots, walkways, sidewalks, and other impervious surfaces to remain or exist on the property;
- (d) A plant schedule which identifies plants, species, and minimum size to be installed on the property;
- (e) Identification of areas where existing vegetation will be preserved;
- (f) Identification of areas where landscaping will be installed and the proposed groundcover materials; and
- (g) If an irrigation system is proposed, an irrigation plan depicting the location of irrigation lines and spray heads, irrigation zones, spray areas of each head, and make and model of irrigation system and sprinkler heads.

(4) **Final Engineering Reports and Plans.** The following items are required to be submitted to the Land Use Department:

- (a) Final plan and profile design of all proposed streets, sidewalks, trails, walkways, bikeways.
- (b) Final plan and profile design of all surface drainage and storm sewer conveyance facilities including, but not limited to inlet locations, size and location of pipes, retention and detention facilities, and required water quality and erosion control;
- (c) Final engineering design of any bridges, culverts, or other drainage structures to be constructed;
- (d) Mitigation of any geologic hazards impacting the project site;
- (e) Final plan and profile design of all wastewater collection and water supply and distribution system improvements necessary; and
- (f) Final cost estimates for all public improvements.

(5) **Supplemental Materials.** The following items are required to be submitted to the Land Use Department:

- (a) Final improvements agreement meeting all standards and requirements set forth in Section 4.14, *Improvement Agreement*.
- (b) Final drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed.
- (c) Final traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure.
- (d) Covenants, restrictions, and by-laws, if applicable.
- (e) Proof of minimum guaranteed water supply appropriate for the requested use.

(6) **Additional Requirements**

- (a) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

d. **Completeness Review**

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

e. **Evaluation by Staff and Referral Agencies**

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

f. **Staff Report**

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

g. **Review and Action by the Board of County Commissioners**

The final decision to approve, approve with conditions, or deny a final plat shall be made by the Board of County Commissioners in a manner consistent with Table T-4.1 and be based upon the criteria set forth in Section 4.03.C, *Approval Criteria*.

h. **Post Approval**

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the final plat with the Rio Grande County Clerk and Recorder.

B. Approval Criteria

The following criteria shall be found to be met by the application and submittal materials in order for the Planning Commission and/or Board of County Commissioners to recommend approval or approve each stage of a major subdivision:

1. All of the required prior approvals for the subdivision and development were issued and remain valid and effective;
 - a. For a sketch plan, no prior approval is required.
 - b. For a preliminary plan, a finding must be made that a sketch plan was approved or conditionally approved by the Board of County Commissioners not more than twelve (12) months prior to the date of submission of an application for preliminary plan approval or that the sketch plan is currently valid and effective as the result of the approval of an extension of the effective date of the sketch plan.
 - c. For a final plat, a finding must be made that a preliminary plan for the subdivision was approved or conditionally approved by the Board of County Commissioners not more than twelve (12) months prior to the date of submission of an application for final plat approval or that the preliminary plan is currently valid and effective as the result of the approval of an extension of the effective date of the preliminary plan.

2. The proposed subdivision complies with all applicable requirements for the zone district(s) in which the property is located;
3. The proposed subdivision substantially complies with all other applicable requirements of this code, regulations, standards, and resolutions;
4. Adequate capacity of water and wastewater (or OWTS systems) utilities are currently available to serve the entire subdivision and development;
5. The proposed subdivision is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body; and
6. The application:
 - a. For sketch plan approval, meets or satisfies all applicable requirements of the land division regulations;
 - b. For preliminary plan approval, is in substantial conformance with the approved sketch plan and the preliminary plan meets or satisfies all applicable requirements of the land division regulations; or
 - c. For final plat approval, is in substantial conformance with the approved preliminary plan and the final plat meets or satisfies all applicable requirements of the land division regulations;

Section 4.04 Minor Subdivision

A. General Provisions

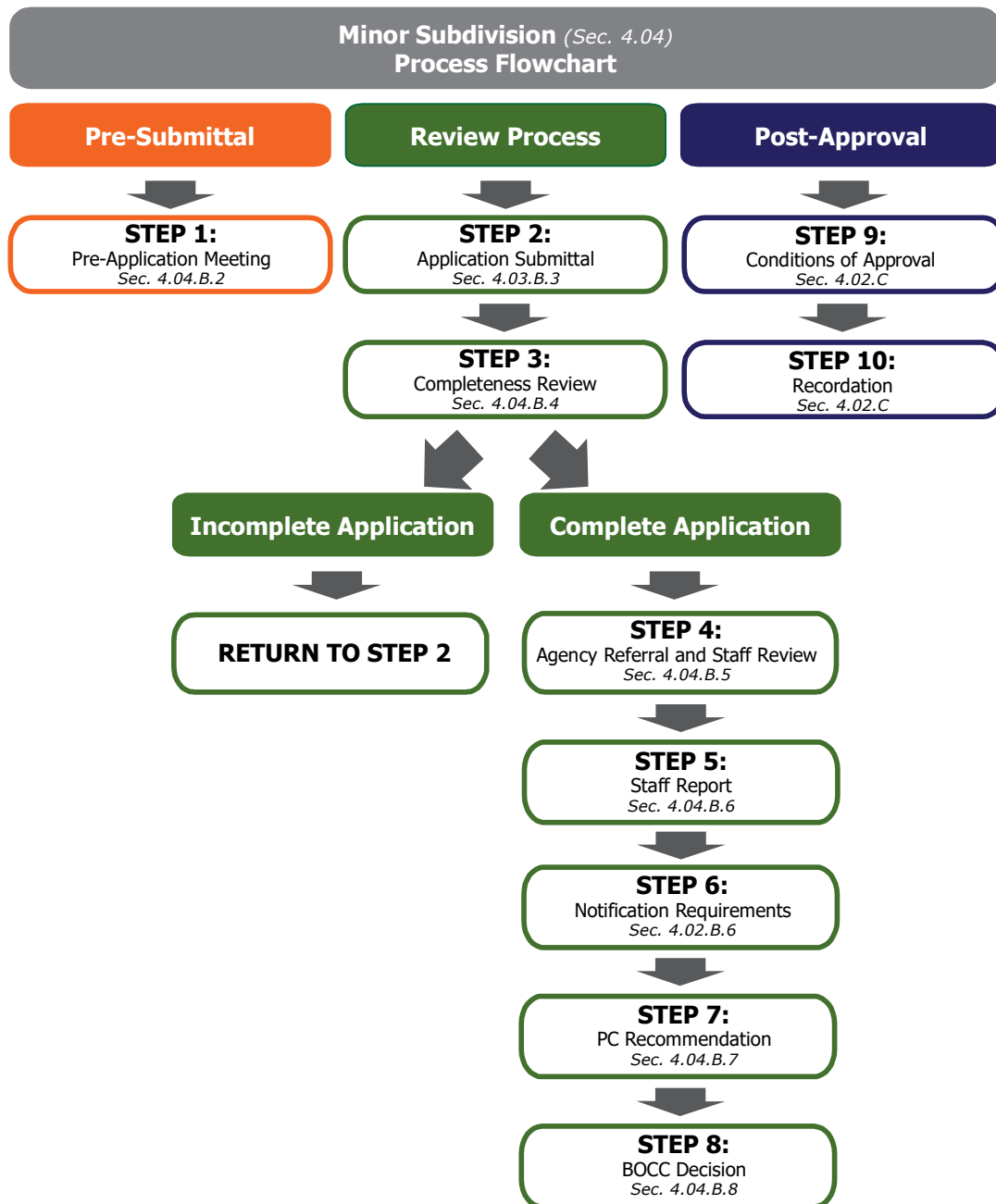
The minor subdivision review process is a shortened plat review process for divisions of land meeting the definition of minor subdivision set forth in Article 13, *Definitions*.

B. Review Procedures

1. Review Flowchart

Figure F-4.4, *Minor Subdivision Flowchart*, depicts the minor subdivision application review process described in greater detail in this section.

Figure F-4.4 – Minor Subdivision Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a final plat request. The Land Use Administrator may waive or alter any of the submittal

requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

b. **Minor Subdivision Plat.** The minor subdivision plat shall contain the following information, in a format prescribed by the county. The minor subdivision plat shall be prepared in a clear and legible manner measuring 24" x 36" with clear margins of two (2) inches on the left-hand side and one-half inch on the remaining sides.

- (1) A title clearly identifying the plat as a "Minor Subdivision Plat";
- (2) Legal description of the property;
- (3) North arrow, scale, and legend;
- (4) A vicinity map at a suitable scale;
- (5) Scaled at one (1) inch to two-hundred (200) feet;
- (6) The name and address of the owner(s) of record of the land being platted and the same information for the applicant(s), if other than the owners;
- (7) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the final plat;
- (8) The township, range, section and quarter section(s);
- (9) Location and full description of all monuments as required by this article and by Title 38, Article 51, C.R.S.:
 - (a) Permanent monuments shall be set on the external boundary of the subdivision pursuant to §38- 51-101, C.R.S and
 - (b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (10) Information adequate to locate all monuments shall be noted on the plat;
- (11) Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township and range;
- (12) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;
- (13) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive;

- (14) The location, layout, dimensions, areas and uses of all out lots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities;
- (15) The dimensions of all lots and the acreage of each lot shown to two decimal places;
- (16) No ditto marks shall be used for dimensions;
- (17) All unidentified angles will be presumed to equal ninety (90) degrees;
- (18) Location and width of existing and proposed roadways, road rights-of-way and parking areas within the site;
- (19) All street and road names shall be shown;
- (20) If any road in the subdivision is a continuation or approximately a continuation of an existing public road, the conformity or the amount of conformity of the new road to the existing roads shall be accurately shown.
- (21) Names and widths of all existing or recorded streets and roads intersecting the plat boundaries or paralleling them within two hundred (200) feet, the names and map numbers of all bordering subdivisions, and any municipal limits within two hundred (200) feet of the boundaries of the plat.
- (22) Area of the site, area of individual parcels, and areas of all development including developed driveways, parking and buildings.
- (23) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned.
- (24) The purpose and owner(s) of all easements and statements from all utility companies, as applicable, that the stated services will be provided to the proposed development after platting. A plat note may be necessary to provide complete information regarding the purpose of the easement.
- (25) The boundary lines and dimensions, shown accurately, of all property to be reserved and dedicated, with the means of access to such property clearly shown and its intended uses noted.
- (26) A legally acceptable land description and dedication block placed on the plat by the applicant dedicating streets, rights-of-way, utility easements, public sites and other such features. The transfer to the county of dedicated land shall take place by a legally acceptable instrument prior to or concurrent with minor subdivision plat acceptance, but before recording of the minor subdivision plat.
- (27) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear.

(28) Identification of lots with slope in excess of thirty (30) percent and any other lots where special studies are required prior to obtaining a development permit.

(29) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any.

(30) All lands within the boundary of the subdivision shall be accounted for as a lot, tract, parcel, open space, street, right-of-way, alley and so forth, and all areas of such lands shall be shown on the plat to the nearest one hundredth of an acre.

(31) All plat notes required by the county.

(32) The following signature and certificate blocks:

(a) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;

(b) Certification by the project surveyor certifying to the accuracy of the survey and plat;

(c) Certification of the Rio Grande County Planning Commission approval;

(d) Certification for approval of the Rio Grande County Board of County Commissioners; and

(e) Certification for the Rio Grande County Clerk and Recorder.

c. **Land Suitability Analysis.** The land suitability analysis is a written analysis of conditions on-site and off-site which have an influence on the proposed use of the land. The land suitability analysis shall include the following information:

(1) A description of site features such as streams, areas subject to flooding, lakes, high ground water areas, vegetative cover, climatology, and other significant natural and man-made features;

(2) A description of the existing drainages and impoundments, natural and manmade;

(3) A description of soil characteristics of the site;

(4) A description of the geologic characteristics of the area including any potential natural or man-made hazards;

(5) A description of the topography and the slope determination;

(6) A description of the source of water supply, the existing and future domestic and agricultural requirements, and the capacity of the source of water supply to meet existing and future requirements. The description shall include detail of historic irrigation, tailwater issues, and water demands;

(7) A description of the relationship of the subject parcel to floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal, the slope of the land, the effect of sewage effluents, and the pollution of surface runoff, stream flow and groundwater;

(8) A description of the Floodplain and Flood Fringe designations affecting the subject property;

(9) A description of the existing environmental conditions:

(a) Existing flora and fauna habitat, wetlands, migration routes;

(b) Significant archaeological, cultural, paleontological, and historic resource areas; and

(c) Potential radiation hazard that may have been identified by the state or the Rio Grande County Public Health Department.

(10) A description of the existing and historic use of adjacent property and neighboring properties within a 300' radius;

(11) A description of all easements defining, limiting or allowing use types and access; and

(12) (Access:

(a) A description of historic public access to or through the site and

(b) A description of access to adjoining roads and sight distance and intersection constraints.

d. **Final Landscape Plan.** The landscape plan shall not include any plants or species identified as noxious weeds or invasive species by the Rio Grande County Weed District or on the USDA Colorado State Noxious Weed list. When landscaping is proposed, the landscape plan shall include the following elements:

(1) Topographic information at two (2) foot contour intervals;

(2) Location of all lot lines and improvements to the property and location of any easements of record;

(3) Location of all existing and proposed buildings, driveways, parking lots, walkways, sidewalks, and other impervious surfaces to remain or exist on the property;

(4) A plant schedule which identifies plants, species, and minimum size to be installed on the property;

(5) Identification of areas where existing vegetation will be preserved;

(6) Identification of areas where landscaping will be installed; and

(7) If an irrigation system is proposed, an irrigation plan depicting the location of irrigation lines and spray heads, irrigation zones, spray areas of each head, and make and model of irrigation system and sprinkler heads.

e. **Final Engineering Reports and Plans**

(1) Final plan and profile design of all proposed streets, sidewalks, trails, walkways, and bikeways.

(2) Final plan and profile design of all surface drainage and storm sewer conveyance facilities including, but not limited to, inlet locations, size and location of pipes, retention or detention facilities, and required water quality and erosion control measures.

(3) Final engineering design and construction features for any bridges, culverts, or other drainage structures to be constructed.

(4) Mitigation of any geologic hazard(s) impacting the project site.

(5) Final plan and profile design of all wastewater collection and water supply and distribution system improvements necessary.

(6) Final cost estimates for all public improvements.

f. **Supplemental Materials**

(1) Final improvements agreement meeting all standards and requirements set forth in Section 4.14, *Improvement Agreement*.

(2) Final drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed.

(3) Final traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure.

(4) Covenants, restrictions, and by-laws, if applicable.

(5) Proof of minimum guaranteed water supply appropriate for the requested use.

g. **Additional Requirements**

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the minor subdivision application in a manner consistent with Table T-4.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the review criteria set forth in Section 4.04.C, *Approval Criteria*.

8. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a minor subdivision shall be by the Board of County Commissioners in a manner consistent with Table T-4.1 and be based upon the criteria set forth in Section 4.04.C, *Approval Criteria*.

9. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the minor subdivision with the Rio Grande County Clerk and Recorder.

C. Approval Criteria

The following criteria shall be found to be met by the application and submittal materials in order for the Planning Commission and/or Board of County Commissioners to recommend approval:

1. The proposed subdivision conforms to all applicable requirements for the zone district(s) in which the property is located.
2. The proposed subdivision substantially conforms to all other applicable requirements of this code, ordinances, and resolutions; and
3. The proposed subdivision is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body.

Section 4.05 Boundary or Lot Line Revision

A. General Provisions

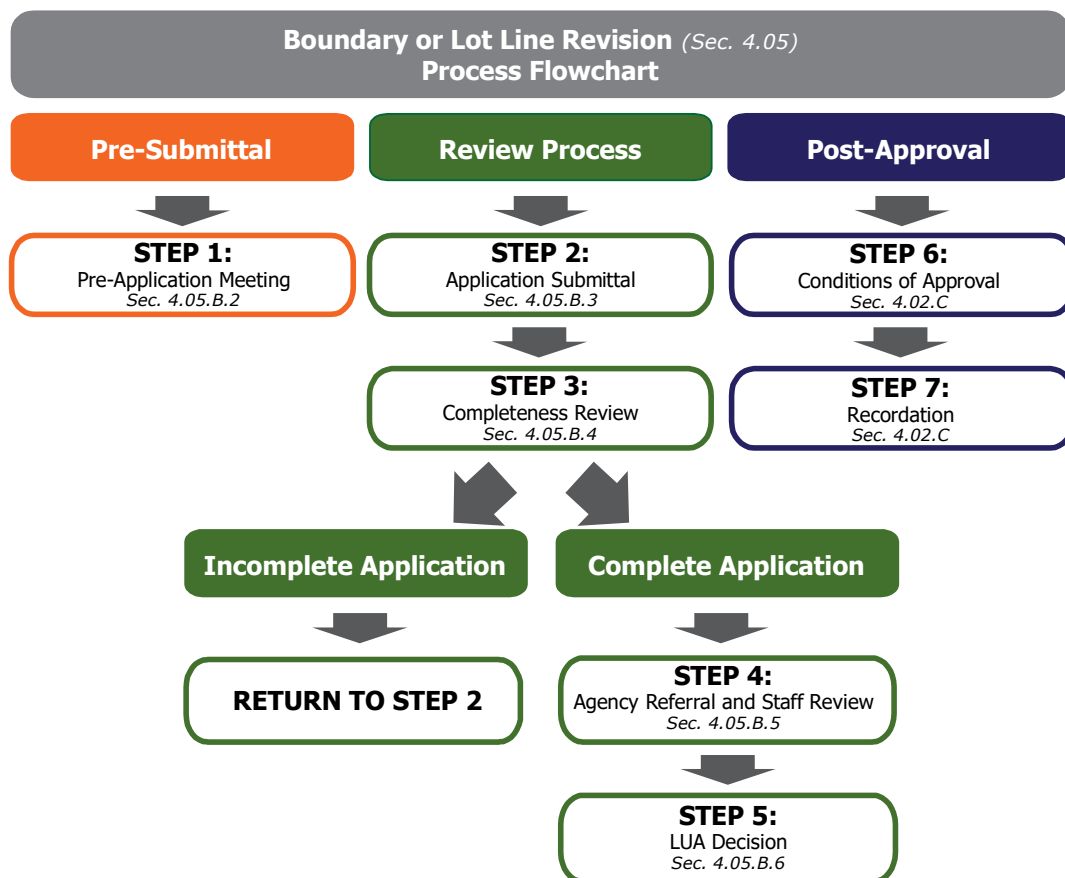
1. Boundary or lot line revisions are minor amendments to platted or unplatted property which do not result in any of the following:
 - a. The creation of any additional lot(s);
 - b. The consolidation of any lots;
 - c. The creation of an unbuildable lot; or
 - d. The creation of a lot that does not have legal access from a public right-of-way or perpetual easement.

B. Review Procedures

1. Review Flowchart

Figure F-4.5, *Boundary or Lot Line Revision Flowchart*, depicts the boundary or lot line revision application review process described in greater detail in this section.

Figure F-4.5 – Boundary or Lot Line Revision Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Materials

The following are the application materials required to be submitted for a boundary or lot line revision request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

b. **Survey Plat.** The survey plat shall contain the following information, in a format prescribed by the county. The survey plat shall be prepared at a size and scale so it may be reviewed in a clear and legible manner.

- (1) A title clearly identifying this as a "Boundary Line Revision Survey Plat";
- (2) Legal description of the property;
- (3) (North arrow, scale, and legend;
- (4) A vicinity map at a suitable scale;
- (5) The name and address of the owner(s) of record of all properties being modified and the same information for the applicant(s), if other than the owners,
- (6) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the survey plat;
- (7) The township, range, section and quarter section(s);
- (8) Location and full description of all monuments as required by this Land Development Code and by Title 38, Article 51, C.R.S:
 - (a) Permanent monuments shall be set pursuant to §38- 51-101, C.R.S.
 - (b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (9) Information adequate to locate all monuments shall be noted on the plat;
- (10) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive.
- (11) The location, layout, dimensions, areas and uses of all outlots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities.
- (12) Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section

corners, distance and bearing to these corners, quarter corner and township and range;

(13) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;

(14) The dimensions of all lots and the acreage of each lot shown to two decimal places;

(15) Location and width of existing roadways, road rights-of-way and parking areas within the site:

(a) All street and road names shall be shown.

(16) (Area of the entire area the revision covers and the current and proposed area of each individual lot;

(17) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned;

(18) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear;

(19) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any;

(20) The following signature and certificate blocks:

(a) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;

(b) Certification by the project surveyor certifying to the accuracy of the survey and plat;

(c) Certification for acceptance by the Land Use Administrator; and

(d) Certification for the Rio Grande County Clerk and Recorder.

c. Additional Requirements

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Review and Decision by Land Use Administrator

The Land Use Administrator shall review the boundary or lot line revision application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an application based on the approval criteria set forth in Section 4.05.C, *Approval Criteria*.

7. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the survey plat with the Rio Grande County Clerk and Recorder.

C. Approval Criteria

A boundary or lot line revision may be approved and accepted by the Land Use Administration if the application is found to meet the following criteria:

1. The proposed revision conforms to all applicable requirements for the zone district(s) in which the property is located.
2. The proposed revision substantially conforms to all other applicable requirements of this code and county resolutions; and
3. The proposed revision is consistent with the applicable portions of the Master Plan in the reasonable judgement of the Land Use Administrator.

Section 4.06 Cluster Development

A. General Provisions

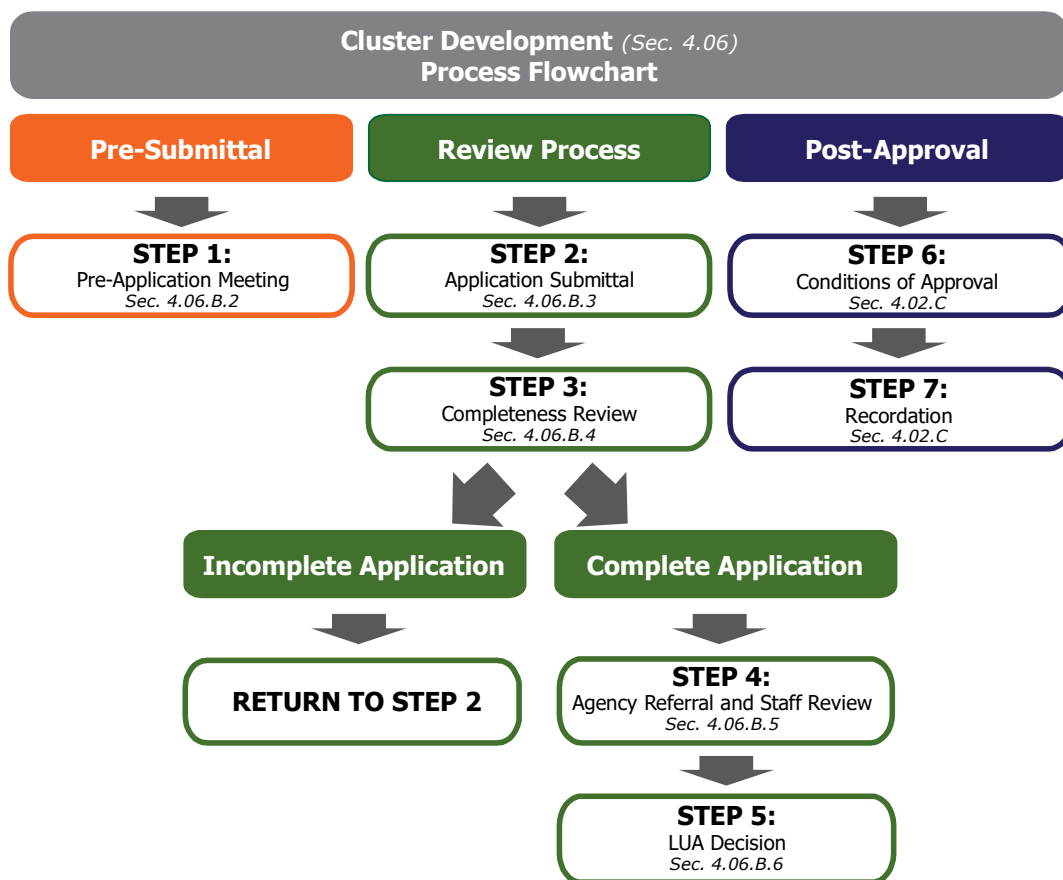
Cluster developments shall be applied for and reviewed in compliance with the provisions set forth in this Section 4.06, *Cluster Development*, and in compliance with the Colorado Revised Statutes at §30-28-401, et seq.

B. Review Procedures

1. Review Flowchart

Figure F-4.6, *Cluster Development Flowchart*, depicts the cluster development application review process described in greater detail in this section.

Figure F-4.6 – Cluster Development Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a rural land use cluster development request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

b. **Cluster Development Plat.** The cluster development plat for a rural land use cluster development shall include the following information and supplemental materials:

- (1) A title clearly identifying this as a "Cluster Development Plat";
- (2) Legal description of the property;
- (3) North arrow, scale, and legend;
- (4) A vicinity map at a suitable scale;
- (5) The name and address of the owner(s) of record of all properties being modified and the same information for the applicant(s), if other than the owners,
- (6) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the survey plat;
- (7) The township, range, section and quarter section(s);
- (8) Location and full description of all monuments as required by this Land Development Code and by Title 38, Article 51, C.R.S:
 - (a) Permanent monuments shall be set pursuant to §38- 51-101, C.R.S.
 - (b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (9) Information adequate to locate all monuments shall be noted on the plat;
- (10) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive.
- (11) The location, layout, dimensions, areas and uses of all outlots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities.
- (12) Boundary lines, corner pins, and dimensions of the subject property, including land survey data to identify the parcel with section corners, distance and bearing to corners, quarter corners, township and range;
- (13) Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features and aquatic habitat; geologic

features and hazards including slopes, alluvial fans, areas of subsidence, rock outcrops and rockfall areas, radiological and seismic hazard areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development;

(14) Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension;

(15) Location and dimension of easements for protected significant on-site features;

(16) Location and layout of subdivision lots, buildable lots, and building envelopes, and the dimensions and acreage of each lot;

(17) Location and dimension of roadways, driveways, sidewalks, paths and trails, and parking areas within the subdivision;

(18) Location and dimension of land to be held in common, open space devoted to community use, and land to be dedicated to the County or preserved through conservation easement;

(19) Location of all existing and proposed utilities; and

(20) The following signature and certificate blocks:

(a) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;

(b) Certification by the project surveyor certifying to the accuracy of the survey and plat;

(c) Certification for acceptance by the Land Use Administrator; and

(d) Certification for the Rio Grande County Clerk and Recorder.

c. **Additional Requirements**

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Decision by Land Use Administrator

The Land Use Administrator shall review the cluster development application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an application for a cluster development application based on the criteria set forth in Section 4.06.C, *Approval Criteria*.

7. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the cluster development exemption plat with the Rio Grande County Clerk and Recorder.

C. Approval Criteria

Pursuant to §30-28.403, C.R.S., *Cluster Development*, the cluster development plat will be reviewed using the following criteria:

1. A cluster development is any division of land that creates parcels containing less than thirty-five (35) acres each, for single-family residential purposes only, where one or more tracts are being divided pursuant to a rural land use process and where at least two-thirds of the total area of the tract or tracts is reserved for the preservation of open space. No rural land use process as authorized by this section shall approve a cluster development that would exceed one residential unit for each seventeen and one-half acre increment.
2. As a condition of approving a cluster development, a rural land use process shall require the cluster development plan to set aside land to preserve open space or to protect wildlife habitat or critical areas not permit development of such land for at least forty years from the date the plan is approved.

Section 4.07 Condominium Subdivision

A. General Provisions

The condominiumization of buildings shall require review and approval of a condominium subdivision in accordance with the provisions of this Section 4.07, *Condominium Subdivision*. This section shall apply to all new condominium projects and conversions of existing buildings to condominiums.

B. Review Procedures

The application materials and review procedures required for a Minor Subdivision set forth in Section 4.04, *Minor Subdivision* shall be followed for all projects regulated by this Section 4.07, Condominium Subdivision.

C. Approval Criteria

The following criteria shall be found to be met by the application and submittal materials in order for the Planning Commission and/or Board of County Commissioners to recommend approval or approve a condominium subdivision:

1. The proposed subdivision conforms to all applicable requirements for the zone district(s) in which the property is located.
2. The proposed subdivision substantially conforms to all other applicable requirements of this Land Development Code and applicable county resolutions; and
3. The proposed subdivision is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body.

Section 4.08 Exempt Division of Land

A. General Provisions

1. Purpose

To provide procedures and standards by which an exempt division of land may be approved. An application for an exempt division of land typically involves the creation of not more than two (2) lots from a single parent parcel of land thirty-five (35) acres in size or larger. Nothing in this Section 4.08, Exempt Division of Land, shall be interpreted or administered in a manner inconsistent with Colorado Senate Bill 35.

2. Applicability

The Land Use Administrator may allow no more than two (2) exempt divisions of land within a ten (10) year period as long as the parent parcel remains over thirty-five (35) acres.

3. Standards

An exempt division of land shall meet the following standards:

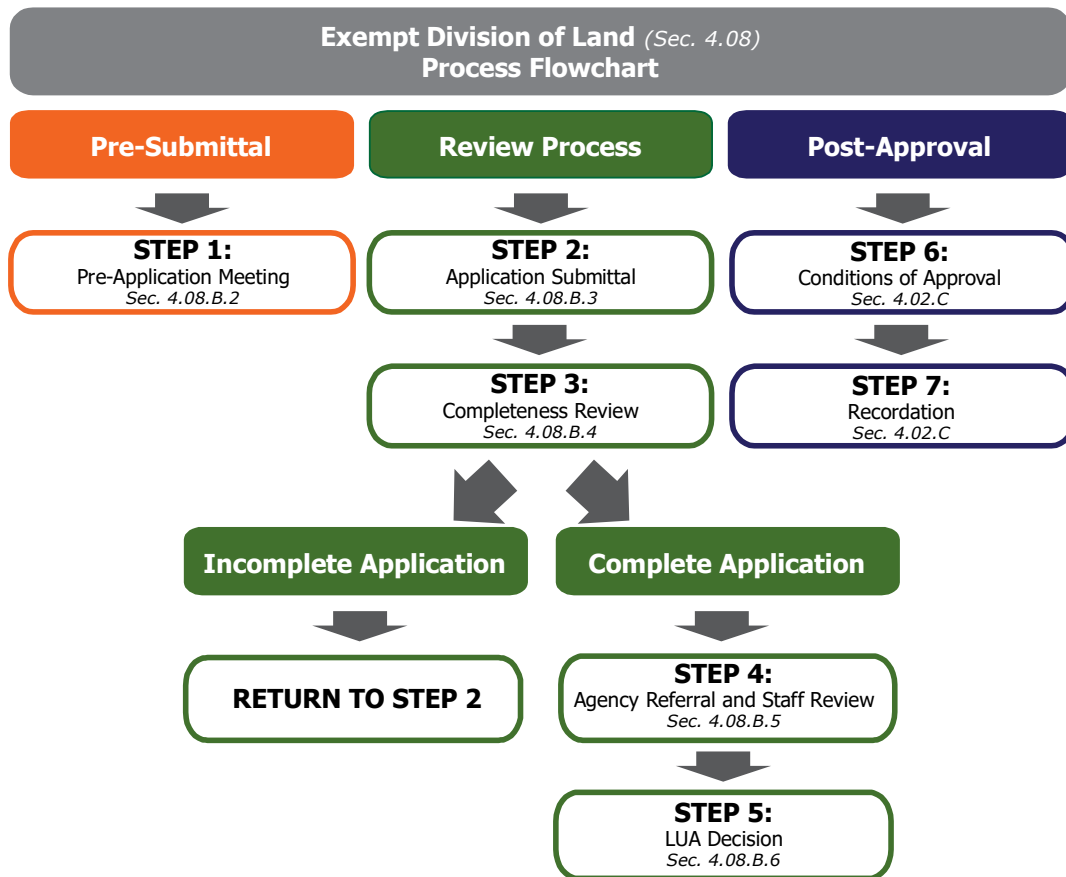
- a. An exempt division of land shall not be approved for the purpose of circumventing the intent and purpose of the land division;
- b. Parcels of land created by an exempt division of land shall not be considered for any subsequent exempt division unless the Board of County Commissioners determines that the unusual circumstances present are significant enough that a subsequent exempt division of land should be allowed;
- c. Parcels of land created by an exempt division of land shall not be less than two (2) acres and forming no more than two (2) parcels less than thirty-five (35) acres each;
- d. All parcels of land shall provide proof of water availability and adequate water supply; and
- e. If there are any structures or buildings on the parcel or parcels, the setbacks for the applicable zone district must be shown on the survey plat.

B. Review Procedures

1. Review Flowchart

Figure 4.7, *Exempt Division of Land Flowchart*, depicts the exempt division of land application review process described in greater detail in this section.

Figure F-4.7 – Exempt Division of Land Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for an exempt division of land request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

- a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.
- b. **Survey Plat.** The survey plat shall contain the following information, in a format prescribed by the county. The survey plat shall be prepared at a size and scale so it may be reviewed in a clear and legible manner.
 - (1) A title clearly identifying the plat as a “Exemption Division of Land”;
 - (2) Legal description of the property;

- (3) North arrow, scale, and legend;
- (4) A vicinity map at a suitable scale;
- (5) The name and address of the owner(s) of record of all properties being modified and the same information for the applicant(s), if other than the owners;
- (6) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the survey plat;
- (7) The township, range, section and quarter section(s);
- (8) Location and full description of all monuments as required by this Land Development Code and by Title 38, Article 51, C.R.S:
 - (a) Permanent monuments shall be set pursuant to §38- 51-101, C.R.S.
 - (b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (9) Information adequate to locate all monuments shall be noted on the plat;
- (10) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive;
- (11) The location, layout, dimensions, areas and uses of all outlots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities;
- (12) Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township and range;
- (13) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;
- (14) Location and width of existing roadways, road rights-of-way and parking areas within the site;
- (15) All street and road names shall be shown;
- (16) Area of each individual lot and the total area of the requested exempt division of land;
- (17) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned;
- (18) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear;

(19) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any; and

(20) The plat shall include executed certificates, notices, and statements in the standard format provided by the county, including the following certifications:

- (a) Certificate for acceptance by the Land Use Administrator;
- (b) Surveyors Certification;
- (c) Owners and Mortgagee certification; and
- (d) Certificate for County Clerk and Recorder.

(21) If there are any structures or buildings on the parcel or parcels, the setbacks for the applicable zone district must be shown on the survey plat.

c. Additional Requirements

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Review and Decision by Land Use Administrator

The Land Use Administrator shall review the exempt division of land application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an application based upon the approval criteria set forth in Section 4.08.C, *Approval Criteria*.

7. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the survey plat with the Rio Grande County Clerk and Recorder.

B. Approval Criteria

The following criteria shall be found to be met by the application and submittal materials in order for the Land Use Administrator to recommend approval or approve an exempt division of land:

1. The proposed division of land conforms to all applicable requirements for the zone district(s) in which the property is located;
2. The proposed division of land does not result in any division of land totaling less than two (2) acres nor more than two (2) parcels, tracts, lots, or properties less than thirty-five (35) acres each;
3. The proposed division of land substantially conforms to all other applicable requirements of this code, ordinances, and resolutions; and
4. The proposed division of land is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body.

Section 4.09 Lot Consolidation

A. General Provisions

A lot consolidation is when two (2) or more lots, tracts, or parcels less than two (2) acres each are consolidated into one (1) lot deleting the common boundary line. The consolidation of lots two (2) acres and larger are not required to obtain approval under this Section 4.09, Lot Consolidation, however, all other provisions of this Article and Land Development Code shall apply to any proposed development on the new parcel. The consolidation of lots less than two (2) acres in size are required to go through the lot consolidation process outlined herein. A lot consolidation shall not be allowed for any lot, tract, or parcel more than one time. Furthermore, a lot consolidation shall not result in any of the following:

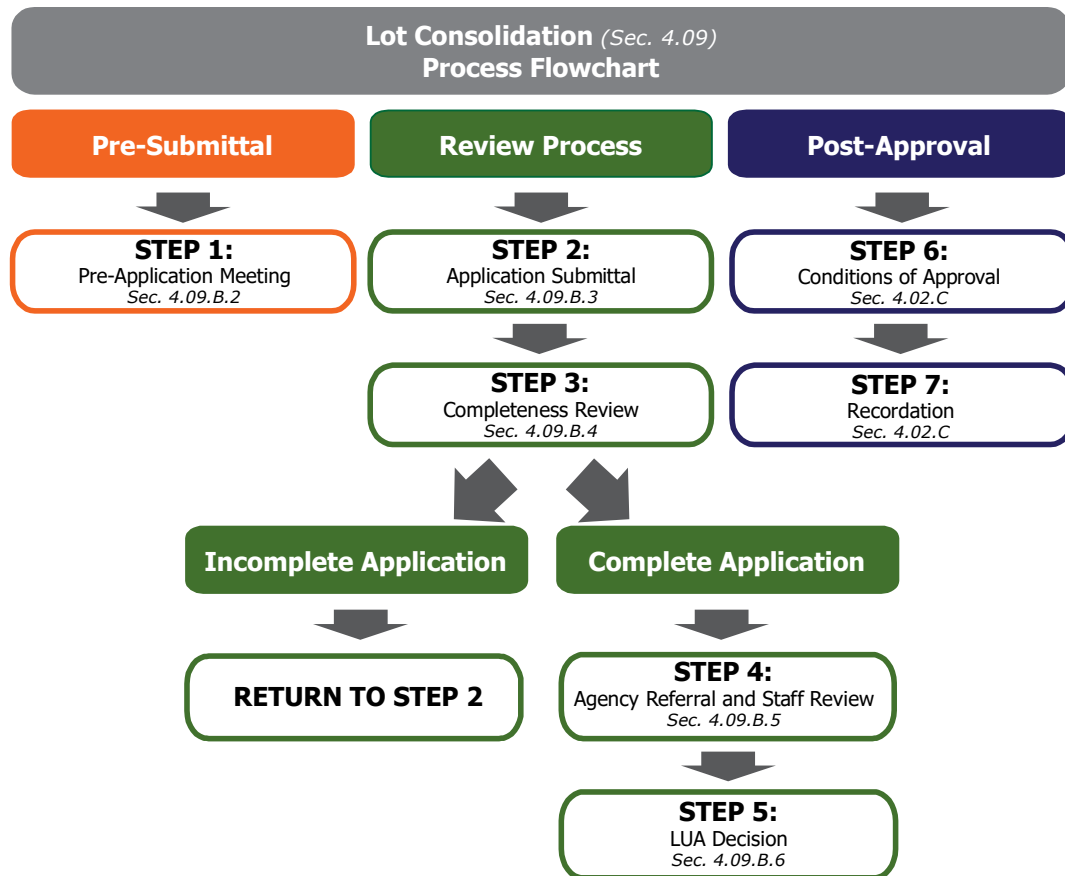
1. The modification or alteration of any public right-of-way;
2. The creation of any additional lots;
3. The creation of an unbuildable lot; or
4. The creation of a lot that does not have legal access from a public right-of-way or perpetual easement.

B. Review Procedures

1. Review Flowchart

Figure F-4.8, *Lot Consolidation Flowchart*, depicts the lot consolidation application review process described in greater detail in this section.

Figure F-4.8 – Lot Consolidation Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

3. Application

The following are the application materials required to be submitted for a lot consolidation request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

- a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.
- b. **Survey Plat.** The survey plat shall contain the following information, in a format prescribed by the county. The survey plat shall be prepared at a size and scale so it may be reviewed in a clear and legible manner:
 - (1) A title clearly identifying the plat as a “Lot Consolidation Plat”;
 - (2) Legal description of the property;
 - (3) North arrow, scale, and legend;
 - (4) A vicinity map at a suitable scale;

- (5) The name and address of the owner(s) of record of all properties being modified and the same information for the applicant(s), if other than the owners,
- (6) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the survey plat;
- (7) The township, range, section and quarter section(s);
- (8) Location and full description of all monuments as required by this Land Development Code and by Title 38, Article 51, C.R.S:
 - (a) Permanent monuments shall be set pursuant to §38- 51-101, C.R.S.
 - (b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (9) Information adequate to locate all monuments shall be noted on the plat;
- (10) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive.
- (11) The location, layout, dimensions, areas and uses of all outlots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities;
- (12) (Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township and range;
- (13) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;
- (14) Location and width of existing roadways, road rights-of-way and parking areas within the site;
- (15) All street and road names shall be shown;
- (16) Area of each individual lot and the total area of the proposed consolidation;
- (17) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned;
- (18) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear;
- (19) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any;

(20) The plat shall include executed certificates, notices, and statements in the standard format provided by the county, including the following certifications:

- (a) Certificate for acceptance by the Land Use Administrator;
- (b) Surveyors Certification;
- (c) Owners and Mortgagee certification; and
- (d) Certificate for County Clerk and Recorder.

c. **Additional Requirements.**

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Review and Decision by Land Use Administrator

The Land Use Administrator shall review the lot consolidation application to evaluate compliance with applicable standards. Following the review, the Land Use Administrator may approve, approve with conditions, or deny an application based on the approval criteria set forth in Section 4.09.C, *Approval Criteria*.

7. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the survey plat with the Rio Grande County Clerk and Recorder.

C. Approval Criteria

A lot consolidation may be approved and accepted by the Land Use Administrator if the application is found to meet the following criteria:

- 1. The proposed consolidation conforms to all applicable requirements for the zone district(s) in which the property is located;
- 2. The proposed consolidation substantially conforms to all other applicable requirements of this code and county resolutions; and

3. The proposed consolidation is consistent with the applicable portions of the Master Plan in the reasonable judgement of the Land Use Administrator.

Section 4.10 Plat Vacation

A. General Provisions

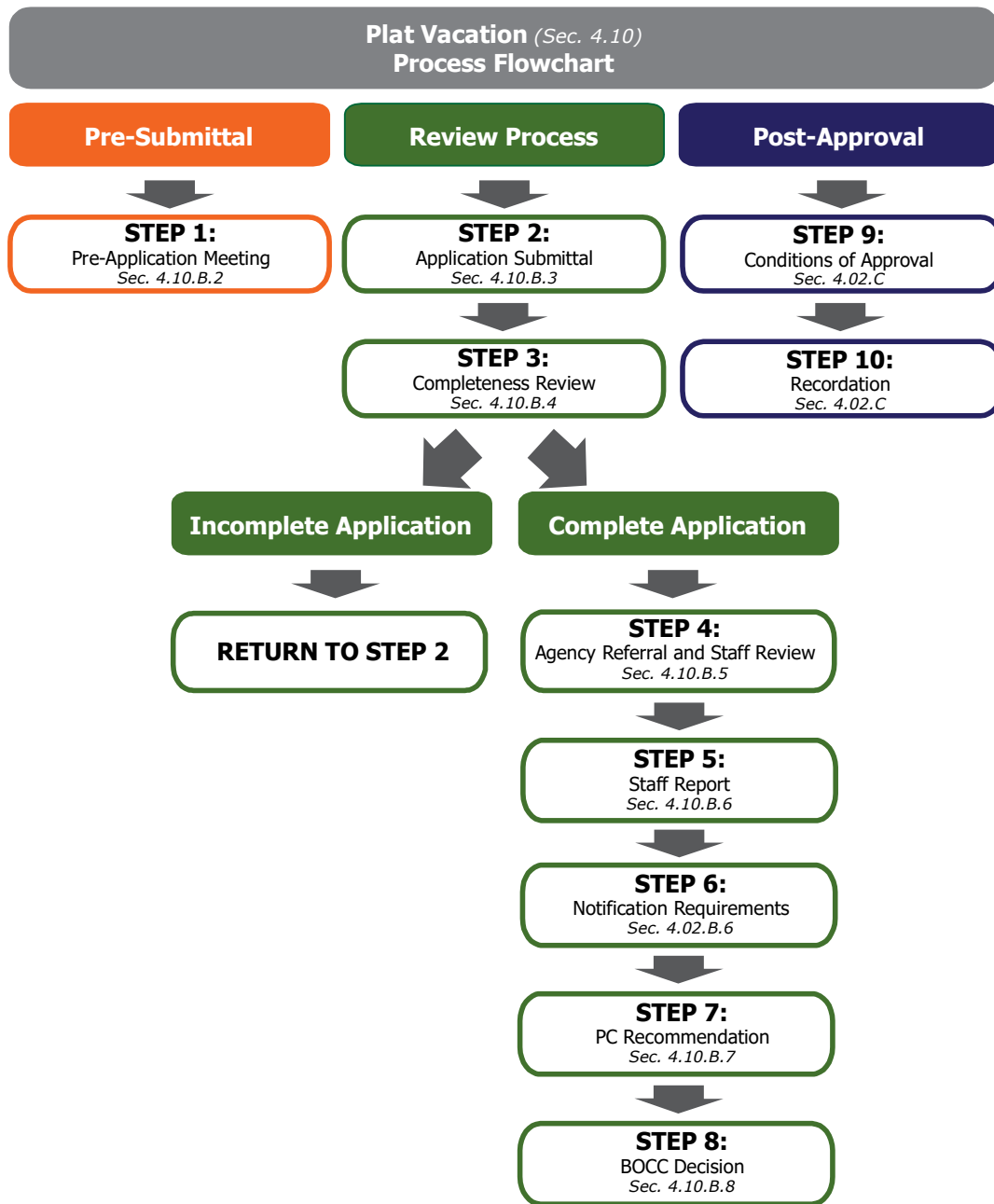
The plat vacation review process is a review process for vacating a recorded subdivision. If the recorded subdivision requested to be vacated includes dedicated roadways, a right-of-way vacation shall also be applied for pursuant to Section 4.12, *Right-of-Way Vacation*.

B. Review Procedures

1. Review Flowchart

Figure F-4.9, *Plat Vacation Flowchart*, depicts the plat vacation application review process described in greater detail in this section.

Figure F-4.9 – Plat Vacation Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a plat vacation request. The Land Use Administrator may waive or alter any of the submittal

requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

b. **Vacation Plat.** The vacation plat shall contain the following information, in a format acceptable to the county. The plat shall be prepared in a clear and legible manner measuring 24" x 36" with clear margins of two (2) inches on the left-hand side and one-half inch on the remaining sides.

(1) A title clearly identifying the plat as a "Vacation Plat";

(2) Legal description of the property;

(3) North arrow, scale, and legend;

(4) A vicinity map at a suitable scale;

(5) The name and address of the owner(s) of record of all properties being modified and the same information for the applicant(s), if other than the owners;

(6) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the survey plat;

(7) The township, range, section and quarter section(s);

(8) Location and full description of all monuments as required by this Land Development Code and by Title 38, Article 51, C.R.S.:

(a) Permanent monuments shall be set on the external boundary of the subdivision pursuant to §38- 51-101, C.R.S. and

(b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.

(9) Information adequate to locate all monuments shall be noted on the plat;

(10) Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township and range;

(11) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;

(12) Location and width of existing and proposed roadways, road rights-of-way and parking areas within the site:

(a) All street and road names shall be shown; and

(b) If any road in the subdivision is a continuation or approximately a continuation of an existing public road, the conformity or the amount of conformity of the new road to the existing roads shall be accurately shown.

- (13) Names and widths of all existing or recorded streets and roads intersecting the plat boundaries or paralleling them within two hundred (200) feet, the names and map numbers of all bordering subdivisions, and any municipal limits within two hundred (200) feet of the boundaries of the plat;
- (14) Area of the site, area of individual parcels, and areas of all development including developed driveways, parking and buildings;
- (15) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned;
- (16) The purpose and owner(s) of all easements and statements from all utility companies, as applicable, that the stated services will be provided to the proposed development after platting. A plat note may be necessary to provide complete information regarding the purpose of the easement;
- (17) The boundary lines and dimensions, shown accurately, of all property to be reserved and dedicated, with the means of access to such property clearly shown and its intended uses noted;
- (18) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear;
- (19) Identification of lots with slope in excess of thirty (30) percent and any other lots where special studies are required prior to obtaining a development permit;
- (20) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any;
- (21) All lands within the boundary of the subdivision shall be accounted for as a lot, tract, parcel, open space, street, right-of-way, alley and so forth, and all areas of such lands shall be shown on the plat to the nearest one hundredth of an acre;
- (22) When public rights-of-way are proposed to be vacated, the following shall be included in the written narrative or on the final plat, as appropriate:
 - (a) The area(s) to be vacated identified in a hash on the final plat;
 - (b) A table depicting the amount of area and who the recipient of the vacated rights-of-way;
 - (c) Justification or explanation for why the vacation is needed;
 - (d) A statement identifying all existing easements and/or utilities or services on the property to be vacated and confirmation from said easement holders and service providers in their agreement with the vacation request;

- (e) A statement explaining how the vacation of public right-of-way will not be detriment to the public infrastructure, current and future roadway network and connectivity, and current and future emergency response and accessibility; and
- (f) The following signature and certificate blocks:
- (g) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;
- (h) Certification by the project surveyor certifying to the accuracy of the survey and plat;
- (i) Certification of the Rio Grande County Planning Commission approval;
- (j) Certification for approval of the Rio Grande County Board of County Commissioners; and
- (k) Certification for the Rio Grande County Clerk and Recorder.

c. Additional Requirements

- (1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the plat vacation application in a manner consistent with Table T-4.1 to evaluate compliance with applicable standards. Following their review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 4.10.C, *Approval Criteria*.

8. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a plat vacation shall be made by the Board of County Commissioners in a manner set forth in Table T-4.1 and be based upon the review criteria set forth in Section 4.10.C, *Approval Criteria*.

9. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including vacating the approved final plat with the Rio Grande County Clerk and Recorder.

C. Approval Criteria

Prior to making a decision on a plat vacation application, the Board of County Commissioners, shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

1. Vacation of the plat will not leave any lots without adequate utility or drainage easements;
2. Vacation of the plat will not vacate road rights-of-way or access easements needed to access other property;
3. Vacation of the plat will not inhibit the provision of adequate public facilities or services to other property as required by this Land Development Code; and
4. Vacation of the plat is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body.

Section 4.11 Resubdivision

A. General Provisions

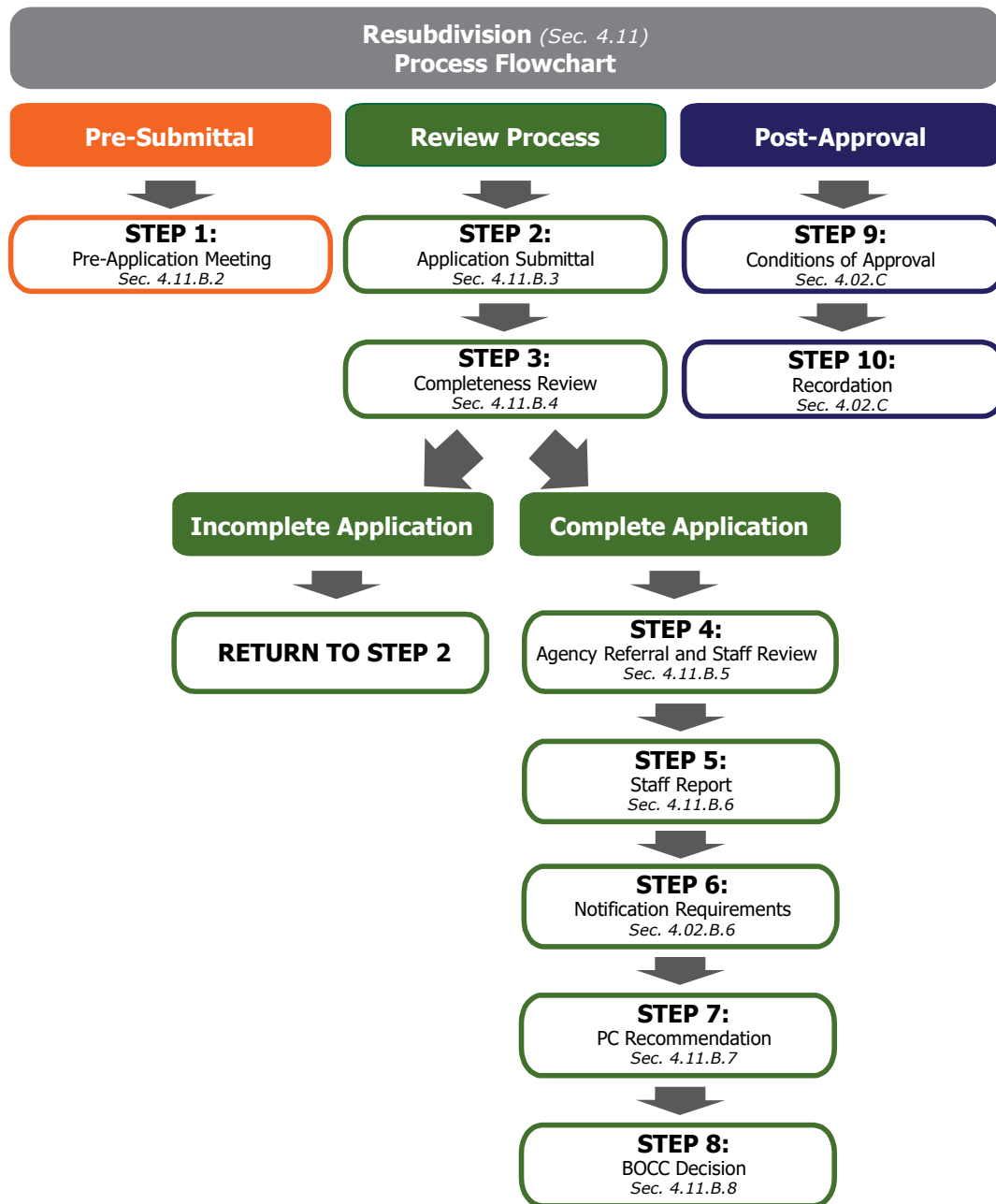
A resubdivision is required for any request to amend or revise a recorded plat that would not be defined as another type of special land division.

B. Review Procedures

1. Review Flowchart

Figure F-4.10, *Resubdivision Flowchart*, depicts the resubdivision application review process described in greater detail in this section.

Figure F-4.10 – Resubdivision Flowchart



2. Pre-Application Meeting.

A pre-application meeting may be held in accordance with the provisions set forth in Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements.

The following are the application materials required to be submitted for a final plat request. The Land Use Administrator may waive or alter any of the submittal

requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

b. **Resubdivision Plat.** The resubdivision plat shall contain the following information, in a format prescribed by the county. The Land Use Administrator may waive portions of the following list to the extent the resubdivision does not affect all or substantially all of the original plat. The resubdivision plat shall be prepared in a clear and legible manner measuring 24" x 36" with clear margins of two (2) inches on the left-hand side and one-half inch on the remaining sides.

- (1) A title clearly identifying the plat as a "Resubdivision Plat";
- (2) Legal description of the property;
- (3) North arrow, scale, and legend;
- (4) A vicinity map at a suitable scale;
- (5) Resubdivision plat shall be scaled at one (1) inch to two-hundred (200) feet;
- (6) The name and address of the owner(s) of record of the land being platted and the same information for the applicant(s), if other than the owners,
- (7) The name, address and seal of the certifying registered land surveyor and the other individuals preparing the resubdivision plat;
- (8) The township, range, section and quarter section(s);
- (9) Location and full description of all monuments as required by this Land Development Code and by Title 38, Article 51, C.R.S:
 - (a) Permanent monuments shall be set on the external boundary of the subdivision pursuant to §38- 51-101, C.R.S.; and
 - (b) Block and lot monuments shall be set pursuant to §38-51-101, C.R.S.
- (10) Information adequate to locate all monuments shall be noted on the plat;
- (11) The location, layout, dimensions, areas, and uses of all lots and blocks numbered consecutive;
- (12) The location, layout, dimensions, areas and uses of all outlots and tracts labeled consecutively by letters and include a table identifying ownership and maintenance responsibilities;
- (13) Boundary lines, corner pins, and dimensions of the subject parcel(s), including land survey data to identify the subject parcel by section corners, distance and bearing to these corners, quarter corner and township and range;

- (14) The lengths of all arcs, radii and tangents. Sufficient data shall be shown for all curved lines on the plat to enable reestablishment of the curves in the field;
- (15) Location and width of existing and proposed roadways, road rights-of-way and parking areas within the site:
 - (a) All street and road names shall be shown; and
 - (b) If any road in the subdivision is a continuation or approximately a continuation of an existing public road, the conformity or the amount of conformity of the new road to the existing roads shall be accurately shown.
- (16) Names and widths of all existing or recorded streets and roads intersecting the plat boundaries or paralleling them within two hundred (200) feet, the names and map numbers of all bordering subdivisions, and any municipal limits within two hundred (200) feet of the boundaries of the plat;
- (17) Area of the site, area of individual parcels, and areas of all development including developed driveways, parking and buildings;
- (18) The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks or paths, and similar features, including all other rights-of-way not otherwise or explicitly mentioned;
- (19) The purpose and owner(s) of all easements and statements from all utility companies, as applicable, that the stated services will be provided to the proposed development after platting. A plat note may be necessary to provide complete information regarding the purpose of the easement;
- (20) The boundary lines and dimensions, shown accurately, of all property to be reserved and dedicated, with the means of access to such property clearly shown and its intended uses noted;
- (21) A legally acceptable land description and dedication block placed on the plat by the applicant dedicating streets, rights-of-way, utility easements, public sites and other such features. The transfer to the county of dedicated land shall take place by a legally acceptable instrument prior to or concurrent with resubdivision plat acceptance, but before recording of the resubdivision plat;
- (22) The names of abutting subdivisions or, in the case of abutting unplatted property, the notation "unplatted" shall appear;
- (23) Identification of lots with slope in excess of thirty (30) percent and any other lots where special studies are required prior to obtaining a development permit;
- (24) Delineation of all known, identified or designated one hundred (100) year floodplains and localized areas subject to periodic inundation along the required stream setback lines, if any; and

(25) All lands within the boundary of the subdivision shall be accounted for as a lot, tract, parcel, open space, street, right-of-way, alley and so forth, and all areas of such lands shall be shown on the plat to the nearest one hundredth of an acre:

(a) The following signature and certificate blocks:

- (i) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;
- (ii) Certification by the project surveyor certifying to the accuracy of the survey and plat;
- (iii) Certification of the Rio Grande County Planning Commission approval;
- (iv) Certification for approval of the Rio Grande County Board of County Commissioners; and
- (v) Certification for the Rio Grande County Clerk and Recorder.

c. **Final Landscape Plan.** The landscape plan shall not include any plants or species identified as noxious weeds or invasive species by the Rio Grande County Weed District or on the USDA Colorado State Noxious Weed list. When landscaping is proposed, the landscape plan shall include the following elements:

- (1) Topographic information at two (2) foot contour intervals;
- (2) Location of all lot lines and improvements to the property and location of any easements of record;
- (3) Location of all existing and proposed buildings, driveways, parking lots, walkways, sidewalks, and other impervious surfaces to remain or exist on the property;
- (4) A plant schedule which identifies plants, species, and minimum size to be installed on the property;
- (5) Identification of areas where existing vegetation will be preserved;
- (6) Identification of areas where landscaping will be installed; and
- (7) If an irrigation system is proposed, an irrigation plan depicting the location of irrigation lines and spray heads, irrigation zones, spray areas of each head, and make and model of irrigation system and sprinkler heads.

d. **Engineering Reports and Plans**

- (1) Final plan and profile design of all proposed streets, sidewalks, trails, walkways, and bikeways;
- (2) Final plan and profile design of all surface drainage and storm sewer conveyance facilities including, but not limited to, inlet locations, size and location of pipes, retention or detention facilities, and required water quality and erosion control measures;

- (3) Final engineering design and construction features for any bridges, culverts, or other drainage structures to be constructed;
- (4) Mitigation of any geologic hazard(s) impacting the project site;
- (5) Final plan and profile design of all wastewater collection and water supply and distribution system improvements necessary; and
- (6) Final cost estimates for all public improvements.

e. **Supplemental Materials**

- (1) Final improvements agreement meeting all standards and requirements set forth in Section 4.14, *Improvement Agreement*;
- (2) Final drainage plan or study calculating historic and proposed surface and stormwater flows and how such flows will be managed;
- (3) Final traffic statement or study identifying current and proposed traffic counts and proposed trip generation along with any needed or anticipated improvements to mitigate the projects use on the public transportation network and infrastructure;
- (4) Covenants, restrictions, and by-laws, if applicable; and
- (5) Proof of minimum guaranteed water supply appropriate for the requested use.

f. **Additional Requirements**

- (1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the resubdivision application in a manner consistent with Table T-4.1 to evaluate compliance with applicable standards.

Following their review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the review criteria set forth in Section 4.11.C, *Approval Criteria*.

8. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a resubdivision shall be made by the Board of County Commissioners based upon the review criteria set forth in Section 4.11.C, *Approval Criteria*.

9. Post Approval

The applicant shall follow the post approval procedures in accordance with Section 4.02.C, *Post Approval*, including recording the resubdivision with the Rio Grande County Clerk and Recorder.

C. Approval Criteria

Prior to making a recommendation or a decision on a resubdivision application, the Planning Commission and Board of County Commissioners, respectively, shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

1. The proposed subdivision conforms to all applicable requirements for the zone district(s) in which the property is located;
2. The proposed subdivision substantially conforms to all other applicable requirements of this code, ordinances, and resolutions; and
3. The proposed subdivision is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body.

Section 4.12 Right-Of-Way Vacation

A. General Provisions

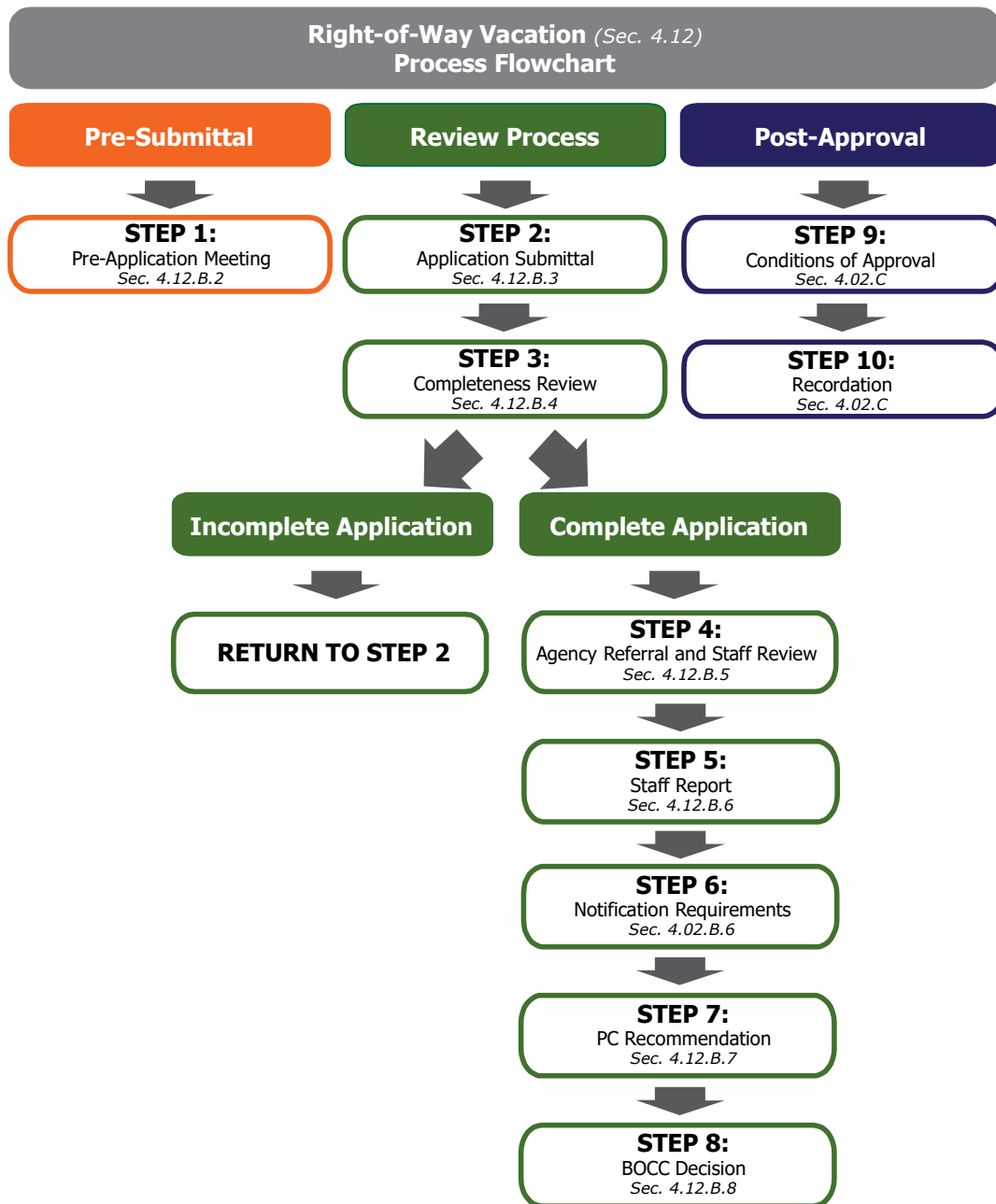
The vacation of interests in rights-of-way owned or otherwise held by Rio Grande County shall be in accordance with the provisions of this Section 4.12, *Right-of-Way Vacation*, and Part 3 of Article 2 of Title 43, C.R.S.

B. Review Procedures

1. Review Flowchart

Figure F-4.11, *Right-of-Way Vacation Flowchart*, depicts the right-of-way vacation application review process described in greater detail in this section.

Figure F-4.11 – Right-of-Way Vacation Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth Section 4.02.B.1, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a right-of-way vacation request. The Land Use Administrator may waive or alter any of the submittal

requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfied applicable standards.

a. **Basic Application Materials.** All materials set forth in Section 4.02.B.2.a, *Basic Application Materials*.

b. **Supplemental Materials**

(1) Legal description of the proposed right-of-way or portion thereof to be vacated, prepared, signed and sealed by a Colorado licensed Professional Land Surveyor;

(2) Name and mailing address of all property owners adjacent to or otherwise affected by the request;

(3) A copy of the original, recorded conveyance document in which the right-of-way was dedicated and conveyed for public purposes; and

(4) Narrative describing the reasons for the request for vacation, a description of the planned use(s) for the right-of-way proposed for vacation and description of the means of access to all properties affected by the request.

c. **Additional Requirements**

(1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 4.02.B.3, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 4.02.B.4, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 4.02.B.5, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the right-of-way vacation application in a manner consistent with Table T-4.1 to evaluate compliance with applicable standards. Following their review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 4.12.C, *Approval Criteria*.

8. Review and Action by the Board of County Commissioners

The final decision to approve, approve with conditions, or deny a right-of-way vacation shall be made by the Board of County Commissioners in a manner set forth in Table T-4.1 and be based upon the review criteria set forth in Section 4.12.C, *Approval Criteria*.

9. Post Approval

Upon approval of a right-of-way vacation by the Board of County Commissioners, title to the vacated right-of-way shall vest with adjacent property owners or the original grantor or its successors-in-interest as provided by §43-2-301, et seq., C.R.S., as amended.

C. Approval Criteria

Prior to making a decision on a right-of-way vacation application, the Board of County Commissioners, shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

1. Vacation of the right-of-way will not leave any adjoining land without access to an established public right-of-way or private access easement connecting such land to another established public right-of-way;
2. Vacation of the right-of-way is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body;
3. Vacation of the right-of-way will not have a negative impact on the transportation network and infrastructure of the county; and
4. Adequate easements have been reserved for use and/or maintenance by the county or other utility agencies.

Section 4.13 Statutory Exemptions

A. General Provisions

Certain divisions of land are exempted by §30-28-101(10)(b) and (c), C.R.S. Although these divisions of land are exempt from this Article 4, *Division of Land*, all other applicable provisions of the Land Development Code and adopted building codes are applicable to the use of the property.

Section 4.14 Improvement Agreement

A. Applicability

All applicants granted subdivision approval, or approval of public improvements deemed necessary to comply with required adequate public improvements as set forth in this Land Development Code, shall timely, completely, and satisfactorily construct or install all required improvements and infrastructure as called for in this Land Development Code and/or as may have been specified as a condition of approval. All improvements and infrastructure intended for public use shall be dedicated and/or transferred to the county, or appropriate agency, free of all liens and encumbrances.

B. Agreement and Guarantee

No final division of land shall be executed by the county and no building permits shall be issued for any lot, parcel or property within a division of land as regulated by this Article 4, *Division of Land* involving or requiring the installation of public improvements unless and until an improvement agreement is prepared and executed pursuant to this Section 4.14, *Improvement Agreement*. Such agreement shall be recorded simultaneously with the final division of land with the Rio Grande County Clerk and Recorder.

1. **Contents of Agreement.** Such agreement shall, at a minimum, set forth:
 - a. Construction specifications for required public and private improvements;
 - b. A construction and completion schedule;
 - c. Security and guarantees concerning the timely and satisfactory completion of the improvements; and
 - d. The terms and conditions for the acceptance of the improvements by the county.
2. **Timing of Agreement.** The improvement agreement shall include a requirement that all improvements be maintained by the developer/subdivider at the cost of the developer/subdivider until such improvements have been fully accepted by the county.
3. **Agreement to Run with the Land.** The improvement agreement shall run with the land and bind all successors, heirs, and assignees of the developer/subdivider.
4. **Security.** The improvement agreement shall include a requirement for the posting of adequate financial security to ensure the timely, complete, and satisfactory construction or installation of all improvements and infrastructure as called for in the agreement.
 - a. **Amount of Security.** Security shall be in an amount not less than one-hundred and fifteen (115) percent of the engineers cost estimate to complete all improvements or infrastructure and may be provided by letter of credit, cash escrow, or other financial instrument as approved by the Board of County Commissioners within its sole discretion.

b. **Letter of Credit.** If a developer/subdivider posts a letter of credit as security, it shall:

- (1) Be irrevocable;
- (2) Be for a term, inclusive of renewals, sufficient to cover the completion, maintenance, and warranty periods as required in Section 4.14.B.2, *Timing of Agreement*; and
- (3) Require only that the county present the letter of credit on demand and an affidavit signed by the County Administrator attesting to the county's right to draw funds under the letter of credit.

c. **Cash Escrow.** If a developer/subdivider posts a cash escrow, the escrow instructions shall provide:

- (1) That the developer/subdivider shall have no right to a return of any of the funds except as provided in Section 4.14.B.4.d, *Reduction of Security*; and
- (2) That the escrow agent shall have a legal duty to deliver the funds to the county whenever the County Administrator presents an affidavit to the agent attesting to the county's right to receive funds, whether or not the developer/subdivider protests that right.

d. **Reduction of Security**

(1) Upon preliminary acceptance of a public improvement or public infrastructure, the county shall release all but fifteen (15) percent of the amount of financial security posted to secure the successful and timely completion of same, so long as the developer is not in default of any provision of the improvement agreement.

(2) The residual fifteen (15) percent retained by the county shall act as security for the developer's/subdivider's guarantee that the public improvements and infrastructure remain free of defect during the applicable warranty period. The developer/subdivider may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the county. The county may accept substitute or supplemental forms of security in its sole discretion.

e. **Temporary Improvements.** The applicant shall build and pay for all costs of temporary improvements required by the county and shall maintain those temporary improvements for the period specified by the Board of County Commissioners. Prior to construction of any temporary facility or improvement, the developer/subdivider shall file with the county a separate public improvements agreement and a letter of credit or cash escrow in the agreed upon amount for temporary facilities, which agreement and credit or escrow shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

f. **Special Districts**

(1) Required public improvements shall be made by the developer/subdivider, at its expense, without reimbursement by the county or any improvement district except that, as may be allowed under state law, the developer/subdivider may form or cause to be formed a special district or districts to construct and finance the construction of required public improvements excluding lot improvements on individual lots.

(2) If the developer/subdivider does form or cause to be formed a special district for the purposes identified in this section, the county shall not release the developer/subdivider from its obligations under any public improvements agreement nor shall the county release any security, in whole or in part, until the special district has sold bonds or otherwise certifies to the county that it has an absolute right to raise revenues sufficient to construct, maintain, and warrant the quality of the required public improvements.

g. Failure to Complete Improvements

(1) For developments/subdivisions without an executed agreement or security, improvements shall be completed within a period specified by the county, or the associated development/subdivision application approval shall be deemed to have expired.

(2) In those cases where a public improvements agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the county may:

(a) Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;

(b) Suspend or revoke authorization for subdivision, including without limitation, suspension or revocation of previously issued building permits and suspend issuance of further building permits until the improvements are completed and record a document to that effect for the purpose of public notice;

(c) No certificate of occupancy shall be processed or issued by the county for any lot or building within a development prior to the complete and satisfactory installation of all development improvements or infrastructure required to serve such lot or building, and the payment of any and all development fees then due to the county by the developer/subdivider;

(d) Obtain funds under the security and complete improvements itself or through a third party;

(e) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; and/or

- (f) Exercise any other rights available under the law.

Article 5. Planned Unit Development

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Section 5.01 General Provisions

A. Authorization

Planned Unit Developments (PUD) are authorized by state statute at Title 24, Article 67, C.R.S.

B. Purpose and Objectives

The PUD is a type of customized zoning district regulated by a development plan and development guide, together referred to as “PUD” in this article. A PUD is intended to encourage greater flexibility and innovation in residential, commercial, industrial, and mixed use developments. It is the intent of this Land Development Code that any property may be developed as a PUD provided it meets minimum size and other applicable requirements and standards as set forth in this Article 5, *Planned Unit Development*. This district is created to accommodate and require new development of mixed uses in a comprehensive, planned design optimizing the proposed uses, existing terrain features and available scenic views to maximize the aesthetic and safety features of the development. Uses potentially allowable in a PUD district shall include residential, commercial, retail, office, and industrial developments so long as the overall development plan and design details are determined to be appropriate to the purposes of this article, and of the Master Plan.

C. Intent

These PUD regulations and standards are intended to:

1. Allow flexibility in the development of medium and large-scale sites;
2. Permit development in a manner varying from standards and regulations set forth in this Land Development Code in exchange for innovative design and creative land use that might otherwise not be permitted by traditional zoning districts when narrowly construed;
3. Promote the unified and integrated development and use of land at its highest feasible economic and visual values while protecting the natural physical environment of the county;
4. Foster development that arranges various land uses in appropriate relationship to each other, to commonly shared open space, and to common facilities;
5. Provide a greater variety in type, design, and layout of buildings and open space;
6. Utilize land and public services more efficiently; and
7. Provide a range of housing options at market and affordable rates.

D. Application

A PUD may be requested for land located in any zoning district. A land use application and all submittal requirements shall be submitted to the Rio Grande County Land Use Department as set forth in this Article 5, *Planned Unit Development*.

E. Eligibility

A PUD is not permitted on a project area of land less than five (5) acres in area. Such area may include one (1) or more contiguous lots, tracts, parcels or properties.

1. The Board of County Commissioners may reduce such area requirement if the following applies:
 - a. Common and/or dedicated open space is provided commensurate with requested reduction; or
 - b. If the layout and design of land uses and amenities provided in the PUD warrant an increase in density or a reduction of project size.

F. Permitted Uses

Uses that are consistent with the intent of applicable portions of the Master Plan in the reasonable judgment of the Board of County Commissioners and compatible with the site's physical and environmental characteristics may be allowed in a PUD.

G. Coordination with Subdivision and Zoning Regulations

The PUD is a type of customized zoning district. All standards and regulations set forth in Article 2, *Zoning Regulations*, Article 4, *Division of Land*, and Article 6, *Design Standards*, as applicable, apply to the PUD and such criteria shall be met in addition to all standards and criteria set forth in this article, unless specifically permitted to be waived or varied by the Board of County Commissioners.

1. It is the intent of this Land Development Code that subdivision hearings and review under Article 4, *Division of Land* may cover only a portion of the entire project when the development is built in stages or phases.
2. At the discretion of the applicant and subject to approval by the Board of County Commissioners as a part of the PUD review, the applicant may choose to delay initiation of review of a division of land application until final approval of PUD is obtained for the entire project area.

H. Modification of Requirements

The Board of County Commissioners may waive or modify specifications, standards, and requirements such as density, setbacks, height restrictions, land dedications, improvement standards, and related requirements that would otherwise be applicable to a particular land use if such waiver or modification furthers the objectives of these PUD regulations.

I. Enforcement of PUD

The provisions and standards of an approved and recorded PUD development plan and development guide is an extension of the Rio Grande County Land Development Code and shall have the same authority and enforcement as the standards and regulations within the Land Development Code. Any violation of the PUD development plan or

development guide shall be enforced through the provisions set forth in Article 11, *Enforcement*.

Section 5.02 PUD Standards

A. General Provisions

The following provisions apply to all PUD application requests:

1. **Conformity with the Master Plan.** The proposed PUD shall be consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body.
2. **Relationship to Surrounding Area.** The PUD will not have an adverse effect on the surrounding area. The PUD shall be compatible with the scale, intensity, and type of uses located on adjacent and nearby properties.

B. Visual Impacts

The layout and design of the PUD shall preserve views and vistas and the design shall be compatible with the surrounding natural environment and natural features.

C. Street Circulation System

The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience and access. Private internal streets may be allowed, provided that adequate access for emergency service providers, including but not limited to, police and fire protection, is maintained.

D. Parking and Loading

The Board of County Commissioners may permit an increase or decrease in the required number of off-street parking spaces, taking into consideration the following factors:

1. Probable number of cars owned by occupants of dwellings in the PUD;
2. Parking needs of any non-residential uses;
3. Varying time periods of peak use; and
4. Use of shared common parking areas.

E. Open Space

The PUD shall preserve at least twenty-five (25) percent of the gross project area as open space unless the use is predominately commercial or industrial, in which case common areas such as pedestrian plazas, gathering areas and similar features may be included in lieu of open space.

F. Housing Variety

The PUD shall provide for variety in housing types, prices, and forms of ownership.

G. Fire Hazard

Fire hazards will not be created or increased by the PUD.

H. Recreation Amenities

The PUD shall provide recreational opportunities and amenities to residents of the PUD.

I. Block Diversity Plan

The PUD shall include a block diversity plan that provides design diversity within the development. Within each block face, buildings shall provide variations in a minimum of three of the following features:

1. Roof pitch or form;
2. Building massing;
3. Porches and front entries;
4. Garage size, orientation, and point of access;
5. Building materials; and/or
6. Building color palette.

Section 5.03 General PUD Review Procedures

This section outlines the review procedures that are common to all PUD applications. Table T-5.1, *PUD Application Types and Processes*, identifies the various PUD application types and their associated review procedures regulated by this article. The submittal requirements, review procedures, and approval criteria for each application type is laid out in subsequent sections of this article as identified in Table T-5.1. All documents and materials identified in Section 5.03, *General PUD Review Procedures* and the particular application type section shall be required.

A. Table of PUD Application Types and Processes

PUD applications shall be processed in accordance with Table T-5.1, *PUD Application Types and Processes*.

Table T-5.1 – *PUD Application Types and Processes*

	Pre-Application Meeting (§5.03.B)	Completeness Review (§5.03.D)	Notice of Hearing (§5.03.G)	Referrals (§5.03.E)	Planning Commission (§5.03.H)	BOCC (§5.03.H)	Recording (§5.03.I)
<i>R=Required; O=Optional; PH=Required Public Hearing; Rec=Recommendation; D=Decision</i>							
PUD Zoning (§5.04)	R	R	R	R <i>Publication Mailing</i>	R <i>PH/Rec</i>	R <i>PH/D</i>	R
Major PUD Amendment (§5.05)	R	R	R	R <i>Publication Mailing</i>	R <i>PH/Rec</i>	R <i>PH/D</i>	R
Minor PUD Amendment (§5.06)	O	R		O	R <i>PH/Rec</i>	R <i>PH/D</i>	R

B. Pre-Application Meeting

If the applicant or Land Use Administrator requests or when Table T-5.1 requires a pre-application meeting, the following process shall be followed:

1. Prior to the formal submission of the application, the applicant shall contact the Land Use Administrator to schedule an informal pre-application meeting. Following receipt of a request, the pre-application meeting should be set for a date within ten (10) days of the date of the applicant's request. The Land Use Administrator shall advise the applicant of the date and time of the pre-application meeting.
2. The applicant shall be prepared to discuss the proposed application with the Land Use Administrator. The applicant is encouraged to present such plats, plans, diagrams, or other preliminary information sufficient to permit the conceptual review of the proposed application.
3. The purpose of the pre-application meeting is to assist the applicant in understanding the county's application review process(es) and to permit the Land

Use Administrator to determine the applicable process(es) and regulations for the proposed application.

C. Application Submittal Requirements

All of the following information and materials shall be submitted to the Land Use Department in a form acceptable to the Land Use Administrator. Additional information and materials required to be submitted for specific PUD application types identified in Table T-5.1 are specified in subsequent sections of this article and shall also be submitted in order to receive a determination of completeness.

1. **Basic PUD Application Materials.** The following materials are required for all applications regulated by Article 5, *Planned Unit Development*, unless waived by the Land Use Administrator.

a. **Application Form.** An application form for the request shall be obtained from the Rio Grande County Land Use Department. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, applicant, or their designee.

(1) **Authorized Agent.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.

(2) **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all owners or an association representing all the owners, by which all owners consent to or join in the application.

b. **Fees**

(1) **Application Fees.** All applications must be accompanied by the appropriate application fee. A schedule of fees is available through the Rio Grande County Land Use Department.

(2) **Payment of Consultant Fees.** The cost of consultant and referral agency review are the responsibility of the applicant.

(a) The county may require a deposit for payment of consultant and referral agency review fees, based upon estimated consultant review costs, at the time of application and in addition to the application fees.

(b) The county may suspend the application review process pending payment of consultant costs.

(c) The county may require additional deposits to be made if the deposit drops below twenty-five (25) percent of the original deposited amount.

c. **Proof of Ownership.** Proof of ownership in the form of a copy of the property deed or a title commitment which has been issued within sixty (60) days

of the application submittal along with copies of all documents listed in the exceptions.

d. **Legal Description.** Legal description of the property subject to the PUD application.

e. **Adjacent Property Owners.** List of all property owners within fifteen-hundred feet (1,500) of the subject property. Such list shall be generated using the Rio Grande County Assessor's most recent information available.

f. **Mineral Interest Owners.** List of all severed mineral interest owners with interests severed from the subject property.

g. **Vicinity Map.** A map locating the project limits, parcel(s), and property within the county. The vicinity map shall clearly show the boundaries of the subject property, and all property within a three-mile radius of the subject property.

h. **General Written Narrative.** A general written narrative identifying the development team, existing conditions of the property, proposed uses, density, lot layout, end users, financing, public dedications (including rights-of-way, parks, open space, infrastructure), and describing the purpose of the PUD, how the request meets the applicable approval criteria, furthers the goals and objectives specified in the Master Plan, and identifying any potential impacts on adjacent properties and public infrastructure and how those impacts are proposed to be mitigated.

D. **Completeness Review**

In accordance with Table T-5.1, applications shall be reviewed for completeness using the following process:

1. Within ten (10) days following receipt of an application, the Land Use Administrator shall administratively review the application and determine whether it includes all the application content requirements of the Land Development Code for the requested application type.
2. All plans, reports, maps and other information required for any application must be complete and legible. A failure of the application to meet the requirements of this article and the Land Development Code may delay the processing of the application until the application is sufficient and complete.
3. When the Land Use Administrator determines that the application is complete as submitted, the Land Use Administrator shall schedule the application for review in accordance with the provisions set forth in this Article 5, *Planned Unit Development*.
4. In the event the Land Use Administrator determines that the application is incomplete, the Land Use Administrator shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Land Use Administrator determines that the applicant has remedied the application's deficiencies.

E. Referral Agencies

In accordance with Table T-5.1, applications shall be referred to any of the below referral agencies the Land Use Administrator determines is necessary to the complete and comprehensive review of the request. Referral of applications to other agencies shall be for a minimum time frame of fourteen (14) days. However, the time frame for review and comment may be extended if the application presents technical issues which require additional review, additional information is provided by the applicant, or the application is modified. Referral agencies include, but are not limited to, the following:

1. Bureau of Land Management
2. Colorado Department of Transportation (CDOT)
3. Colorado Division of Reclamation, Mining & Safety
4. Colorado Division of Water Resources
5. Colorado Parks and Wildlife
6. Colorado State Forest Service
7. Counties and/or municipalities within a three-mile radius of any portion of the proposed zoning application.
8. Ditch companies
9. Fire Protection District(s) or department(s)
10. Rio Grande County Departments (Assessor, Clerk and Recorder, Attorney, Health, Building Department, Road and Bridge, Sheriff Office, etc.) as appropriate
11. Rio Grande Water Conservation District
12. San Luis Valley Rural Electric Cooperative
13. San Luis Valley Water Conservancy District
14. School district(s)
15. Soil conservation district board or boards within the county
16. Utility service providers and districts
17. US Army Corp of Engineers
18. US Environmental Protection Agency (EPA)
19. US Forest Service
20. Xcel Public Service of Colorado
21. Any other entity or agency deemed necessary by the land use administrator.

F. Staff Report

The Land Use Administrator shall review the application to determine if the proposal satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the applicable standards of this Land Development Code have been met. The staff report should identify issues raised through staff and referral agency review, potential mitigation requirements, and any recommended conditions for approval, and any additional information pertinent to the review of the application.

G. Notice Requirements

All public notices of hearings required for a PUD application shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed appropriate to apprise the public of the general nature of the action proposed. When required, notice shall be given in accordance with the requirements of Table T-5.1 and may include notice by publication or mailing, or a combination of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably misled or misinformed the public.

1. Notice by Publication

When notice by publication is required for a public hearing as set forth in Table T-5.1, notice of the hearing shall be published in the designated newspaper of Rio Grande County at least fifteen (15) days before the date of the hearing.

2. Notice by Mailing

a. When notice by mailing is required for a public hearing as set forth in Table T-5.1, the county shall mail public notices by first class mail to all property owners identified under Section 5.03.C.1, *Basic PUD Application Materials*. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

b. When notice by mailing is required for a public hearing, mailed notice shall be addressed to owners of property within fifteen-hundred (1,500) feet of the subject property boundary as their names and addresses appear in the real property records of the Rio Grande County Assessor.

c. **Mineral Estate Notice.** Per §24-65.5-103, C.R.S. if the surface estate and mineral estate are severed, the owners of severed mineral estates shall be entitled to notification not less than thirty (30) days before to the date scheduled for the public hearing for the application.

H. Public Hearings

When an application requires a public hearing before the Planning Commission or the Board of County Commissioners in accordance with Table T-5.1, the following shall apply:

1. The county shall set the date and time of a public hearing. Notice of the public hearing shall be issued in accordance with Table T-5.1 and Section 5.03.G, *Notice Requirements*.
2. At the public hearing, the reviewing body shall review the application for conformance with the applicable review standards and approval criteria for the request.
3. Any public hearing or other action of the body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.
4. When required, the Planning Commission recommendation shall be forwarded to the Board of County Commissioners. Following a public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the application or continue the matter to a date certain.
5. The applicant shall bear the burden of presenting sufficient evidence at the public hearing to support the standards and approval criteria set forth within this Land Development Code. Any decision by the reviewing body to recommend, or to act to, approve, conditionally approve, or deny an application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the reviewing body shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

I. Post Approval

1. **Review.** Prior to recording of the approved PUD documents, the applicant shall submit all final documents reflecting any conditions of approval to the Land Use Administrator for final review and acknowledgement.
2. **Recording.** Any documents required to be recorded with the Rio Grande County Clerk and Recorder shall be fully executed by the applicant and submitted to the Land Use Administrator for execution by the county. Recording of all documents shall be completed within a reasonable period of time from the date of approval by the approving body.
3. **Effective Upon Recording.** The approval does not become effective until all approved documents have been properly recorded with the Rio Grande County Clerk and Recorder.

Section 5.04 PUD Zoning

A. General Provisions

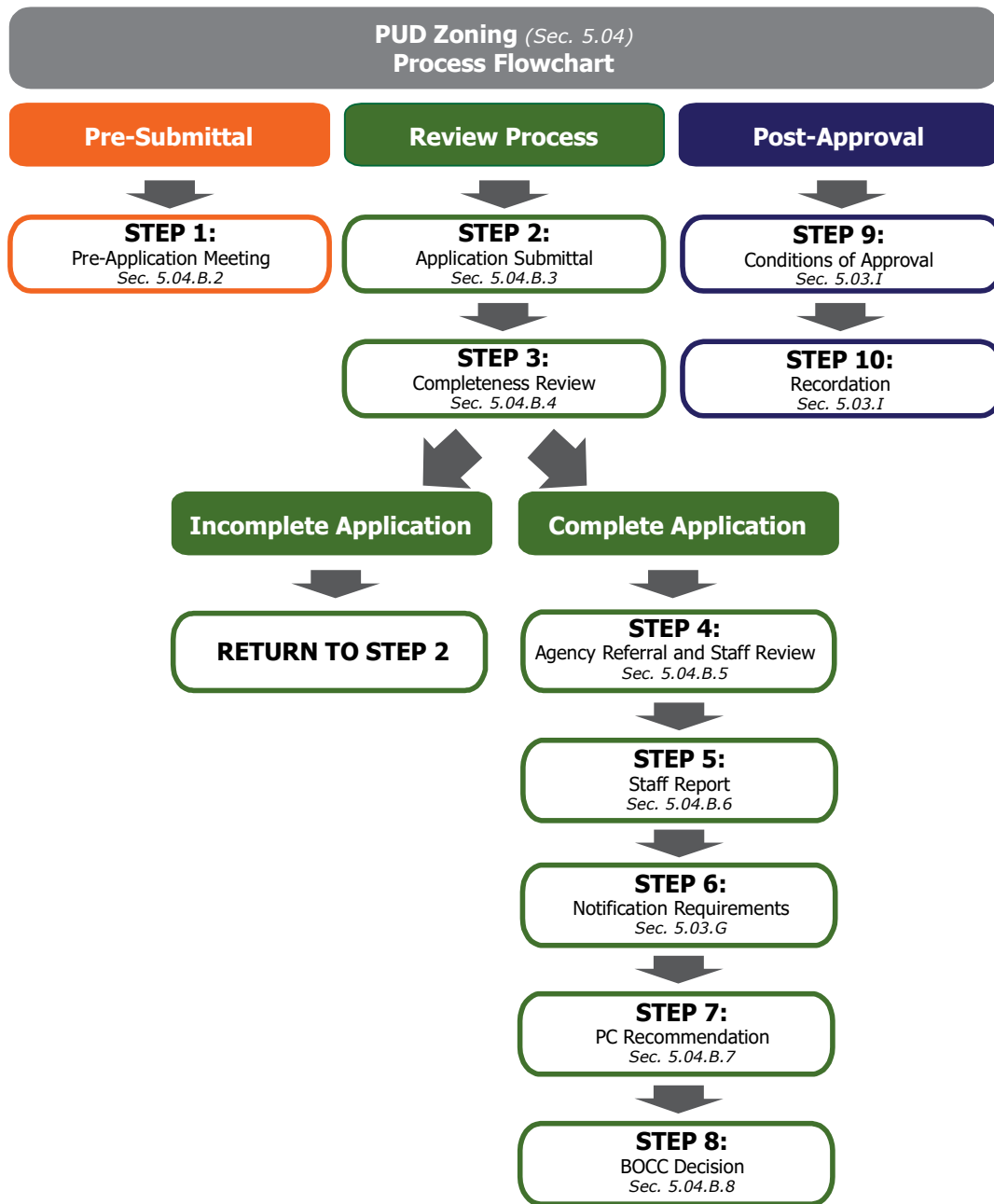
An application for a PUD zoning is a type of rezoning. A PUD zoning application shall be accompanied by a PUD development plan and a PUD development guide. The review process for PUD zoning applications are set forth in Section 5.04.B, *Review Procedures*. Upon approval, the applicable zoning district standards shall be those established by the PUD development plan and the PUD development guide.

B. Review Procedures

1. Review Flowchart

Figure F-5.1, *PUD Zoning Flowchart*, depicts the PUD zoning application review process described in greater detail in this section.

Figure F-5.1 – PUD Zoning Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 5.03.B, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a PUD zoning request. The Land Use Administrator may waive or alter any of the submittal

requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic PUD Application Materials.** All materials set forth in Section 5.03.C.1, *Basic PUD Application Materials*.

b. **PUD Written Description**

A written description of the proposal shall be submitted with a PUD zoning application including and addressing the following information:

- (1) The names and addresses of owner, applicant and representative;
- (2) General project concept and purpose of the request including, but not limited to, the character of the PUD, character and density of residential uses, and an explanation of how employee housing needs associated with the PUD will be met within the PUD and elsewhere;
- (3) Relationship of the proposed PUD development to the existing land uses and adjacent property land uses;
- (4) The expected schedule and phasing of the project including an explanation of how the phasing plan will satisfy basic needs of residents, visitors and future business owners of the project;
- (5) Compliance with the Master Plan;
- (6) Source of and legal right to water. Written confirmation of service availability from a water and sanitation provider or district if the property lies within a service boundary;
- (7) Method of wastewater treatment and disposal;
- (8) Method of fire protection;
- (9) Names and addresses of severed mineral rights owners on the affected property and mineral rights lessees; names and addresses of water rights owners;
- (10) Description of natural and manmade hazards which may exist on the property;
- (11) Discussion of impacts on services, including but not limited to county services, town services, and schools;
- (12) Discussion of impacts on existing flora and fauna, air quality, wildlife, historic lands or sites, drainage or mineral extraction;
- (13) A list of the modifications of standard zoning standards and regulations being requested and justification for such requests; and
- (14) A statement of proposed financing.

c. PUD Development Plan

The development plan for a PUD zoning application must depict and contain the following information:

- (1) The size of the plan shall be prepared at a size that is legible for reasonable review and interpretation, as determined by the Land Use Administrator;
- (2) A scale that is one (1) inch equals two hundred (200) feet or another suitable scale if approved by the Land Use Administrator;
- (3) Name or identifying title of the proposed development or use;
- (4) Legal description, date of preparation, north arrow, scale, and legend;
- (5) Vicinity map at a suitable scale;
- (6) Certification of taxes paid;
- (7) Total area of the site, in acres and square footage. If there are two or more lots included in the PUD, the gross and net acreage of individual lots, open space, common areas, and rights-of-way;
- (8) Name, address, telephone number, and e-mail address of the applicant, person preparing the map or plan, designer, engineer, surveyor, and any other consultants of the applicant;
- (9) The following signature and certificate blocks:
 - (a) Certification of title showing the applicant is the landowner, contract purchaser or option-holder;
 - (b) Certification by the project surveyor certifying to the accuracy of the survey and plat;
 - (c) Certification of the Rio Grande County Planning Commission approval;
 - (d) Certification for approval of the Rio Grande County Board of County Commissioners; and
 - (e) Certification for the Rio Grande County Clerk and Recorder.
- (10) Existing land uses and zoning on adjoining properties;
- (11) Public or private sources of utility services and facilities including a statement concerning proposed financing and, where appropriate, types of security anticipated to assure installation of such facilities;
- (12) Location and size of all existing and proposed land uses, including proposed densities, where applicable;
- (13) Proposed use and gross floor area of structures and anticipated number of employees if commercial or industrial uses;

- (14) Depiction of all natural and man-made water courses, retention areas, streams and lakes. Any known one hundred-year (100-yr) flood plains affecting the property shall also be delineated as per the national Flood Plain Insurance Map or those maps provided by the US Army Corp of Engineers or another recognized source;
- (15) Building envelopes in hazardous areas to protect natural resources, if deemed appropriate by the county;
- (16) Areas where geologic hazard, mineral resources, wildfire hazards, or other natural hazards may exist;
- (17) Land to be used for common areas devoted to community use, and land dedicated to county;
- (18) The maximum height of all buildings;
- (19) Areas that are to be conveyed, dedicated or reserved as public parks or open space, recreational areas, and as sites for schools or other civic uses;
- (20) Topography at ten-foot (10') contours, with delineation of areas having slopes twenty percent (20%) or more and other significant topographic conditions at more defined contours;
- (21) The traffic and circulation network, off-street parking areas, service areas, loading areas and major points of access including the widths, lines, and names of all existing and proposed streets, drives, alleys, and roads on or affecting the site, and names of existing streets and alleys, if known, on or adjoining the property. The general location and right-of-way widths for all arterials and collectors shall be shown;
- (22) A landscape plan identifying the location, spacing, size and proposed plant material and species schedule;
- (23) Conceptual building elevations identifying the architectural intent and the means by which the intent will be achieved;
- (24) Names and right-of-way width of each street or other right-of-way, even if for private maintenance and responsibility;
- (25) Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the parcel, shown by location and dimension;
- (26) Primary control points, or descriptions and "ties" to such control points to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
- (27) Location and description of monuments;
- (28) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites, with

accurate dimensions, bearings or deflection angels and radius, arcs, and central angles of all curves;

(29) Number to identify each lot, parcel, tract, outlot or site, such as lot and block numbers;

(30) Preliminary street and road plans and profiles; and

(31) The location, size and character of proposed signs, lighting and advertising devices.

d. **PUD Development Guide**

(1) **General.** All PUD applications must include a proposed development guide that will be applicable only to that particular PUD and not to any other zone district or development. The development guide shall formally establish the standards and requirements for development within the entire PUD. The standards and requirements for development in the approved development guide may be different from the standards and practices established by this Land Development Code if the requested modifications from those regulations are, in the opinion of the Board of County Commissioners, reasonable as well as necessary to the overall project development, and not detrimental to the county or the residents thereof. The regulations and standards contained within this Land Development Code, existing or as may be amended, shall be applicable to any matter which is not addressed in the approved development guide. Each PUD owner as well as their heirs, successors, or assigns shall be bound by all matters, covenants, restrictions, terms and conditions contained in the approved and recorded development plan and development guide, and the same shall run with the land. The PUD development guide may be included as notation sheets within the PUD development plan or submitted as a separate document to be recorded with the PUD materials.

(2) **Contents of Development Guide.** If no amendments or modifications are proposed for a particular standard or regulation, the standard or regulation set forth in this Land Development Code shall apply to all uses and areas within the PUD. The development guide for all PUD applications must contain, at a minimum, provisions regarding the following development features:

(a) **Objective, purpose and intent.** The development guide shall further public health, safety, and the general welfare; facilitate the efficient utilization of land; ensure that there shall be an appropriate relationship with surrounding land and generally encourage compatibility with overall county planning objectives.

(b) **Land Development Code.** The development guide shall supersede the Land Development Code to the extent there are conflicts between the development guide and the Land Development Code.

(c) **Definitions.** Any term or word not defined within this Land Development Code shall be defined within the PUD development guide. Any term not explicitly defined by the development guide shall default to

the terms and words defined in Article 13, *Definitions*, of this Land Development Code.

(d) **Land use planning areas.** Land use planning areas and the uses permitted within each planning area.

(e) **Dimensional Standards.** Dimensional standards for each land use planning area including setbacks, building height, lot size, lot width, and densities.

(f) **Streets.** Street scape and cross-section design depicting the total right-of-way width, vehicle travel lanes, surface material, landscaping and/or sidewalk as required by this Land Development Code.

(g) **Public facilities.** Utilities and services (including water, sewer, roads, electric, gas, telephone, fiber optic, police, fire, medical, solid waste, schools, and snow storage and removal) and the financing for construction, installation, and/or maintenance of those facilities and services.

(h) Estimated construction costs and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required of the applicant by the county.

(i) **Signs and outdoor advertisement.** Signs shall conform to the requirements in effect for the underlying zone pursuant to Article 9, *Signs and Outdoor Advertisement*, except that the PUD development guide may include amendments to those standards when it is determined by the Land Use Administrator that such amendments will result in better relationship of the signs to the general layout and design of the PUD.

(j) **Parking.** On-and off-street parking & loading area requirements for each use and planning area. If no standards are proposed, the standards set forth in this Land Development Code shall apply to all uses and areas within the PUD.

(k) **Landscaping.** Landscaping design guidelines which enhance the PUD project shall include design standards and criteria for the construction of parks, trails, rights-of-way (where applicable), common areas, and non-residential uses. Such standards shall identify species, layout, maintenance, and design that will survive the Rio Grande climate and geography.

(l) **Accessory structure and uses.** Any desired accessory structure or use may be allowed within a PUD provided any potential impacts of the structure or use are mitigated to an acceptable level.

(m) **General development schedule.** A general development schedule of construction of each phase including necessary public improvements for each phase.

(3) Supplemental Submittal Materials

- (a) Domestic water supply and wastewater treatment systems complying with the standards of Article 6, *Design Standards*, and the State Division of Water Resources regulations.
 - (b) Proposed covenants, conditions, and restrictions.
 - (c) Erosion control plan and drainage report.
 - (d) Mechanism for maintaining and preserving open space and common areas.
- e. **Supplemental Materials.** The following items are also required to be submitted to the Land Use Department:
- (1) Proof of minimum guaranteed water supply.
- f. **Additional Requirements**
- (1) Any additional information that may be reasonably requested by the Land Use Administrator and determined to be necessary to enable an adequate and comprehensive evaluation of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 5.03.D, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 5.03.E, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 5.03.F, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the PUD zoning application in a manner consistent with Table T-5.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 5.04.C, *Approval Criteria*.

8. Review and Action by Board of County Commissioners

The final decision to approve, approve with conditions, or deny a PUD zoning application shall be made by the Board of County Commissioners in a manner consistent with Table T-5.1 and be based upon the criteria set forth in Section 5.04.C, *Approval Criteria*.

9. Recordation

The applicant shall cause the PUD development plan and PUD development guide to be recorded with the Rio Grande County Clerk and Recorder as require by Section 5.03.1, *Post Approval*.

C. Approval Criteria

The following criteria shall be found to be met by the application and supplemental materials in order for the Planning Commission and/or Board of County Commissioners to recommend approval or approve a PUD zoning application and associated development plan and development guide:

1. There is a legitimate need for the proposed development to be processed as a PUD;
2. The PUD does not negatively impact the immediate area, including employee housing requirements;
3. An exception from the zoning regulations and land division regulations and requirements is warranted by virtue of the design and amenities incorporated in the development plan and development guide;
4. The land surrounding the proposed PUD can be planned in coordination with the proposed PUD;
5. The proposed PUD zoning is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body;
6. Existing and proposed utility services are adequate for the proposed development and that the methods of financing, construction and maintenance are acceptable to the county;
7. The PUD creates a desirable and stable environment, and does not cause unacceptable air, water or noise pollution; and
8. The overall PUD design concept as well as the general phasing scheme are suitable to the land, community, and local economy.

Section 5.05 Major PUD Amendment

A. General Provisions

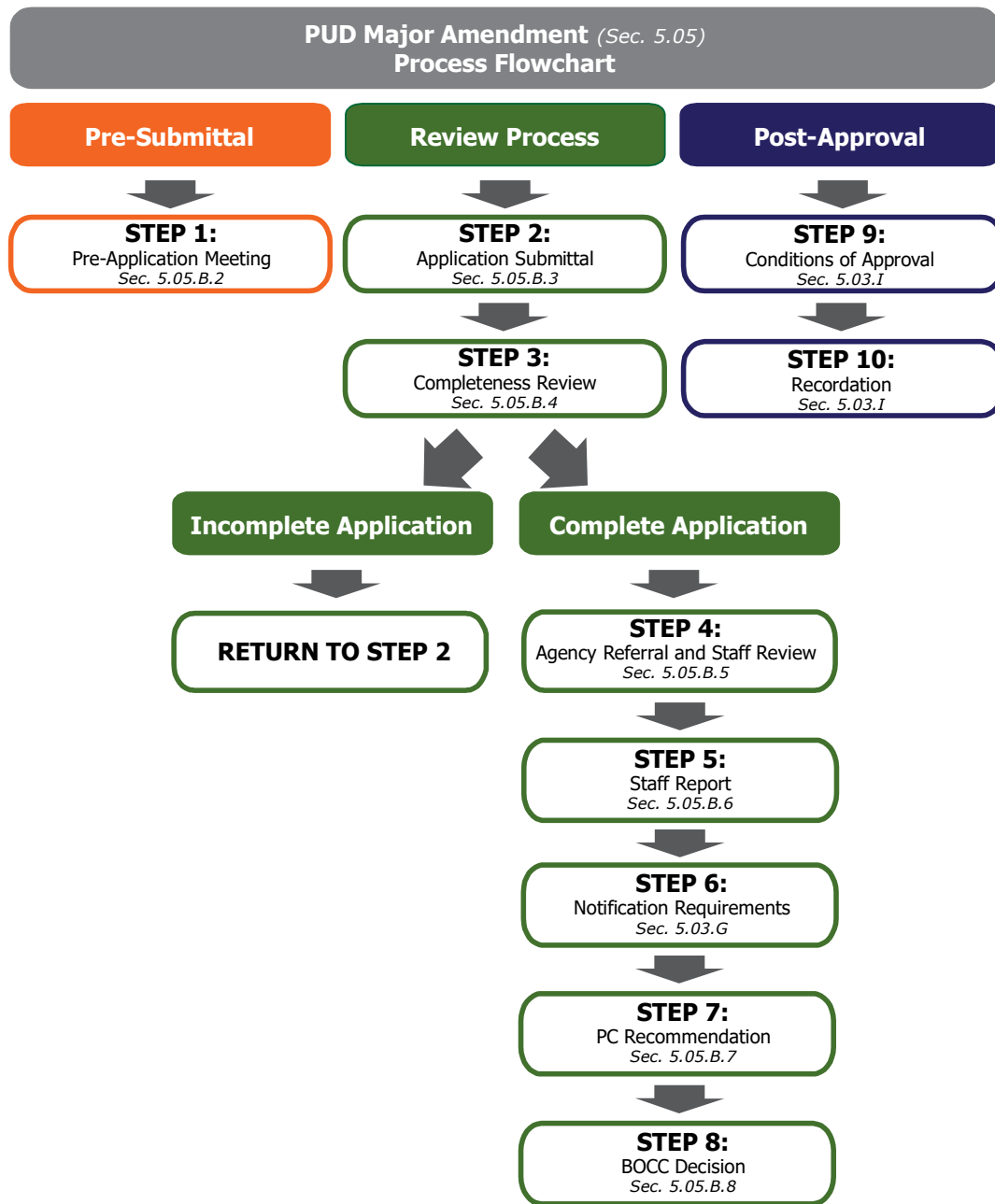
1. Major PUD amendments include any modification or amendment to an approved PUD development plan or development guide which:
 - a. Modifies the approved phasing plan;
 - b. Modifies a use or density established by the PUD; or
 - c. Removes or substantially modifies any standard or plan provision.
2. Amendments and modifications to an approved PUD development plan and/or development guides may be requested in accordance with this Section 5.05, *Major PUD Amendment*.
3. No amendments may be made to an approved PUD development plan and/or development guide during the construction of the improvements governed by the PUD.

B. Review Procedures

1. Review Flowchart

Figure F-5.2, *Major PUD Amendment Flowchart*, depicts the major PUD amendment application review process described in greater detail in this section.

Figure F-5.2 – Major PUD Amendment Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 5.03.B, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a major PUD amendment request. The Land Use Administrator may waive or alter any of the

submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. **Basic PUD Application Materials.** All materials set forth in Section 5.03.C.1, *Basic PUD Application Materials*.

b. **Written Narrative**

(1) (1) General description of the amendment(s) being requested including the proposed amendments to the PUD general description, PUD development plan, and/or PUD development guide.

(2) (2) Written narrative and description of how the proposed PUD amendment(s) comply with the standards of this Land Development Code and the criteria set forth in Section 5.05.C, *Approval Criteria*.

c. **PUD Development Plan**

All materials and information required to be included in a PUD zoning request as set forth in Section 5.04.B.3.c, *PUD Development Plan*, shall be submitted with a major PUD amendment request.

d. **PUD Development Guide**

All materials and information required to be included in a PUD zoning request as set forth in Section 5.04.B.3.d, *PUD Development Guide* shall be submitted with a major PUD amendment request.

e. **Supplemental Materials.** The following items are also required to be submitted to the Land Use Department:

(1) Proof of minimum guaranteed water supply.

f. **Additional Requirements**

(1) Any other information deemed necessary by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 5.03.D, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 5.03.E, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 5.03.F, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the major PUD amendment application in a manner consistent with Table T-5.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 5.05.C, *Approval Criteria*.

8. Review and Action by Board of County Commissioners

The final decision to approve, approve with conditions, or deny a major PUD amendment shall be made by the Board of County Commissioners in a manner consistent with Table T-5.1 and be based upon the criteria set forth in Section 5.05.C, *Approval Criteria*.

9. Recordation

The applicant shall cause the PUD development plan and PUD development guide to be recorded with the Rio Grande County Clerk and Recorder as require by Section 5.03.I, *Post Approval*.

C. Approval Criteria

The approval criteria for a PUD zoning application set forth in Section 5.04.C, *Approval Criteria* for a PUD Zoning request shall be found to be met by the application and supplemental materials in order for the Planning Commission and/or Board of County Commissioners to recommend or approve a major PUD amendment application and associated development plan and development guide.

Section 5.06 Minor PUD Amendment

A. General Provisions

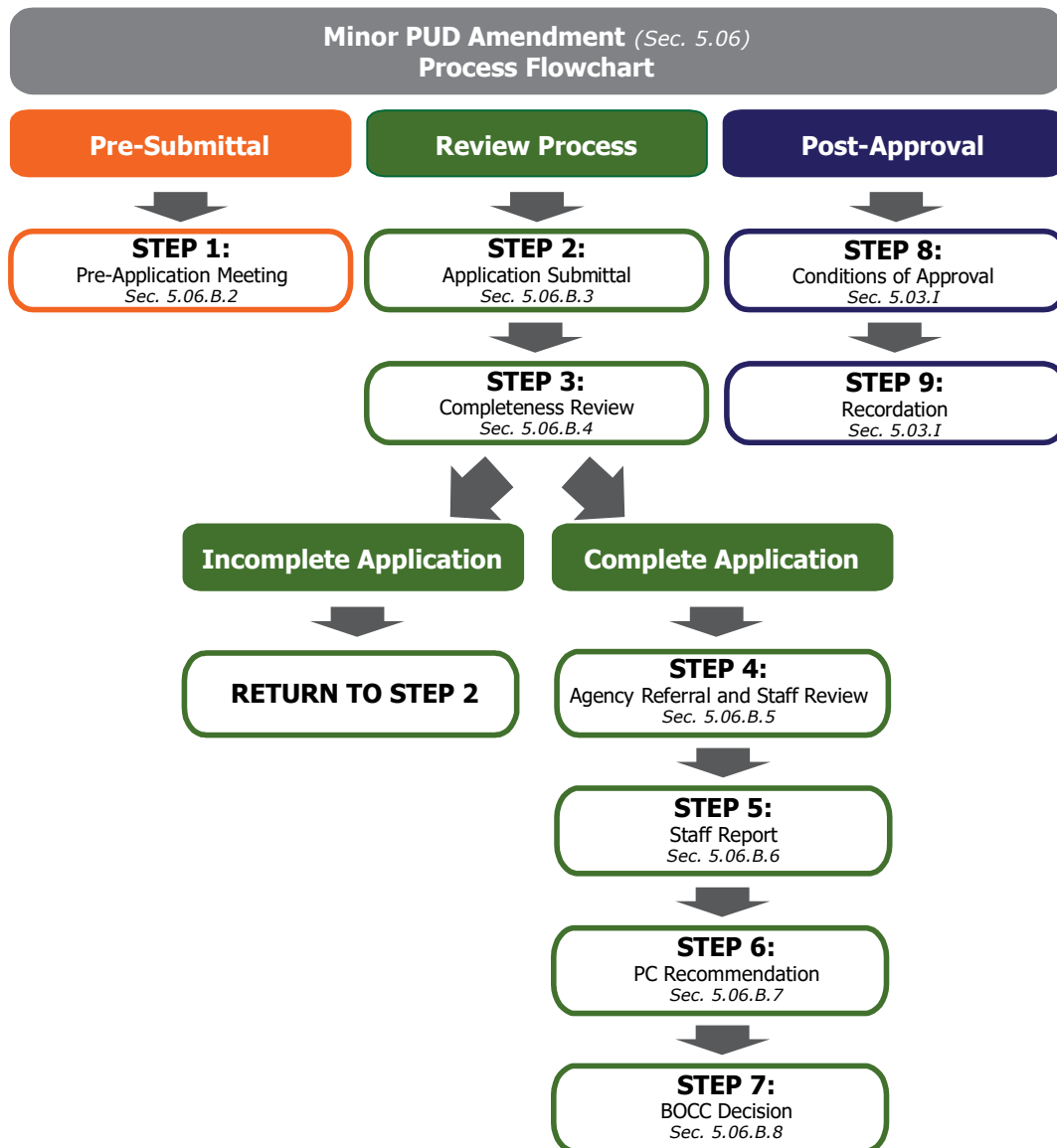
1. Minor PUD amendments include any modification or amendment to an approved PUD development plan or development guide which does not constitute a major PUD amendment as defined in Section 5.05.A, *General Provisions*.
2. No minor PUD amendment shall affect the rights of the residents, occupants and owners of the PUD to maintain and enforce all provisions of law or in equity, except as to those lawfully modified, removed or released.
3. Minor amendments and/or modifications to an approved PUD development plan and/or development guides may be requested in accordance with this Section 5.06, *Minor PUD Amendment*.
4. No amendment may be made to an approved PUD plan and/or approved development guide during the construction of the improvements governed by the PUD.

B. Review Procedures

1. Review Flowchart

Figure F-5.3, *Minor PUD Amendment Flowchart*, depicts the minor PUD amendment application review process described in greater detail in this section.

Figure F-5.3 – Minor PUD Amendment Flowchart



2. Pre-Application Meeting

A pre-application meeting may be held in accordance with the provisions set forth in Section 5.03.B, *Pre-Application Meeting*.

3. Application Submittal Requirements

The following are the application materials required to be submitted for a minor PUD amendment request. The Land Use Administrator may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

- a. **Basic PUD Application Materials.** All materials set forth in Section 5.03.C.1, *Basic PUD Application Materials*.
- b. **Written Narrative**
 - (1) General description of the amendment(s) being requested including the proposed amendments to the PUD general description, PUD development plan, and/or PUD development guide.
 - (2) Written narrative and description of how the proposed PUD amendment(s) comply with the standards of this Land Development Code and the criteria set forth in Section 5.06.C, *Approval Criteria*.
- c. **PUD Development Plan**
 - (1) Updated PUD development plan depicting the proposed minor amendment(s), as applicable. The requirements of a PUD development plan identified in Section 5.04.B.3.c, *PUD Development Plan* should be used as a template.
- d. **PUD Development Guide**
 - (1) Updated PUD development guide depicting the proposed minor amendment(s), as applicable. The requirements of a PUD development guide identified in Section 5.04.B.3.d, *PUD Development Guide* should be used as a template.
- e. **Supplemental Materials.** The following items are also required to be submitted to the Land Use Department:
 - (1) Proof of minimum guaranteed water supply.
- f. **Additional Requirements**
 - (1) Any other information deemed necessary by the Land Use Administrator to assist in the review of the application.

4. Completeness Review

The Land Use Administrator shall review the application for completeness in accordance with the provisions of Section 5.03.D, *Completeness Review*.

5. Evaluation by Staff and Referral Agencies

Upon determination of completeness, the Land Use Administrator shall refer the application to additional reviewing agencies as set forth in Section 5.03.E, *Referral Agencies* and review the application for conformance with the requirements and standards of this Land Development Code.

6. Staff Report

A staff report shall be prepared and provided to the reviewing body in accordance with Section 5.03.F, *Staff Report*.

7. Review and Recommendation by Planning Commission

The Planning Commission shall review the minor PUD amendment application in a manner consistent with Table T-5.1 to evaluate compliance with applicable standards. Following its review of the application, the Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of County Commissioners based on the criteria set forth in Section 5.06.C, *Approval Criteria*.

8. Review and Action by Board of County Commissioners

The final decision to approve, approve with conditions, or deny a minor PUD amendment shall be made by the Board of County Commissioners in a manner consistent with Table T-5.1 and be based upon the review criteria set forth in Section 5.06.C, *Approval Criteria*.

9. Recordation

The applicant shall cause the PUD development plan and PUD development guide to be recorded with the Rio Grande County Clerk and Recorder as require by Section 5.03.I, *Post Approval*.

C. Approval Criteria

The following criteria shall be found to be met by the application and supplemental materials in order for the Planning Commission and/or Board of County Commissioners to recommend or approve a minor PUD amendment application and associated development plan and development guide:

1. The minor PUD amendment is consistent with the efficient development and preservation of the entire PUD;
2. The minor PUD amendment is consistent with the applicable portions of the Master Plan in the reasonable judgement of the approving body;
3. The minor PUD amendment does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD; and
4. The minor PUD amendment protects the public interest.

Article 6. Design Standards

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Section 6.01 Basic Approval Standards

This article sets forth the minimum standards for land use and land division applications. These standards are in addition to any other standards outlined in this Land Development Code.

The following standards apply to all proposed zoning, land use and division of land applications, unless a use is explicitly exempted from one of more of these standards.

A. Compliance with Applicable Regulations

All applications shall not only comply with the standards in this article but also with any applicable regulations in Article 2, *Zoning Regulations*, Article 4, *Division of Land*, and Article 5, *Planned Unit Development*.

B. Compliance with Rio Grande County Master Plan

All applications shall be consistent with applicable provisions of the Master Plan, as may be amended from time to time, and in compliance with any intergovernmental agreements.

C. Compatibility

The nature, scale, and intensity of the use or activity are compatible with adjacent land uses.

D. Waivers

1. General Provisions

- a. An applicant may request a waiver from one or more of the numeric standards within Section 6.02, *Site Planning and Development Standards*. Such request shall be reviewed and may be granted by the Board of Adjustment.
- b. Any waiver of any other numeric standard within Article 6, *Design Standards* must be obtained from the Land Use Administrator, whose decision is final and not subject to Board of Adjustment review.
- c. No waiver from Section 6.04, *Subdivision Standards and Design Specifications* may be granted.
- d. Each waiver request shall be evaluated independently of previous waivers approved and a decision by the Board of Adjustment shall be rendered based on the merits, justification, and documentation submitted. Approving a waiver shall not set precedent for future waiver requests or decisions.

2. Board of Adjustment Review Procedures

- a. Waiver requests shall be submitted to the Land Use Administrator in writing and include:
 - (1) Narrative identifying the specific standards requesting to be waived;
 - (2) Justification for why the waiver is being requested;
 - (3) Narrative explaining how the request will not be detrimental to the project, adjacent properties, or Rio Grande County; and

- (4) Any additional information required by the Land Use Administrator to adequately review the request.
3. Applicable waivers shall be reviewed by the Board of Adjustment at a public hearing, Following the public meeting, the Board of Adjustment may approve, approve with conditions, or deny the waiver request. The Board of Adjustment may continue the meeting if additional information is necessary to render a recommendation on the request.
4. Prior to rendering a decision to approve or conditionally approve a waiver request, the Board of Adjustment shall find that the project meets the intent and purpose of the Land Development Code and other standards and policies of the county.

E. Source of Water

All zoning, land use and division of land applications shall be served by an adequate, reliable and legal physical water supply to serve the use and be in compliance with the Colorado safe drinking water standards developed by CDPHE Water Quality Control Commission. Proposed uses which do not require water or that are temporary uses or structures where alternative water supply is approved by the county are exempt from this section.

1. Adequate Water Supply Determination

The county, pursuant to §29-20-301, C.R.S. as amended, shall not approve a zoning, land use or division of land application unless it determines in its sole discretion, after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. Nothing in this section shall be construed to require that the applicant own or have acquired the proposed water supply or constructed the related infrastructure at the time of the application.

2. Determination of Adequacy and Reliability of the Water Supply

- a. All applications shall meet the requirements of the Colorado Division of Water Resources Division 3. Following review and approval by the Division, the Division shall provide written determination to the county.

F. Central Water Distribution and Wastewater Systems

1. Water Distribution Systems

The proposed land use or division of land shall be served by a water distribution system that is adequate to serve the proposed use and density.

- a. Where water service through a public water system is not physically or economically feasible, a central well and distribution system is preferred over individual wells.
- b. Where a proposed application site is within four-hundred (400) feet of a public water system, and the system is available and adequate to serve the proposed development, the development should connect to the public system.

2. Wastewater System Standards

The proposed land use or division of land shall be served by a wastewater system that is adequate to serve the proposed use and density.

- a. **Central Wastewater Systems Preferred.** Where a proposed application site is within four-hundred (400) feet of a public sanitary sewer system, the development should connect to the public sanitary sewer system.
- b. If the property is not suitable for an on-site wastewater treatment system (OWTS) pursuant to the county OWTS regulations, the development shall either connect to a public wastewater system or connect to a centralized wastewater system.

G. Fire Protection

1. Adequate fire protection will be provided for each development as required by the applicable fire protection district or department.
2. All divisions of land will be referred and acceptable to the appropriate fire protection district or department for adequate primary and secondary access, fire lanes, water sources for fire protection, fire hydrants, maintenance provisions, and other aspects of the application which may impact the district or departments ability or effectiveness to provide adequate fire protection.

Section 6.02 Site Planning and Development Standards

A. General Provisions

1. **Minimal Site Disturbance.** The design and scale of the development should not cause unnecessary or excessive site disturbance.
2. **Efficiency in Provision of Services.** The development should be designed to facilitate efficiency in the installation of all public and private utilities and services. Residential development should be located and laid out in a manner to minimize the amount of construction required for these improvements and the loss of agricultural land.
3. **Site Organization.** The site should be organized in a way that considers the relationship to streets and lots.
4. **Operational Characteristics.** The operations of activities on the site should be managed to avoid nuisances to adjacent uses.
 - a. If necessary, hours of operation shall be established to minimize impacts to adjacent land uses.
 - b. Significant impacts to the county roadway system associated with hauling, truck traffic and equipment use shall be mitigated through roadway improvements, as required by the Board of County Commissioners in accordance with Section 6.02.G, *Roadway and Access Standards*.
5. **Buffering**
 - a. Buffering shall be installed to mitigate visual, noise, or similar impacts to adjacent property using landscaping, fencing, or a combination of both whenever adjacent uses are in a different zone district.
 - b. The person(s) developing property within a higher intensity zone district, when bordering a lesser intensity zone district, shall be responsible for providing buffering to protect that district as a condition of development approval in the higher intensity zone district.

B. Off-Street Parking and Loading Standards

1. General Provisions

- a. The provision and maintenance of adequate off-street parking and loading spaces is a continuing obligation of the property owner.
- b. No site plan or building permit shall be approved until plans are presented that show property that is and will remain available for exclusive use of parking for the use for which the site plan or building permit is approved.
- c. Should the owner or occupant of any lot or building change the use of the lot or building, thereby increasing off-street parking or loading requirements, the owner shall adjust the number of parking spaces provided within ninety (90) days of the expansion or change in use. It is a violation of this Land Development Code

to begin or maintain such altered use without increasing the amount of off-street parking.

d. If a parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less spaces than is required by this section.

e. Where square feet are specified, the area measured shall be the floor area primary to the functioning of the particular use of the property and shall exclude stairwells, elevator shafts, hallways, balconies, and space occupied by heating, air conditioning or other utility equipment.

f. Required off-street parking spaces shall be located on the same lot or an adjacent lot parking proximate to the business they are intended to serve.

g. Paved surfaces shall be striped to delineate the parking spaces for all nonresidential uses.

h. Each required parking space shall have unobstructed access from a road or alley, or from an aisle or drive connecting with a road or alley.

i. All parking areas shall be located and designed in conjunction with a driveway so that vehicles exiting from a parking space are not required to back onto a public roadway.

j. Vehicles exiting from a parking space or driveway for a single-family detached or attached residential use may back onto a county road.

2. Parking Space Dimensions

a. All regular parking spaces shall measure at least nine (9) feet by twenty (20) feet.

b. Parking space dimensions may be reduced to eight (8) feet by eighteen (18) feet for compact cars. Compact car parking spaces may account for up to 15% of the required parking spaces.

3. Parking and Loading Area Surface

a. Off-street parking areas, loading areas, drive aisles, and access drives shall have a durable, all-weather surface.

b. Parking areas within the CB, CRT, or LI districts should be paved.

4. Driveways and Drive Aisles

a. Accesses shall be designed and installed in compliance with the county's access permit standards and specifications.

b. Driveways and drive aisles for required off-street parking areas should be designed and constructed to facilitate the flow of traffic and maximize the safety of vehicles, motorists, and pedestrians.

- c. The minimum width of driveways and drive aisles for a commercial or industrial use shall be twelve (12) feet for a one-way drive and twenty-four (24) feet for a two-way drive.
- d. The minimum width of driveways and drive aisles for a residential use shall be ten (10) feet for a one-way drive and twenty (20) feet for a two-way drive.
- e. Driveways and drive aisles shall maintain a clear sight distance triangle.

5. Shared Parking or Loading Areas

A parking or loading space that is required by this Section 6.02.B, *Off Street Parking and Loading Standards* shall not be counted as a required parking or loading space for another use, unless it can be shown that the shared use will not result in a shortage of parking at any time. Use of approved shared parking or loading spaces, based upon the following conditions, may reduce the number of off-street parking spaces by up to 20% of the total required for all uses if:

- a. The peak use periods for the required parking or loading space will not overlap with one another; and
- b. The shared use arrangement for parking or loading spaces shall be for two or more uses located on the same site or adjoining sites.

6. Required Parking

- a. When any calculation of the number of required off-street parking spaces results in a fractional space being required, such fraction shall be rounded up to the next higher number of full spaces.
- b. If on-street parking is available within one-thousand (1,000) feet of a proposed site requiring off-street parking, on-street parking may substituted for up to twenty-five (25) percent of the required off-street parking.
- c. The number of required off-street parking spaces for any use not listed in Table T-6.1 below shall be determined by the Land Use Administrator based on the size of the use and the anticipated number of trips per day.

Table T-6.1 – Minimum Off-Street Parking Standards by Use

Use	Parking Standard
Residential Uses	
<i>Single Dwelling-Unit</i>	2 Spaces Per Unit
<i>Two Dwelling Units</i>	2 Spaces Per Unit
<i>Three or More Dwelling Units</i>	2.5 Spaces Per Unit
<i>Manufactured Home Park</i>	2 Spaces Per Unit
<i>Group Homes, Senior Housing, and Community Residential Housing</i>	1 space per 400 sf of gross floor area and 1 additional space per 1000 sf gross floor area reserved for picking up and dropping off residents.
<i>Accessory Dwelling Unit</i>	1 parking space per bedroom (See Sec. 2.06.B.1 for additional ADU standards)
Public/Institutional Uses	
<i>Auditorium or Public Assembly Areas</i>	1 space per every 4 seats or per 8 feet of bench length in the main auditorium.
<i>Public Facilities or Health Facilities</i>	1 space per 300 sf of net floor area ¹
Commercial Uses	
<i>Lodging Unit</i>	1 space per room plus one additional space for manager or owner
<i>Retail, Service, or Commercial Uses</i>	1.5 spaces per 400 sf of patron serving area
<i>Vehicle or Equipment Uses</i>	1 space for each 250 sf of gross floor area, but not less than 3 spaces per service bay
<i>Professional Service and Office Uses</i>	One space per 300 sf of floor area, plus one space per employee
<i>Food or Beverage Uses</i>	1 space per 100 sf of floor area
Industrial Uses	
<i>Manufacturing or Production Uses</i>	1 space for each 500 sf of gross floor area, or 1 space for each 2 employees on the largest shift, whichever is greater.
<i>Warehouse, Rail, or Truck Freight Terminals</i>	1 space for each 1,000-10,000 sf, and 1 space for each 5,000 sf thereafter.
¹ Net floor area includes only those areas that are not designated to be leased or occupied for commercial or office purposes and does not include any area dedicated to foyers, bathrooms, stairways, corridors, mechanical areas, and storage areas used solely by the tenants on site.	

7. Accessible Parking

- a. All required accessible parking spaces shall be designed in accordance with ICC ANSI A 117.1.
- b. Table T-6.2 below identifies the minimum number of accessible parking spaces required.

Table T-6.2 – Minimum Number of Accessible Parking Spaces

Total Parking Spaces in Parking Lot	Minimum Required Number of Accessible Spaces
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1,000	10
OVER 1,000	20 spaces plus one (1) space for every 100 spaces, or fraction thereof, over 1000.

8. Off-Street Loading

a. Table T-6.3 below identifies the minimum off-street loading spaces required.

Table T-6.3 – Minimum Off-Street Loading Requirements

GROSS FLOOR AREA OF THE BUILDING	NUMBER OF REQUIRED SPACES
Up to 10,000 sf	1
Greater than 10,000 sf	2

b. Farming, ranching, and residential uses are exempt from these off-street loading standards.

c. Specific spaces for loading and unloading shall be required for the following uses.

(1) Any school having a capacity greater than twenty-five (25) students or

(2) Any building or structure that receive and distribute material or merchandise by truck.

d. Loading area(s) shall be of a sufficient size so that typical vehicles used in connection with the proposed use are able to utilize the area(s).

e. Loading spaces shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.

f. Off-street parking areas used to fulfill the requirements of off-street loading requirements shall not be used for loading and unloading operations except during periods of the day when they are not needed for parking.

C. Fences, Walls and Hedges

1. Fences, walls, or hedges may be permitted in any required setback provided that within any sight distance triangle, the fence, wall, or hedge is a minimum of eighty (80) percent open.
2. Fences, walls, and hedges shall not exceed seven (7) feet in height in residential districts except if they are associated with an approved conditional use permit.

D. Landscape Standards

1. Purpose

This section is intended to identify standards that will allow for conservation of water, retention of existing vegetation, and creative landscape designs while ensuring that living vegetation is correctly installed and well maintained to contribute to an increased quality of development, retain and increase property values, prevent noxious weeds, increase water quality, and minimize top soil erosion.

2. Applicability

These standards apply to all nonresidential and to multifamily uses requiring site plan approval pursuant to Section 3.08, *Site Plan* except for farming and ranching uses in an agricultural district.

3. General Standards

- a. All nonresidential and multifamily development projects should provide landscaping adjacent to all buildings, parking lots, and other disturbed land areas in a manner and to an extent that will limit erosion and stormwater runoff from gutters, storm inlets, surface flows, or other method.

b. Landscape Standards

- (1) All landscape areas shall include living ground cover, shrubs, and trees.
- (2) All plants used for landscaping should be compatible with the local climate and the soils, drainage and water conditions of the site. When planting occurs on hillsides, slopes, drainage ways or similar natural areas, plant material should duplicate adjacent plant communities both in species composition and species distribution patterns. Whenever possible, drought-resistant varieties of plant materials shall be utilized. Xeriscape design principles and the use of native plant species shall be used when appropriate.
- (3) A minimum of twenty (20) percent of the landscape area shall be living material. The remainder may be other non-living material(s) such as rock, stone, or mulch.
- (4) Any new landscaping must be located outside of any adjacent rights-of-way unless a written waiver is received from the appropriate right-of-way administrator.

c. If an irrigation system is proposed, it shall be automatic and equipped with moisture sensors. Additional water supply may be required by the county or Division of Water Resources to ensure sufficient water is available to adequately irrigate the proposed landscaping.

d. **Maintenance**

(1) Every property owner and/or tenant shall keep their landscaped areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance includes the following:

(a) Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not part of the landscape;

(b) All plant material shall be maintained in a healthy and growing condition and shall be replaced with a similar plant if diseased, damaged, destroyed, or removed within thirty (30) days of installation, or by an agreed-upon date if seasonal conditions prohibit replacement within the thirty (30) day period;

(c) Proper pruning;

(d) Watering as needed;

(e) Maintenance of landscape lighting in working order; and

(f) Maintenance of irrigation systems in working order.

(2) Failure to maintain landscaping that is required at the time of approval of any plan or permit shall be a violation of this Land Development Code and applicable penalties may be imposed.

(3) The maintenance of landscaping in the public right-of-way in all zone districts shall be the responsibility of the adjacent property owner, whether an individual, corporation, or homeowner's association.

e. All portions of the site where existing vegetative cover is damaged or removed, that are not otherwise covered with new landscaping improvements, should be revegetated with a mix of native, adaptive and drought tolerant grasses and ground covers as recommended by the Rio Grande-Saguache County Extension Office.

f. **Obstruction Prohibited**

(1) Plant materials shall not obstruct or impede sight distance triangle areas.

(2) Landscaping shall not obstruct fire hydrants or utility boxes and shall be installed so it will not grow into any overhead utility lines.

g. All landscaping plans shall attempt to protect any existing trees and shrubs on the property that are not required to be removed for on-site construction activities.

- h. Landscaping should be installed and maintained in a manner to reduce wildfire risk.

E. Lighting Standards

1. Any outdoor light used for the illumination of parking areas, loading areas and recreation areas, excluding farming and ranching uses within an agricultural district, shall meet all of the following standards.
 - a. Exterior lighting shall be designed so that light is directed inward, towards the interior of the subdivision or site.
 - b. Exterior lighting shall be fully shielded or arranged in a manner so that concentrated rays of light will not shine directly onto other properties.
 - c. The direct or reflected light from any light source shall not create a traffic hazard. Colored lights shall not be used in such a way as to be confused or construed as traffic control devices.
 - d. Blinking, flashing or fluttering lights, or other illuminated device which has a changing light intensity, brightness, or color shall be prohibited in all zoning districts.
 - e. Light sources which exceed thirty (30) feet in height shall not be allowed, except for temporary holiday displays or as required by local, state or federal regulations. See Section 2.07, *Temporary Uses and Structures*, for additional standards for temporary displays.

F. Outdoor Storage

1. Goods or materials shall not be stored in areas intended for vehicular or pedestrian access or circulation.
2. Outdoor storage of goods or materials not for sale shall be screened in a manner so they are not be visible from any adjacent public rights-of-way.
3. Accessory outdoor storage of agricultural products and operable agricultural equipment is exempt from the requirements of this subsection.

G. Roadway and Access Standards

All roadways and accesses shall comply with the construction specifications contained in the Rio Grande County Road and Bridge Department Standards and the following standards for the design and arrangement of roadways and accesses.

1. Access to all subdivisions shall be from a public or private street system.
2. The road system shall provide adequate and efficient internal circulation within the development and provide reasonable access to public highways serving the development. Roads shall be designed so that alignments will join in a logical manner and combine with adjacent road systems to form a continuous route from one area to another.

3. Street Names

- a. Street name signs must meet Rio Grande County Road and Bridge Department sign standards.
 - b. No street names shall be used which will duplicate or be confused with the names of existing streets.
 - c. Street names shall be consistent with the names of existing streets in the same alignment.
 - d. Street names are approved by the Board of County Commissioners.
4. The road system shall be designed to minimize road congestion and unsafe conditions.
 5. The county road system shall be in conformance with applicable provisions of the Master Plan, intergovernmental agreements with adjoining municipalities and any other county roadway plans.
 6. The applicant may be required to make necessary improvements to any impacted roads as a condition of plat approval.
 7. Streets shall be designed to bear a logical relationship to the topography, creeks, wooded areas, and other natural features. The road grade shall conform to the original topography, where able. Combinations of steep grades and curves should be avoided.
 8. The road system shall minimize erosion and provide for efficient and maintainable drainage and utility systems.
 9. The roads and access in commercial and industrial developments shall be designed to minimize conflict between vehicular and pedestrian traffic.
 10. Roads shall be designed so as to provide emergency access and egress for residents, occupants and emergency equipment. Emergency access shall comply with the requirements of applicable emergency services including the applicable fire protection district or department, ambulance provider(s) and law enforcement agency(ies).
 11. The road surface shall comply with requirements of the Rio Grande County Road and Bridge Department Standards.
 12. Traffic control devices and striping are to be provided in conformance with the Manual on Uniform Traffic Control Devices.
 13. **Drainage Structures**
 - a. Roadway drainage structures such as bridges, culverts, cross pans, inlets, curbs and gutters shall be provided as determined by design and in conformance with the Rio Grande County Road and Bridge Department Standards.
 - b. Culverts are required where driveways connect to roadways unless specifically exempted by the Rio Grande County Road and Bridge Department. It is the responsibility of the property owners to maintain their culverts free and clear

of mud, silt, debris and ice. Water which flows out of driveways shall be diverted to ditches. Damage to a road caused by a blocked culvert, lack of culvert, or driveway runoff is the responsibility of the property owner and costs of repairs by the county may be billed to the property owner as authorized by Colorado Statutes (Title 43, Article 5, C.R.S.).

H. Trail and Walkway Standards.

1. Recreational and Community Facility Access
 - a. Where available, public access and fishing easements to lakes, rivers and streams should be provided if it is determined to be appropriate and feasible.
 - b. In developments where a link to schools, shopping areas, parks, trails, greenbelts and other public facilities is feasible, connections to those should be made.
2. When trail rights-of-way are dedicated for public use, the following standards apply:
 - a. The land required for trail rights-of-way shall be set aside as a tract, outlot, or easement.
 - b. The width for trail rights-of-way shall be adequate to handle the proposed use based on the particular reasonable needs of the trail, its location, the surrounding terrain, and the anticipated usage.
 - c. The trail may overlap and include property previously included in other easements such as ditch, canal, utility and conservation easements and open space. However, the trail shall not compromise the functional use of any other easement.
 - d. A system of trails and walkways may be used as an alternative to required sidewalks provided that the level of service provided by the proposed trail or walkway system is comparable to that of applicable sidewalk requirements.
 - e. It is recommended that all tracts, outlots, and easements for trails and walkways are platted.
 - f. The type of construction of trails and walkways shall be compatible with the anticipated use.
 - g. Unsafe road crossing locations shall be avoided. Special structures and/or traffic control devices may be required at road crossings for safety.
 - h. Suitable provisions for maintenance of trail and walkway systems shall be established through a perpetual association, corporation or other means acceptable to the county.

I. Snow Storage Standards

All nonresidential and multifamily uses shall provide area(s) of sufficient size to store snow from the parking and loading areas. This area shall not:

1. Impede surface runoff from flowing to a drainage inlet, out of a culvert, or through a ditch or channel;
2. Be located in the sight distance triangle;
3. Be located within required off-street parking and loading areas; or
4. Be located in a manner that restricts pedestrian or vehicular access or circulation.

Section 6.03 Natural Resource Protection Standards

A. Purpose and Intent

The primary purpose and intent of this section is to provide criteria to evaluate zoning, land use and division of land applications for land which lies within or is impacted by natural hazards or which contains resources of major importance. This includes the preservation of natural terrain, drainage, unusual rock formations, lakes, rivers, streams, existing topsoil and vegetation, including tree masses and large individual trees. In addition, applications on lands adjacent to or directly affecting farming and ranching operations shall not adversely affect existing farming and ranching operations. Proposed division and development of the land shall minimize the impacts of residential development on agricultural lands and farming and ranching operations and maintain the opportunity for farming and ranching uses on the most productive and viable parcels of land. Unless otherwise specified, the following natural resource protection standards shall apply to all zoning, land use and division of land applications.

B. Flood Prone Areas

1. General Provisions

a. **Purpose.** Generally, all new development is discouraged in the Federal Emergency Management Agency (FEMA) designated 100-year floodplain (Special Flood Hazard Area). However, if development is desired in the Special Flood Hazard Area, as identified on the FEMA floodplain maps, a Floodplain Development Permit pursuant to this Section 6.03, *Natural Resource Production Standards*, is required. In addition to applicable use requirements of the underlying zone district, the following standards shall apply to all zoning applications within the Special Flood Hazard Area.

b. **Floodways.** A floodway is a channel of a river or other watercourse that is located within the Special Flood Hazard Area. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Section 6.03.B.1.b(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section 6.03.B, *Flood Prone Areas*.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a Conditional Letter of Map Revision (CLOMR) and floodway revision through FEMA.

c. **Designation of the Floodplain Administrator.** The Land Use Administrator or designee is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

d. **Duties & Responsibilities of the Floodplain Administrator:**

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this section.

(2) Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this article.

(3) Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.

(6) Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(7) When Base Flood Elevation data has not been provided in accordance with this article, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source.

2. Permit Procedures

Applications for a Floodplain Development Permit shall be submitted to the Floodplain Administrator in addition to the submittal requirements associated with the application requirements outlined in Article 3, *Zoning Applications and Review Procedures*, Article 4, *Division of Land*, and Article 5, *Planned Unit Development*. The Floodplain Development Permit shall include associated plans showing the location and dimensions of existing and proposed structures, the elevation of any proposed

landscape alterations, and the location structures and landscape changes in relation to the Special Flood Hazard Area. In addition, the following information is required to be shown on the respective plans.

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures (crawl space is considered lowest floor).
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed.
- c. A certificate from a licensed Colorado Professional Engineer that any structures that are floodproofed shall meet any floodproofing criteria.
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

3. Permit Review

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this section and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- e. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- f. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- g. The necessity to the facility of a waterfront location, where applicable;
- h. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; or
- i. The relationship of the proposed use to the Master Plan.

4. Enforcement

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Violation of the provisions of these floodplain regulations shall be enforced under the terms of Article 11, *Enforcement*.

- a. The Floodplain Administrator shall maintain a record of all variances and shall provide them to FEMA upon request.

5. General Standards for Development in the Special Flood Hazard Area

All development in a Special Flood Hazard Area shall be developed in accordance with the Rio Grande County adopted building code and emergency management policies and standards.

C. Farming and Ranching Lands

1. **Consider Application Impacts on Farming and Ranching Land.** When considering applications located in or affecting agricultural zone district, consideration shall be given to the anticipated impacts of the subdivision on the farming and ranching operation and uses. As a minimum, the following criteria should be considered:
 - a. Economic conditions affecting the farming and ranching operations on the land;
 - b. Size and location of the acreage; and
 - c. Availability of water to ensure continued viable farming and ranching use.
2. **No Adverse Effect to Farming and Ranching Operations.** Applications on lands adjacent to or directly affecting farming and ranching operations shall not adversely affect existing farming and ranching operations. Proposed division and development of the land shall minimize the impacts of residential development within agriculture zone districts and farming and ranching operations while maintaining the opportunity for farming and ranching activities on the most productive and viable parcels of land.
3. **Domestic Animal Controls.** Domestic animals that are not being used to assist with the herding or the care of livestock shall not be allowed to interfere with livestock or the care of livestock on agricultural lands. The county may require protective covenants or deed restriction as necessary to control domestic animals.
4. **Fences.** Fences shall be constructed to separate the land use from adjoining farming and ranching uses to protect farming and ranching lands, if necessary.

D. Wildlife Habitat

When planning and approving division of land applications located in or affecting critical wildlife habitat and fisheries, consideration will be given to the anticipated effects of the subdivision on wildlife, fisheries and critical wildlife habitat. The following criteria shall be met in such circumstances:

1. Significant and lasting pollutants or poisons will not be introduced into fisheries;
2. The social and/or economic benefits of the subdivision will be sufficient to offset economic and social benefits of wildlife and fish that will be forgone;

3. All particular measures shall be taken to prevent or mitigate the adverse effects of the development to wildlife; and
4. The proposed application will be consistent with the San Luis Valley Regional Habitat Conservation Plan (HCP).

E. Drainage and Erosion

Land disturbances over one (1) acre in size are required to follow Colorado Department of Public Health and Environment (CDPHE) requirements and obtain a stormwater discharge permit as required by CDPHE.

F. Environmental Quality

1. **Air Quality.** The application shall not cause air quality to be reduced below acceptable levels established by the Colorado Air Pollution Control Division.
2. **Water Quality**
 - a. Every effort shall be made to ensure the quality of surface stormwater runoff is not contaminated when it leaves the property.
 - b. All hazardous materials shall be stored and used in compliance with applicable state and federal hazardous materials regulations.
3. **Groundwater Quality**
 - a. Every effort shall be made to ensure that groundwater is used efficiently and is replenished whenever able. Such efforts shall be in accordance with the requirements of the Colorado Water Resource Department, Division 3.

G. Wildfire Prone Areas

There are certain areas in Rio Grande County that may be hazardous to human life and safety and to property due to their potential for wildfire. The purpose of this subsection is to ensure that development avoids these hazard areas whenever possible. When avoidance is not possible, this section provides standards to reduce or minimize the potential threats that wildfire may pose to the safety of occupants, their property, and emergency service personnel.

1. The requirements of this section shall apply to any development in areas where the Colorado State Forest Service determines that there is the potential for a proposed development to be threatened by a wildfire hazard.
2. All new construction, substantial improvement, use, fill, encroachments, alteration, fuel modification or treatment, except utility lines, on or over any portion of a wildfire hazard area, should be designed in accordance with county and state emergency management policies and guidelines.
3. In the event no policies or guidelines are available, the National Fire Protection Association guidelines should be consulted.

H. Natural and Geologic Hazard Prone Areas

1. General Requirements

- a. Areas subject to natural and geologic hazards shall be developed in a manner designed to eliminate or mitigate the potential effects of hazardous site conditions.

2. Development in Landslide Hazard Areas

Development may be allowed to occur in landslide hazard areas if the development follows the Rio Grande County Building Code and the below construction practices.

a. **Prohibited Activities.** The following development activities shall be prohibited in landslide hazard areas:

(1) Activities that add water or weight to the top of the slope, or along the length of the slope, or otherwise decrease the stability of the hazard area. Measures and structural improvements to permanently control surface and subsurface drainage from the development shall be required.

(2) Activities that remove vegetation or other natural support material that contributes a potentially unstable slope.

(3) Activities that increase the steepness of the slope.

(4) Activities that remove the toe of the landslide, unless adequate mechanical support is provided.

3. Development in Rockfall Hazard Areas

Development may be allowed to occur in rockfall hazard areas if the applicant follows the Rio Grande County Building Code and the below construction practices.

a. **Construction Practices**

(1) Stabilizing rocks by bolting, gunite application (cementing), removal of unstable rocks (scaling), cribbing, or installation of retaining walls.

(2) Slowing or diverting moving rocks with rock fences, screening, channeling, damming, or constructing concrete barriers or covered galleries.

(3) Installation of structural barriers around vulnerable structures to prevent rock impact.

b. **Prohibited Development Activities.** The following development activities shall be prohibited in rockfall hazard areas:

(1) Activities that add water or weight to, or otherwise decrease the stability of, cliffs or overhanging strata, and/or

(2) Activities that will reduce stability, including activities that remove vegetation or other natural support material or that require excavation or cause erosion that will remove underlying support to a rockfall hazard area.

4. Development in Alluvial Fan Hazard Area

Development may be allowed to occur in an alluvial fan if the applicant follows the Rio Grande County Building Code and the below practices.

a. Development shall be protected using structures or other measures on the uphill side that channel, dam, or divert the potential mud or debris flow.

- b. Disturbance shall be prohibited in the drainage basin above an alluvial fan, unless an evaluation of the effect on runoff and stability of the fan and on the ground water recharge area shows that disturbance is not substantial or can be successfully mitigated.

5. Slope Development

Development on slopes twenty percent (20%) or greater may be allowed to occur if the applicant follows the Rio Grande County Building Code and the below practices.

- a. Cutting, filling, and other grading activities shall be confined to the minimum area necessary for construction.
- b. Cutting into the slope is prohibited without provision of adequate mechanical support.
- c. Adding water or weight to the top of the slope, or along the length of the slope is prohibited.
- d. Activities that over-steep the existing grade of an unstable slope are prohibited.
- e. Site disturbance shall be minimized, to avoid inducing slope instability.

6. Irrigation Ditches

- a. Where irrigation ditches cross or adjoin the land considered in the application, the applicant shall insure that the use of those ditches, including maintenance, can continue uninterrupted.
- b. The application shall not interfere with the ditch rights-of-way.
- c. A maintenance easement shall be preserved and indicated on any final plat for subdivision, or the final development plan for any non-subdivision use.

7. Wetlands

If a proposed application is within an area delineated as a wetland, the applicant shall meet all applicable state and federal rule and regulations and shall obtain any required approvals from the Army Corp of Engineers.

I. Historically Significant or Archaeologically Important Areas

- 1. Consideration will be given to the protection and/or retention of identified sites of historical and archaeological importance. Alteration of such sites shall be avoided. Emphasis should be put on reuse of historical structures and the incorporation of these sites into parks or open space. If disturbance of such sites is unavoidable, the applicant shall contact the State Historical Preservation Office or other applicable agency or organization and allow them an opportunity to preserve the site or move the improvements or artifacts before alteration takes place.
- 2. The proposed zoning, land use or division of land application shall be designed to avoid or mitigate negative impacts upon mineral, archeological, paleontological

and historical resources identified or reasonably expected to exist in areas to be affected by the proposed development.

J. Prevention of Noxious Weeds

1. All development within Rio Grande County shall prevent the spread of noxious weeds.
2. All applications shall comply with all standards and regulations of the Rio Grande County Weed District.

Section 6.04 Subdivision Standards and Design Specifications

A. General Provisions

1. **Extensions for Future Development.** Extensions required to provide infrastructure for future development or comply with intergovernmental agreements shall be provided.
2. **Maintenance of Common Facilities.** Maintenance of common areas and/or facilities shall be accomplished either through covenants and a homeowners' association, a separate maintenance agreement, or some other perpetual agreement acceptable to the county.
3. **Additional Improvements.** The Land Use Administrator, Planning Commission, or Board of County Commissioners may require improvements other than those specifically mentioned in this article if those improvements are necessary due to unique conditions on the site or specific impacts of the project.
4. **Applicability.** The standards and specifications set forth in this section are applicable to all divisions of land which create or modify any lot, parcel, tract, property or outlot.

B. Lot Standards

All lots shall conform to the following specifications and those outlined in the County Road and Bridge Standards:

1. **Developable Lots.** The division of land shall result in the creation of lots which can be developed for use in conformance with the zoning regulations of this Land Development Code.
2. **Do Not Create Nonconforming Lots.** The division of land shall not create lots which are illegal or nonconforming under this Land Development Code. Any existing lot that is nonconforming shall not increase its degree of nonconformity.
3. **Create Adequate Lot Size.** All lots must be of adequate size to meet the following standards:
 - a. The proposed building lots shall contain safe, adequate building sites capable of complying with applicable use restrictions and standards set forth in this Land Development Code.
 - b. The minimum lot size allowed by the applicable zone district requirements may be increased for areas posing a potential hazard to health or safety due to soil conditions or geology.
 - c. Depth and width of lots shall be adequate to provide for the required off-street parking and loading facilities as outlined in Section 6.02.B, *Off-Street Parking and Loading Standards*.
 - d. The width of residential corner lots shall be sufficient to accommodate the required building setback from both roads.

- e. All lots shall front on and have access to a public right-of-way or approved private access easement.
- f. Lots with double frontage shall be avoided except where essential and unavoidable to provide separation from major arterials, incompatible land uses or topographical or other environmental considerations.
- g. Side lot lines shall be substantially at right angles or radial to street right-of-way lines.
- h. Wedge shaped lots, flagpole lots, or lots fronting on cul-de-sacs shall be a minimum of twenty-five (25) feet in width at the front property line.
- i. No lot, tract, property or parcel shall be divided by county or municipal boundaries or a public roadway. Utility, access or drainage easements shall not divide a lot, tract, property or parcel to the extent practicable.

C. Block Standards

Block lengths and widths shall be appropriate to the types of land use anticipated in the subdivision, consistent with the applicable zoning district provisions and compatible with the terrain.

- 1. The size of blocks shall be adequate to accommodate the proposed use.
- 2. The size of blocks shall be designed for convenient access, vehicular and pedestrian circulation, and control and safety of street traffic.
- 3. The size of blocks shall be adequate to accommodate leaching fields when on-site wastewater treatment systems (OWTS) are proposed.
- 4. The size of blocks shall be adequate for domestic wells when they are proposed.
- 5. When a tract is to be subdivided into larger parcels than ordinary building lots, such parcels shall be so arranged to allow the design of future rights-of-way and logical further subdivision of the tract and adjoining lands.
- 6. Subdivision blocks shall also be consistent with the applicable Rio Grande County Road and Bridge Department standards.

D. Street Standards

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

- 1. All streets must provide for the continuation of appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding tracts.
- 2. Reserve strips controlling access to streets shall be prohibited.

3. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, the Land Use Administrator may require a conceptual street layout for the unsubdivided property.
4. A tangent at least four hundred (400) feet long shall be required between reverse curves on county roads.
5. Permanent cul-de-sacs or dead end streets shall not be longer than six hundred (600) feet measured from the entrance to the rear of the turn around and shall be provided at the closed end with a turnaround having an outside right-of-way diameter of at least one hundred (100) feet.
 - a. The appropriate fire district must approve all proposed cul-de-sacs.
6. Intersections shall meet the following:
 - a. Streets should be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than seventy (70) degrees.
 - b. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted.
 - c. No more than two streets shall intersect at one point, with a minimum of two hundred (200) feet between off-set intersections, unless otherwise approved by the Rio Grande County Road and Bridge Department,
7. When streets are to be dedicated to the county, full width rights-of-way shall be dedicated. No partial right-of-way widths shall be dedicated to the county.
8. All roadways within a subdivision shall consist of sixty (60) feet of right-of-way to be dedicated to the public with the final plat. Roadways shall be designed and constructed in compliance with the Rio Grande County Road and Bridge Road and Street Standards.
9. The roadway shall be centered in the right-of-way.
10. Private streets within any subdivision shall be engineered to ensure adequate ingress, egress, and compaction, curvature for the public health and safety and width to accommodate emergency vehicles. A sign-off from the appropriate fire district and from the road and bridge department is required. If applicable, a letter shall be submitted from the Colorado Department of Transportation concerning the impact of the purposed project on the applicable state highway.
11. The slope off the county road must be a minimum of three (3) percent slope for drainage and snow removal.
12. The maximum street grade is eight (8) percent.
13. Pedestrian crosswalks a minimum of fourteen (14) feet wide, may be required to provide access to schools, playgrounds, shopping centers, or other community facilities

14. Roads shall be arranged to provide for the continuation of major roads between adjacent properties when appropriate and necessary for traffic movement, effective fire protection, or efficient provision of utilities.

a. If the adjacent property is undeveloped and the road must be temporarily dead-ended, right-of-way shall be extended to the property line and the Board may require construction and maintenance of a turnaround for temporary use. The final plat shall include a notation that land outside the normal road right-of-way shall revert to abutting property owners when the road is continued, and the turnaround removed.

15. Curbs, gutters and sidewalks shall be required where a majority of lot widths are less sixty (60) feet and where the Board of County Commissioners deems them necessary for the proper drainage of storm water or for the protection of public safety and welfare.

E. Alley Standards

1. The minimum width of an alley shall be twenty (20) feet.
2. Dead end alleys shall be avoided where possible, but if unavoidable, they shall be provided with adequate turnaround facilities at the dead end, as determined by the Land Use Administrator.

F. Easement Standards

1. Drainage and utility easements shall be provided on the exterior of all lots.
 - a. **Rear lot lines.** Easements should be a minimum of sixteen (16) feet wide, a minimum of eight (8) feet on each side of common rear lot lines. On perimeter rear lots where the easement is only located on one lot, easements width should be ten (10) feet or more.
 - b. **Side lot lines.** Easements should be at least five (5) feet in width.
2. Easements shall be free from conflicting legal encumbrances at the time of dedication.
3. In the event that the location of easements adjacent to property lines is unsuitable for intended use due to drainage, irrigation ditches, timbered areas or other obstructions, suitable easement may be provided adjacent to said areas or obstruction.
4. Modification of easement width requirements may be granted by approval from both the Planning Commission and the easement holder.
5. All easement locations, dimensions, uses, and holders shall be identified on the final plat.

G. Monumentation Standards

Permanent survey monuments shall be set within all subdivisions pursuant to §38-51-104 and §38-51-105, C.R.S. prior to selling or advertising the sale of lots,

H. Drainage Standards

Site drainage should be designed in accordance with the Rio Grande County Road and Bridge standards or CDPHE standards, as applicable. Additionally, the following standards apply to all subdivisions:

1. Lots shall be laid out to provide positive drainage away from all buildings.
2. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
3. Drainage shall be designed to avoid concentration of drainage from any lot to an adjacent lot.
4. All drainage and grading plans shall be in compliance with all applicable local, state, and federal regulations. Compliance with regulations shall be included in a drainage and/or grading plan, as required by the county.

I. Utility Standards

1. Adequate utilities shall be available to serve the proposed use and subdivision application.
2. All utilities shall be located within adequate easements approved by the applicable utility company(ies) and in compliance with the Rio Grande County Road and Bridge standards.
3. Utilities shall be located underground throughout the subdivision.
4. Utility easements shall be in compliance with Section. 6.04.F, *Easement Standards*.

J. Public Improvements

1. Improvement Agreement

For any subdivision for which public improvements are to be constructed (either on-site or off-site), no subdivision approval shall be granted by the county unless and until an improvement agreement is executed in compliance with the provisions set forth in Section 4.14, *Improvement Agreement*.

2. Construction Plans

- a. Construction plans for all on and off-site public improvements shall be completed by a qualified civil engineer registered in the State of Colorado.
- b. Two sets of prints of the plans and specifications for all public improvements shall be filed with the Land Use Administrator at the time of submission of the preliminary plat.

3. Completion of Public Improvements

- a. The completion of on and off-site public improvements shall be completed in compliance with the timeline and scope as identified in the improvement agreement.
- b. Upon completion of the public improvements, the landowner, applicant, and/or developer shall request preliminary acceptance in writing. Upon receipt of written request, the county shall inspect the public improvements. If improvements are completed to an acceptable level per the construction plans and improvement agreement, the county will give preliminary acceptance of the improvements and release a portion of the security as set forth in Section 4.14.B.4.d, *Reduction of Security*.
- c. No certificate of occupancy shall be issued by the county until all needed public improvements have been installed and given initial acceptance by the county for the phase which the certificate of occupancy is being requested.
- d. One set of "as built" plans and specifications, certified and signed by an engineer registered in the State of Colorado shall be filed with the County Clerk prior to the acceptance by the Board of County Commissioners of any public improvements installed by the Subdivider.
- e. Following a two (2) year warranty period, the county will conduct an inspection prior to accepting the improvements and releasing any remaining surety in accordance with Section 4.14, *Improvement Agreement*.

Article 7. Natural Resource Extraction

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Section 7.01 General Provisions

A. Purpose and Intent

The purpose of this article is to provide a framework for responsible exploration, extraction, and production of natural resources in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that protects and mitigates adverse impacts to the public health, safety, welfare, and the environment of the county.

B. Intent to Not Duplicate Other Permit Processes

The county intends to avoid duplicative permit processes or requirements. The county will review permit applications concurrently with other required state or federal agency permitting processes whenever possible or practicable.

C. Permit Required

No person shall engage in, cause, allow or conduct a natural resource exploration, extraction, or production operation prior to obtaining a permit as set forth in this article unless the operation falls within an expressly defined exemption.

D. Transfer of Permit

A natural resource exploration, extraction, and production permit may be transferred only with the written consent of the county. The county shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the permit and this article and Land Development Code, and with appropriate state and federal regulations and conditions; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public and the environment; and that a guarantee of financial security can be made to the satisfaction of the Board of County Commissioners.

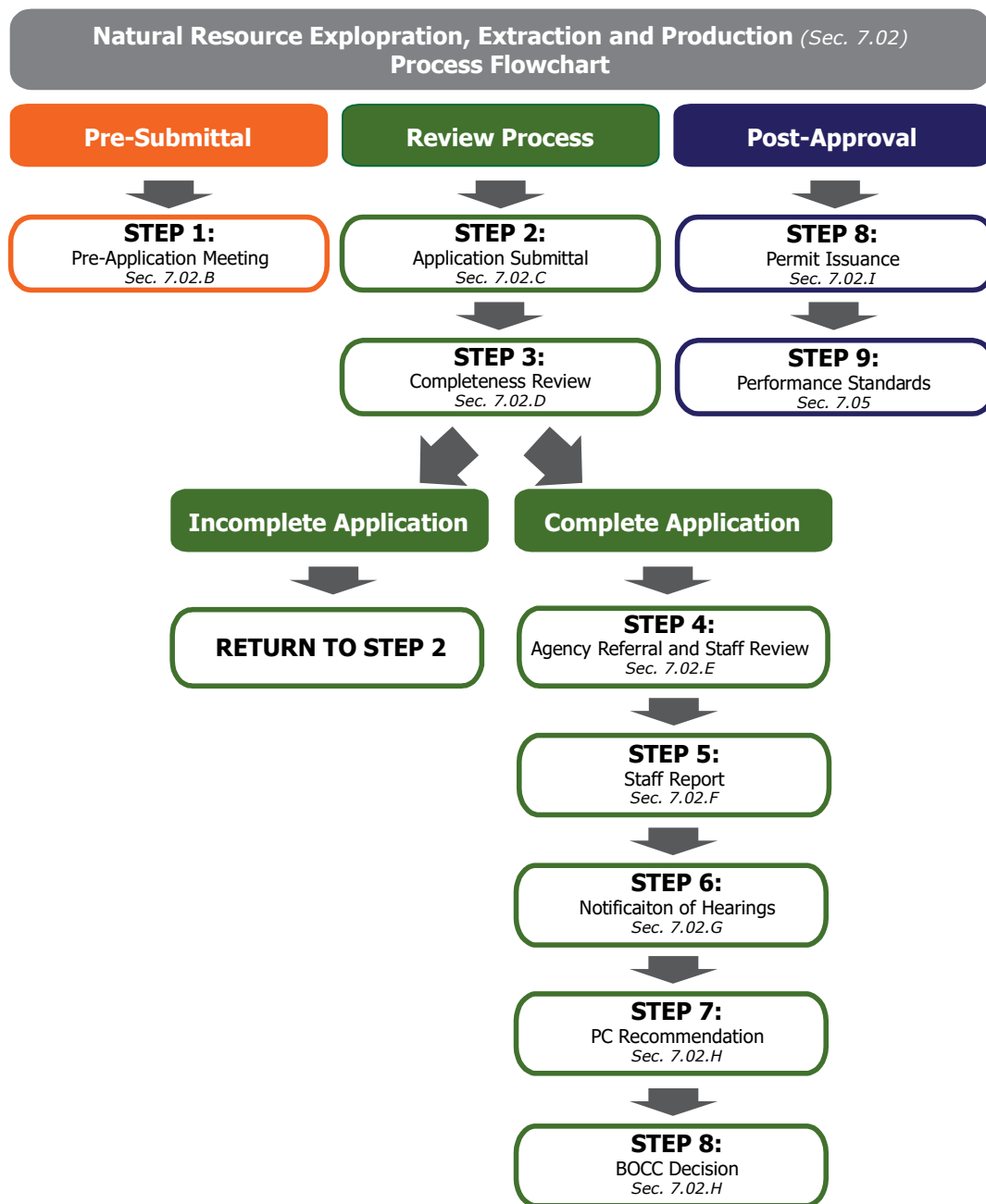
Section 7.02 Review Process

Except as noted below, all applications for natural resource exploration, extraction, and production shall follow the general review procedures set forth in Section 3.02, *General Application Review Procedures* for the level of approval identified in Table T-2.2, *Table of Land Uses*.

A. Review Flowchart

Figure F-7.1, *Natural Resource Exploration, Extraction, and Production Flowchart*, below depicts the review process for all natural resource exploration, extraction, and production applications. The procedures and application requirements are described in greater detail in this section.

Figure F-7.1 – Natural Resource Exploration, Extraction, and Production Flowchart



B. Pre-Application Meeting

Refer to Section 3.02.B.1, *Pre-Application Meeting*.

C. Application Submittal Requirements

Refer to Section 7.03, *Description of Submittal Requirements*.

D. Completeness Review

Refer to Section 3.02.B.3, *Completeness Review*.

E. Referral Agencies

Refer to Section 3.02.B.4, *Referral Agencies*.

F. Staff Report

The Land Use Administrator shall review the natural resource exploration, extraction, and production permit application to determine if the proposal satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements, and recommended conditions for approval to ensure that standards are satisfied, and additional information pertinent to review of the application.

G. Notification Requirements

1. **Notice by Publication.** Refer to Section 3.02.B.6.a, *Notice by Publication*.

2. **Notice by Mailing.** Refer to Section 3.02.B.6.b, *Notice by Mailing*.

a. Written notice of application for natural resource exploration, extraction, and production public hearings shall be provided to the affected parties as follows:

(1) Adjacent Property Owners. Written notice to owners of real property within fifteen-hundred (1,500) feet of the property boundary on which the operation is proposed to occur.

(2) Owners of Water Rights. Reasonable efforts shall be made to provide written notice to any owners of water rights in any ditches or other water structures that may be impacted by the proposed operation where the ownership information is available through the local water commissioner for the Colorado Division of Water Resources.

H. Public Hearings

The Rio Grande County Planning Commission and Board of County Commissioners shall each hold a public hearing on any Natural Resource Extraction Permit pursuant to Section 3.02.B.7, *Public Hearings*.

I. Permit Issuance

1. The Board of County Commissioners may issue a conditional permit approval for a natural resource exploration, extraction and production permit application upon the applicant's completion of conditions of approval. A final permit approval will not be issued until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or other permit(s) required by a state or federal agency have been issued.

2. **Commencement of Operation.** The operation shall be commenced within one (1) year of the date the final permit approval was granted by the county. If operation has not commenced, the permit shall terminate and be of no force and effect.

3. **Completion of Operation.** The operation shall be completed within the period of time identified on the permit issued by the county. At the end of the term of the permit, the permit shall terminate and be of no force and effect, and any land disturbance shall be reclaimed immediately.

Section 7.03 Description of Submittal Requirements

A. Application Submittal Materials

The following materials are required for all natural resource exploration, extraction, and production applications. Additional materials or documents are required for Oil and Gas Operations (Section 7.03.B) and Sand, Soil, and Gravel Extraction Operations (Section 7.03.C). The Land Use Administrator may waive application materials based on specific requests provided there is sufficient information to review the proposal and application materials meet the intent of this section.

1. **Basic Application Materials.** All materials set forth in Section 3.02.B.2.a, *Basic Application Materials*.
2. **Surface Ownership.** Documentation of surface ownership, evidence of surface ownership notification, and copies of any surface ownership agreements and leases affecting site on which the operation is proposed to occur, name, address, telephone number, and e-mail address of the owner of the property.
3. **Mineral Owner.** Documentation of mineral ownership, and name, address, telephone number, and e-mail address of the owner of the mineral right(s).
4. **Adjacent Property Owners.** A list of all property owners within fifteen-hundred (1,500) feet of the property boundary on which the operation is proposed to occur.
5. **Copies of State and Federal Agency Applications.** If available at the time of submittal, all application(s) and/or approval(s) from state or federal agencies requiring an Environmental Assessment (EA), Environmental Impact Statement (EIS) or other permit(s).
6. **Location of Operation.** The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the site on which the operation is proposed to occur. A copy of the recorded deed or lease to the site shall be included.
7. **Identification of Previously Approved Uses.** List all permits which have been previously approved for development or use of the site on which the operation is proposed to occur.
8. **Characteristics and Current Conditions of the Site.** Identification of physical characteristics and current conditions of the site where the operation is proposed to occur including streams, irrigation ditches, ponds, soils, roads, vegetation, geologic hazards, identification of trees or other vegetation that have been removed and changes caused by either weather-related or human activity within the past five (5) years, and any other characteristics requested by the Land Use Administrator to determine potential impacts.
9. **Vicinity Map.** A vicinity map that includes the following information:
 - a. An aerial map;
 - b. Clear depiction of the project site; and

- c. Location of major roadways, waterways, property lines (if able) and Rio Grande County boundaries.
10. **Site Improvement Plan.** A more detailed site improvement plan depicting the operation site that includes the following information:
 - a. Utility easements and rights-of-way located on the site;
 - b. Easements recorded or historically used and located on the site;
 - c. All public and private roads and rights-of-way that traverse and/or provide access to the site, and the public or private entity having jurisdiction over each road and rights-of-way;
 - d. All existing improvements on the site;
 - e. Facilities which are proposed to be constructed or located if the permit is approved, including structures, pipelines, tanks, wells, pits, flowlines, impoundment facilities, stockpiles, existing and proposed fences, staging and storage areas;
 - f. Site features such as floodplains, waterbodies, drainage patterns, aquatic habitat, vegetative cover, wildlife migration routes and significant wildlife habitat;
 - g. Existing and proposed topography at two-foot (2') intervals or some other interval established by the Land Use Administrator as necessary to portray the direction and slope of the area affected by the operation; and
 - h. All boundaries of the lease(s) upon which the operation will take place.
11. **Operation Plan.** Plan including the method and schedule for drilling, blasting, extracting, completion, transporting, production, and post-operation, size and timing of phased areas, depth of topsoil and overburden, maximum area to be disturbed at one time, dates, days and hours of operation, number of employees on site, and the expected volume of materials to be mined or excavated over the life of the project and anticipated amount per year.
12. **Access Routes.** A map that identifies the access route to and within the parcel, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route and an analysis of the impacts of the operation on the roadway system within the county.
13. **Identification of Water Structures.** Identification of irrigation ditches and other water structures, ownership of water rights, appurtenant thereto, and evaluation of any impacts of the operation to the structures, water rights, or water quality.
14. **Description of Vegetation.** A written description of the type, character, and density of existing and proposed vegetation on the site, a summary of the impacts the operation will have on vegetation, and proposed mitigation.
15. **Emergency Response Plan.** An emergency response plan that addresses fire protection and hazardous spills, including the name and contact information for the applicant's incident commander, posted signage, access/evacuation routes, and

healthcare facilities anticipated to be used. The plan shall include a requirement that the operator reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.

16. Water Quality Non-Point Source Impacts

- a. An inventory and location of all water bodies within one (1) mile of the site;
- b. A description of existing water quality of all water bodies within one (1) mile of the site, based upon a current baseline water quality analysis;
- c. A description of potential non-point source pollution associated with the proposed operation; and
- d. Proposed avoidance and mitigation measures to minimize the water quality impacts associated with the operation.

17. A cultural, historical, and archeological survey of the site, if determined to be necessary by the Land Use Administrator. Such plan shall be prepared by a qualified professional.

18. An assessment of the wildfire and geologic hazards within one (1) mile of the site and a plan for mitigating those hazards.

19. A written summary of the existing uses of the site on which the operation is proposed to occur, and the proposed future land uses of the site after completion of the operation.

20. **Dust Control.** A fugitive Dust Control Plan shall be submitted which shall:

- a. Comply with requirements of the Colorado Air Quality Control Planning Commission and be approved by the Colorado Air Quality Control Division;
- b. Address site-specific areas of concern, such as stockpiles and wind breaks; and
- c. Be implemented by the operator and/or hauling contractor at the mine and on all haul roads. It is the responsibility of the operator to comply with all state and federal regulations.

21. Environmental and vicinity impact analysis to include soils information, potential air pollution, water pollution, noise, and a plan for mitigating the negative impacts.

22. A reclamation plan that identifies the methods, means, and timing of how the land will be reclaimed once the operations are completed.

B. Oil and Gas Operation Applications

In addition to the application materials set forth in Section 7.03.A above, applications for oil and gas operations shall include the following information:

1. A copy of the Application for Permit to Drill or other application submitted to the Colorado Oil and Gas Conservation Commission (COGCC), and/or federal EA or EIS may be submitted to satisfy one or more of the submittal requirements if it

contains information sufficient to demonstrate compliance with the regulations set forth in this article.

C. Sand, Soil, and Gravel Extraction Operation Applications

In addition to the application materials set forth in Section 7.03.A above, applications for sand, soil, and gravel extraction operations shall include the following information:

1. Location of extraction areas, stockpiles, and topsoil and overburden piles

A map indicating the location of extraction areas, stockpiles, topsoil, and overburden piles and their proximity to property boundaries, access points, waterways, drainage facilities, and residents. The map should also indicate any proposed mitigation such as fencing.

2. Blasting Plan

Blasting plan and information to include: Types and kind of explosives to be used, amounts of explosives per shot, number of shots per blast, location of explosives storage magazine, name and address of person or company in charge of blasting, if different than applicant.

3. Reclamation Plan

Reclamation plan describing the topsoil salvage, overburden salvage, topsoil and overburden redistribution and/or disposal, Soil Conservation Services and/or Mined Land Reclamation Board recommendations for seeding and re-vegetation.

Section 7.04 Operational Standards

All permits issued for natural resource exploration, extraction, and/or production operations set forth within this article shall comply with the following standards.

A. General Standards

1. **Drainage and Erosion Control.** The operation shall not cause significant erosion or sedimentation and shall be conducted in accordance with the drainage and erosion control plan.
2. **Public Roadways and Traffic Impacts**
 - a. Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
 - b. If the anticipated use of public roads by the operation will result in the need for roadway improvements, increased maintenance or snow removal, the county may require the operator to:
 - c. Enter into an agreement with the county whereby the operator provides for roadway improvement, maintenance, and/or snow removal, or reimburses the county for such increased costs; and/or
 - d. Provide a bond or other financial assurance in an amount acceptable to the county to cover the costs of impacts to the roads.
3. **Wildlife and Wildlife Habitat.** The operation shall mitigate any significant degradation of wildlife or sensitive wildlife habitat.
4. **Livestock and Livestock Grazing.** The operation shall not cause significant impact to livestock, grazing permits, or grazing permittees. Fencing or other agreements between private grazing operations and the operator may be used to satisfy this requirement.
5. **Recreation Impacts.** The operation shall not cause significant degradation in the quality or quantity of recreational activities in the county such as hunting, hiking, skiing, or related activities.
6. **Water Quality**
 - a. The operation shall not cause significant degradation in the quality or quantity of surface water from the addition of non-point source pollution.
 - b. The operation shall not cause significant degradation in the water quality or water pressure of any public or private water wells.
 - c. Applicant shall comply with all Colorado Department of Public Health and Environment (CDPHE) regulations, permits, and standards in managing stormwater and erosion control upon disturbed land.
7. **Cultural and Historic Resources.** The operation shall not cause significant degradation of cultural or historic resources.

8. **Wildfire Hazard.** The operation shall not cause a significant risk of wildfire hazard.
9. **Geologic Hazards.** The operation shall not cause a significant risk of geologic hazards.
10. **Emergency Response.** The operation shall have a written emergency plan for potential emergencies that may be associated with operations of the facilities. This shall include, but not be limited to any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous materials spills. The plan shall be provided to all emergency service providers for review and comment.

B. Oil and Gas Operations

The following standards apply to all oil and gas operations in addition to the general standards identified within Section 7.04.A, *General Standards*.

1. **Authority.** These oil and gas regulations are authorized by, inter alia, §30-28-101, 30-28-201, and §29-20-101, C.R.S., as amended.
2. **Applicability.** This section shall apply to all oil and gas operations on public or private land in the unincorporated areas of Rio Grande County.
3. **Oil and Gas Operations Exempted from Permit Requirements.** The following oil and gas operations are exempt from the oil and gas permit requirements of this Land Development Code.
 - a. Mapping activities that do not result in any surface disturbance.
 - b. Operation and maintenance of well sites, wells and pipelines that are legal nonconforming oil and gas operations pursuant to Section 7.04.B.4, *Nonconforming Oil and Gas Operations*. Any alteration, extension or expansion of a nonconforming oil and gas operation shall comply with the standards set forth in Section 7.04.B.4, *Nonconforming Oil and Gas Operations*.
4. **Nonconforming Oil and Gas Operations.** Oil and gas operations that were legally established before the effective date of this Land Development Code that do not conform to the regulatory provisions of this article, and ordinary repairs and maintenance relative to such operations, shall be allowed to continue, so long as the operations otherwise remain legal and comply with applicable permit requirements.
 - a. Legal nonconforming oil and gas operations shall only be extended or altered in a manner that decreases or does not expand the nonconforming use.
 - (1) Any extension or expansion of a legal nonconforming oil or gas operation onto land outside the originally established area of operation shall be brought into compliance with the requirements of this Article 7, *Natural Resource Extraction*.

b. A legal nonconforming oil or gas operation shall not be moved, in whole or in part, unless the relocation brings the operation into compliance with the requirements of this article.

c. If any legal nonconforming oil or gas operation is abandoned for a period of one (1) year or more, the operation shall not be renewed or restarted until the Land Use Administrator has determined that the renewed or restarted use will not pose a threat to public health, safety, welfare or the environment.

d. A legal nonconforming oil or gas operation 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 all applicable local, state, and federal permits required for construction and for operation of the restored oil and gas operation.

(2) The operation shall not be restored in a manner that expands the nonconforming use.

(3) The operation shall be restored within one (1) year of the date of damage or destruction. A one-time extension of up to one (1) year may be granted by the Land Use Administrator upon finding that:

(a) (There would be a substantial hardship to the owner without the extension; and

(b) Within the first eight (8) months after the destruction, the owner has substantially cleaned up and removed, if unusable, the damaged operation.

5. **Emergency Plan.** Operation specific emergency preparedness plans are required for any Oil and Gas Operation that involves drilling or penetrating through known zones of hydrogen sulfide gas. The plan shall include a provision for the operator to reimburse the appropriate emergency responses service provider for costs incurred in connection with the emergency. The plans shall be provided to all emergency service providers for review and comment.

C. Sand, Soil, and Gravel Extraction Operations

The following standards apply to all sand, soil, and gravel extraction operations in addition to the general standards identified within Section 7.04.A, *General Standards*.

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

2. **Applicability.** All operations that have one or more of the following characteristics are subject to the standards set forth in this section:
 - a. Mining of sand, soil or gravel;
 - b. Temporary borrow pits to extract sand, soil or gravel;
 - c. Accessory uses, and structures associated with mineral extraction;
 - d. Crushing, screening, and/or stockpiling of extracted materials;
 - e. Processing or batching of materials into other products such as asphalt and concrete;
 - f. Outdoor storage of equipment and materials used for mineral extraction; or
 - g. Extraction of material for resale.
3. **Sand, Soil, and Gravel Extraction Operations Exempted from Permit Requirements.** The following activities and uses are exempt from obtaining a permit as required by this article:
 - a. The activity is for a farming or ranching use within the county where no material is exported from the site, including land leveling or sand and gravel excavation operated for landowner's use on the same site upon which the material is excavated from;
 - b. The activity is approved by the county under a separate permit, such as landfill sites, foundation excavations, building or subdivision developments, or water or road tunnel developments;
 - c. If for an approved building or subdivision, the disturbed area is located within and immediately surrounding the footprint of an approved building, road, or recreational facility;
 - d. There will be no use of public roads to haul the materials; or
 - e. The operation is not subject to a permit from the Colorado Department of Natural Resources.
4. **Sand, Soil, and Gravel Extraction Operation Standards.** In addition to the general standards set forth in Section 7.04.A, *General Standards*, the following standards shall apply to sand, soil, and gravel extraction operations:
 - a. The Board of County Commissioners will require a performance guarantee, in a form approved by the County Attorney in addition to the bond required by the Colorado Division of Minerals and Geology (CDMG) to ensure that certain conditions of a permit will be complied with. The county will require a certified copy of the bond required by CDMG.

Section 7.05 Performance Standards for All Extraction Operations

A. Standards

All operations shall provide sufficient information to the county to allow the county to impose, as permit conditions, measures or requirements to adequately mitigate the impacts such operation may have on:

1. Truck traffic through residential, recreational or commercial areas;
2. Visibility of the site from adjacent and surrounding residences; or
3. Noise, dust, odor, or vibration apparent to surrounding residences and considered to be a nuisance.

B. Duration

The Board of County Commissioners may approve an operation for a specific period of time, not to exceed twenty (20) years, with a mandatory review at five (5) years after initial approval by the Planning Commission and the Board. The compatibility and size of the project will be considered in determining the appropriate length of time for the operation. Renewals of the permit may be granted upon a new permit review, and subject to new and additional conditions.

Article 8. Nonconforming Land Uses and Structures

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Section 8.01 General Provisions

A. Applicability

The provisions of this article shall apply to lawful structures and uses, including divisions of land and signs, in existence at the time this Land Development Code or any amendments thereto become effective which do not conform to the applicable use regulations of this Land Development Code. Any structure or use which is unlawful prior to the adoption of this Land Development code shall remain an unlawful structure or use and be subject to enforcement as provided in this Land Development Code.

Section 8.02 Continuance of Nonconforming Uses or Structures

A. Nonconforming Use

1. A nonconforming use shall be allowed to continue and normal or routine maintenance of the structure containing a nonconforming use shall be allowed. Normal or routine maintenance shall include any maintenance or repair which does not impermissibly enlarge or alter the structure containing a nonconforming use, pursuant to Section 8.03, *Enlargement or Alteration of a Nonconforming Land Use or Structure*. Such use shall be allowed to continue as a nonconforming use upon transfer of ownership.
2. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of this Land Development Code.

B. Nonconforming Structure

A structure nonconforming as to height and setback may be altered or extended providing the alteration or extension does not result in further violation of this Land Development Code. Such structures may be maintained in reasonable repair while retaining their legal nonconforming status.

C. Nonconforming Sign

Nonconforming signs shall be governed by Section 9.03, *Nonconforming Signs*.

Section 8.03 Enlargement or Alteration of a Nonconforming Use or Structure

A. Enlargement or Alteration of Nonconforming Land Use Prohibited

The right to continue a nonconforming land use terminates immediately when the nonconforming land use is enlarged, expanded, extended, demolished, or altered in any of the following ways:

1. The alteration, repair, or enlargement of a nonconforming structure in any manner which would increase the degree of nonconformity with respect to the floor area, setback, or height regulations of this Land Development Code, except as allowed under Section 8.03.B, *Permitted Alterations of Nonconforming Land Uses*.
2. The addition of a new structure containing, or accessory to, the nonconforming land use.
3. The enlargement or alteration of a conforming structure containing, or accessory to, a nonconforming land use, including an increase in floor area, an increase in height, or any other alteration or improvement in excess of normal or routine maintenance of the structure which violates the requirements of this Land Development Code, except as allowed under Section 8.03.B, *Permitted Alterations of Nonconforming Land Uses*.
4. Enlargement or alteration in the land area occupied by the nonconforming land use, unless the basic nature of the use, at the time it became nonconforming, clearly indicated or contemplated such an increase or alteration.
5. Any enlargement or alteration of the nonconforming land use which has the effect or threatened effect of creating a hazard or nuisance on or off the property, of adversely affecting the character of the neighborhood, or of intensifying the use of the land or its need for services.

B. Permitted Alterations of Nonconforming Land Uses

The following actions, enlargements, or alterations of a nonconforming land use are permitted.

1. A change in ownership of the property upon which the nonconforming land use is located.
2. An alteration or expansion which the Building Official and/or Land Use Administrator determines to be necessary to rectify a hazardous health or safety situation, or to comply with the public health or safety requirements of another governmental entity having lawful jurisdiction over the structure.
3. An alteration or expansion necessary to comply with the Americans with Disabilities Act (ADA) requirements.
4. An expansion of the nonconforming use within the structure containing the use, provided that such expansion is not accompanied by structural alterations identified in Section 8.03.A.3.

5. The addition of a solar energy device to a nonconforming structure or a structure containing a nonconforming use.
6. Any replacement or upgrading of outmoded or worn equipment or supplies provided such activity does not create a hazard or nuisance as identified in Section 8.03.A.5.
7. Nonconforming structures specifically related to farming or ranching uses that have become nonconforming as a result of adoption or amendment of the Land Development Code may be restored, modified, and maintained. The owner of the property may construct new conforming structures only to replace previous nonconforming structures, provided such structures are directly related to the farming or ranching use.

Section 8.04 Change of Land Use

A nonconforming land use shall only be changed to a land use which is conforming in the zoning district in which the use is located. Any change of a nonconforming land use to another use shall immediately terminate the right to continue the nonconforming land use, and thereafter the property shall only be used in conformity with the use provisions of its zoning district.

Section 8.05 Discontinuance of Nonconforming Uses or Structures

The right to continue a nonconforming land use or structure shall terminate if any of the following apply.

- A. When a nonconforming use is discontinued for a period of twelve (12) months, such use shall be discontinued, and use of the property shall be in compliance with the current Land Development Code.
- B. When a seasonal nonconforming land use is discontinued for an entire single season based upon the history and nature of the use, such use shall be discontinued and use of the property shall be in compliance with the current Land Development Code.
- C. If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, flood, wind, explosion, or “act of God” the owner shall be allowed to rebuild the structure to the same or smaller size and thereby retain the nonconforming use. Restoration must be started within twelve (12) months of such calamity and completed within twenty-four (24) months of initiating restoration.

Article 9. Signs and Outdoor Advertisement

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Section 9.01 General Provisions

A. Purpose

The purpose of this article is to define the kinds of signs and advertising devices that will be permitted in the various zoning districts and the conditions and requirements under which they are permitted and maintained. These sign regulations are established to safeguard the health, safety, convenience, order and welfare of all residents of the county. The purpose of this article is to provide a balanced and fair legal framework for the design, construction, and placement of signs.

B. Intent

This article is intended to coordinate the use, placement, physical dimensions, and design of all signs within unincorporated areas of Rio Grande County while preserving the right of free speech and expression. These sign regulations are intended to:

1. Recognize that signs are a necessary means of visual communication for the convenience of the public;
2. Lesson the visual clutter caused by proliferation, improper placement, illumination, animation, and excessive height and area of all signs that compete for the attention of pedestrian and vehicular traffic;
3. Protect the public from the dangers of unsafe signs and require signs to be located, constructed, installed, and maintained in a safe and satisfactory manner;
4. Ensure that signs are appropriately sized for adjacent lots, building frontages, and rights of way;
5. Promote the safety of persons and property by ensuring that signs do not create a hazard by:
 - a. Confusing or distracting motorists; or
 - b. Impairing drivers' ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.
6. Promote the efficient communication of messages and ensure that persons exposed to signs are not overwhelmed by the number of messages presented;
7. Ensure that signs are compatible with their surroundings and, prevent construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, reflectivity, bulk or height;
8. Enhance property values and business opportunities;
9. Assist in wayfinding;
10. Provide fair and consistent permitting and enforcement;
11. Provide proper control of signs in a manner consistent with the First Amendment of the US Constitution guarantee of free speech. It is not the intent of this article to

regulate signs based on the content of their messages. Rather, this article advances important, substantial, and compelling governmental interests;

12. The incidental restriction on the freedom of speech that may result from the regulation of signs hereunder is no greater than is essential to the furtherance of the important, substantial, and compelling interests that are advanced by this article;
13. The county has an important and substantial interest in preventing sign clutter which is the proliferation of signs of increasing size and dimensions as a result of competition among property owners for the attention of passing motorists and pedestrians;
14. The county has a substantial and/or compelling interest in preventing traffic accidents; and
15. The county has a substantial and/or compelling interest in preventing negative impacts associated with temporary signs. Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of streets if they are not removed.

C. Applicability

This article shall apply to all signs for all commercial and industrial land uses on lands, properties, parcels, lots, or tracts within the unincorporated areas of Rio Grande County, unless otherwise stated in this article or the Land Development Code.

D. Permit Required

No person shall erect, alter, display, relocate, replace, or maintain any sign, including a sign face replacement when such replacement identifies a new company, tenant, or use, without the prior issuance of a sign permit issued pursuant to Section 9.05, *Sign Permit Review Process*, unless the sign is exempt from permit requirements pursuant to Section 9.01.E, *Signs Not Requiring a Permit*. A sign permit shall not be required for routine maintenance or updates as set forth in Section 9.04.B, *Sign Maintenance*.

E. Signs Not Requiring a Permit

1. The following signs shall comply with all provisions of this article, but may be erected and maintained in all districts without a sign permit:
 - a. **Artwork.** Works of art, including but not limited to wall murals painted on a building or structure, shall not require a sign permit pursuant to this article.
 - b. **Banners**
 - (1) A banner meeting the following criteria shall not require a sign permit pursuant to this article:
 - (a) No more than one (1) banner shall be displayed on a property at one time.

(b) Banners shall not exceed sixteen (16) square feet.

(c) Banners shall be kept in good repair and installed and maintained in a way that does not create a safety hazard.

(d) No property shall display a banner for more than two weeks every calendar quarter. Calendar quarters shall mean January through March, April through June, July through September, and October through December each calendar year.

(2) Banners not meeting one or more of the above criteria may be permitted with a sign permit pursuant to Section 9.05, *Sign Permit Review Process*.

c. **Bulletin Boards.** Bulletin Boards not over twenty (20) square feet in area located on the premises of public, charitable, or religious institutions.

d. **Construction Signs.** One temporary on-site construction sign may be allowed after the commencement of construction on a site. The sign shall not exceed twenty (20) square feet in area. The site sign shall be removed upon the county issuing the first certificate of occupancy for the project.

e. **Flags and Emblems.** Flags that are affixed to permanent flagpoles or flagpoles that are mounted to buildings (either temporary or permanent).

f. **Home Occupation Signs.** One sign not exceeding two (2) square feet in area shall be allowed in addition to the allowed Residential Identification Sign for a Home Occupation approved pursuant to Section 2.06.B.4, *Home Occupations*.

g. **Public Signs.** Signs that are required by any local, state, or federal government or agency, or special district, including traffic, streets, utility, schools, safety, railroad crossing, wayfinding, public notices, and identification signs for public facilities.

h. **Residential Identification Signs.** Identification signs not exceeding two (2) square feet in gross area may be attached to a residential structure. One Residential Identification Sign shall be allowed per dwelling unit in all residential zone districts.

i. **Signs in Display Window.** Signs in display window of a commercial use, which is incorporated with a display of merchandise or a display relating to services offered.

j. **Signs Required by Building Code.** All signs required by the building code adopted by the county shall be exempt from these standards provided they do not exceed two (2) square feet in area.

k. **Signs within Buildings.** Signs within buildings that comply with state and local building codes.

l. **Vehicle Signs.** Any sign displayed on a parked vehicle or trailer; however, no sign may be placed on a vehicle or trailer that does not function, does not have current registration, and is abandoned.

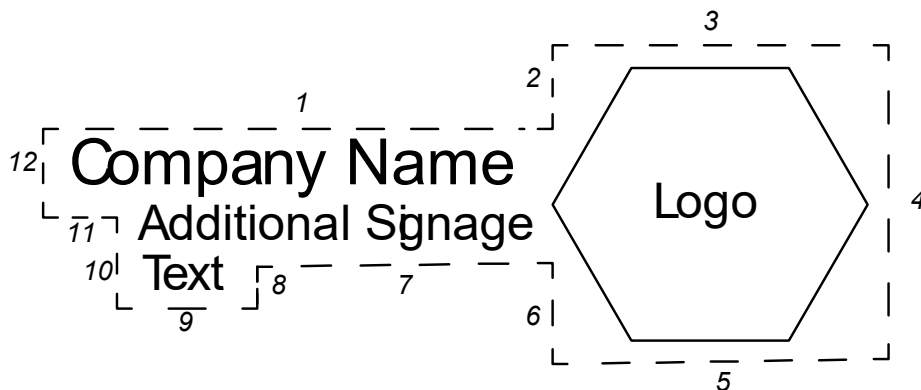
m. **Yard Signs.** Yard signs meeting the following criteria shall not require a sign permit pursuant to this article:

- (1) No person shall post any yard sign upon private property without permission from the property owner;
- (2) Yard signs shall not be permitted on any utility pole, light pole, or similar structure; and
- (3) No person shall post any yard sign upon public property.

F. Sign Measurement

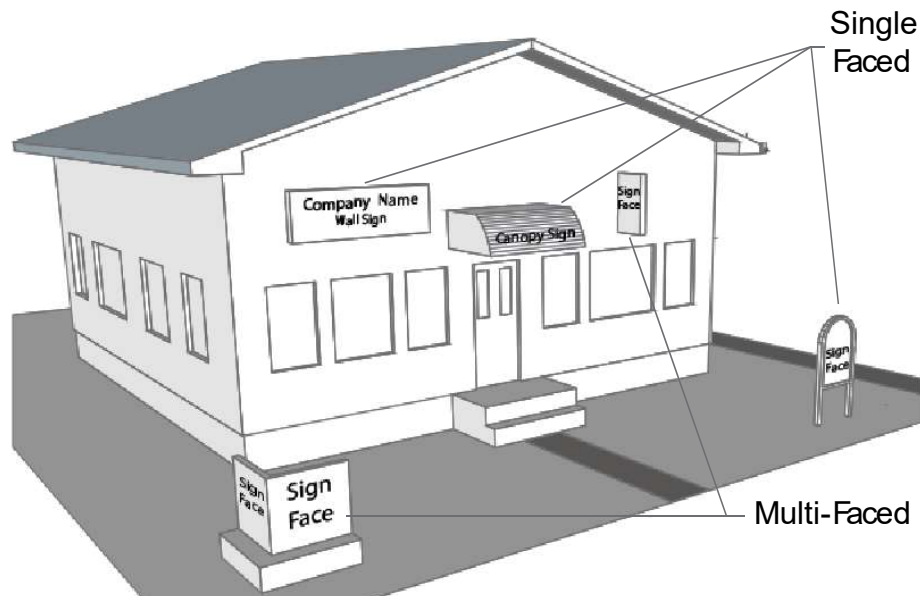
- 1. **Area.** The area of a sign shall be the total surface area devoted to a sign message, including text, symbols, photographs, logos, and display faces, but excluding supporting structure and time-and-temp display.
 - a. Single-Faced Signs. The area of a sign with one sign face shall be calculated as the total area of the sign face within a continuous perimeter using no more than twelve (12) perpendicular lines that enclose the limits of the sign.

Figure F-9.1 – Single Faced Sign



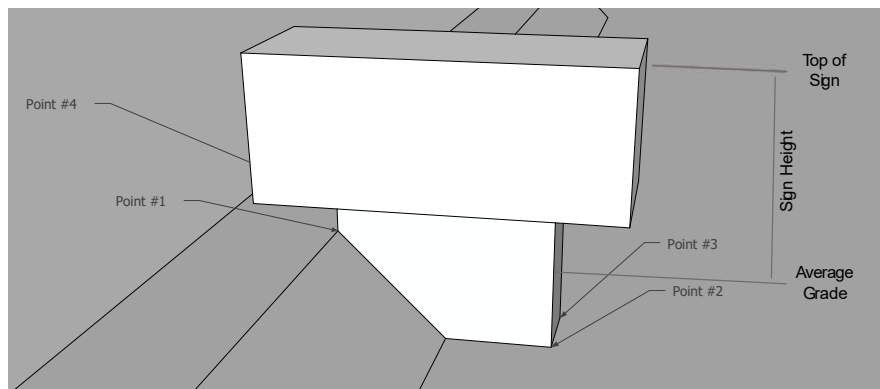
b. Multi-Faced (2 or more) Signs. The sign area shall be calculated by the sum of the area of all sign faces.

Figure F-9.2 – Multi Faced Sign



2. **Height.** The height of a sign shall be measured from the average grade at the base of the sign to the highest point of a sign. Average grade is determined by averaging the finished grade elevation of all corners of the base of the sign.

Figure F-9.3 – Sign Height



G. Other Requirements and Conditions

1. No permit shall be issued for nor shall any sign be erected which simulates any official, directional, or warning sign erected or maintained by the United States, State of Colorado, or Rio Grande County or which involves lights simulating or resembling traffic signals or traffic control signs.
2. Signs located along a state or federal road right-of-way are not considered to be under the control or responsibility of this Land Development Code but rather the responsibility of the Colorado Department of Transportation (CDOT).

Section 9.02 Prohibited Signs

All signs within this section are prohibited in all zone districts:

A. Glaring Signs

Signs with light sources or that reflect brightness (such as mirrors) to constitute a hazard or nuisance as determined by the Land Use Administrator. This includes signs with neon, LED lights, fluorescent text, graphics, or background, as well as holographic signs.

B. Obstructive Signs or Signs in the Public Right-of-Way

Any sign that obstructs free and clear vision of an intersection or traffic approaching the intersection or a roadway or any sign in, on, or above a public right-of-way that in any way interferes with normal or emergency use of that right-of-way.

C. Posters and Handbills

Any exterior sign affixed to any structure, fence, tree, pole, or natural vegetation except in designated community areas or as otherwise permitted by this Land Development Code.

D. Abandoned Signs

Any unused abandoned sign, including any pole or structure supporting such sign, shall be removed within six (6) months after becoming abandoned. If an existing sign pole or structure is expected to be used for future use of an existing building, then such structure may remain; however, the copy, text, icon, or any messages on such sign shall be removed.

E. Permanent Banners

Banners shall only be allowed as a temporary sign, pursuant to Section 9.01.e.1.b, *Banners* and Section 9.04.E.6, *Temporary Signs*, as applicable.

F. Roof Mounted Signs

No sign shall be permitted to be mounted on the roof of a building.

Section 9.03 Nonconforming Signs

A nonconforming sign may remain, provided that it is maintained in good repair, pursuant to the following provisions:

A. Modification

Nonconforming signs shall not be enlarged, extended, structurally reconstructed, or altered in any manner unless such modifications comply with the standards set forth in this article.

B. Damage

1. A nonconforming sign or the structure supporting a nonconforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of the replacement cost shall not be altered, repaired, replaced, or reinstalled unless it is done so in compliance with the standards set forth in this article.
2. A nonconforming sign or structure supporting a nonconforming sign that is damaged or destroyed to the extent of less than fifty (50) percent of the replacement cost may be replaced provided the following provisions are met:
 - a. Repairs shall return the sign to previous conditions prior to the damage, or shall bring the sign into compliance with the standards set forth in this article;
 - b. Repairs shall commence within sixty (60) days of the date the damage or destruction occurred; and
 - c. Repairs shall be completed within six (6) months from the date of damage or destruction.
3. Prior to commencing any such repairs, a new sign permit shall be obtained pursuant to Section 9.05, *Sign Permit Review Process*.

C. Abandonment

Nonconforming signs that also constitute an abandoned sign shall be brought into compliance with the standards set forth in this article.

D. Change in Use

A sign face on a nonconforming sign may be replaced following a change in use so long as such change does not increase the nonconformity of the sign and the sign does not qualify as an abandoned sign. Changes to the sign face shall require approval of a new sign permit pursuant to Section 9.05, *Sign Permit Review Process*.

E. Change in Location

Nonconforming signs shall not be moved to a new location either on-site or off-site, unless the new location of such sign eliminates all nonconformities associated with the sign.

Section 9.04 Sign Standards

The following general standards shall apply to all signs within the unincorporated areas of Rio Grande County.

A. Materials and Safety

All signs shall be constructed of durable materials and installed to withstand expected winds, snow loads, and deterioration from natural elements.

B. Sign Maintenance

All signs shall be maintained in good repair and in a safe, clean, and attractive condition. Changes to a sign face that do not alter the sign structure shall not require approval of a new sign permit provided such changes are substantially similar to the current approved sign permit on file with the land use department.

C. Placement of Signs

1. No sign shall be maintained at a location whereby reason of its position, illumination, size, shape, or color, may obstruct the view, or be confused with any traffic control sign or device or where it may otherwise confuse traffic.
2. Signs not affixed to a building shall meet the following minimum setback distances:
 - a. Signs greater than six (6) square feet in area shall be a minimum of fifteen (15) feet from any property line.
 - b. Signs six (6) square feet or less in area shall be a minimum of five (5) feet from any property line.

D. Illumination

1. The light from any sign shall be directed to avoid causing traffic hazard, nuisance, or glare on any public right-of-way or adjacent property.
2. All lighting fixtures shall be directed downward below a horizontal plane extending from the lowest point of the light source.
3. The source of illumination shall not be visible from any street, sidewalk, or adjacent property.

E. Summary Tables of Permanent Sign Standards

Table T-9.1, *Commercial Sign Standards*, summarizes the requirements for permanent signs for commercial uses. Additional applicable standards and requirements for sign types follow the table.

Table T-9.1 – Commercial Sign Standards

Sign Type	Number of Signs Permitted, Maximum	Sign Area Per Sign, Maximum	Sign Height
Awning, canopy, or marquee (§9.04.E.1)	Considered wall sign for calculation	Considered wall sign for calculation	Minimum 8 feet
Drive-Through Sign (§9.04.E.2)	2 per drive-through service lane	16 square feet	Maximum 7 feet
Electronic Message Board (§9.04.E.3)	Considered a freestanding monument sign for calculation ¹	16 square feet in addition to Freestanding Monument Sign Area	Maximum 8 feet
Freestanding Monument (§9.04.E.4)	Single-tenant properties: 1 sign; multi-tenant properties: 1 per street access up to a maximum of 2 ¹	60 square feet	Maximum 16 feet
Freestanding pole (§9.04.E.4)	Considered a freestanding monument sign for calculation ¹	48 square feet	Minimum 10 feet; Maximum 20 feet
Projecting (§9.04.E.5)	1 per tenant	6 square feet	Minimum 8 feet; Maximum 14 feet
Wall (§9.04.E.7)	1 per tenant	The total of all signs shall not exceed 15 percent of each building façade or 150 square feet.	Limited by height of wall ²

¹ Prohibited for mixed use land uses.

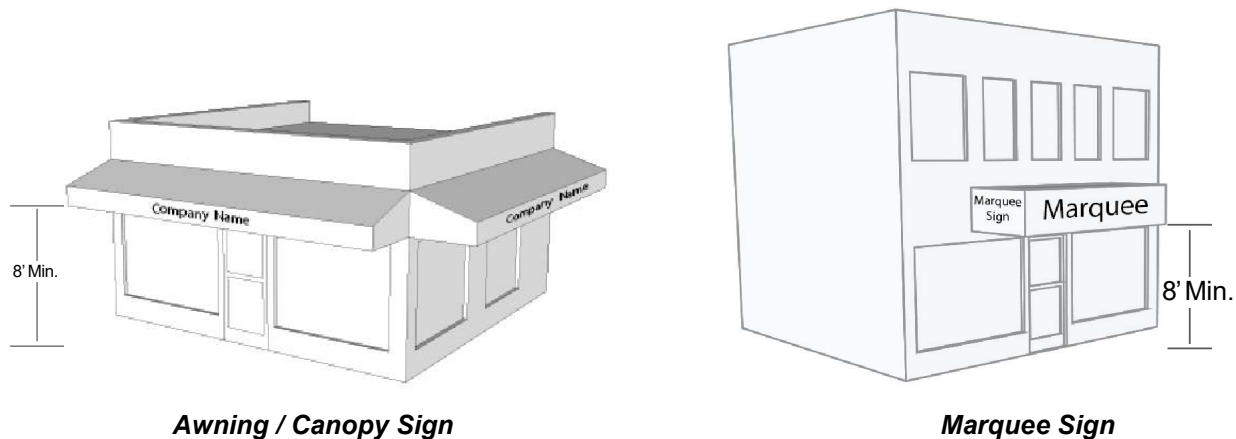
² Shall not project above the roofline of the building of the façade upon which they are attached.

1. Awning, Canopy, or Marquee Signs

- a. Awnings shall not be constructed of vinyl or plastic. Awnings shall be made of durable materials such a fabric or metal.
- b. The sign face on an awning may be printed or painted.
- c. An awning sign shall not project above the awning.
- d. An awning, canopy, or marquee sign shall be located on the front surface, parallel with the building wall facing the street frontage.

- e. An awning, canopy, or marquee sign shall not project above the structure on which it is affixed to or be located on the canopy roof.
- f. An awning, canopy, or marquee sign shall be at least eight (8) feet above the ground or sidewalk over which it extends.
- g. An awning, canopy, or marquee sign shall be located on the first floor-business only.
- h. Any sign suspended below an awning or canopy shall be no lower than eight (8) feet above the ground or sidewalk over which it extends.

Figure F-9.4 – Awning, Canopy, or Marquee Signs



2. Drive-Through Signs

- a. Drive-through signs are those associated with a drive-through use of a primary structure and include menu boards, incidental directional signs, and may be electronic or illuminated provided standards for such signs are met in addition to these drive-through sign standards.
- b. Each drive-through sign shall include an architecturally complementary base that is proportional to the size of the sign.
- c. Each drive-through sign should incorporate materials and colors that complement the materials and colors of the associated building.
- d. No other sign shall be attached or added to a drive-through sign.

3. Electronic Message Boards

- a. Electronic message boards may be permitted as a freestanding monument sign or a wall sign.
- b. **Illumination and brightness**
 - (1) Electronic message boards shall have automatic dimmer software or sensors to control brightness according to ambient light conditions. The light

source shall not produce any glare that constitutes a traffic hazard or negatively impacts the public health, safety, or welfare of the community.

(2) An electronic message board luminance shall not exceed three-tenths (0.3) foot-candles over ambient lighting conditions when measured at the manufacturer's recommended distance.

(3) Applications for a sign permit for an electronic message board shall include the manufacturer's specifications and illumination rating.

c. Electronic message boards shall comply with the locational requirements of a freestanding monument sign pursuant to this article.

d. Electronic message boards shall:

(1) Contain static messages only;

(2) Display images and messages for a period of not less than eight seconds; and

(3) Not include any movement or transitions.

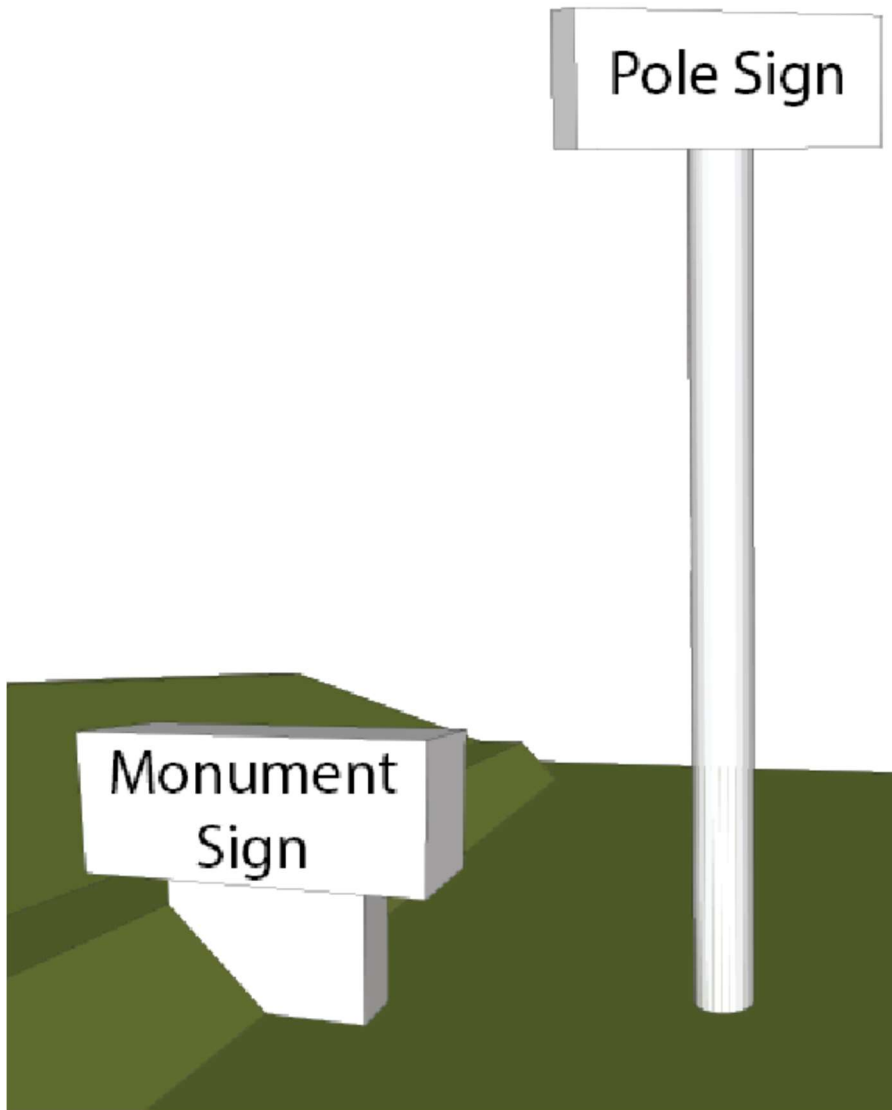
4. Freestanding Signs

a. Freestanding signs shall be located inside the property line and outside the vision clearance area.

b. Freestanding signs shall be designed to not block the view of an adjacent business and shall not interfere with any sidewalk or path. Surrounding landscaping should be provided where possible, as determined by the Land Use Administrator.

c. For properties or buildings with multiple tenants, monument and pole signs shall provide space for all potential tenants.

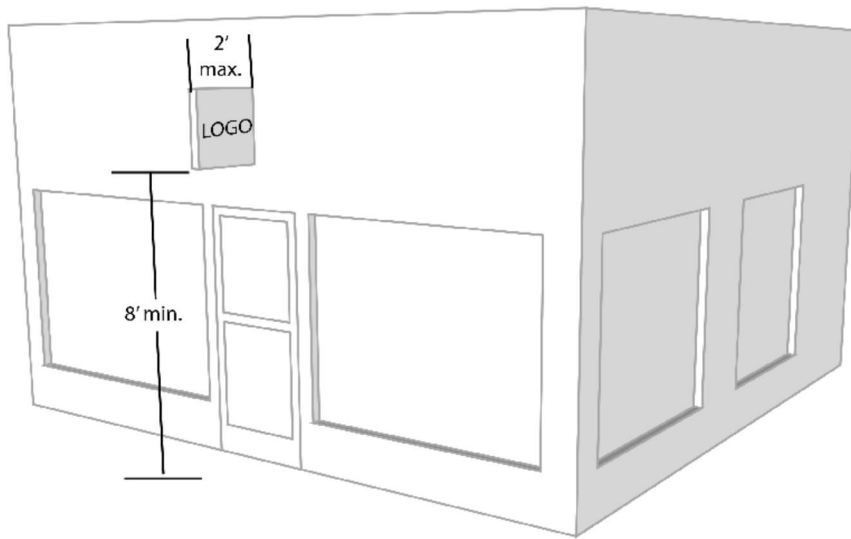
Figure F-9.5 – Freestanding Signs



5. Projecting Signs

- a. Projecting signs shall:
 - (1) Extend from the building wall or fascia at an angle of ninety (90) degrees.
 - (2) Not project more than two (2) feet from the plane of the face of the building to which they are attached.

Figure F-9.6 – Projecting Signs



6. Temporary Signs

a. **Permit and Application.** All requests for temporary signs shall be submitted to the Land Use Administrator on an application form provided by the county and include the following information:

- (1) Application fee;
- (2) Description of request;
- (3) Graphical depiction of the sign including dimensions, setbacks from property lines, and duration of time sign will be erected; and
- (4) Any additional information the Land Use Administrator may request to assist in the review of the request.

b. Temporary signs shall only be erected after obtaining a temporary sign permit. The temporary sign permit shall cite the length of time the sign may be displayed and date of expiration. Temporary signs shall not be permitted for a period of time exceeding one-hundred and eighty (180) days in one calendar year unless otherwise allowed in the Land Development Code.

c. Temporary signs shall be removed within the time period specified on the permit.

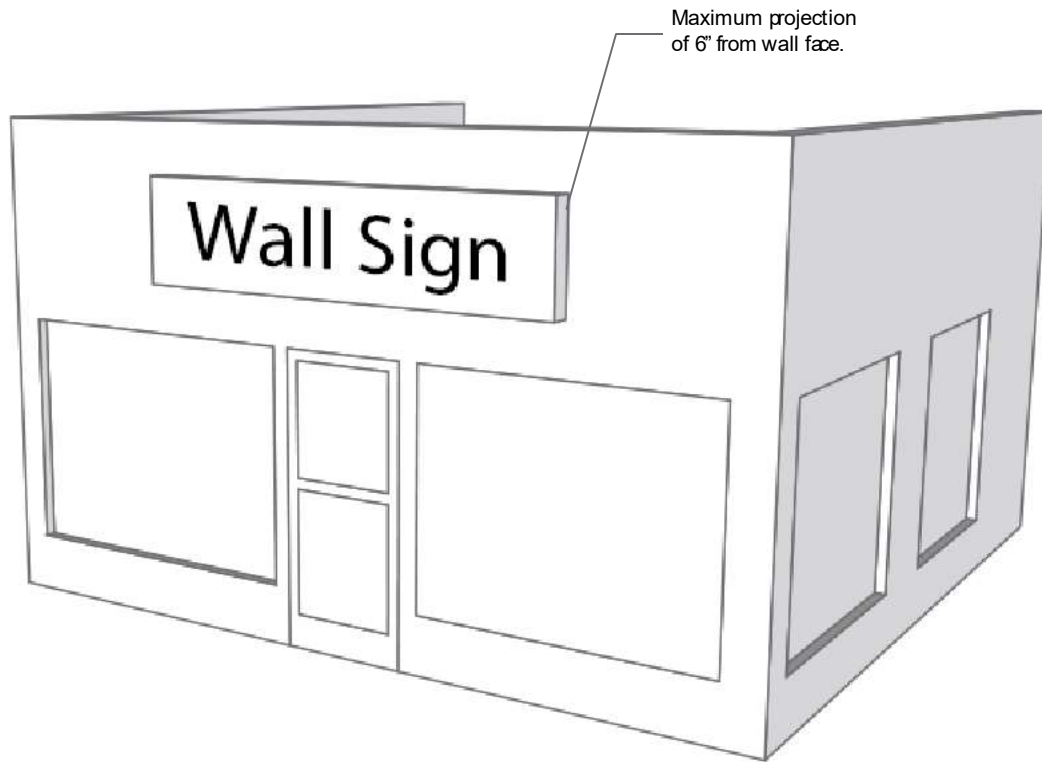
d. If a temporary sign is not removed within the time period specified on the permit, such inaction shall be deemed a violation of this Land Development Code.

7. Wall Signs

a. A wall sign shall not extend further than six (6) inches from the face of the wall upon which it is attached.

- b. A wall sign shall not extend above the roof or parapet of the building front or fascia.

Figure F-9.7 –Wall Sign



Section 9.05 Sign Permit Review Process

A. General Provisions

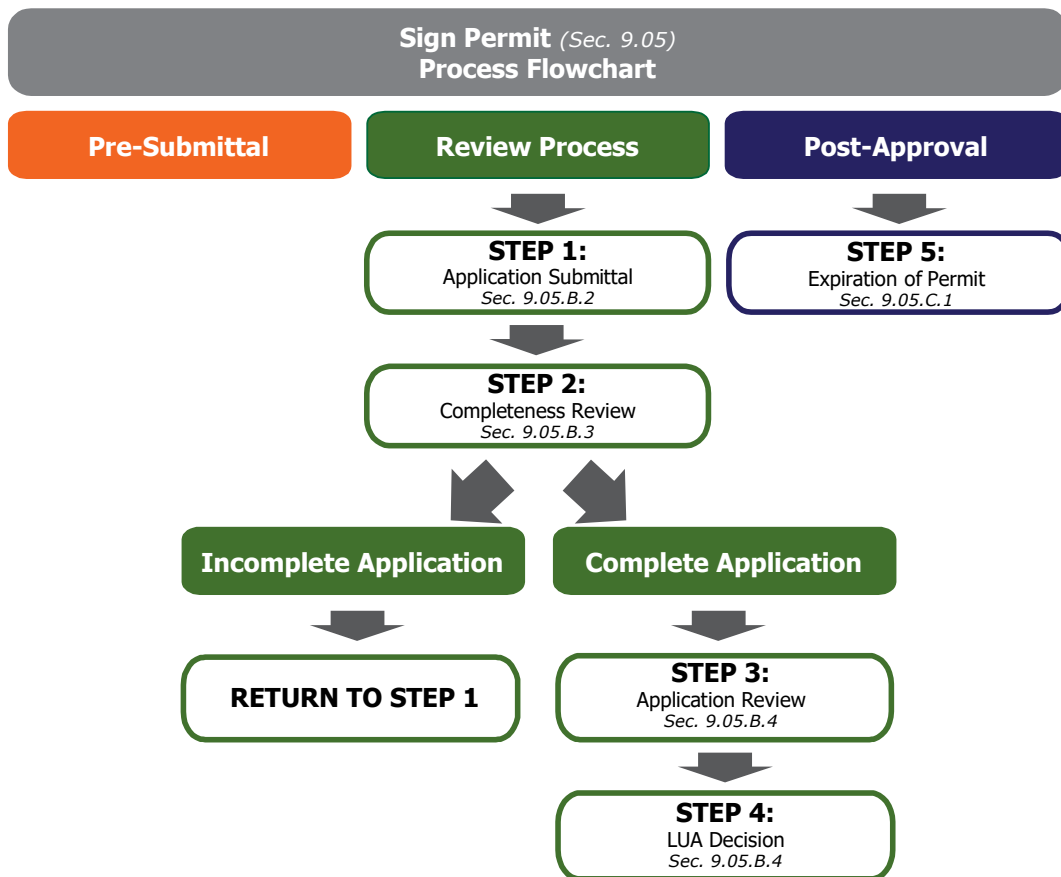
1. These procedures shall be required for all signs requiring a permit pursuant to Section 9.01.D, *Permit Required*.
2. Any electrical work associated with a sign requiring an electrical permit shall obtain such permit through the State of Colorado.

B. Review Process

1. Review Flowchart

Figure F-9.8, *Sign Permit Flowchart*, depicts the sign permit review process described in greater detail in this section.

Figure F-9.8 – Sign Permit Flowchart



2. Application Submittal Requirements

Sign permit applications shall be submitted on forms provided by the county and shall include the following:

- a. Address where the proposed sign is to be located;

- b. Name, mailing address e-mail and phone number of the applicant;
- c. Name, mailing address, e-mail and phone number of property owner;
- d. Site plan showing the location of the sign on the premises in relation to lot lines, sight distance triangle, buildings, sidewalks, parking lots, drive aisles, streets, and public rights-of-way;
- e. Description of sign(s), including type, size, structural design, and construction materials;
- f. Drawing or photograph of the proposed sign with specification indicating height, perimeter, area of sign and/or area of copy, dimensions, type of lettering proposed, means of support, method of illumination, and any other significant characteristics;
- g. Any other information requested by the Land Use Administrator to determine compliance with the regulations and standards of this article; and
- h. The required sign permit fee.

3. Completeness Review

Within ten (10) days of the application being submitted, the Land Use Administrator shall make a determination that the application, with all required data, has been properly prepared and submitted and is complete or is incomplete.

- a. If the application is determined to be incomplete, the Land Use Administrator shall notify the applicant of deficiencies in the application. No further processing of the application shall be undertaken until the Land Use Administrator receives information, materials, and documentation necessary for a complete application.

4. Permit Application Review and Action

The Land Use Administrator shall review the sign permit application for compliance with this Article 9, *Signs and Outdoor Advertisement*, and shall either ask for additional information, issue the permit as complying with the applicable standards, issue the permit with conditions designed to ensure compliance with applicable standards, or deny the permit as not complying with the applicable standards.

C. Post-Approval Actions

1. Expiration of Sign Permit

- a. If a sign authorized by any sign permit has not been erected within one (1) year from the date of permit approval, the sign permit shall be deemed expired. Prior to the deadline, the applicant may request an extension, in writing, from the Land Use Administrator.
- b. The Land Use Administrator may allow an extension of time for the sign to be installed at the time of permit approval, if requested.

2. Revocation of Sign Permit

a. If any sign, new or preexisting, is damaged, moved, or otherwise altered, either intentionally or by natural forces, in a manner that causes the sign to no longer comply with the regulations or standards of this article or to be a hazard or danger to the public, the Land Use Administrator shall provide written notice to the property owner of the violation.

b. At such time a violation notice is issued, the sign permit shall be deemed revoked.

D. Violations

Any sign that has not been permitted or has not been designated a legal nonconforming sign shall be deemed to be in violation of this article and shall be removed. Any costs for removal shall be the responsibility of the sign owner or the property owner. Failure to comply will result in the county proceeding with enforcement procedures pursuant to Article 11, *Enforcement*.

Article 10. Areas and Activities of State Interest

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Section 10.01 General Provisions

A. Purpose

The purpose of this section is to identify and designate certain Areas and Activities of State Interest and to enact guidelines for their administration, in a manner that is consistent with the statutory requirements and criteria in §24-65.1-101, C.R.S.

B. Authority

The regulations and standards set forth in this article are authorized by §24-65.1-101, 30-28-101, 29-20-101, and 24-32-111, C.R.S.

1. **Permit Authority Established.** The Board of County Commissioners (“Board”) shall serve as the Permit Authority. The Permit Authority shall exercise all powers and duties granted it by this article.

C. Applicability

1. These regulations for Areas and Activities of State Interest shall apply to the designation, administration, and regulation of any Area or Activity of State Interest wholly or partially in the unincorporated area of Rio Grande County, that has been or may hereafter be designated by the Board of County Commissioners.
2. This article shall apply to all Matters of State Interest designated by the Rio Grande County Board of County Commissioners whether located on private or public lands within the unincorporated areas of Rio Grande County.

D. Findings

Prior to designating an Area or Activity of State Interest pursuant to this article, the Board of County Commissioners shall find that:

1. The notice and public hearing requirements of §24-65.1-404, C.R.S. have been followed.
2. The standards and provisions of this article are necessary because of the intensity of current and foreseeable development pressures on and within Rio Grande County, the dangers that would result from uncontrolled conduct of such activity or development in an area of state interest, and the advantages of conduct of such activity or development in a coordinated manner.

E. Severability

If any section, subsection, sentence, clause or phrase of this article is held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these regulations as a whole or any part other than the part declared invalid.

F. Applicability of Designation Process

The designation process set forth in this Land Development Code for Areas and Activities of State Interest shall apply to the designation of any Matter of State Interest after the effective date of this article.

G. Applications for Multiple Activities or Development in More Than One Area of State Interest

When approval is sought to conduct more than one Activity of State Interest and/or engage in development in more than one Area of State Interest, the applications for all such activities or developments may be submitted and reviewed simultaneously, to the extent feasible and practicable.

H. Combined Designation and Permit Hearing

1. If a person proposes to engage in development in an Area of State Interest or to conduct an Activity of State Interest not previously designated and for which regulations have not been adopted, the Board of County Commissioners may hold a combined hearing to determine and designate the Matter of State Interest, adopt the regulations and approve or deny the permit.
2. No permit that is granted at the conclusion of the combined designation and permit hearing shall be authority to engage in development or to conduct an activity until the designation and regulations are finally adopted.

I. Board of County Commissioners to Make Designation

The Board of County Commissioners may in its discretion propose designations and amendment or revocation of designations of Matters of State Interest pursuant to this Section 10.01, *General Provisions*.

J. Effect of Determination, Moratorium Until Final Designation

After a matter is determined to be of state interest pursuant to this article, no person shall engage in development in such area and no such activity shall be conducted until the designation is finalized and guidelines for such area or activity are finally adopted.

K. Permit Required

No person may engage in development in a designated area of state interest or conduct a designated activity of state interest without either first obtaining a permit or a Finding of No Significant Impact under this article.

1. **Compliance Required for Final Plat Approval.** If a development or activity subject to this Land Development Code is proposed as an integral part of a subdivision or planned unit development, the applicant shall comply with this article prior to obtaining final plat approval.
2. **Compliance Required for Building Permit.** No building permit shall be issued by the county for an activity or development subject to this article without the applicant having first obtained a Finding of No Significant Impact or a permit under this article.
3. **Permit Not A Site Specific Development Plan.** Permits issued under this article shall not be considered to be a Site Specific Development Plan and no statutory vested rights shall inure to such permit.

L. Planning Commission Review

A request for designation of a Matter of State Interest shall be considered by the County Planning Commission at a public meeting. The Planning Commission shall make a recommendation to the Board of County Commissioners on the request.

Section 10.02 Designated Matters of State Interest

A. General Provisions

Areas and Activities of State Interest shall be designated pursuant to the provisions set forth in Section 10.01, *General Provisions*. Upon designation, such areas and activities shall meet the standards and regulations set forth in this article.

B. Areas of State Interest

No areas within Rio Grande County are currently designated as Areas of State Interest.

C. Activities of State Interest

No activities within Rio Grande County are currently designated as Activities of State Interest.

Section 10.03 Exemptions

A. Statutory Exemptions

The provisions of this article shall not apply to any development in an Area of State Interest or any Activity of State Interest if any one of the following is true:

1. **As of May 17, 1974**

- a. The specific development or activity was covered by a current building permit issued by the county; or
- b. The specific development or activity was directly approved by the electorate of the state or Rio Grande County, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity; or
- c. The specific development or activity is on land which has been finally approved by the county, with or without conditions, for planned unit development or land use similar to a planned unit development; or
- d. The specific development or activity is on land for which an application covered under Article 3, *Zoning Applications and Review Procedures* or Article 4, *Division of Land* of this Land Development Code has been conditionally or finally approved as required by applicable county, state, or federal law.

2. **Specific Exemptions.** The regulatory provisions of this article shall not apply to the following:

- a. Replacement of an existing water diversion structure without change in the point of diversion or point of use of the water or yield from the diversion.
- b. Irrigation facilities used for farming or ranching purposes.
- c. Upgrade of an existing water or wastewater project where the primary purpose of the system is to serve existing development.
- d. Improvements and upgrades to existing water or wastewater project facilities that are maintenance or other upgrades required by federal, state, or local regulations, provided the improvements or upgrades do not expand levels of service beyond design capacity or alter the location of the facility.

Section 10.04 Relationship to Other Regulations

A. Inconsistencies or Conflict with Other Regulations and Plans

If any provision of this article is found to be inconsistent or in conflict with provisions of any other regulation or enactment, the Master Plan, or the statutory criteria for administration of Matters of State Interest set forth in §24-65.1-202 and 204, C.R.S., the more stringent standards or requirements shall control.

B. Compliance with Other Applicable County, State and Federal Requirements Not Waived

Compliance with this article does not waive the requirement to comply with any other applicable state, county or federal law or regulation.

C. No Intent to Conflict

This article shall not be applied to create an operational conflict with any state or federal laws or regulations.

1. **Coordinated Review.** The applicant may request that the county application and review process be coordinated with the applicable state or federal agency review process. The county will eliminate redundant application submittal requirements and will coordinate its review of the application with that of other agencies, as appropriate.
2. **Coordinated Permit Conditions.** To the extent practicable and appropriate, the county will coordinate its approval of the application, including the terms and conditions of such approval, with that of other agencies.

Section 10.05 Technical Revisions and Permit Amendments

Any change in the construction or operation of the project from that approved by the Board of County Commissioners shall require staff review and a determination of technical revision or permit amendment.

A. Technical Revisions

A proposed change shall be considered a technical revision if the Land Use Administrator determines that:

1. There will be no increase in the size of the area affected or the intensity of impacts as a result of the proposed change(s); or
2. Any increase in the area or intensity of impacts is insignificant.

B. Permit Amendments

Changes other than technical revisions shall be considered permit amendments. A permit amendment shall be subject to review in the same manner as required for a new permit application.

C. Staff Review of Proposed Changes

The following information and materials shall be submitted by the permittee for staff review of the proposed changes:

1. Documentation of the current permit approval;
2. As-built drawings of the project, if available;
3. Drawings and plans of proposed changes to the project;
4. Statement of need for proposed changes; and
5. Description of additional or changed mitigation plans.

D. Notice of Land Use Administrator's Determination

1. Written Notice. Within five (5) business days of the date of determination, the Land Use Administrator shall notify the applicant, the Board, the County Administrator and the County Attorney, in writing, regarding the determination of whether the change is a technical revision or a permit amendment.

E. Reconsideration of the Land Use Administrator's Determination

1. The Board may, at its discretion, review and amend the Land Use Administrator determination of whether the change is a permit amendment or a technical revision at the next regularly scheduled meeting for which proper notice can be accomplished, following the date of written notice of the determination.
2. Any Affected Party may, within seven (7) days of the date of written notice of determination, request that the Board reconsider the Land Use Administrator determination at its next regularly scheduled meeting for which proper notice can

be accomplished. The Board may review and/or amend the Land Use Administration determination at its discretion.

Section 10.06 General Permit Application and Review Process

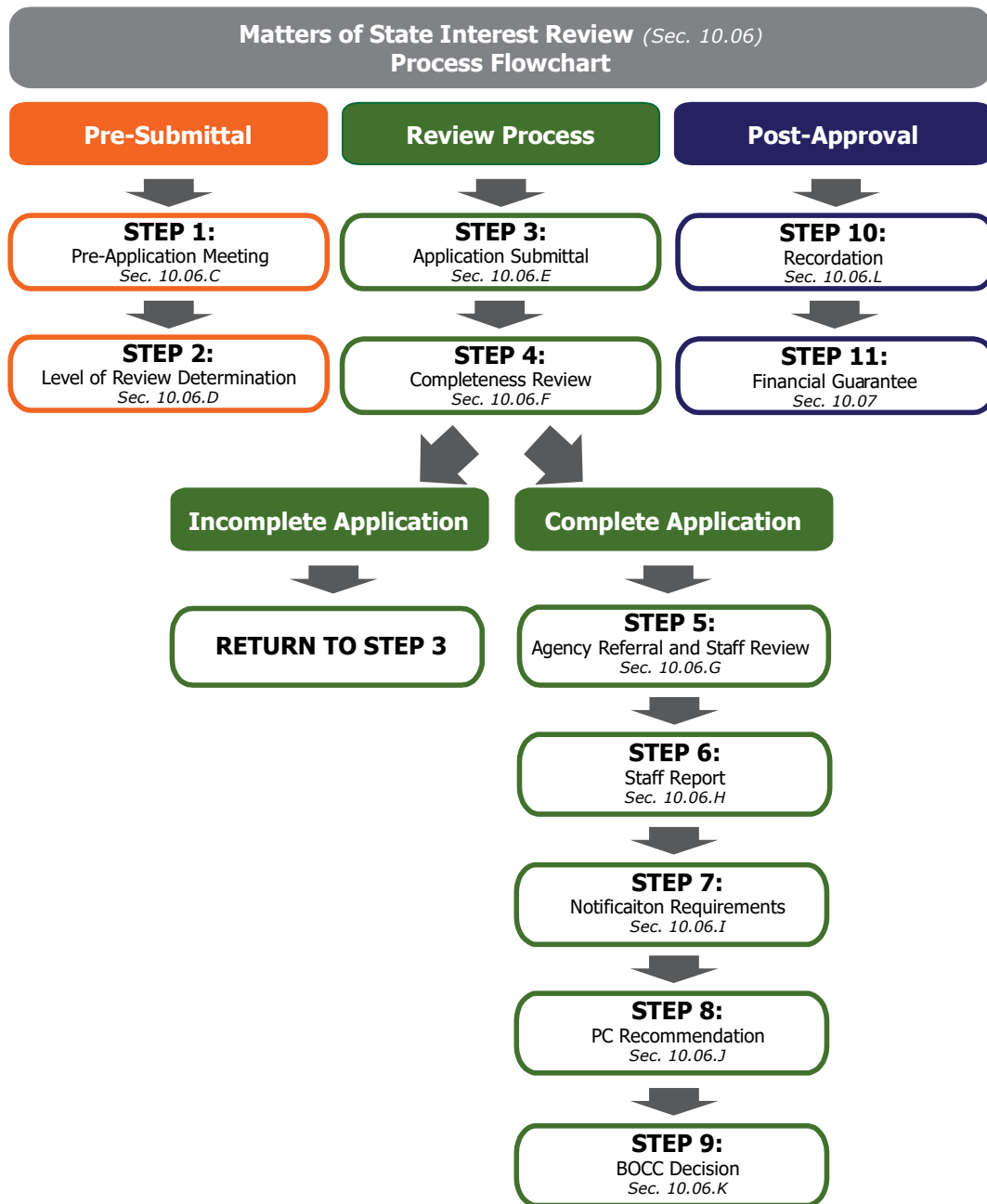
A. General Provisions.

1. **Description of Submittal Requirements.** The following submittal requirements shall apply to any application for permit to conduct an Activity of State Interest or engage in development of an Area of State Interest subject to this article. The Land Use Administrator may waive any of the submittal requirements when the submittal information would not be relevant to a determination as to whether the proposed project complies with the applicable standards for approval.
2. **Professional Qualifications.** The professional qualifications for preparation and certification of certain documents required by this article are as follows:
 - a. **Civil Engineer.** Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures and other civil engineering required to satisfy the requirements of this article shall be prepared and certified by a professional engineer qualified in the specific discipline and licensed by the State of Colorado.
 - b. **Surveyor.** All documents containing land survey descriptions shall be prepared and certified by a certified Colorado Professional Land Surveyor.
 - c. **Geologist.** Geology reports shall be prepared by either a member of the American Institute of Professional Geologists or a member of the Association of Engineering Geologists.
 - d. **Other.** Other professionals retained by applicant to provide studies and analysis required by this article shall demonstrate qualification in the specific field, to the satisfaction of the Board.

B. Review Flowchart

Figure F-10.1, *Matter of State Interest Flowchart*, depicts the process by which an area or activity of state interest may be reviewed. The procedures are described in further detail in this section.

Figure F-10.1 – Matter of State Interest Flowchart.



C. Pre-Application Meeting

1. Prior to the formal submission of the application, the applicant shall contact the Land Use Administrator to schedule and request an informal pre-application meeting. Following receipt of a request, the pre-application meeting should be set for a date within ten (10) days of the date of the applicant's request and should include appropriate staff to address potential issues raised by the applicant.

2. The purpose of the pre-application meeting is to assist the applicant in understanding the county's application review processes, determine the applicable process(es) and regulations for the proposed request, and begin to evaluate the level of permit review that will be required.
3. **Materials.** At or before the pre-application meeting, the applicant shall submit a brief explanation of the request, including the following materials.
 - a. The applicant's name, address and phone number. If the applicant is not the owner of the property where the activity or development will occur, applicant shall also provide the name, address and phone number of the property owner and documentation that the property owner consents to the activity or development.
 - b. Map prepared at an easily readable scale showing:
 - (1) Boundary of the proposed activity or development;
 - (2) Relationship of the proposed activity or development to surrounding topographic and cultural features such as roads, streams and existing structures;
 - (3) Proposed building(s), improvements and infrastructure; and
 - (4) Topographic information in intervals not less than forty (40) feet.
 - c. Written summary of the project that is sufficient for determining the level of permit review that will be required for the application.

D. Determination of Level of Review

1. **Levels of Permit Review.** There are two possible levels of permit review for a proposed project: Finding of No Significant Impact; or, Major Permit Review.
2. **Determination of Level of Permit Review.** The Land Use Administrator shall determine the appropriate level of permit review based upon the pre-application meeting and submittals.
 - a. **Finding of No Significant Impact (FONSI).** The Land Use Administrator may make a Finding of No Significant Impact, and a permit under this article will not be necessary, if the construction or operation of the activity, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the county. The Land Use Administrator's decision shall take into consideration the approval standards set forth in Section 10.06.K.2, *Review Criteria*.
 - b. **Major Permit Review.** If the Land Use Administrator determines that a Finding of No Significant Impact is not appropriate based upon review of the pre-application submittals and the information obtained at the pre-application meeting, then a permit shall be issued in conformance with this article.
3. **Notice of Determination of Level of Permit Review.** The determination of level of permit review shall be made by the Land Use Administrator within a reasonable time following the pre-application meeting.

- a. **Written Notice.** The Land Use Administrator shall notify the applicant, the Board, the County Administrator and the County Attorney, in writing, of the determination. The notice shall include a description of the project and the procedure for requesting reconsideration of the Land Use Administrator's determination.
4. **Reconsideration of Land Use Administrator's Determination of Level of Permit Review**
 - a. The Board may, at its discretion, review and amend the Land Use Administrator's determination at the next regularly scheduled meeting of the Board for which proper notice can be accomplished following the date of written notice of determination.
 - b. Any affected party may request that the Board reconsider the Land Use Administrator's determination at the next regularly scheduled meeting for which proper notice can be accomplished following the request. The request shall be in writing, within seven (7) calendar days following the date of written notice of determination.
5. **Change in Level of Permit Review.** At any time prior to the final decision on an application, the Land Use Administrator may decide that information received subsequent to the pre-application meeting indicates that the nature and scope of the impacts of the project are such that a different level of permit review is required.
 - a. If a different level of permit review is required, the Land Use Administrator shall immediately notify the applicant, the Board, the County Administrator and the County Attorney in writing.
 - b. The Land Use Administrator's decision to change the level of permit review shall be subject to the reconsideration provisions in Section 10.06.D.4, *Reconsideration of Land Use Administrator's Determination of Level of Permit Review*.

E. Application Submittal Requirements

All applications for approval of activities of and within areas of state interest shall submit the following materials:

1. **Application Form.** An application form for the request shall be obtained from the Land Use Department. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, applicant, or their designee.
 - a. **Authorized Agent.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.
 - b. **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all owners or an association representing all the owners, by which all owners consent to or join in the application.

2. **Fees.** Any application must be accompanied by the appropriate fees. A schedule of fees is available through the Land Use Department.
 - c. **Payment of Consultant Fees.** The cost of consultant and referral agency review are the responsibility of the applicant.
 - (1) The county may require a deposit for payment of consultant and referral agency review fees, based upon estimated consultant review costs, at the time of application and in addition to the application fees.
 - (2) The county may suspend the application review process pending payment of consultant costs.
 - (3) The county may require additional deposits to be made if the deposit drops below twenty-five (25) percent of the original deposited amount.
3. **Written Narrative.** A written narrative providing a comprehensive analysis of the following items:
 - a. **Applicant Information**
 - (1) The names, addresses, e-mail address, phone number, organization form, and business of the applicant and, if different, the owner of the project.
 - (2) Authorization of the application by the project owner, if different than the applicant.
 - (3) Documentation of the applicant's financial and technical capability to develop and operate the project, including a description of the applicant's experience developing and operating similar projects.
 - (4) The names, addresses, e-mail addresses and qualifications, including areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the project.
 - (5) Written qualifications of those preparing reports and providing certifications required by this article.
 - b. **Project Description**
 - (1) Detailed plans and specifications of the project.
 - (2) Detailed map(s) showing the location of existing and proposed structures together with proposed and existing transportation corridors and zoning classification, within a two-thousand (2,000) foot radius.
 - (3) Description of all conservation techniques to be used in the construction and operation of the project.
 - (4) Discussion of the alternatives to the project that were considered and rejected by the applicant, including the general degree of feasibility of each alternative.

(5) Schedules for designing, permitting, constructing and operating the project, including the estimated life of the project.

(6) The need for the project, including existing and proposed facilities that perform the same or related function, and population projections or growth trends that form the basis of demand projections justifying the project.

c. Property Rights, Permits and Other Approvals

(1) Description of property rights that are necessary for or that will be affected by the project, and documentation establishing property rights and easement and right-of-way agreements connected with the property.

(2) A list and copies of all other federal, state and local permits and approvals that have been or will be required for the project, together with any proposal for coordinating these approvals with the county's permitting process.

(a) For major electrical or natural gas facilities, documentation that the public utility or power authority has applied for or obtained a certificate of public convenience and necessity from the Public Utilities Commission, pursuant to §40-4-102 and §29-20-108, C.R.S.

(3) Description of the water to be used by the project and alternatives, including: the source, amount and quality of such water; the applicant's right to use the water, including adjudicated decrees, and application for decrees; proposed points of diversion and changes in the points of diversion; and, the existing uses of the water. If an augmentation plan for the project has decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.

(a) For purposes of Water and Wastewater projects involving storage, the applicant shall be the owner of the water rights to be stored in the facility. Applicant shall provide documentation of the applicant's ownership of the water rights to be stored in the facility.

(4) Copies of all official federal and state consultation correspondence prepared for the project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements required for the project.

d. Technical and Financial Feasibility of the Project

(1) The estimated construction costs and period of construction for each development component, and the total mitigation costs for the project.

(2) Projected revenues and operating expenses for the project.

(3) The amount of any proposed debt and the method and estimated cost of debt service.

(4) Details of any contract or agreement for revenues or services in connection with the project.

(5) Description of the persons or entity(ies) who will pay for or use the Project and/or services produced by the development and those who will benefit from any and all revenues generated by it.

e. **Socioeconomic Impact Analysis**

(1) A comprehensive analysis of the socioeconomic impact of the project. Descriptions in this section shall be limited to the Impact Area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable standards set forth this article.

f. **Land Use**

(1) Description of existing land uses within and adjacent to the project.

(2) Description of provisions from local land use plans, comprehensive plans/master plans, and intergovernmental agreements that are applicable to the project, and an assessment of whether the project will be consistent with or further the objectives of those provisions.

(3) Description of impacts and net effect that the project would have on existing and future land use patterns.

g. **Public Services**

(1) Description of existing capacity of and demand for local government services including roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure and other services necessary to accommodate development.

(2) Description of the impacts and net effect of the project on the capability of local governments that are affected by the project to provide services.

h. **Financial Burden on County Residents**

(1) Description of the existing tax burden and fee structure for government services, including assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.

(2) Description of impacts and net effect of the project on existing tax burden and fee structure for government services applicable to county residents.

i. **Local Economy**

(1) Description of the local economy, including revenues generated by the different economic sectors and the value or productivity of different lands.

(2) Description of impacts and net effect of the project on the local economy; the use of land for agricultural, development and recreational purposes; and the opportunities for economic diversification.

j. **Housing**

(1) Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.

(2) Description of the impact and net effect of the project on housing during both the construction and operation stages of the project.

k. **Recreational Opportunities**

(1) Description of present and potential recreational uses in the area of the county where the project will be located, including the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.

(2) Map depicting the location of recreational uses in the area of the county where the project will be located such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.

(3) Description of the impacts and net effect of the project on present and potential recreational opportunities and revenues to the local economy derived from those uses.

l. **Areas of Paleontological, Historic or Archaeological Importance**

(1) Map and description of all sites of paleontological, historic or archaeological interest.

(2) Description of the impacts and net effect of the project on sites of paleontological, historic or archaeological interest.

m. **Environmental Impact Analysis**

Description of the existing natural environment and an analysis of the impacts of the project to the natural environment. Descriptions in this section shall be limited to the Impact Area. The analysis shall include a description of how the applicant will comply with the applicable approval standards set forth in this article.

(1) Air quality

(a) Description of the airsheds that will be affected by the project, including the seasonal pattern of air circulation and microclimates.

(b) Map and description of the ambient air quality and state air quality standards of the airsheds that will be affected by the project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.

(c) Descriptions of the impacts and net effect that the project would have on air quality during both construction and operation under both average and worst-case conditions.

(2) Visual Quality

(a) Map and description of ground cover and vegetation, forest canopies, waterfalls and streams, viewsheds, scenic vistas, unique

landscapes and land formations or other natural features of visual importance.

(b) Map and description of existing and proposed buildings, including structure design and materials to be used for the project.

(c) Descriptions of the impacts and net effect that the project would have on visual quality.

(3) Surface Water Quality and Quantity

(a) Map and description of all surface waters that will be affected by the project, including:

(i) Description of provisions of the applicable regional water quality management plan that applies to the project and assessment of whether the project would comply with those provisions.

(ii) Description of applicable state water quality standards for water bodies that will be affected by the project.

(b) Map and description of existing points of diversion for municipal, agricultural, industrial, and recreational uses of water within the county.

(c) Descriptions of the immediate and long-term impact and net effects that the project would have on the quantity and quality of surface water under both average and worst case conditions.

(d) Description and net effects that the project would have on municipal, agricultural, industrial, and recreational uses of water within the county, both under average and worst case conditions.

(4) Groundwater Quality and Quantity

(a) Map and description of all groundwater, including any aquifers that will be affected by the project. At a minimum, the following information shall be provided:

(i) Seasonal water levels in each subdivision of the aquifer affected by the project.

(ii) Artesian pressure in aquifers and a description of how the project may affect adjacent communities and users on wells.

(iii) Groundwater flow directions and levels.

(iv) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.

(v) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of the aquifer to impound groundwater and the aquifer storage capacity.

(vi) Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate

seepage losses in the affected streams, including description and location of measuring devices.

(vii) Existing groundwater quality and classification.

(viii) Location of all water wells and their uses.

(b) Description of the impacts and net effect of the project on groundwater under both average and worst-case conditions.

(5) Water Quantity

(a) Map and/or description of existing stream flows and reservoir levels.

(b) Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.

(c) Descriptions of the impacts and net effect that the project would have on water quantity under both average and worst-case conditions.

(d) Statement of methods for efficient utilization of water.

(6) Wetlands and Riparian Areas

(a) Map and description of all floodplains, wetlands, and riparian areas that will be affected by the project, including a description of each type of wetlands, species composition, and biomass.

(b) Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

(c) Description of the impacts and net effect that the project would have on the floodplains, wetlands and riparian areas.

(7) Terrestrial and Aquatic Animals and Habitat.

(a) Map and description of terrestrial and aquatic animals that will be affected by the project including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.

(b) Map and description of critical wildlife habitat and livestock range that will be affected by the project including migration routes, calving areas, summer and winter range, and spawning beds.

(c) Description of the impacts and net effect that the project would have on terrestrial and aquatic animals, habitat and food chain.

(8) Terrestrial and Aquatic Plant Life

(a) Map and description of terrestrial and aquatic plant life that will be affected by the project including the type and density and threatened or endangered plant species and habitat.

(b) Descriptions of the impacts and net effect that the project would have on terrestrial and aquatic plant life.

n. **Soils, Geologic Conditions and Natural Hazards**

(1) Map and description of soil, geologic conditions, and natural hazards, including soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.

(2) Descriptions of the risks to the project from natural hazards.

(3) Descriptions of the impact and net effect of the project on soil and geologic conditions in the area.

o. **Nuisance.** Descriptions of noise, glare, dust, fumes, vibration, and odor levels caused by the project.

p. **Hazardous Materials Description**

(1) Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the project, including the type and amount of such substances and their location, the practices and procedures to be implemented to avoid accidental release and exposure, and any foreseeable impacts to the environment of such substances.

(2) Location of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill containment measures.

q. **Balance Between Benefits and Losses**

(1) Description of foreseeable benefits to the county created by the project.

(2) Description of foreseeable losses of natural, agricultural, recreational, range or industrial resources within the county and loss of opportunities to develop those resources in the future.

r. **Monitoring and Mitigation Plan**

(1) Description of all mitigation for the project.

(a) Description of how and when mitigation will be implemented and financed.

(b) Description of impacts that are unavoidable and cannot be mitigated.

(2) Description of methodology used to measure impacts of the project and effectiveness of proposed mitigation measures.

(3) Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

s. **Additional Information May Be Necessary.** The Land Use Administrator may request that the applicant supply additional information related to the project as may be necessary for the Planning Commission and Board of County Commissioners to make a determination on whether the project satisfies approval standards.

F. Completeness Review

1. Within ten (10) days following receipt of an application being submitted under this article, the Land Use Administrator shall administratively review the application and determine whether it includes all the required application content requirements of these regulations.
2. All plans, reports, maps and other information required for any application must be complete and legible. A failure of the application to meet the requirements of this article may delay the processing of the application until the application is sufficient and complete.
3. In the event that the Land Use Administrator determines that the application complies with the applicable requirements, the Land Use Administrator shall schedule the application for review in accordance with the provisions set forth in this Article 10, *Areas and Activities of State Interest*.
4. In the event the Land Use Administrator determines that the application is incomplete, the Land Use Administrator shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Land Use Administrator determines that the applicant has remedied the application's deficiencies.

G. Referral Agencies

The following provisions for referral review apply to all applications proposing to designate or engage in an Activity of State Interest or development in an Area of State Interest.

1. **Consultant Review.** The county may retain legal and technical consultants to review all or a portion of the application.
2. **Referral Agency Review.** The Land Use Administrator may send a copy of the complete application to and seek review comments from any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed application.

H. Staff Report

The Land Use Administrator shall review the application materials to determine if the proposal satisfies the applicable standards. The Land Use Administrator shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral agency review, mitigation requirements, any recommended conditions for approval, and any additional information pertinent to review of the application.

I. Notice Requirements

A request for designation of a Matter of State Interest or of an application to conduct a Matter of State Interest shall be considered by the Board of County Commissioners at a properly noticed public hearing.

1. **Notice of Proposed Designation and Designation Hearing.** Notice of the proposed application and/or designation hearing, which shall include:
 - a. The time and place of the hearing;
 - b. The place where materials relating to the proposed application to conduct a Matter of State Interest designation and regulations for the administration thereof may be examined;
 - c. The telephone number where inquiries may be answered; and
 - d. A description of the application to conduct a Matter of State Interest area or activity proposed to be designated as a Matter of State Interest, in sufficient detail to provide reasonable notice for property or land use which would be included.
2. **Notice by Publication.** No less than thirty (30) calendar days but no more than sixty (60) calendar days before the designation hearing, notice shall be published in a newspaper of general circulation in the county.
3. **Notice by Mailing**
 - a. Notice of the public hearing shall be sent by first class mail to all property owners of property within fifteen hundred (1,500) feet of the subject property boundary as their names and addresses appear in the real property records of the Rio Grande County Assessor.
 - b. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.
 - c. **Proof of Notice.** At the public hearing, the applicant shall provide proof of publication and payment for publication, and proof of notification of adjacent property owners.

J. Planning Commission Review and Recommendation

The application materials, designation request, and staff report shall be forwarded to the Planning Commission for review and recommendation at a public meeting. The Planning Commission's recommendation shall be based on the criteria set forth in Section 10.06.K.2, *Review Criteria*, and be forwarded to the Board of County Commissioners for consideration at their public hearing.

1. No notification shall be required for this public meeting.

K. Board of County Commissioners Review and Action

1. Public Hearing

- a. At the public hearing, the reviewing body shall review the application for conformance with the applicable review standards and approval criteria for the particular request.
- b. Any public hearing or other action of the body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the body.
- c. The Planning Commission recommendation shall be forwarded to the Board of County Commissioners. Following a public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the application or continue the matter to a date certain.
- d. The applicant for any application approval shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by this article. Any decision by the reviewing body to recommend approval, approve or conditionally approve an application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the reviewing body shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

2. Review Criteria

At the hearing, the Board of County Commissioners shall consider and receive into the public record such evidence as the Board deems appropriate, including testimony and documents addressing the following factors:

- a. The intensity of current and foreseeable development pressures.
- b. The reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
- c. The boundaries of any area proposed for designation.
- d. The matters and considerations set forth in any applicable guidelines for identification and designation.
- e. The applicable criteria for administration of the proposed area or activity as set forth in this article and §24-65.1-201, et seq., C.R.S.
- f. Applicable policies of the Master Plan and any duly adopted intergovernmental agreements affected by the area or activity under consideration.
- g. The extent to which other governmental entities regulate the area activity proposed to be designated.
- h. All testimony, evidence and documents taken and admitted at the public hearing.
- i. The recommendations of the Planning Commission.

3. Action

At the conclusion of the hearing, the Board shall take action by resolution to adopt, adopt with modifications, or reject the proposed designation(s), and/or approve, approve with modifications, or reject the project application.

a. In the event the Board finally determines that an area or activity is a Matter of State Interest, it shall be the Board's duty, acting by resolution, to designate the Matter of State Interest and adopt regulations for the administration thereof.

b. Each resolution designating a Matter of State Interest adopted by the Board shall include the following:

(1) **Boundaries.** The resolution shall specify the boundaries of the designated Area of State Interest or boundaries of the area in which an Activity of State Interest has been designated.

(2) **Findings.** The resolution shall state the reasons why the Board finds that the particular area or activity is of state interest. Findings shall be based upon the factors considered pursuant to Section 10.06.K.2, *Review Criteria*.

(3) If the proposed designation is rejected, the Board may at its discretion regulate the matter under any other available land use control authority or it may reject regulation of the matter entirely.

c. **Record of Designation Proceedings.** The record of designation proceedings shall include the following materials.

(1) A copy of the notice, the certificate of publication of the notice, and a listing of all persons to whom the notice was mailed.

(2) The names and addresses of persons who presented written or oral statements or offered documentary evidence.

(3) Any written statements or documentary evidence presented in support of or in opposition to the proposed designation of the Matter of State Interest.

(4) Any recording or transcript of the designation hearing.

(a) Any person may, at his or her own expense, provide for recording of the hearing and the transcription thereof, provided, however, that a copy of the recording, and the transcript if transcribed, shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

(5) The minutes of the designation hearing.

(6) The resolution approving the proposed Matter of State Interest.

(7) A map or maps depicting the boundaries of the designated Area of State Interest.

L. Recordation

1. **Recordation with County Clerk.** The resolution adopted by the Board of County Commissioners designating a Matter of State Interest shall be certified by the Board to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

Section 10.07 Financial Guarantee

Financial guarantee shall be provided for all permits required under this Article 10, *Areas and Activities of State Interest*, pursuant to Section 4.14, *Improvement Agreement*.

Section 10.08 Permit Administration and Enforcement

A. Enforcement and Penalties

Any person engaging in development in the designated Area of State Interest or conducting a designated Activity of State Interest who does not obtain a permit pursuant to this article, who does not comply with permit requirements, or who acts outside the jurisdiction of the permit shall be in violation of the Rio Grande County Land Development Code and subject to the provisions set forth in Article 11, *Enforcement*.

B. Transfer of Permits

A permit may be transferred only with the written consent of the Board. Consent shall be in the sole discretion of the Board. The Board shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the permit, and this article; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

Section 10.09 Definition of Words and Terms

A. Definitions

The words and terms used in this article shall have the meanings set forth below. When there is a conflict between these definitions and the definitions contained in Article 13, *Definitions* of this Land Development Code, these definitions shall control for purposes of this article.

Adverse. Unfavorable, harmful.

Affected Party. Any person with an interest in the outcome of the permit decision for the project.

Airport. The area comprising land used by aircraft for taking off and landing, together with all adjacent land and facilities used in connection with aircraft and flight operations, existing and proposed.

1. **Airports, Publicly Owned.** The area comprising Airports owned by a public agency such as the county or a municipal government.

Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.

1. **Airport Imaginary Surfaces.** Imaginary areas in space and on the ground, defined by FAR Part 77, which are established in relation to the Airport and its runways. Imaginary areas are defined by the Primary Surface, Runway Protection Zone, Approach Surface, Horizontal Surface, Conical Surface and Transitional Surface.
2. **Primary Surface.** A surface longitudinally centered on a runway with dimensions as specified by FAR Part 77.
3. **Runway Protection Zone (RPZ).** An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The dimensions are specified in FAA Advisory Circular 150/5300-13.
4. **Approach Surface.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. Dimensions are defined by FAR Part 77. The Approach Surface is sometimes designated as the "Approach Zone".
5. **Horizontal Surface.** A horizontal plane one-hundred and fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is defined by FAR Part 77.
6. **Conical Surface.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four-thousand (4,000) feet.

7. **Transitional Surface.** Those surfaces that extend upward and outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of five-thousand (5,000) feet measured horizontally from the edge of the approach surface and at a ninety (90) degree angle to the extended runway centerline.

Airport or Heliport Impact Areas.

1. **Direct Impact Area.** The area located within five-thousand (5,000) feet of an Airport runway or two-thousand (2,000) feet of a Heliport, excluding lands within the Runway Protection Zone and Approach Surface. The Direct Impact Area is sometimes designated as the "Flight Pattern Area".
2. **Secondary Impact Area.** The area located between five-thousand (5,000) and ten-thousand (10,000) feet from an Airport runway or between two-thousand (2,000) 0 and four-thousand (4,000) from a Heliport.

Airport Reference Code. A code comprised of the Aircraft Approach Category and the Airplane Design Group as defined in FAA Advisory Circular 150/5300-13.

Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.

Aspect. The cardinal direction the land surface faces, characterized by north facing slopes generally having heavier vegetation cover.

Building Restriction Line. A line which identifies suitable building area locations.

Code. The Rio Grande County Land Development Code.

Collector Highway. A major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers, and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation. "Collector highway" does not include a city street or local service road or a county road constructed under the supervision of local government.

Designation. That legal procedure specified by Sections 24-65.1-401, 402 and 406, C.R.S., for designating Matters of State Interest. It also includes the revocation and amendment of such designations.

Development. Any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

Development Area. Those geographic areas within the county which will be developed or altered directly by construction or operation of the project.

Efficient Use of Water. The employment of methods, procedures, controls and techniques

to ensure the amount of water and the purpose for which water is used in the county will yield the greatest benefit to the greatest number of people. Such benefits will include but are not limited to economic, social, aesthetic, environmental and recreational.

Environment. All natural physical and biological attributes and systems including the atmosphere, climate, geology, soils, groundwater, surface water, wetlands, vegetation, animal life, physical features, natural hazards, topography and aesthetics.

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

FAA. The Federal Aviation Administration.

FAA's Technical Representative. The federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDAAPHIS-Wildlife Services.

Hazard. As it relates to Airport and Heliport operations, the term hazard shall include any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or heliport, or is otherwise hazardous to such landing or takeoff of aircraft.

1. As it relates to bird strike hazards, the term "significant hazard" means a level of increased flight activity by birds across an Approach Surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

Heliport. The area of land, water or a structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

Heliports, Publicly Owned. The area comprising Heliports owned by a public agency such as the county or a municipal government.

Helistop. A minimally developed heliport for landing and discharging passengers or cargo not intended for refueling or maintaining itinerant helicopters.

Highway. State and federal highways and major county arterials.

Historical or Archaeological Resources of Statewide Importance. Those resources officially included in the national register of historic places, designated by statute or included in an established list of places compiled by the state historical society, including but not limited to those designated by the Board of County Commissioners in accordance with §30-11-107(1)(b), C.R.S. as amended.

Impact Area (Project). Those geographic areas, including the Development Area, in which any impacts are likely to be caused by the project.

Interchange. The intersection of two or more highways, roads, or streets at least one of which is an arterial highway. At such intersection there must be direct access to and from the arterial highway.

Landing Strip. A minimally developed airport for landing and discharging passengers or cargo not intended for refueling or maintaining itinerant aircraft.

Ldn. Day Night Level (DNL/LDN). A twenty-four (24) hour average noise level with a ten (10) decibel (dB) penalty for nighttime.

Major Facility of a Public Utility.

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

Major Publicly Owned Reservoir. Any body of water formed by an embankment or structure 10 feet in vertical height or having a surface area at high water line, in excess of 20 acres, for which public funds have been used in the construction of all or any part of the dam or where a public entity or agency owns or administers the described property. The ownership of stock in a mutual ditch or reservoir company does not constitute ownership or administration. Furthermore, any loan of funds for construction, operation, maintenance, repair or replacement of all or any part of a dam does not constitute the use of public funds.

Matter of State Interest. An area of or an activity of state interest or both as listed in §24-65.1-201(1) and 203(1), C.R.S.

Mineral Resource Area. An area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise as to be capable of economic recovery. The term Mineral Resource Area includes any area in which there has been significant mining activity in the past, there is significant mining activity in the present, mining development is planned or in progress, or mineral rights are held by mineral patent or valid mining claim with the intention of mining.

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

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

Mudflow. The downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

Municipal and Industrial Water Project. A system and all components thereof through which a municipality or industry derives its water supply from either surface or subsurface sources, or which otherwise serves municipal or industrial users.

Natural Resources of Statewide Importance. The term is limited to shorelands of major, publicly owned reservoirs and significant wildlife habitats in which the wildlife species, as identified by the division of wildlife of the department of natural resources, in a proposed area could be endangered.

Net Effect. Relating to mitigation, the impact of an action after mitigation.

Noise Impact Boundary. The areas within fifteen-hundred (1,500) feet of an airport runway or within established noise contour boundaries.

Obstruction. Any structure or tree, plant or other object of natural growth, that penetrates an Airport Imaginary Surface.

Permit. A permit for development in Areas of State Interest or for an Activity of State Interest, issued by the Board of County Commissioners pursuant to this Article 10, *Areas and Activities of State Interest*.

Permit Authority. The Board of County Commissioners, or its designee.

Project. The construction and operation of an activity or other Development proposed under this article throughout its life cycle including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the county.

Public Services and Facilities. Those services and facilities provided by a political subdivision of the state or by a federal agency.

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

Reservoir (except in the context of the separately defined term "major publicly owned reservoir"). An area of land where water is retained or an area intended for water retention, and which is used or proposed for use in whole or in part for the storage of municipal water supplies or of water which is part of a domestic water treatment system.

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

Seismic Effects. Direct and indirect effects caused by an earthquake or an underground nuclear detonation.

Service Area. The primary geographic area to be served by the project.

Service Road. A street or road meeting county specifications running parallel to a county,

state or federal highway used to provide ingress and egress to a development located adjacent to that highway.

Shelter. A building or structure designed primarily to provide a waiting area for transit passengers.

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

Shorelands. All lands extending a minimum of two-hundred (200) feet shoreward of the high water line, and all wetlands associated with a major publicly owned reservoir.

Site Selection, Airport or Heliport. The process for determining the location of Airports or Heliports, or the substantial expansion or relocation of an existing Airport or Heliport, by a recognized and bonafide agency or authority, the county, the state, or the federal government or any subdivision of each.

Site Selection, Rapid or Mass Transit Facility. The process for determining the location of rapid or mass transit facilities or the substantial expansion or relocation of an existing facility, by a recognized and bonafide mass transit agency or authority, the county, the state, or the federal government or any subdivision of each and, or any private entity or person.

Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

Terminal. A facility constructed to provide and facilitate passenger access to and from airplanes, including areas necessary for vehicle operations, and parking areas for commuters and roadways connecting to the general road and street system of the county.

Transportation Corridor. Any county or municipal street or road, any state or federal highway, and any railroad operating as a common carrier.

Article 11. Enforcement

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Section 11.01 General Provisions

A. Purpose and Intent

This article establishes procedures through which the county may ensure compliance with the provisions, standards, and regulations of this Rio Grande County Land Development Code (herein after referred to as “Land Development Code”) and obtain corrections for violations. This article also sets forth the remedies and penalties that apply to violations of this Land Development Code.

B. Enforcement Authority

Provisions of this Land Development Code shall be enforced by the Board of County Commissioners through their authority granted by Colorado law.

1. **Subdivision.** The Subdivision and Subdivision Exemption regulations of this Land Development Code set forth in Article 4, *Division of Land*, shall be enforced in accordance with remedies specified under §30-28-110 and §30-28-137, C.R.S., as amended.
2. **PUD.** The Planned Unit Development regulations of this Land Development Code set forth in Article 5, *Planned Unit Development*, shall be enforced in accordance with §24-67-101, C.R.S., as amended, in addition to applicable zoning and subdivision regulation remedies.
3. **Rubbish, Junk, and Unsafe Structures.** The provisions regulating rubbish, junk, and unsafe structures, set forth in Article 12, *Blight and Unsafe Structures* shall be enforced in accordance with the provisions set forth in that article.
4. **Other.** All other provisions shall be enforced as a violation of zoning regulations in accordance with §30-28-124 and §30-28-124.5, C.R.S., as amended.

C. Compliance Required

No person shall develop or use any land, building, or structure within the county in violation of this Land Development Code, regulations authorized under this Land Development Code, or the terms and conditions of permits or other approvals, agreements, or entitlements issued under this Land Development Code.

D. Permits and Approvals

No permit or approval may be issued under this Land Development Code unless all structures and uses of land to be authorized by the permit or approval conform to this Land Development Code, and the terms and conditions of other applicable permits and approvals issued under this Land Development Code. Except as otherwise required by Colorado law, a permit or approval issued in violation of this Land Development Code is void.

E. Continuation of Prior Enforcement Actions

Nothing in this Land Development Code shall prohibit the continuation of previous enforcement actions undertaken by the county pursuant to previous regulations.

F. Continuing Violations

Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this Land Development Code.

G. Responsibilities for Enforcement

The provisions of this Land Development Code shall be administered and enforced by the Land Use Administrator or his or her designee.

H. Remedies Cumulative

The remedies for violations of this Land Development Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

I. Persons Liable

Any person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirement of this Land Development Code may be held responsible for the violation and suffer the penalties and be subject to the remedies provided in this Land Development Code.

Section 11.02 Violations

Each of the following activities constitutes a violation of this Land Development Code:

A. Activity Inconsistent with this Land Development Code

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any land, building, structure, or sign that is inconsistent with this Land Development Code or any regulation adopted pursuant to this Land Development Code.

B. Activity Inconsistent with Permit or Approval

Any development, use, or other activity that is in any way inconsistent with the terms or conditions of any permit or approval required to engage in such activity and that was issued under or required by this Land Development Code.

C. Illustrative Examples

Examples of activities inconsistent with this Land Development Code or with any permit or approval issued under this Land Development Code include, but are not limited to, the following:

1. Increasing the density or intensity of any use of any land or structure except in accordance with the requirements of this Land Development Code;
2. Reduction or diminishment of lot area, setbacks, required buffer, landscaping, or open space area, or other standards below the minimum requirements set for in this Land Development Code;
3. Creation, expansion, replacement, or change of a nonconformity inconsistent with this Land Development Code and all other applicable regulations;
4. Failure to remove any sign installed, created, erected, or maintained in violation of this Land Development Code;
5. Failure of a person or entity to construct, improve, or maintain any public or private improvement required by the terms of any permit or approval;
6. Failure to abide by the condition(s) of any application approval or agreements executed in connection with a grant of approval; or
7. Failure to comply with applicable provisions or requirements of a certificate of occupancy or building permit.

Section 11.03 Enforcement Process

A. Complaint and Verification of Violation

Upon complaint made or filed by a member of the public or by a county official or employee, the Land Use Administrator shall verify the complaint as a violation of this Land Development Code.

B. Authority to Enter and Inspect

The Land Use Administrator or authorized representative is authorized to enter upon private property for the purpose of administering this Land Development Code. The owner of the property shall give the Land Use Administrator free access after Rio Grande County has given reasonable notice for such survey or inspection. If access is denied, the Land Use Administrator may apply to the District Court of Rio Grande County for an order authorizing entry.

C. Notice of Violation and Response

If a violation exists, the Land Use Administrator shall send written notice of a violation of the Rio Grande County Land Development Code to the property owner of record, as identified on the county tax records, and the property address, if different. The notice shall be sent by certified mail, return receipt.

1. Notice Requirements

a. **Content of Notice.** The notice of violation shall contain the following information:

- (1) A list and description of all violation(s) with references to the section or sections of the Land Development Code violated.
- (2) An order requiring correction of the violation(s).
- (3) The date by which compliance shall be attained.
- (4) The appeal process, if applicable for the violation(s).

2. **Response.** Unless otherwise provided by this Land Development Code, a period of thirty (30) calendar days after the date of notice shall be allowed for response to a notice of violation.

a. The alleged violator shall respond by providing evidence satisfactory to the Land Use Administrator to show that the determination is in error; or

b. The alleged violator shall restore the site, structure or use of the property to compliance. An inspection by the county shall be required to confirm compliance; or

c. The alleged violator may request, in writing, a reasonable extension of time to attain compliance. Such request shall identify good cause for the requested extension.

D. Remedies and Penalties

If the violation is not remedied within the allowed period of time, the Land Use Administrator shall have the following remedies and powers to enforce this Land Development Code:

1. Nature of Remedies

a. **Generally.** The remedies provided in this Code, whether administrative or civil, shall be non-exclusive and cumulative, and shall be in addition to any other remedy provided by law.

b. **Each Day a Separate Offense.** Each day that a violation exists constitutes a separate offense.

c. Provisions of this Code shall be enforced by the Board of County Commissioners and its delegated Land Use Administration personnel and any other authorized personnel utilizing all authority granted under Colorado Law, including but not limited to the authority to enforce the provisions of the:

(1) Zoning Resolution and this Code, including companion documents, in accordance with this Chapter and the governing statutes (C.R.S. § 30-28-124 and C.R.S. § 30-28-124.5, as amended);

(2) Subdivision Regulations and this Code, including companion documents, in accordance with this Chapter and the governing statutes (C.R.S. § 30-28-110, C.R.S. § 30-28-133 and C.R.S. § 30-28-137, as amended).

Nothing in this Chapter or any other provision of this Code shall be construed to restrict the ability of the Board of County Commissioners or its delegated Land Use Administration personnel to pursue any available means of enforcement available to it under State law.

2. Remedies

a. **Injunction.** The Board of County Commissioners or its Land Use Administration personnel may refer to the County Attorney for the institution of an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation or to otherwise restore the premises to the condition that existed before the violation, pursuant to State statute.

b. **County Court Action for Civil Remedies.** The Board of County Commissioners or its delegated Land Use Administration personnel may refer the matter to the County Attorney for filing of a County Court action seeking the imposition of civil penalties pursuant to State statute.

c. **Civil Infraction.** The County Sheriff, Land Use Administrator or County Attorney may cause to issue a Summons and Complaint alleging a violation of a civil infraction to enforce the applicable Sections of this Code.

d. Nothing in this chapter or any other provision of this Code shall be construed to restrict the ability of the Board of County Commissioners, its

delegated Land Use Administration personnel or the County Attorney to pursue any available means of enforcement available to it under State law or this Code, none of which shall be considered an exclusive remedy.

3. Deny or Withhold Entitlements.

The Land Use Administrator may deny or withhold all entitlements, including building permits, certificates of occupancy, business licenses, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is correct. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

4. Revoke Entitlements

a. Any entitlement or other form of authorization required under this Land Development Code may be revoked after proper notice, when the Land Use Administrator determines that:

- (1) There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
- (2) The entitlement was procured by false representation;
- (3) The entitlement was issued in error; or
- (4) There is a violation of any provision of this Land Development Code by the owner or holder of the entitlement.

b. Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

c. Issuance of a permit under this Land Development Code does not authorize violation of any other standard, regulation, requirement, or provision of the Land Development Code.

5. Civil Penalties

a. Any person, firm, or corporation violating any provision of this Land Development Code, or any amendments to it, shall be guilty of a civil infraction punishable by a fine not to exceed five-hundred (500.00) dollars for each violation.

b. Violation of any provision of this Land Development Code, or any amendments to it, shall also subject the offender to a civil monetary penalty in an amount to be established by the Board of County Commissioners. If the offender fails to pay this penalty within fifteen (15) days after being cited for a violation, the penalty may be recovered by the county in a civil action in the nature of a debt. A civil penalty may not be appealed if the offender was sent a final notice of violation

in accordance with this article and did not take an appeal to the county within twenty (20) days of the date of such final notice.

6. **Injunctive Relief.** The Land Use Administrator may seek injunctive relief or other appropriate relief in District Court or other court of competent jurisdiction against any person who fails to comply with any provision of this Land Development Code, or any requirement or condition imposed pursuant to this Land Development Code. In any court proceedings in which the county seeks a preliminary injunction, it shall be presumed that a violation of this Land Development Code is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation.
7. **Abatement.** The county may abate the violation pursuant to this subsection.
 - a. Notice to Abate. The Land Use Administrator, upon receipt of a verified complaint that a nuisance exists on public or private property in the county, may in the exercise of his/her discretion, notify the owner, lessee, tenant or occupant (hereinafter, "responsible party") in writing, requesting the responsible party to voluntarily remove and abate the described nuisance. In the event the nuisance is not voluntarily abated, service of a notice of violation by the Land Use Administrator shall be considered service of a notice to abate and the county may begin the abatement process. For any nuisance which does not threaten imminent danger of damage or injury, and for which a discretionary notice to abate has been issued, the reasonable time for abatement shall not exceed seven (7) days unless it appears from the facts and circumstances that compliance could not reasonably be made within seven (7) days or that a good faith attempt at compliance is being made.
8. **Service of Notice.** If written notice to abate is given, it shall be served by:
 - a. Personally, delivering a copy of the notice to a responsible party described in the notice; or
 - b. Mailing a copy of the notice by first class or certified mail, return receipt requested, to the last known address of a responsible party as reflected in the county real estate records; or
 - c. Posting a copy of the notice in a conspicuous place at the site of the nuisance.
9. **Abatement Order.** Upon the expiration of the period of notice, or at any time thereafter, if the nuisance has not been abated on the property described in such notice, the Land Use Administrator may apply to the county court for an abatement order, as follows:
 - a. The application shall be accompanied by an affidavit affirming that the county has complied with the notice requirements of Section 11.03.D.5, *Abatement*, and that the owner has failed to abate the identified nuisance upon the property.

- b. The county shall give notice to the responsible party of its application for the abatement order in the same manner as provided above for service of the original notice to abate. The county's notice to the last known address of a responsible party as reflected in the records of the Rio Grande County Clerk and Recorder's Office shall be considered adequate notwithstanding any error in the county's records. The Land Use Administrator may reasonably rely upon current county records to obtain an accurate address for a responsible party.
10. The notice of application for an abatement order shall include a copy of the county's application and its affidavit in support thereof, as well as the time, date, and place at which the county will appear before the county court to request entry of the abatement order.
11. At the stated time, date, and place, the county court judge shall review the application for administrative abatement order, the affidavit, any statement of the county in support thereof, as well as any statement and evidence presented by the responsible party, if present.
12. Thereafter, the county court is authorized to enter an order permitting the county to enter upon such property, abate the same and recover its costs as provided by Section 11.03.D.5.j, *Recovery of Expense of Abatement*, of this Land Development Code.
13. **Abatement Without Notice or Court Order on Public Property.** Any nuisance located or found in or upon any street, avenue, alley, public sidewalk, highway, public right of way, public grounds, park, recreation facility, or public property in the county may be abated without notice.
14. **Adequate Notice.** The county court judge may consider evidence of actual notice received by a responsible party in determining whether adequate notice of a violation or of a citation has been provided. The judge may find that notice is adequate despite a lack of technical compliance with this Section 11.03.D.5, *Abatement*, upon evidence that a responsible party received actual notice of a written notice to abate a reasonable amount of time prior to the expiration of the abatement period.
15. **Emergency Abatement.** If in the judgment of the County Administrator a nuisance is a cause of imminent danger to the public health, safety or welfare, any such nuisance may be summarily abated by the county, and costs of abatement shall be charged and recovered as provided by Section 11.03.D.5.j, *Recovery of Expense of Abatement*, of this Land Development Code. In all such cases, the responsible party shall be given notice of a post-abatement hearing before the county court and an opportunity at that time to contest the validity of the abatement.
16. **Recovery of Expense of Abatement**
- a. The actual costs of abatement, plus fifteen (15) percent of such abatement costs for inspection, a minimum fee assessment of one hundred (100.00) dollars and other incidental costs of abatement, shall be assessed upon the lot, lots or tracts of land upon which such nuisance is abated.

b. Such costs shall be paid to the county within thirty (30) days after the county has mailed notice of the assessment by certified mail to the owner of the property; provided, however, that if the property is occupied by someone other than the owner, the county shall mail such notice of assessment by certified mail, to both the occupant and the owner. Service shall be complete upon depositing the notice within the United States postal service, postage prepaid for certified mail. Every such assessment shall be a lien in the several amounts assessed against such lot, lots or tract of land until paid.

c. Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same, by the county pursuant to §31-20-105, C.R.S. to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with fifteen (15) percent penalty to defray the cost of collection.

17. **Violations and Penalty**

a. Any person violating any provision of this Land Development Code shall be subject to the penalties set forth in Article 11, *Enforcement* of this Land Development Code; provided however that nothing contained in this section or Article 11, *Enforcement* of this Land Development Code shall impair the ability of the county to enforce the other remedial provisions provided in this Land Development Code.

b. As a portion of any judgment, fine or assessment levied upon conviction of a violation of this Land Development Code the court may order that the violation be abated within a time established by the court, but in no event to exceed thirty (30) days from the date of conviction. Failure to abate within the time so ordered may constitute contempt of court and shall be punishable as such. The order shall also provide that, in the event the defendant has not abated the nuisance within thirty (30) days after the court order, the county or its agents are authorized to do so.

c. In addition to any fines levied hereunder, the court shall impose, as a portion of the costs assessed against the defendant, any costs incurred by the county in prosecuting, enforcing and abating the nuisance.

d. Each day during which any person commits, or allows to remain unabated, any of the actions specified as unlawful in this Land Development Code shall constitute a separate offense. Multiple violations of this Land Development Code may be included on a single notice to abate or a single summons and complaint.

18. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt required to the owner of record of the property.

19. Unless this notice is appealed to the Board of County Commissioners within ten (10) days of the delivery of the final warning, the Land Use Administrator shall proceed to abate the violation.
20. The Land Use Administrator shall keep an account of the cost, including incidental expenses incurred by the county in the abatement of any violation. The Land Use Administrator shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this section, the term "incidental expenses" shall include, but not be limited to, the actual expenses and costs to the county in the preparation of the notices, specifications and contracts, work inspections, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
21. The responsibility for payment of the charges for abatement as set forth in this section shall rest solely upon the owner, tenant, or violator(s) of the property upon which the abatement occurred. Such charges shall become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after thirty (30) days from billing, the Land Use Administrator may take one of the following actions:
 - a. Record a claim of lien at the Rio Grande County Clerk and Recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon the parity. The lien shall continue until the charges and all interest due and payable thereon are paid.
 - b. Certify the unpaid amount to the Rio Grande County Treasurer for allocation in the same manner as real property pursuant to §30-20-105 and 106, C.R.S.

Section 11.04 Non-Liability for Damages

The Land Development Code shall not be construed to hold Rio Grande County in any manner responsible for any damages to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a permit or other authorization as herein provided, or resulting from the institution of court action as hereinabove set forth or the forbearance by Rio Grande County to so proceed.

Section 11.05 Non-Liability of Officials

Any county official or employee, charged with the enforcement of the Rio Grande County Land Development Code, acting in good faith and without malice on behalf of said county in the discharge of his or her official duties, shall not thereby render himself or herself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him or her in the enforcement or attempted enforcement of any provision of this Land Development Code, shall be defended by the legal officer(s) of the county until final termination of the proceedings.

Article 12. BLIGHT AND UNSAFE STRUCTURES

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Section 12.01 General Provisions

A. Purpose

The purpose of this article is to protect the health, safety, and welfare of citizens of Rio Grande County through the removal of rubbish, junk, and unsafe structures from land in the unincorporated areas of the county.

B. Authority

§30-15-401 C.R.S, as amended, authorizes the Board of County Commissioners to adopt regulations for the control of matters of local concern, including providing for and compelling the removal of rubbish, junk, and unsafe structures from land in the unincorporated areas of the county. This includes authority for the county to remove rubbish, junk, or unsafe structures upon failure of the property owner to comply with a notice of violation, and the provision for criminal penalties in the event of failure to comply.

C. Enforcement

Any violation of the standards or provisions set forth in this article shall be enforced pursuant to Article 11, *Enforcement*.

Section 12.02 Responsibility for Removal

It shall be the duty of any person who is the owner, lessee, or occupant of a lot, tract, property, or parcel to remove rubbish, junk, and unsafe structures from that land.

A. Removal of Rubbish

Rubbish, as defined in Article 13, *Definitions*, shall be removed from lots, tracts, properties, and parcels of land within the county and their adjacent public rights-of-way.

B. Removal of Junk

Junk, as defined in Article 13, *Definitions*, shall be removed from lots, tracts, properties, and parcels of land within the county and their adjacent public rights-of-way.

C. Removal of Unsafe Structures

Any unsafe building, as defined Section 12.03, *Unsafe Structures*, shall be removed from lots, tracts, properties and parcels of land within the county.

D. Exception

Due to the rural and agricultural nature of the county, the requirements to remove rubbish, and junk as set forth in this Section 12.02, *Responsibility for Removal* shall not apply to industrial uses on properties ten (10) or more acres in size nor to agriculturally zoned land being used for a farming or ranching use as defined by this Land Development Code.

Section 12.03 Unsafe Structures

A. Purpose

It is the purpose of Section 12.03, *Unsafe Structures*, to provide a just, equitable and practicable method, to be cumulative with, and in addition to, any other remedy provided by the building code, this Land Development Code or otherwise available by law, whereby buildings or structures which, from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants and may be required to be repaired, vacated, or demolished. The Rio Grande County Building Official shall be responsible for determining if a building or structure is unsafe based on the definition of unsafe structures set forth in this Section 12.03, *Unsafe Structures*.

B. Definition

For the purpose of this Land Development Code, any building or structure which has any of the following conditions or defects shall be deemed to be an unsafe structure, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one- and one-half (1½) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, avalanche, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
6. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to

winds, snow loads or earthquakes or similar events than is required in the case of similar new construction.

7. Whenever the building or structure, or any portion thereof, is likely to collapse because of:
 - a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. The deterioration, decay or inadequacy of its foundations; or
 - e. Any other cause.

(1) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(2) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that plumb line passing through the center of gravity does not fall inside the middle one-third (1/3) of the base.

(3) Whenever the building or structure, exclusive of the foundation, shows significant damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(4) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor for vagrants, criminals, or as to enable persons to resort thereto for the purpose of committing unlawful acts.

(5) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the county, as specified in the building code, or of any law or regulation of the state or county relating to the condition, location or structure of buildings.

C. Exemptions

1. Agricultural buildings or structures shall not be considered as unsafe structures provided the life, health, property or safety of the public or its occupants are not endangered. The Rio Grande County Building Official shall determine if a structure is exempt from the provisions of this article.
2. Properties primarily used for farming and ranching uses which are otherwise in compliance with the provisions, standards, and regulations set forth in this Land Development Code are exempt from the provisions of this article requiring the removal of rubbish and junk. The Land Use Administrator shall determine if a use is exempt from the provisions of this article.

Article 13. DEFINITIONS

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Section 13.01 General Interpretations

A. Words and Terms

The words and terms used, defined, interpreted or further described in this Land Development Code may be construed as follows:

1. The masculine includes the feminine gender;
2. The word "shall" is always mandatory. The word "may" is permissive.
3. Words used in the present tense include the future unless the context clearly indicates the contrary.
4. Words used in the singular include the plural and words used in the plural include the singular unless the context clearly indicates the contrary.
5. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
6. In case of any difference of meaning or implication between the text of this Land Development Code and the caption for each section, the text shall control.

Section 13.02 Definitions of General Use Categories

A. Agricultural Uses

Agricultural, farming, and ranching activities, including nurseries and facilities for processing and selling agricultural products. Agricultural uses involve farming, dairying, pasturage, apiculture, horticulture, floriculture, and viticulture.

B. Animal Services

Animal-related uses include the boarding and care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas.

C. Child Care Facilities

Establishments that provide care for children on a regular basis away from their primary residence. Accessory uses include offices, recreation areas, and parking. This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises.

D. Community and Cultural Facilities

Uses including buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public.

E. Educational Facilities

Public, private, and parochial institutions at the primary, elementary, middle, high school, or postsecondary level, or trade or business schools, that provide educational instruction to students. Accessory uses include play areas, parking, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

F. Food and Beverage

Establishments involved in serving prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation and storage areas, offices, and parking.

G. Group Living

Uses characterized by residential occupancy of a structure by a group of people who do not meet the definition of "household living." Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

H. Healthcare Facilities

Any facility or use providing direct health care to the public such as hospitals, mental health institutions, sanitariums, special care centers, and clinics.

I. Household Living

Uses characterized by residential occupancy of a dwelling unit as a household. Tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of less than 30 days is classified under the “lodging facilities” category). Common accessory uses include farm structures, recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupants’ vehicles.

J. Lodging Facilities

For-profit facilities where lodging, parking, meals, and the like are provided to transient visitors and guests for a defined period.

K. Manufacturing & Production

Uses including all transformative processes, regardless of whether or not the new product is finished or semi-finished. Production is typically for commercial wholesaling rather than for direct sales. This use category may also include industrial service and research uses including the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Such uses generally have fewer on-site customers. Accessory activities may include retail or wholesale sales, offices, parking and storage.

L. Parks and Open Space

Uses with a focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker’s quarters, and parking.

M. Personal Services & Offices

Establishments that provide individual services and office space related to personal needs directly to customers at the site of the business, or that receive goods from or return goods to the customer, which have been treated or processed at that location or another location. Examples include but are not limited to beauty and barbershops, laundromats, shoe repair shops, and tailor shops. Offices may be for executive, management, administrative, or professional services and do not involve the sale of merchandise except as incidental to a permitted use. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the building or patrons to the permitted uses.

N. Public Utilities and Facilities

All lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services at a local level.

O. Recreation

Uses that provide recreation or entertainment activities. Accessory uses may include concessions, snack bars, parking, and maintenance facilities.

P. Retail

Uses involving the sale of a product directly to the final consumer for any purpose. Examples include but are not limited to bookstores, coffee shops, restaurants, antique stores, bakeries, grocery stores, household product stores, and similar uses.

Q. Vehicles & Equipment

Uses include a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices.

R. Warehouse and Freight

Uses that are engaged in the storage or movement of goods for the owner or other firms or persons. Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas.

Section 13.03 General Definitions

The following specific words and terms are defined as follows:

A. Numbers – A

500 Year Flood: A flood having a recurrence interval that has a 0.2 percent chance of being equaled or exceeded during any given year (0.2 percent chance annual flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500 Year Floodplain: The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Abandonment: To cease a given use of property. When the use of a property has ceased and the property has been vacant for twelve (12) months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use.

Abandoned Building: Any vacant building which is frequented by persons who are not lawful occupants of such structure; or any vacant building which by reason of lack of maintenance or by reason of the boarding up of its doors and windows, or other reasons, has a substantial adverse effect on the value of property in the immediate neighborhood; or a building, the principal use of which has been abandoned, and that no longer has any function or use;

Abatement: Any action taken to reduce, relieve, or suppress another continuing action. There are two relevant forms: a summary abatement, which is a legal action taken to suppress the continuation of an offensive land use; and a tax abatement, which is a release or forgiving of a certain tax liability for a specific period of time and under certain circumstances.

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

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

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

Accessory Building or Structure: A subordinate building or structure located on the same lot as the principal building or structure, the use of which is incidental to the principal use.

Accessory Dwelling Unit (ADU): A dwelling unit considered secondary to a principal dwelling unit for use as a complete independent living facility on the same parcel as a permitted principal use and which meets dimensional and other requirements applicable to the principal use.

Accessory Equipment: Equipment, including telecommunication facilities as defined herein, used to protect and enable radio switching equipment, back-up power,

support structures, and other devices incidental to a telecommunication facility, but not including towers, antennas or alternative telecommunication facilities.

Accessory Outside Storage: The outside placement of items which are customary and incidental to the principal use of the property.

Accessory Use: A use which is customarily supportive, secondary and subordinate to the principal use on the parcel.

Addition: Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

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

Adjacent Property Owner: An owner of record of any estate, right or interest in real property, which is adjacent to the subject property.

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

Administrative Review: The land use change permit application and review process, by which the Land Use Administrator approves applications for land uses.

Administrative Decision: Any decision made by the County Land Use Administrator, or their designee.

Adult-Oriented Use: See *Sexually Oriented Business*.

Agriculture: The use of land for farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for harvesting, packing, treating, or storing the produce, excluding forestry.

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

Agricultural Products: Products grown or raised on a property, intended for direct human or animal consumption or use, such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hemp, hay, bedding plants and wool.

Agricultural Products Processing and Storage: The alteration of agricultural products brought to the site in its natural state, including but not limited to cleaning, sorting, grading, packaging, milling, or storing of products which are intended for direct human or animal consumption or use.

Agricultural Product Sales, Distribution and Storage: The sale or lease, distribution and storage of plants and animals.

Agricultural Production Related to the Commercial Production of Animals: Raising or fattening animals for the sale of animals or animal products. Includes establishments such as ranches, farms, and feedlots primarily engaged in keeping, grazing,

breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale.

Airport: The area, including all runways, taxiways, hangers and related facilities designed for the takeoff, landing, storage, refueling and maintenance of aircraft.

Airport Elevation: The highest point of the airport's useable landing area measured in feet above mean sea level (MSL).

Airport Hazard: Any structure or object of natural growth located on or in the Airport Influence Area, or any use of land within the Airport Influence Area, which obstructs the airspace required for the safe flight of aircraft in landing or take off at such airport or is otherwise hazardous to such landing or take off of aircraft.

Airport Influence Area: An area bounded by imaginary lines parallel to and one (1) mile from each side of every existing or proposed runway centerline and perpendicular to and one (1) mile from every existing or proposed runway end.

Alley: A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which also, may be used for public utility purposes.

Alluvial Fan: A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the mainstream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Alteration: Any change, addition or modification in construction, occupancy or use.

Alternative telecommunication facility: A telecommunication facility with an alternative design that camouflages or conceals the presence of antennas or towers such as, but not limited to, artificial trees, clock and bell towers, light standards, flagpoles and steeples.

1. **Freestanding telecommunication facility:** A telecommunication facility that consists of a stand-alone support structure or tower, antennas, and accessory equipment.
2. **Low power telecommunications facility:** A telecommunications facility necessary to broadcast telecommunications for voice, data or video with emitted power levels less than 36dBm (or such other levels as may be authorized by the Federal Communications Commission to be low power telecommunications) with total frontal surface areas of all antennas not exceeding ten square feet for any single parcel.
3. **Roof and/or wall mounted telecommunication facility:** A telecommunication facility that is mounted to the roof or any rooftop appurtenance, or to the face of a legally existing building or structure.

Alternative Tower Facility: An existing or proposed structure that is compatible with the

natural setting and surrounding structures and that camouflages or conceals the presence of the antennae and can be used to house or mount an antenna. Examples include manmade trees, clock towers, bell steeples, light poles, silos, existing utility poles, existing utility transmission towers and other similar alternative designed structures.

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

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

Animal Feeding Operation (AFO): An animal feeding operation is a livestock confinement operation, and is defined by the EPA as a lot or facility where the following conditions are met:

1. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
2. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the facility.
3. The AFO classification is meant to apply to all sizes of livestock confinement operations and is the first step in defining whether an operation is a Concentrated Animal Feeding Operation.

Antenna: Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of wireless communications signals.

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

Applicant: The owner of land or the owner's authorized representative of the land, as well as mineral owners and lessees, when the same are applicants for land development approval.

Approach, Transitional, Horizontal and Conical Zones: These zones apply to the area under the approach, transitional, horizontal and conical surfaces, as defined in the airport overlay zone in Section 2.09, *Rio Grande County Airport Overlay*.

Appurtenances: The visible, functional, or ornamental objects accessory to and part of a building.

Automobile Service and Repair: Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles.

Automobile/Motor Vehicle Service Station: See *Gasoline Outlet*.

Automobile, Truck, Marine, or RV Sales: Premises on which new or used passenger

automobiles, trucks, recreational vehicles, boats, or trailers, in operating condition are displayed in the open for sale or trade.

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

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

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

Arterial: Right-of-way used primarily for fast or heavy traffic volumes for long distances and usually is designated as a State or Federal Highway.

B. B – C

Banner: A temporary sign composed of lightweight materials, including cloth or canvas or a like material of sturdy construction which is not easily torn and which is intended for the purpose of advertising a business, special event, sale, opening, new product line or service, special hours of operation or other temporary message.

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

Base Flood: A flood having a one percent chance of being equaled or exceeded in any given year. The term is used interchangeably with intermediate regional flood, one hundred year flood, and one percent chance flood.

Base Flood Elevation (BFE) : The elevation shown on a FEMA Flood Insurance Rate Map.

Basement: Any area of the building below the ground level floor of the building.

Batch Plant: Equipment that combines various ingredients to mix concrete or asphalt.

Bed and Breakfast: A building of a residential character other than a hotel or motel providing:

1. Temporary lodging for less than one (1) month;
2. Twelve (12) or fewer guest rooms;
3. At least one (1) meal daily for guests; and
4. Manager residing on the premises.

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

Board of Adjustment: The body appointed by the Board of County Commissioners whose authority and procedures are described in Section 1.03.C, *Board of Adjustment* of this Land Development Code.

Boarding House or Rooming House: A building where, for compensation, directly or indirectly, lodging is provided with or without provision of meals.

Brewpub: An eating place that includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. The area used for brewing, including bottling and kegging, shall not exceed twenty-five (25) percent of the total floor area of the commercial space and the facility shall have a capacity no more than that of a microbrewery.

Brewery: An industrial use that brews ales, beers, meads, and/or similar beverages on site. Breweries are classified as a use that manufactures more than it stores and/or small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

Buffer or Natural Screening: Land, berm, or planted vegetated area and/or naturally vegetated area used to visibly separate one use from another.

Building: Any structure having a roof supported by columns or walls and intended for supporting, enclosing, sheltering or protecting any use or occupancy. The term "building" shall include modular or prefabricated buildings that do not fall within the definition of manufactured housing or mobile homes.

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

Building Envelope: A designated area on a lot, property, tract, or parcel in which all structures and development shall be constructed or must occur, unless specifically excepted or exempted, including but not limited to excavation, landscaping, building, grading, demolition or filling.

Building Footprint: The outline of the total area which is covered by a building's perimeter at ground level.

Building Height: The distance, measured vertically, from the pre-construction undisturbed or natural ground surface at the mid-point between the front and rear walls of a building to the tallest point of a gable, hip, shed, or similar pitched roof.

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

Building, Principal: The primary building on a parcel intended for principal use as defined herein.

Campground: An outdoor area providing space for vacationers to temporarily occupy in tents or recreational vehicles. A campground may also include an area with rental cabins, rental tents, and site amenities, but its primary function is to accommodate

visitors providing their own shelter.

Camping: The act of using a tent or recreational vehicle for transient dwelling purposes.

Camping, Tent: Tent means a portable, temporary cover or shelter made of canvas, nylon, plastic, or similar materials supported by poles, with or without side panels, used for recreation purposes.

Car Wash: An area of land and/or a structure with machine- or hand-operated facilities used principally for cleaning, washing, and polishing or waxing motor vehicles.

Cargo Containers: Prefabricated container used for shipping or storage of personal property.

CDOT: Colorado Department of Transportation.

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

Centerline: The linear centerline of a roadway right-of-way.

Change in Land Use: Any development, grading, construction, activity or operation that changes the basic character, configuration or use of land or structures after the enactment of this Land Development Code.

Channel: The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization: The artificial creation, enlargement or realignment of a stream channel.

Child Care Center: A facility that is maintained for the whole or part of a day for the care of five (5) or more children who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and are regulated and licensed by the state of Colorado.

Church: See *Religious Assembly Facility*.

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

Colorado Medical Marijuana Code: Refers to Article 43.3 of Title 12, C.R.S., as amended.

Colorado Retail Marijuana Code: Refers to Article 43.4 of Title 12, C.R.S., as amended.

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

Cluster Development: A division of land as defined by §30-28-401, C.R.S., et seq.

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

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

Commercial Firewood Sales: Any commercial operation involving the growing or cutting of wood and the display and stacking of wood for sale.

Communication Facility: A non-inhabitable structure or tower and accessory building, supporting antennas, and microwave dishes that send and/or receive radio frequency signals, including television and data impulses, through space by means of electromagnetic waves. Individual/personal direct-to-home satellite services are not included in the definition of "Communication Facility".

Community Center: A place, structure, area, or other facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. May also be referred to as a convention center or civic center.

Concentrated Animal Feeding Operation (CAFO): A Concentrated Animal Feeding Operation is Livestock Confinement Operation and is defined by the EPA as a large concentrated animal feeding operation that has more than one-thousand (1000) animal units confined on site for more than forty-five (45) days during the year. However, any size animal feeding operation that discharges manure or wastewater into a natural or man-made ditch, stream or other waterway is defined as a CAFO, regardless of size.

Conditional Use: Land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated.

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

Condominium Subdivision: The conversion or subdivision of a single-ownership parcel of land into a form of ownership for residential, commercial, or industrial purposes involving the right of exclusive occupancy or separate ownership of individual units.

Conservation Easement: A restriction placed on the permitted use of land in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance.

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

Contiguous: Sharing of a common edge or boundary, touching.

Convalescent Home: A facility that provides nursing services and custodial care on a twenty-four (24) hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

Convenience Store: Any retail establishment selling consumer products including primarily prepackaged or prepared food items and household items, having a gross floor area of less than five-thousand (5,000) square feet. A convenience store may also have associated retail sale of gasoline and other petroleum products.

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

Corrections Facility: A use which provides housing, treatment or care for individuals legally confined or placed as a result of criminal charges and designed to incarcerate or rehabilitate individuals in either a secured or non-secured setting.

Correction Plat: Revision of a previously approved plat, which is intended to correct minor surveying, drafting or wording errors in the plat.

Cottage Industry: A commercial operation conducted within or adjacent to a dwelling unit, which dwelling unit is occupied as a residence. In order to qualify as a cottage industry, the dwelling unit must be continuously occupied as a residence, the absence or cessation of the occupation of the dwelling unit as a residence shall render the cottage industry a commercial operation, subject to all the applicable provisions and standards set forth in this Land Development Code.

County: The County of Rio Grande County, State of Colorado.

Covenants: A set of private agreements written and agreed to by a group of property owners, usually included in each property deed, and which sets down certain rules and regulation governing the development and use of said properties. May be imposed by the owner/developer of a project at the time of land use approval.

Critical Facility: A structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Cul-De-Sac: A minor street having one end open to vehicular traffic and having one closed and terminated by a turnaround.

C. D – F

Dedicated to Public Use: A legal action that typically occurs as a note on a subdivision plat or through a recorded document that conveys permanent public use to an area of land, either in fee or easement, to the county or another public entity for permanent public use.

Decibel: The basic unit for measuring the difference of sound pressure levels from a sound event to a reference pressure. To approximate the range of frequencies of sound most audible to the human ear, an “A-weighting” factor is applied. Sound levels are usually reported in A-weighted decibels, abbreviated dBA.

Density: A unit of measurement, specific to development, to be interpreted as the number of dwelling units per acre of land.

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

Development: Any activity or construction, excluding normal agricultural activities, that changes the existing character or use of the land.

Development Agreement: The agreement between the owner and the county which specifies the terms and conditions of the land use permit approval. This agreement may also implement the site-specific development plan which establishes vested rights under Article 68 of Title 24, C.R.S.

Distillery: A facility for the on-site distillation of spirits in quantities not to exceed seventy-five thousand (75,000) gallons per year. The distillery operation processes the ingredients to make spirits by mashing, cooking, and fermenting. The distillery operation does not include the production of any other alcoholic beverage. A distillery may include a tasting room open to the public.

District: See *Zoning District*.

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

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

Duplex: See *Dwelling, Single Family Attached*.

Dwelling Unit: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Dwellings may exist in many configurations, including but not limited to single-household detached, duplex, townhomes, multi-unit dwellings, and group homes. Dwellings do not include boarding, rooming, or lodging facilities, hotels, motels, extended stay lodgings.

Dwelling, Multi-Family: A dwelling containing three (3) or more dwelling units, (typically apartments, condos, and townhomes) not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.

Dwelling, Single Family Attached: A single building containing two dwelling units, each of which shares a common unpierced wall that extends from ground to roof and that separates the enclosed living areas within the dwelling units.

Dwelling, Single-Family Detached: A single-family dwelling, which is not attached to any other dwelling or building by any means, excluding mobile and manufactured homes.

Easement: A grant to another, by the property owner, to use a specific tract of land for a particular purpose.

Educational Facility: Buildings and uses for instruction or research activities associated with an academic institution which has curriculum for technical or vocational training, including but not limited to kindergarten, elementary, secondary, or higher education. Educational facilities include residential facilities for faculty, staff, and students.

Emergency Shelter: A facility providing intermediate-term housing to people with limited financial resources, including people who are homeless or are abused mentally, physically, or emotionally and need to escape a threatening situation. Accommodations may also include food, counseling, transportation services, and service to support the personal care of the residents of the facility including medical care, dental care and hygiene.

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

Equestrian Facility: Commercial facility including horse ranches, boarding stables, riding schools and academies, horse exhibition facilities and pack stations. This land use includes barns, stables, corrals, and paddocks accessory and incidental to these uses.

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

Expansive Soil and Rock: Soil and rock that expands to a significant degree upon wetting and shrinks upon drying.

FAA: The Federal Aviation Administration.

Family: Any number of persons that are related by blood, marriage, adoption or legal custody, or up to five (5) persons that are not related by blood, marriage, adoption or legal custody occupying a dwelling unit and maintaining a common household but not including boarding or rooming houses, lodges, clubs, hotels or motels. Except as otherwise provided herein, "family" shall also include up to eight (8) persons that are not related by blood, marriage, adoption or legal custody occupying a residential dwelling unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by §24-34-301, C.R.S.; and additional necessary persons employed in the care and supervision of such handicapped or disabled persons. A family shall not include more than one person required to register as a sex offender pursuant to Article 22 of Title 16, C.R.S., as amended, unless related by blood, marriage, or adoption or in foster care.

Family Child Care Home: The use of a residence for the care of six (6) or fewer children other than the occupant's own children for periods of less than twenty-four (24) hours

per day, as designated by rules of the Colorado Department of Human Services. A family child care home is considered a home occupation.

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

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

FCC: The Federal Communication Commission

FEMA: The Federal Emergency Management Agency.

Fence: A structure, which serves as a barrier intended to prevent escape or intrusion, to mark a boundary, to shield or screen view, or to serve any similar purpose constructed of materials other than vegetation.

Feedlot: See *Livestock Confinement Operation*.

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

Fixture, Fully Shielded (FFS): A fixture that projects light downward only.

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

Flood Insurance Rate Map (FIRM): An official map of FEMA, on which the area subject to flooding by the base flood has been delineated either by approximate or detailed engineering study. These maps also delineate flood insurance rate zones and may include the delineation of water surface elevations and floodway boundaries.

Flood Insurance Study: The official report provided by FEMA that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

Floodplain: An area including and adjacent to the stream channel, which is subject to flooding as the result of the occurrence of an intermediate regional flood and which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes areas that are delineated by FEMA as areas subject to 100 year flood events meaning a flood having a recurrence interval that has a one percent chance of being equaled or exceeded during any given year (1 percent annual chance flood).

Floodplain Encroachment: Any development, stockpile, refuse, or matter in, along, across, or projecting into any floodplain which might impede, retard, or change the direction of a flow of water, either by itself or by catching or collecting debris carried by such water. The term floodplain encroachment shall not include any device or structure reasonably necessary for flood control or prevention.

Floodproofing: Any combination of structural and non-structural additions, changes or adjustments to structures, moveable objects, or properties for the purpose of reducing or eliminating the potential for flood damage.

Floodway: The areas within the floodplain which are required for the passage or conveyance of the base flood, in which waters will flow at significant depths or with significant velocities. These areas include the channel of a river or creek and any adjacent floodplain areas that must be kept free of development and other encroachments so the base flood can be conveyed without substantial increase in flood height. Specifically, the floodway is defined according to the following criteria:

1. Areas of the floodplain that must be kept free of development and other encroachments so the base flood is conveyed with no more than a one foot increase in the water surface elevations.
2. Where the floodway has not been identified, areas of the floodplain where floodwater from the base flood is eighteen (18) inches or greater in depth.
3. The area that comprises a minimum of twenty-five (25) feet from the banks of the river or creek, unless the bank consists of an impervious natural rock wall or cliff which is higher than the flood elevation.

Floor Area: Floor area, also called gross floor area, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement or attic storage areas.

Frontage, Building: The horizontal linear dimension designated as the primary facade of that portion of a building occupied by a single use or occupancy. A corner tenant is permitted to use the secondary façade to determine the “building frontage.”

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

D. G – L

Garage: A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

Gasoline Distribution Outlets/Storage/Service Station: A building or lot having pumps and storage tanks where fuels, oils, or accessories for motor vehicles are dispensed, sold or offered for sale, and where repair service is secondary.

General Farming and Ranching: The growing of crops, plants, and trees or the maintaining of animals.

General Retail Sales Store: A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

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

Geologic Hazard Prone Area: An area, which may contain or may be directly affected by a geologic hazard.

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

Grade, Natural: The elevation of the ground surface in its natural state, before man-made alterations.

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

Group Home: A facility operated by a public, nonprofit, or private agency, which provides twenty-four (24) hour care or supervision of nine (9) or more persons who are not related by blood, marriage or adoption, to the facility's owner, operator, or manager.

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

Guest Room: A room in a hotel, motel, bed and breakfast, boarding/rooming house offered to the public for compensation for transient occupancy.

Habitat Conservation Plan (HCP): The San Luis Valley Regional Habitat Conservation Plan as may be updated and amended from time to time.

Harboring of Chickens: The keeping of up to ten (10) hens within a fenced in portion of a lot not associated with an agricultural use.

Hazard: A natural or manmade phenomenon or condition which is a significant source of risk, danger or peril.

Hazardous Agricultural Product Production: The production of agricultural products that pose significant risks due to the involvement of poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or production of products.

Height: See *Building Height*

Heliport: A structure or area of land or water used or intended to be used by helicopters for takeoff and landing, and the appurtenant buildings and facilities, including necessary

passenger and cargo facilities, fueling and emergency service facilities.

Hemp Production: The growing or sale of a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

Historic Site: A structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status and protection.

Home Occupation: A lawful commercial activity carried on within a dwelling unit or an associated accessory structure by a member or members of the household who occupy the dwelling unit, and up to one additional full time employee, where the occupation is clearly secondary to the use of the dwelling unit for living purposes and the residential character of the dwelling is maintained. Such occupation shall not generate traffic or parking requirements which significantly or adversely affect the residential character of the neighborhood.

Homeowners Association: An association made up of homeowners set up to enforce the covenants and maintain all common areas and buildings associated with a subdivision or multifamily development.

Hospital: An institution providing health services for inpatient medical or surgical care for the sick or injured, including related facilities such as laboratories, outpatient departments, training and central services facilities and staff offices.

Hotel: A building or portion thereof with sleeping rooms used or designated for use by or hired for occupancy by persons on a temporary basis and containing at least six (6) such guest rooms.

Household: A domestic establishment including a member or members of a family and/or another person or persons living within a dwelling unit.

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

Junk: Any material unfit for its original intended use, discarded, worn out, dismantled, or deteriorated to such condition that it is not useable, safe or fit for human use or habitation.

Junk Vehicle: A vehicle that is inoperable (unable to move under its own power), or is partially or totally dismantled or has all or portions of its body work missing or substantially damaged or is not registered with the State of Colorado as required by §42-3-103 or §42-12-401 and §42-12-402, C.R.S., and/or the number plate assigned to it is not permanently attached to the vehicle as required by §42-3-202, C.R.S. or is

lacking proper equipment to the extent that would be unsafe or illegal to use on public road rights-of-way or otherwise not equipped with lamps and other equipment as required by §42-4-202—42-4-227, C.R.S. This definition does not include implements of husbandry, farm tractors, farm or ranch equipment or vehicles customarily operated in a farm or ranch operation.

Junkyard: See *Salvage Yard*

Kennel: Any use, other than a veterinary clinic in which household pets are kept commercially for board, propagation, grooming, or sale. Animals used as a part of an agricultural activity are not included in this definition.

Kennel, Boarding: Any kennel use which is primarily used to house, board, keep, or care for household pets for a temporary period of time.

Kennel, Breeding: Any kennel use which is primarily used for the propagation, breeding or raising of household pets for commercial sale.

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

Land Use Administrator: The Rio Grande County staff member or their designee that processes land use changes in the county.

Land Use Change: Any land use or development activity that changes the basic character, configuration or use of land or buildings and structures after the enactment of this Land Use Code.

Land Development Code: The Rio Grande County Land Development Code as amended from time to time.

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

Ldn. Day Night Level (DNL/LDN): A twenty-four (24) hour average noise level with a ten (10) decibel (dB) penalty for nighttime.

Levee: A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System: A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

Livestock: Domestic animals that are used for food for human or animal consumption,

breeding, draft or profit.

Livestock Confinement Operation (LCO): A place of confinement for livestock, corralled, penned or otherwise caused to remain in pens or corrals, where feeding is other than grazing. An LCO may include dairies, feedlots and poultry and swine production facilities. An LCO may include AFO's and CAFO's as defined by this Land Development Code.

Local Street: A street serving individual lots within a subdivision.

Logging Operation: Lands owned, leased or managed for the primary purpose of generating profit through the processing and sale of forest products.

Loading Area: A parking space other than a public street or alley for parking commercial vehicles for the purpose of loading or unloading materials or merchandise.

Lot: A portion or parcel of land, including a portion of a platted subdivision, occupied or intended to be occupied by a building or use and its accessories, together with such yards as required under the provisions of this title, that is an integral unit of land held under unified ownership in fee or co-tenancy, or under legal control tantamount to such ownership.

Lot Area: The total horizontal area within the boundary lines of a lot, exclusive of any road rights-of-way.

Lot Consolidation: A division of land process to combine two (2) or more lots, tracts, properties or parcels within the same unit of a platted subdivision which actually deletes the common boundary lines, and results in fewer lots remaining than were started with.

Lot, Double Frontage: Lots which front on one public street with a side or a back lot line fronting another public street.

Lot Depth: The average horizontal distance between front and rear lot lines.

Lot Frontage: That part of a lot (a lot line) abutting on a street or way; except that the ends of incomplete streets, or streets without a turning circle, shall not be considered frontage.

Lot Line: The property line bounding a lot.

Lot Line, Front: The boundary of a lot dividing it from the adjacent street. For a corner lot, the shortest dimension on the street shall be considered as the front line.

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

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

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

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's

lowest floor.

E. M – O

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

Major Subdivision: Any division of a lot, tract, parcel, or property that results in the creation of five (5) or more lots, dedication of a public right-of-way, easement, or land for public use, and does not constitute another type of division of land.

Manufactured Home: A single-family dwelling which: (1) is a preconstructed building unit or combination of preconstructed building units that is constructed in compliance with the federal manufactured home construction safety standard, as defined in Section 24-32-3302(13), C.R.S. (2) is installed on an engineered, permanent foundation; (3) is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended; and (4) is built for the Colorado climate and snow load according to the Department of Housing and Urban Development Standards established under the provisions of 42 U.S.C. Section 5401, et seq.

Manufactured Home Park: A parcel upon which two or more manufactured homes, occupied or intended to be occupied for dwelling purposes, are located

Manufactured Home Space: A portion of ground within a manufactured home park designated for the permanent location of one manufactured home.

Manufacturing: The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Manufacturing, Fabrication or Processing of Materials: The manufacture, fabrication, processing, reduction, or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and includes storage elevators, truck storage yards, warehouses, wholesale storage, and other similar types of enterprise.

Master Plan: The comprehensive plan or master plan adopted by Rio Grande County in accordance with §30-28-107, C.R.S.

Mean Sea Level: For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Medical Marijuana Establishment: A medical marijuana infused products manufacturer

facility, an optional premises cultivation operation, a medical marijuana transporter licensed premises, a medical marijuana off-premises storage facility, or a medical marijuana testing facility.

Medical Marijuana Regulations: The Colorado Department of Revenue, Marijuana Enforcement Division's Medical Marijuana Code, 1 C.C.R. 212-1, as amended.

Medical and Dental Office, or Clinic: An office, other than a hospital as herein defined, used by one or more licensed physicians for the purpose of receiving and treating patients.

Microbrewery: A facility for the production and packaging of malt beverages of law alcohol content for distribution, retail, or wholesale, on or off-premise, with a capacity of not more than fifteen thousand (15,000) barrels per year. The development may include other uses such as a standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

Micro-Cell Facility: A small wireless facility that is no larger in dimensions than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.

Mineral Estate: A mineral interest in real property that may be severed from the surface estate of the subject real property; which if severed, is shown in the real estate records of the county in which the real property is situated; and which if severed, is not owned as part of the full fee title to the real property. (§24-65.5-102, C.R.S.)

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

Minor Subdivision: A minor subdivision is a division of land creating four (4) or fewer lots, a subdivision creating a second single-family dwelling unit on one parcel and subdivisions of an agricultural property to serve as family member homesteads.

Mineral Extraction: The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

Mineral Resource Area: An area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise, as to be capable of economic recovery. The term includes a new find of mineral resources in any location, reopening of a previously existing operation that had been closed, an old find that has not previously been developed and an area into which an existing and ongoing mining operation expands.

Mobile Home: A structure which: (1) is transportable in one or more sections; (2) is built on

a permanent chassis; (3) is designed to be used as a place of living for a single-family, with or without a permanent foundation, when connected to the required utilities; and (6) includes the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" is not included within the definition of "mobile home."

Motel: See *Hotel*.

Motor Vehicle Parking Lot: An open, all-weather surfaced area, other than street or public way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

Museum: An establishment for preserving and exhibiting artistic, historical, scientific, natural, or man-made objects of interest. Such activity may include the sale of the objects collected and memorabilia, the sale of crafts work and artwork, boutiques, and the holding of meetings and social events.

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

Natural Hazards: Mudslides, subsidence areas, floodplains, seismic faults, rockslides, erosion and other naturally occurring phenomena that can pose hazards to life or property.

Natural Resource Exploration, Extraction and Production: The exploration, extraction and production of natural resources.

No-Rise Certification: A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Nonconforming Use: A building, structure, or use of land legally existing at the time of enactment of this Land Development Code or lawful amendments to this Land Development Code and which does not conform to the regulations of the zoning district in which it is situated or used, including applicable supplemental regulations contained herein.

Nuisance: Anything, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

Nursery, Commercial: A use where plants, seeds, seedlings, trees, shrubs, flowers,

vegetables and other similar products are grown within a building to be sold, either wholesale or retail.

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

Owners Association: See *Homeowners Association*.

Oil and Gas Drilling and Production: Any operation utilizing equipment which advances a borehole into substrata for the purpose of discovery, development and/or production of oil or gas.

Open Space: Any land or water area which serves the specific use of providing park and recreation opportunities, conserving natural areas and environmental resources, or protecting areas of agricultural, archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land or yards as part of a platted lot.

Outdoor Storage: The keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more that twenty-four hours.

Outdoor Amusement and Entertainment Facilities: The provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range, miniature golf course or a scenic railroad.

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

On-Site Wastewater Treatment System (OWTS): An absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity, which system is not a part of or connected to a sewage treatment works.

F. P – R

Parapet Wall: Part of a wall or railing which is entirely above the roof plane.

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

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

Peak Hour: A term used in traffic engineering and analysis that identifies the 60-minute

period where a segment of road or intersection experiences, or is projected to experience, the greatest number of through and turning vehicles in an average 24-hour period.

Permit: A written authorization made by the Board of County Commissioners or its authorized agent issued pursuant to the provisions, standards, and procedures set forth in this Code.

Permitted Use: A use allowed by right in conformance with standards of the particular zone district.

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

Personal Services Establishment: Establishments providing nonmedically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; and laundromats.

Pipeline: Any conduit and appurtenant facilities designed for, or capable of, transporting natural gas, other petroleum derivatives or other liquid.

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

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

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

Planned Unit Development (PUD): A tract, lot, parcel, or property developed under single ownership or unified control, which includes one or more principal buildings and/or uses and is processed under the planned unit development provisions of this Land Development Code.

Plant Nursery and Greenhouse: See *Nursery Commercial*.

Plat: A map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the County Clerk and Recorder. (§ 30-28-101 (5), C.R.S.).

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

Pre-existing Telecommunication Facilities: Any telecommunication facility for which county approval has been property issued prior to the effective date of this Land Development Code.

Principal Use: The primary purpose or function for which the land, building or structure is

used.

Primary Surface: A surface longitudinally centered on a runway with dimensions as specified by FAR Part 77.

Professional and Business Office: The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type of profession.

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

Property Line: See *Lot Line*.

Public Hearing: A meeting called by a public body for which public notice has been given and which is held in a place in which the general public may attend with the principal purpose of receiving testimony or public comment on a specific application or issue.

Public Assembly Facility: A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters.

Public Building: Any building held, used, or controlled exclusively for public purposes by any department or branch of government, public agency, or special district without reference to the ownership of the building or of the realty upon which it is situated. A building belonging to or used by the public for the transaction of public or quasi-public business.

Public Improvement: Any drainage ditch, roadway, parkway, sidewalk, utility line or treatment plant, pedestrian way, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.

Public Utilities: Electricity, natural gas, water and wastewater service, wire telephone service, and similar public services. The term "public utilities" does not include wireless telecommunication facilities.

Public Utility Facilities: The use of land for public utility purposes by an entity providing pipeline, gas, electrical, telephone, telegraph, water, or sewage service. "Public utility" also includes the use of land for utility purposes, whether or not owned, controlled, or operated by a public entity, whose services are performed for or commodities delivered to the public or any portion thereof. Private energy production, transmission relay, repeater, translator, radio and television towers and equipment, and cable television facilities are also considered public utilities. "Public utility

facilities” does not include airports or television, radio or community television antenna system administration offices, or other types of administrative offices or maintenance yards.

Recharge Pond: Constructed surface basins that allow water to slowly infiltrate through the soil into the underground aquifer.

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

Recreation Vehicle (RV): A vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Examples of recreational vehicles include, but are not limited to: camping trailer or tent trailer; motorized camper, motor home, recreational conversion van or bus; pick-up camper; travel trailer.

1. *Camping trailer or tent trailer:* A folding structure constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels and to be used as a temporary shelter for travel and recreation purposes.
2. *Motorized camper, motor home, recreational conversion van or bus:* A self-propelled vehicle consisting of a portable, temporary shelter to be used for travel and recreation purposes.
3. *Pick-up camper:* A structure designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary shelter for travel and recreation purposes.
4. *Tent:* A portable, temporary cover or shelter made of canvas, plastic or similar materials supported by poles, with or without side panels, used for travel and recreation purposes.
5. *Travel trailer:* A towed vehicle designed as a temporary shelter used for travel and recreation purposes.

Recreation Vehicle (RV) Park: Any lot or parcel of land used or intended to be used for the accommodation of two or more recreational vehicles for transient dwelling purposes.

Recreational Vehicle (RV) Space: A parcel of land in a campground/recreation vehicle park for the placement of a single recreational vehicle and the exclusive use of its occupants.

Recycling Facility: A facility that accepts recyclable materials and may perform some processing activities. The principal function is to separate and store materials that are ready for shipment to end-use markets, such as paper mills, aluminum smelters, or plastic remanufacturing plants.

Registered Professional Engineer: A professional engineer means a person who is qualified to perform engineering work and who is registered in conformance with Title 12, Article 25 of the C.R.S.

Religious Assembly Facility: A facility or site used by a bona fide religious group primarily or exclusively for religious worship and related religious services, including a place of

worship, retreat site, or religious camp.

Replat: Division of lot(s), parcel(s), or tract(s) that are already part of an existing subdivision within a platted subdivision.

Restaurant/Eating & Drinking Establishment: A structure in which the principal use is the preparation and sale of food and beverages.

Restaurant with Drive Up Window: A restaurant accommodating the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

Retail Marijuana Establishment: A retail marijuana store, a retail marijuana cultivation facility, a retail marijuana testing facility, a retail marijuana transporter licensed premises, a retail marijuana off-premises storage facility, or a retail marijuana product manufacturing facility.

Retail Marijuana Regulations: The Colorado department of Revenue, Marijuana Enforcement Division's Retail Marijuana Code, 1 C.C.R. 212-2, as amended.

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

Riding Stable: A facility where horses are harbored and the general public may, for a fee, hire horses for riding.

Right-of-Way: A strip of land acquired by purchase, reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, and/or other public utilities or facilities.

Right-of-Way Vacation: Vacation of public streets and roadways as allowed in Part 3 of Article 2 of Title 43, C.R.S.

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

Riparian/Riparian Areas: Related to, living or located on the bank of a natural watercourse or lake. Riparian areas include groups of plants, animals and aquatic communities whose presence is either directly or indirectly attributed to water-influenced or water-related factors. Areas exempt from this definition are manmade agricultural structures and devices including irrigation ditches, sprinklers and artificial ponds.

Roof: A structural covering over any portion of a building or structure including projections beyond the walls or supports of the building or structure.

Road: All property dedicated or intended for public or private road, street, alley, highway, freeway, or roadway purposes or to public easements, therefore.

Roadside Stand: A temporary commercial establishment with a building enclosure not to

exceed one-thousand (1,000) square feet in area, typically involved in the sale of locally produced fruits, vegetables or products.

Roofline: A horizontal line intersecting the highest point or points of a roof.

Rubbish: Garbage and trash, including but not limited to: unwanted or discarded household items; waste from building construction, remodeling and repair including used lumber and building materials; tree branches, grass and shrub clippings, leaves or other general yard and garden waste; newspapers, magazines, packaging materials, waste paper or cardboard, boxes and crates, rags; dead animal carcasses; and any other unsightly or discarded material including scrap metal, scrap material, bottles and tin cans, which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics.

Runway: A defined area on an airport prepared for the landing and or take off of aircraft along its length.

G. S – U

Salvage Yard: A building, structure, or parcel of land used for the collecting, storage, dismantling, salvage, recycling, demolition or sale of material that is unfit for its original intended use, discarded, worn out, dismantled, or deteriorated in such condition that it is not useable or not safe or fit for human use or habitation.

Screening: A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation.

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

Senior Housing: A residential establishment or institution other than a hospital or nursing home that provides living accommodations and medical services primarily to individuals 55 years of age or over and to individuals who, due to illness or disability, require care similar to that provided to persons who are 55 years or over. Services like transportation, housekeeping, dietary supervision, and recreational activities may also be offered.

Setback: The required minimum distance between the point that the facing wall intersects with the finished grade of the building and the related front, side, or rear lot line.

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

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

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

line.

Sexually Oriented Business: A business having as a substantial and significant portion of its revenues or space dedicated to one or more of the following: (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, laser discs, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities (3) A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas.

Shooting Range: The use of a structure and/or property for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

Sight Distance Triangle: A triangular area formed by a diagonal line connecting two points located on intersecting street right-of-way lines measured twenty-five (25) feet from the intersection of the street right-of-way lines.

Sign: A sign is any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination, or projected images.

Sign, Canopy, Awning, or Marquee: A sign which is mounted on a permanently roofed shelter where such shelter may be wholly supported by the bounding or may be wholly or partially supported by columns, poles or braces extended from the ground.

Sign, Freestanding: A permanent sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground where no part of the sign is attached to any part of a building, structure or other sign.

- i. *Monument:* A freestanding sign erected on the ground with an architecturally designed base.
- ii. *Pole:* A freestanding sign that is mounted on a pole(s) or other support(s) that is placed on and anchored in the ground or on a base that is independent from any building or other structure.

Sign, Projecting: A building mounted sign with the face(s) of the sign projecting from and not parallel to the wall.

Sign, Wall: A building mounted sign where the face of the sign is parallel to the plan of the wall and is wholly supported by the wall.

Sign, Yard: A temporary sign made of plastic, wire frame, wood, metal, or similar materials which are installed for a temporary period of time.

Significant Wildlife Habitat and Migration Corridors: Areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information source as areas of landscape that provide food, cover and water to meet the needs of a given species to survive and reproduce.

Site Improvement Plan: A scaled plan showing uses and structures proposed for a parcel of land as required by the regulations involved including, but not limited to, the location of structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways, and other site development information as related to a proposed development.

Site Plan: A required submission, prepared and approved, that is a detailed engineering drawing of the proposed improvements required in the development of a particular lot, tract, parcel or property.

Site Specific Development Plan: The approved plan which has been submitted to the county to establish a vested right pursuant to Title 24, Article 68, C.R.S.

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

Slope: Change in vertical elevation of a property over a specified horizontal distance, measured between contour intervals.

Small Cell Facility shall mean either:

1. A personal wireless service facility as defined by the Federal Telecommunications Act of 1996, as amended as of August 6, 2014; or
- iii. A wireless service facility that meets both of the following qualifications:
- iv. Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
- v. Primary equipment enclosures are not larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch; or
- vi. A Micro-Cell facility, as defined in this article.

Small Cell Network: A collection of interrelated small cell facilities designed to deliver wireless service.

Solar Energy Facility: A solar energy collector and the required components to the distribute the transformed solar energy.

Solid Waste Disposal Site: A lot of land or part thereof used primarily for the disposal, by

abandonment, dumping, burial, burning, or any other means and for what purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

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

Special Flood Hazard Area: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the one-hundred (100) year floodplain.

Spot Zoning: Zoning of a particular piece of land without regard for the zoning of the larger area surrounding the land. Spot zoning may be considered zoning which is inconsistent with the Rio Grande County Land Development Code or Master Plan or which would benefit a single landowner rather than the community at large.

Start of Construction: The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one-hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Street: A right-of-way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, and lane.

1. *Arterial Highway:* Right-of-way used primarily for fast or heavy traffic volumes for long distances and usually is or would be designated as a State or Federal Highway.
2. *Major Thoroughfare:* Right-of-way which generally carries traffic throughout the county or across urban communities.
3. *Collector:* Right-of-way which collects traffic from minor streets and serves as the most direct route to a major street or community facility.
4. *Minor Street:* Right-of-way that is to provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged.

Structure: The term “structure” includes buildings, decks, fences, retaining walls, signs, towers, antennas, smokestacks, and overhead transmission lines.

1. *Permanent structure:* A permanent structure is constructed in a manner which would be expected to have a lengthy useful life, for a purpose expected to be long-term in duration.
2. *Temporary structure:* A temporary structure is constructed in a manner which would be expected to have a relatively short useful life, for a purpose expected to be short-term in duration.

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

Subdivision: The subdivision of a parcel of land into two or more parcels or divisions, except for those divisions that are excluded from the term subdivision by §30-28-110, C.R.S., or by regulatory provisions of this Land Development Code.

Substantial Change: A change in land use resulting in one or more of the following:

3. A change in site design that:
 - a. increases or decreases the number of dwelling units;
 - b. increases or decreases the number of structures which, by size or nature of use, require a building permit;
 - c. increases or decreases the minimum square footage of structures if a minimum or maximum square footage has been specified in the permit or approval;
 - d. increases the projected traffic such that a highway access permit or an amendment to a highway access permit is required as a result of the change;
 - e. increases or decreases the area of land which is the subject of the permit or approval.
 - f. A change that creates, increases or decreases incompatibility or nonconformity.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

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

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- vii. Any alteration of a structure listed on the National Register of Historic Places or on the Colorado State Historical Society's list of historic places.

Swimming Pool: A receptacle for water, or artificial basin of water, either above ground, below ground, or partly above and partly below ground, not wholly enclosed within a building, having a depth at any point in excess of eighteen (18) inches or a surface area exceeding one-hundred and fifty (150) square feet and intended for use by persons for the purpose of immersion, partial immersion, or swimming, and including all appurtenant equipment.

Telecommunication Facility: A facility that transmits and/or receives electromagnetic wireless communications signals. It includes antennas, microwave dishes, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

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

Tiny Home: See *Recreational Vehicle (RV)*.

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

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including self-supporting lattice towers, guy towers, or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and alternative telecommunication facilities.

Tower or Telecommunication Facility Height: When referring to a tower or telecommunications facility, the distance measured from the ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

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

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

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

Unsafe Structure: A structure or building which is determined to present a substantial danger or hazard to the general public health and safety, including:

1. A structure or building which is dilapidated, unused or uninhabited because of deterioration or decay;
- viii. A structure or building that constitutes a fire hazard; or
- ix. A structure or building that subjects adjacent or adjoining properties to a danger of property damage by storms, soil erosion or rodent infestation, or is a place frequented by trespassers and transients seeking a temporary shelter.

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

H. V – Z

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

Vacation Rental: Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than thirty (30) consecutive days.

Variance: A deviation from the zoning requirements standards set forth in Article 2, Zoning Regulations, that would not be contrary to the public interest when, owing to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness or the shape of a specific piece of property, the literal enforcement of the provisions of this Land Development Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

Vested Property Right: The right to undertake and complete the development and use of the property under the terms and conditions of a Site-Specific Development Plan as defined in §24-68-102(5), C.R.S.

Vision Clearance Area: See *Sight Distance Triangle*.

Waiver: A modification of the standards of this Land Development Code.

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

a result of ground-water discharge or surface runoff.

Water Surface Elevation: The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

Wildlife Habitat: That natural or man-made environment which contains the elements of food, shelter, water and land area in a combination and quantity necessary for the survival of one or more wildlife species.

Winery: An agricultural processing facility used for: (1) the fermenting and processing of fruit juice into wine; or (2) the refermenting of still wine into sparkling wine.

Wholesale Establishment: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, Front: A yard extending across the full width of the lot the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Rear: Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch, or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. When the rear lot line is less than ten (10) feet long or if the lot comes to a point at the rear, the depth of rear yard is measured to an assumed rear lot line, as defined under "lot line, rear.

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

Zoning District: Any district delineated on the official zoning district map under the terms and provisions of this code or which may hereinafter be created subsequent to the enactment of this code for which regulations governing the area, height, use of buildings, or use of land, and other regulations relating to development or maintenance of existing uses or structures, are uniform.

