#### **RESOLUTIONS -- 2008**

Resolution Number 1-2008 2008-1 2-2008 3-2008 2008-4 5-2008 6-2008 7-2008 8-2008 9-2008 10-2008	Date Signed 01/21/2008 01/21/2008 02/11/2008 02/19/2008 03/10/2008 03/24/2008 07/14/2008 07/21/2008 07/21/2008 08/25/2008 08/25/2008 12/22/2008	Name Road & Bridge – snow removal/mailboxes Law Enforcement Authority/ Agreement(not resolution) Loan from Capital to Landfill \$500,000.00 VACATION OF Road K.6 Lease/purchase LEA Vehicles Senior Service/CDOT van purchase Support of Federal District Court locating in SW Co. Amending Land Use Code Approval of early voting on 8/1/08 Opposing proposed severance tax initiative #113 Co. Housing & Finance Auth. Authorization of allocation Monteguma County Road Address System

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 22<sup>nd</sup> day of December, 2008, with the following persons in attendance:

Commissioners: Gerald Koppenhafer, Steve Chappell and

Larrie Rule

Commissioners Absent:

County Administrator: Ashton N. Harrison

County Attorney: Bob Slough Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution # 23-2008

#### A Resolution Recognizing the Duncan and Wilson Properties for Conservation Protection

WHEREAS, the Montezuma County Comprehensive Land Use Plan (the Land Use Plan) recognizes the need to utilize voluntary incentives to address open space needs; and

WHEREAS, the Land Use Plan identifies the need for the continued viability of agriculture as a strong community value and the need for land use tools that protect and encourage agricultural viability; and

WHEREAS, the Land Use Plan recommends coordination of policies, plans and essential services so that landowners can make use of conservation easements, and encourages the use of voluntary conservation easements to support a landowner's decision to set aside agricultural lands, open space and wildlife habitat; and

WHEREAS, the Internal Revenue Service Code of Federal Regulations states that a formal resolution by a local governmental agency identifying the subject property as worthy of protection for conservation purposes will help meet the qualifying conservation contribution test for conservation easements; and

WHEREAS, Dan Duncan and Esther Wilson wish to voluntarily conserve the open space and agricultural values of their properties with conservation easements;

NOW THEREFORE BE IT RESOLVED THAT Montezuma County recognizes that the Duncan and Wilson properties (see Attachment A, legal descriptions) are worthy of protection for conservation purposes, including their open space and agricultural values.

Gerald W. Koppenhafer, Chairman Board of County Commissioners Montezuma County, Colorado

Commissioners voting aye in favor of the resolution were:

CAME CHAPPELL

Commissioners voting nay against the resolution were:

ounty Clerk and Recorder Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 22 day of December, 2008

County Clerk and Recorder

Montezuma County, Colorado

# ATTACHMENT A: LEGAL DESCRIPTIONS OF THE DUNCAN AND WILSON PROPERTIES REFERENCED IN RESOLUTION # 23-2008

#### Esther Wilson Property

Parcel 1:

The S1/2SE1/4; NW1/4SE1/4; E1/2SW1/4; SE1/4NW1/4 of Section 16, Township 38 North, Range 16 West, N.M.P.M.

Parcel 2:

The N1/2NE1/4, NE1/4NW1/4, NW1/4NW1/4 of Section 29, Township 38 North, Range 18 West, N.M.P.M.

Parcel 3:

The NEI/4 of Section 28, Township 39 North, Range 18 West, N.M.P.M.

Parcel 4:

The SW1/4 of Section 29, Township 38 North, Range 17 West, N.M.P.M

County of Montezuma State of Colorado

#### Dan Duncan Property

The East Half (E/2) of Section 28 and all that part of the East Half of the West Half (E/2W/2) of Section 28, Township 38 North, Range 17 West, N.M.P.M., lying East of a line described as fellows:

Beginning at the South Quarter Corner of Section 28; thence North 14°58' West 2600 feet; thence West 30°59' West 1112.4 feet; thence North 16°47' East 1854.5 feet to a point on the South side of County Road; thence North 30 feet to a point 705.6 feet West of the North Quarter Corner on the North line of Section 28.

County of Montezuma State of Colorado

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 22th day of December, 2008, with the following persons in attendance:

Commissioners: Gerald Koppenhafer, Larrie Rule, and Steve Chappell

Commissioners Absent:

County Administrator: Ashton N. Harrison

County Attorney: Bob Slough Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution # ( 22 -2008)

#### MONTEZUMA COUNTY ROAD ADDRESS SYSTEM

WHEREAS, Montezuma County has historically maintained County road names in a grid system in which east/west roads ascend alphabetically from south to north in approximate miles and tenths of miles, originating from the southern line of township 34N and the Utah/Colorado state line.

**WHEREAS,** Montezuma County has historically maintained County road names in a grid system in which north/south roads ascend numerically from west to east in approximate miles and tenths of miles, originating from the Utah/Colorado state line.

WHEREAS, address numbers are assigned using the same grid system in which addresses increase from south to north and west to east by one thousand units per mile, originating from the southern line of township 34N and the Utah/Colorado state line.

**WHEREAS,** in cases where roads do not run in a strict cardinal direction, the intent of the grid system is applied in a logical way.

**WHEREAS**, Many property address numbers throughout Montezuma County's road system do not correlate physically with their driveway or access point locations.

**WHEREAS**, Out-of-sequence addresses and driveways that are not properly signed or properties that are otherwise misaddressed often have caused, and in the future will certainly cause, 911 emergency responders to have significant difficulty in locating persons or properties in a timely manner.

**WHEREAS,** The Montezuma County Board of County Commissioners has the legal authority to authorize rural property address changes.

This resolution is necessary for the immediate preservation of the public health, safety and welfare.

**NOW,** THEREFORE, BE IT RESOLVED, by the Montezuma County Board of Commissioners as follows:

Montezuma County has and will continue to utilize a grid-based road naming and addressing system which coincides with the section lines of the Public Land Survey System.

The Montezuma County Planning Department is hereby charged with the responsibility in the assignment of all new addresses within the unincorporated areas of Montezuma County in accordance with the County road naming and addressing system.

The Montezuma County Planning Department is hereby charged with the responsibility of identifying and correcting all rural property addresses that do not conform to the County road naming and addressing system.

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and correct copy of same as it appears in the ers of Montezuma County, Colorado and the County Clerk and Recorder
Montezuma County, Colorado

#### RESOLUTION No. 2 / -2008

#### A Resolution Amending The Montezuma County Penalty Assessment Fine Schedule To Correspond As Applicable To C.R.S. 42-4-1701, As Amended

WHEREAS, the State of Colorado recently enacted House Bill 08-1010 amending the penalty assessment fine schedule for certain violations of the law as codified in C.R.S. 42-4-1701.

NOW THEREFORE, BE IT RESOLVED by the Montezuma County Board of Commissioners pursuant to C.R.S. 30-11-101(2) that Section 4 of Montezuma County Ordinance 1-2003 clearly states that the statutes cited therein include said statutes "as amended"; therefore, the recent changes to C.R.S. 42-4-1701 by H.B. 08-1010 amending certain fines in the penalty assessment fine schedule are automatically applicable to the relevant sections in said Montezuma County Ordinance without the necessity of further action by this Board. However, to remove any doubt, said Montezuma County penalty assessment fine schedule is hereby amended to correspond as applicable to C.R.S. 42-4-1701, as amended, for the preservation of the public health, safety and welfare, and shall be effective immediately upon adoption.

and Montezuma County penalty assessment The Schedule is hereby amended as applicable to C.R.S. 42-4-1701, as amended, for the preservation of the purafety and welfare, and shall be effective immediately upon adoption.

Adopted this 15 day of December, 2008, at 1.35 m.

BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO

Steer & Rappell

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### RESOLUTION NO. 20 - 2008

### A RESOLUTION SUSPENDING THE BAN ON OPEN FIRES AND THE USE OF FIREWORKS

WHEREAS, Montezuma County Ordinance No. 1-2008 prohibits open fires and the use of fireworks in the unincorporated areas of Montezuma County, except as the Board of County Commissioners of Montezuma County based upon competent evidence may by resolution suspend said ban from time to time to the degree and manner consistent with existing wildfire dangers; and

WHEREAS, competent evidence having been presented of sufficient moisture throughout Montezuma County temporarily reducing existing wildfire dangers to more normal conditions:

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County that said ban on open fires and the use of fireworks should be and is hereby suspended. Said suspension shall continue in effect until canceled pursuant to Montezuma County Ordinance No. 1-2008.

This Resolution is adopted this 15 day of florence. 2008, at 11:40 A o'clock H.m.,

BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO

Heald Whymoly

Commissioners voting aye in favor of	man and a second a	
Mord a Kennely and Stree O. Chappe	M. Garris D. Kulf	
Commissioners voting no against this	Resolution were:	
and		<b>Al</b>
COUNTY	Caral Julia	
SEAL 1889	County Clerk and Recorder Montezuma County, Colorado	
60000000000000000000000000000000000000		

#### **Resolution #19 - 2008**

#### A RESOLUTION TO APPROPRIATE SUMS OF MONEY

WHEREAS, the Commissioners have adopted the annual budget in accordance with Local Government Budget Law on December 15, 2008, and:

WHEREAS, The Commissioners have made provision therein for revenues in an amount equal to or greater than the total proposed expenditures as set forth in said budget; and

WHEREAS, it is not only required by law, but also necessary to appropriate the revenue provided in the budget to and for the purposed described below so as not to impair the operations of the County.

NOW THEREFORE BE iT RESOLVED by the Board of County Commissioners of Montezuma County, Colorado, that the following sums are hereby appropriated from the revenue of each fund, to each fund, for current operating expenses:

#### **FUND OPERATIONS**

1)	General	\$11,881,512
2)	Road	\$ 3,786,900
3)	Social Services	\$ 7,912,927
4)	Conservation Trust	\$ 81,872
5)	Clara Ormiston	\$ 0
6)	Emergency Telephone Service	\$ 138,905
7)	Sheriff Forfeiture	\$ 0
8)	Revolving Loan	\$ 0
9)	Lodgers Tax	\$ 110,000
10	) Jail Bond	\$ 1,090,126
11	) Law Enforcement Authority	\$ 472,931
12) Capital \$ 353,146		
13) Landfill Enterprise \$ 1,332,115		
14	) Emergency Reserve	\$ 0
15) Contingency \$ 597,865		
16	) Unallocated Reserve Fund	\$ 0

TOTAL \$27,758,299

Commissioners voting aye in favor of the resolution were:	2
Gentlenkepperly Jani D Rd	Stew D. Chappell
Commissioners voting nay against the resolution were:	//

County Clerk and Recorder Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15<sup>th</sup> day of December, 2008.

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#### **Resolution #18 - 2008**

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2008 TO HELP DEFRAY THE COSTS OF THE LAW ENFORCEMENT AUTHORITY OF MONTEZUMA COUNTY, COLORADO, FOR THE 2009 BUDGET.

WHEREAS, the Commissioners of Montezuma County, Colorado, have adopted the annual budget in accordance with the Local Government Budget Law on the 15<sup>th</sup> day of December, 2008; and,

WHEREAS, the 2008 valuation by the Board of County Commissioners for the unincorporated areas of Montezuma County only as certified by the County Assessor for the Law Enforcement Authority is \$336,352,878.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County, Colorado, that;

For the purpose of meeting all general operating expenses of the Law Enforcement Authority of Montezuma County during the 2009 budget year, there is hereby levied a tax of mills as stated below upon each dollar of the total valuation of assessment of all taxable property within the unincorporated areas only of Montezuma County for the year 2008.

**SUMMARY OF FUNDS BUDGET 2009** 

LAW ENFORCEMENT AUTHORITY 1.45

Commissioners voting aye in favor of the resolution were:

Commissioners voting nay against the resolution were:

Hend on Kappaclop

County Clerk and Recorder Montezuma County, Colorado

Stew D. Chappell

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15<sup>th</sup> day of December, 2008.

(SEAL)

#### **Resolution #17 - 2008**

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2008 TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR MONTEZUMA COUNTY, COLORADO, FOR THE 2009 BUDGET.

WHEREAS, the Commissioners of Montezuma County, Colorado, have adopted the annual budget in accordance with the Local Government Budget Law on the 15<sup>th</sup> day of December, 2008; and

WHEREAS, the 2008 valuation by the Board of County Commissioners for all of Montezuma County as certified by the County Assessor is \$437,366,540.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County, Colorado, that;

For the purpose of meeting all general operating expenses of Montezuma County during the 2009 budget year, there is hereby levied a tax of mills as stated below upon each dollar of the total valuation of assessment of all taxable property within the County for the year 2008.

#### **SUMMARY OF FUNDS BUDGET 2009**

Road and Bridge	1.300 2.616
Road and Bridge	2.616
TOTAL COUNTY MILL LEVY	14.254

Commissioners voting aye in favor of the resolution were:

Commissioners voting nay against the resolution were:

County Clerk and Recorder Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15<sup>th</sup> day of December, 2008.

#### **Resolution # 16 - 2008**

A RESOLUTION ADOPTING A BUDGET FOR MONTEZUMA COUNTY, COLORADO FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2009 AND ENDING ON THE LAST DAY OF DECEMBER 2009.

WHEREAS, the Commissioners of Montezuma County, Colorado, have appointed Ashton N. Harrison to prepare and submit a proposed budget to said governing body; and

WHEREAS, Mr. Harrison has submitted a proposed budget to this governing body for its consideration; and

WHEREAS. due to proper notice, published or posted in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on December 15, 2008, and interested electors were given the opportunity to file or register any objections to said proposed budget.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Montezuma County, Colorado, that the budget as submitted hereby is approved and adopted as the budget of Montezuma County, Colorado for the year 2009.

Commissioners voting aye in favor of the resolution were:

Commissioners voting nay against the resolution were:

County Clerk and Recorder Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15<sup>th</sup> day of December, 2008.

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### Resolution # 15 - 2008 A Resolution Amending the 2008 Budget

WHEREAS, Montezuma County adopted operating and capital budgets for the General Fund, Road and Bridge Fund, Conservation Trust Fund, Ormiston Fund, ETA Fund, Sheriff's Forfeiture Fund, Revolving Loan Fund, Lodgers Tax Fund, Capital Fund, Jail Fund, and Landfill Fund on December 10, 2007, for the ensuing budget year 2008; and

WHEREAS, Montezuma County, after adoption of the 2008 budget, received unanticipated revenues or revenues not assured at the time of the adoption of the budget other than the local government's property tax mill levy.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Montezuma County, Colorado, the governing board, authorizes the expenditure of such funds by enacting a supplemental budget and appropriation as follows:

GENERAL FUND Clerk Jail Sheriff District Attorney Extension Planning Health Administration Miscellaneous Senior Services Elections Forest Partnership	\$ 12,622 \$ 21,392 \$ 219,733 \$ 249 \$ 3,380 \$ 2,652 \$ 144,648 \$ 892 \$ 695,472 \$ 35,033 \$ 2,369 \$ 57,850
TOTAL GENERAL FUND Beginning General Fund Balance as of 1/1/2008	<b>\$1,196,292</b> \$2,785,511
TOTAL ROAD AND BRIDGE FUND  Beginning Road & Bridge Fund Balance as of 1/1/2008	<b>\$ 563,481</b> \$2,198,093
TOTAL CONSERVATION TRUST FUND Beginning Conservation Trust Fund Balance as of 1/1/2008	<b>\$0</b> \$157,251
TOTAL ORMISTON FUND Beginning Ormiston Fund Balance as of 1/1/2008	<b>\$0</b> \$24,604
TOTAL ETA FUND Beginning ETA Fund Balance as of 1/1/2008	<b>\$0</b> \$504,954
TOTAL SHERIFF'S FORFEITURE FUND  Beginning Sheriff's Forfeiture Fund Balance as of 1/1/2008	<b>\$0</b> \$318
TOTAL REVOLVING LOAN FUND Beginning Fund Balance as if 1/1/2008	<b>\$0</b> <b>\$</b> 134,859
TOTAL LODGERS TAX FUND Beginning Lodgers Fund Balance as of 1/1/2008	<b>\$ 1,450</b> \$126,989
TOTAL CAPITAL FUND Beginning Capital Fund Balance as of 1/1/2008	<b>\$ 488,500</b> \$1,928,458
TOTAL JAIL FUND Beginning Jail Fund Balance as of 1/1/2008	<b>\$1,000</b> \$2,086,098

\$1,265,935

Commissioners voting aye in favor of the resolution were:

Genelly Kappeling Jarrie Dlab Stew N. Chappell

Commissioners voting nay against the resolution were:

County Clerk and Recorder Montezuma County, Colorado

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 15<sup>th</sup> day of December, 2008.

(SEAL)

### RESOLUTION NO. 14-2008

A RESOLUTION AUTHORIZING AND REGULATING THE OPERATION OF NEIGHBORHOOD ELECTRIC VEHICLES ON COUNTY ROAD 26 FROM THE CORTEZ CITY LIMITS TO COUNTY ROAD L AND THEN WEST ON COUNTY ROAD L TO THE INTERSECTION WITH COUNTY ROAD 25.

WHEREAS, the City of Cortez has requested Montezuma County to authorize the operation of neighborhood electric vehicles as stated herein.

NOW THEREFORE BE IT RESOLVED by the Montezuma County Board of Commissioners pursuant to C.R.S. 42-4-109.5 and 42-4-111(1)(aa) that:

- 1. Properly registered and licensed neighborhood electric vehicles, as defined in C.R.S. 42-1-102(58) and (60.5), are hereby authorized to be operated on County Road 26 from the Cortez City Limits to County Road L and then west on County Road L to the intersection with County Road 25.
- 2. Neighborhood electric vehicles shall **not** be operated at a speed in excess of twenty-five (25) miles per hour.
- 3. Neighborhood electric vehicles shall only be operated by persons with a valid drivers license.
- 4. Persons operating said vehicles shall comply with all laws, including but not limited to financial responsibility, and violations thereof shall be punished as provided by law.
  - 5. This resolution shall be effective upon adoption.

ADOPTED this day of October, 2008, at 10:35 o'clock 1.m.

MONTEZUMA COUNTY BOARD OF COMMISSIONERS

SEA L NAME OF THE PROPERTY OF

**ATTEST** 

Montezuma County Clerk and Recorder

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Commissioners voting "aye" in favor of said resolution were Comps. Genseld W. Tappenkap
Farrie D. Recle and Steve Charpell.
Commissioners voting "no" against said resolution were,
and
Caral Jullia
Montezuma County Clerk and Recorder

#### **MONTEZUMA COUNTY RESOULUTION 13-2008**

#### FLOOD DAMAGE PREVENTION

#### **SECTION 1.0**

### STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

#### 1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Colorado has in 29-20-104 (1) (a) C.R.S. authorized local governments to adopt regulations designed to protect the public health, safety and general welfare of its citizenry in hazardous areas. The requirements herein are based upon standards of Paragraph 60.3(c) of The National Flood Insurance Program (NFIP) regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY THAT:

#### 1.2 FINDINGS OF FACT

- (1) The flood hazard areas of Montezuma County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

#### 1.3 STATEMENT OF PURPOSE

It is the purpose of this resolution to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1. Protect life and property; and
- 2. Minimize expenditure of public money for costly flood control projects; and
- 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and

- 4. Minimize prolonged business interruptions; and
- 5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard; and
- 6. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- 7. To ensure potential buyers are notified that property is in an area of special flood hazard; and
- 8. To ensure that those who occupy the areas of special flood hazard assume the responsibility for their actions.

#### 1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this resolution includes methods and provisions for:

- 1. Restricting or prohibiting uses that are dangerous to health, safety or property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities; and
- 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; and
- 3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters; and
- 4. Controlling filling, grading, dredging and other development which may increase flood damage; and
- 5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other areas.

#### **SECTION 2.0**

#### **DEFINITIONS**

Unless specifically defined below, words or phrases used in this resolution shall be interpreted to give them the meaning they have in common usage and to give this resolution its most reasonable application.

**APPEAL** – means a request for a review of the county interpretation of any provisions of this resolution or a request for a variance.

AREA OF SHALLOW FLOODING - means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**BASE FLOOD** - means the flood having a one percent chance of being equaled or exceeded in any given year.

**BASEMENT -** means any area of the building having its floor sub-grade (below ground level) on all sides.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

**ELEVATED BUILDING** - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers),

or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

**EXISTING CONSTRUCTION** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION -** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1. The overflow of inland or tidal waters.
- 2. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM) -** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY -** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water

surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

**FLOODPLAIN OR FLOOD-PRONE AREA -** means any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT -** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** - means zoning resolutions, subdivision regulations, building codes, health regulations, special purpose resolutions (such as a floodplain resolution, grading resolution and erosion control resolution) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM -** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** (**REGULATORY FLOODWAY**) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FUNCTIONALLY DEPENDENT USE -** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities.

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - means any structure that is:

- 1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - a) by an approved state program as determined by the Secretary of the Interior; or
  - b) directly by the Secretary of the Interior in states without approved programs.

**LEVEE -** means 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** - means 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.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL -** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the original resolution. An initial (FIRM) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION -** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

#### **RECREATIONAL VEHICLE** - means a vehicle which is:

- 1. built on a single chassis; and
- 2. 400 square feet or less when measured at the largest horizontal projections; and
- 3. designed to be self-propelled or permanently towable by a light duty truck; and
- 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the compliance form was received by the Montezuma County, provided the placement or other improvement was within 180 days of the compliance form date. The actual start means the first placement of permanent construction of a structure on a site, such as the poring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as

garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - means any building, equipment, device, or other facility made by people and which is fixed to land, including a gas or liquid storage tanks above or below ground, as well as manufactured homes and recreational vehicles.

**SUBSTANTIAL DAMAGE** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

**VARIANCE** - is a grant of relief to a person from the requirement of this resolution when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this resolution. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance as required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) (NFIP) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION -** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

#### **SECTION 3.0**

#### **GENERAL PROVISIONS**

#### 3.1 LANDS TO WHICH THIS RESOLUTION APPLIES

The resolution shall apply to all areas of special flood hazard within the jurisdiction of Montezuma County including but not limited to subdivisions.

### 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Montezuma County" dated September 26, 2008 with accompanying Flood Insurance Rate Maps (FIRM) is hereby adopted by reference and declared to be part of this resolution. The Flood Insurance Study and FIRM are on file at the Montezuma County Administration Office, 109 W. Main, Room 302, Cortez, Colorado.

#### 3.3 COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this resolution and other applicable regulations.

#### 3.4 ABROGATION AND GREATER RESTRICTIONS

This Resolution is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However this resolution and another resolution, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### 3.5 INTERPRETATION

In the interpretation and application of this resolution, all provisions shall be:

- 1. Considered as minimum requirements; and
- 2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under State statutes.

#### 3.6 WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this resolution is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This resolution does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This resolution shall not create liability on the part of Montezuma County, or any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this resolution or any administrative decision lawfully made thereunder.

#### **SECTION 4.0**

#### **ADMINISTRATION**

#### 4.1 ESTABLISHMENT OF COMPLIANCE

A Compliance Form (signed by the party submitting the form) shall be submitted to the Montezuma County before the start of construction within any area of special flood hazard area.

The developer shall furnish site plans drawn to scale by a registered professional engineer or architect showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials, drainage facilities; and the location of the foregoing. Specifically the following information is required:

- 1.) Elevation in relation to the mean sea level of the lowest floor (including basement) of all structures; and
- 2.) Elevation in relation to the mean sea level to which any structure has been flood proofed; and
- 3.) Certification by a registered professional engineer, architect that the flood proofing methods for any structure meet the flood proofing standards of Paragraph 60.3(c) of the National Flood Plain Program (NFIP) regulations; and

4.) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

#### 4.2 FLOODPLAIN ADMINISTRATION

Montezuma County will implement the provisions of this resolution based on Paragraph 60.3(c) of The National Flood Insurance Program (NFIP) regulations.

#### 4.3 DUTIES AND RESPONSIBILITIES OF MONTEZUMA COUNTY

Duties and responsibilities of Montezuma County will include, but not be limited to, the following:

#### 4.3-1 COMPLIANCE

- 1. Review all Compliance Forms required by this resolution to be submitted to Montezuma County.
- 2. Montezuma County shall require developers to retain the services of a registered engineer to establish that proposed building sites will be reasonably safe from flooding.

#### 4.3-2 USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD The developer shall retain a registered professional engineer to obtain, review, and reasonably utilize any base flood elevation and floodway data available from Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in zone A are administered in accordance with section 5.2 SPECIFIC STANDARDS.

#### 4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- 1. Montezuma County shall maintain and hold open for public inspection all records pertaining to the provisions of this resolution.
- 2. A registered professional engineer, surveyor or architect shall prepare a signed and stamped elevation certificate, upon which the actual elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures, within the special flood hazard areas shall be recorded, whether or not the structure contains a basement. Montezuma

County shall require additional photographic evidence of the structure from which the actual elevation has been recorded.

#### 4.3-4 ALTERATION OF WATERCOURSES

- Notify adjacent communities and the State Coordinating Agency which
  is the Colorado Water Conservation Board, prior to any alteration or
  relocation of a watercourse. Montezuma County may submit evidence
  of such notification to the Federal Emergency Management Agency as
  needed.
- 2. A developer and subsequent landowner shall maintain the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

### 4.3-5 INTERPRETATION OF THE (FIRM) BOUNDARIES OR REGULATORY FLOODWAYS

- 1. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the developer shall retain the service of a registered professional engineer to make the necessary interpretation.
- 2. When a regulatory floodway has not been designated, Montezuma County may require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 3. A registered professional engineer, architect, or land surveyor shall submit a certification attached to the Compliance Form assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- 4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, Montezuma County may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the <u>developer first</u> applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

#### 4.4 VARIANCE PROCEDURES

#### 4.4-1 APPEAL BOARD

- The Montezuma County Board of County Commissioners shall hear and decide appeals and requests for variances from the requirements of this resolution.
- 2.) The Montezuma County Board of County Commissioners shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by Montezuma County in the enforcement or administration of this resolution.
- 3.) Those aggrieved by the decision of the Board of County Commissioners may appeal such decisions to the District Court as provided by law.
- 4.) In passing such applications, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this resolution, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services to be provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan for that area.
  - The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. 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; and, 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;

#### 4.4-2 CONDITIONS FOR VARIANCES

- 1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-j) in Section 4.4-1 (4) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this resolution.
- 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5. Variances shall only be issued upon:
  - 1) showing a good and sufficient cause;
  - 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - 3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.4-1 (4) or conflict with existing local laws or resolutions.
- 6. Any application to whom a variance is granted may be given written notice that the structure will be permitted to be built with the lowest floor elevation below the

base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### **SECTION 5.0**

#### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### **5.1 GENERAL STANDARDS**

In all areas of special flood hazards the following standards are required;

#### 5.1-1 ANCHORING

- 1. All new construction or substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2. All manufactured homes to be placed within Zone A, A1-30, AH and AE on a community's FHBM or FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, or (iv) in an expansion to an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific Requirements may be either:
  - a) the lowest floor of the manufactured home is one foot minimum above the base flood elevation.
    - i) over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
    - ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
    - iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

- iv) any additions to the manufactured home be similarly anchored.
- b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 3. A registered professional engineer, architect, shall submit a certification to Montezuma County that the standard of this subsection 5.1-1 (2) is satisfied.

#### 5.1-2 CONSTRUCTION MATERIALS AND METHODS

- 1. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- 2. All new construction or substantial improvements shall be constructed with using methods and practices that minimize flood damage.
- 3. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 4. A registered professional engineer, architect, or land surveyor shall submit a certification to the county that the standard of this section is satisfied.

#### 5.1-3 UTILITIES

- 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- 3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 4. A registered professional engineer, architect, or land surveyor shall submit a certification to the county that the standard of this section is satisfied.

#### 5.1-4 SUBDIVISION PROPOSALS

- 1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Section 1.2, 1.3 and 1.4 of this resolution.
- 2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- 3. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- 4. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 5 lots or 5 acres, whichever is lesser, if not otherwise provided.
- 5. A registered professional engineer, architect, or land surveyor shall submit a certification to the county that the standard of this section is satisfied.

#### 5.1-5 ENCROACHMENTS

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. A registered professional engineer, architect, or land surveyor shall submit a certification to the county that the standard of this subsection is satisfied.

#### 5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD OR SECTION 4.3-2 USE OF OTHER BASE FLOOD DATA the following provisions are required:

#### 5.2-1. RESIDENTIAL CONSTRUCTION

1. New construction including manufactured homes and substantial improvement of any residential structure shall have the lowest floor (including basement),

elevated to one foot minimum above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification Montezuma County that the standard of this subsection is satisfied.

- 2. Require within any AO and AH Zone on the FIRM that all new construction and substantial improvements of residential structures including manufactured homes have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the (FIRM) or (at least two feet if no depth number is specified.) A registered professional engineer, architect, or land surveyor shall submit a certification Montezuma County that the standard of this subsection is satisfied.
- 3. Require within Zones AO and AH adequate drainage paths around the structures on slopes to guide floodwaters around and away from proposed structures.
- 4. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect.

#### 5.2.2 NONRESIDENTIAL CONSTRUCTION

- 1. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot minimum above the base flood level or together with attendant utility and sanitary facilities shall;
  - a.) be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - b.) and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - c.) be certified by a registered professional engineer or architect that the structural design, specifications, and methods of construction, are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to Montezuma County as set forth in Section 4.3-3(2). A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed may be maintained by Montezuma County.

- 2.) Require within any AO and AH Zone to the (FIRM) that all new construction and substantial improvement of non residential structures (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the (FIRM) or (at least two feet if no depth number is specified.) or, (ii) together with attendant utility and sanitary facilities be completely flood proofed to that level to meet the flood proofing standard specified in Section 5.2-2 (1) A registered professional engineer, architect, or land surveyor shall submit a certification Montezuma County that the standard of this subsection is satisfied.
- 3. Require within Zones AO and AH adequate drainage paths around the structures on slopes to guide floodwaters around and away from proposed structures.
- 4. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect.

#### 5.2-3 MANUFACTURED HOMES

- 1. Manufactured homes shall be anchored in accordance with Section 5.1-1(2).
- 2. All manufactured homes or those to be substantially improved shall conform to the following requirements :
  - a.) Require that manufactured homes that are placed or substantially improved on a site (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, or (iv) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor is elevated one foot minimum above the base flood elevation. And be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - b.) Require that manufactured homes place on substantially improved sites in existing manufactured home parks or subdivisions that are not subject to the provisions in (a) above, be elevated so that either (i) the lowest floor of the manufactured home is one foot above the base flood elevation , or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent

strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. A registered professional engineer, architect, or land surveyor shall submit a certification to Montezuma County that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

#### 5.2-4 RECREATIONAL VEHICLES

- 1. Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
  - a) be on the site for fewer than 180 consecutive days,
  - b) be fully licensed and ready for highway use, or
  - c) meet the compliance requirements of Section 5.1-1, and the elevation and anchoring requirements for "manufactured homes" of 5.2-3 of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- 2. A registered professional engineer, architect, or land surveyor shall submit a certification to Montezuma County that the standard of this subsection as is satisfied.

# SECTION C. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- 2. All new construction and substantial improvements of **non-residential** structures; a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or; b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- 3. A registered professional engineer or architect shall submit a certification to Montezuma County that the standards of this Section are satisfied.
- 4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

# **SECTION D. FLOODWAYS**

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters 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 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. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.
- 3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, Montezuma County 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 FIRM and floodway revision through FEMA.

# 6.0 CERTIFICATION

It is hereby found and declared by Montezuma County that flooding has occurred in the past within its jurisdiction, and will certainly occur within the future, and is likely to result in substantial injury, death or destruction of property.

Montezuma County requires that a professional registered engineer, architect or land surveyor shall submit a certification to the county that all requirements of this resolution have been satisfied.

This resolution is necessary for the immediate preservation of the public health safety and welfare in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program and shall be effective immediately upon adoption.

This resolution amends MONTEZUMA COUNTY ORD!NANCE 1-91 FLOOD DAMAGE PREVENTION ORDINANCE.

ADOP	TED;					
This	22 40	day of SEPTEMBER 2008 at	⊋	o'clock	G	M

BOARD OF COUNTY COMMISSIONERS MONTEZUMA COUNTY, COLORADO

Commissioners voting AYE in favor of	this Resolution were:
Commissioner Gerald Koppenhafer	Geraldwhoppinkafin
Commissioner Larrie D. Rule	Larrie D. Rule.
Commissioner Steve D. Chappell	Steve D. Chappell
Commissioners voting no against this	Resolution were:
Commissioner Gerald Koppenhafer	
Commissioner Larrie D. Rule	
Commissioner Steve D. Chappell	
County Clerk and Recorder Montezuma County, Colorado	SEAL)
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## RESOLUTION 12 - 2008

# TO BE USED WHEN APPLYING FOR FLOOD INSURANCE

WHEREAS, certain areas of Montezuma County are subject to periodic flooding, mudslides (i.e. mudflows), or flood related erosion causing serious damages to properties within these area; and

WHEREAS, relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of this Board to require the recognition and evaluation of flood, mudslides (i.e. mudflows), or flood related erosion hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this Board has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Colorado Statutes,

NOW, THEREFORE, BE IT RESOLVED, by the Montezuma County Board of County Commissioners as follows:

## Montezuma County will:

- a.) Assist the Federal Administrator at his/ her request in his/ her delineation of the area having special flood, mudslide (i.e. mudflow), or flood related erosion hazards.
- b.) Provide such information as the Federal Administrator may request concerning present uses and occupancy of the flood plain, mudslide (i.e. mudflow), or flood related erosion areas, and
- c.) Cooperate with Federal, State and local agencies and private firms which undertake to study ,survey, map, and identify flood plain mudslide(i.e. mudflow), or flood related erosion areas and cooperate with neighboring communities with respect to management of adjoining flood plain, mudslide(i.e. mudflow), an/or flood related erosion areas in order to prevent aggravation of existing hazards.

Commissioners voting AYE in favor of th	is Resolution were:
Commissioner Gerald Koppenhafer	Gerald WKoppenhafe
Commissioner Larrie D. Rule	LARRED. Rule
Commissioner Steve D. Chappell	Steve D. Chappell
Commissioners voting no against this Re	esolution were:
Commissioner Gerald Koppenhafer	
Commissioner Larrie D. Rule	
Commissioner Steve D. Chappell	
Caral Dellis	
County Clerk and Recorder Montezuma County, Colorado	Occopy (SEAL)

- d.) Upon request, notify the Federal Administrator in Writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has the authority to adopt and enforce flood plain management regulations for a particular area. In order that all Flood Hazard Boundary maps and Flood Insurance Rate Maps accurately represent the community's boundaries, include within such notification a copy of a map clearly delineating the corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority.
- 2. Montezuma County will maintain for public inspection and to furnish upon request, for determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map, any certificates of flood proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantial improved structures, and include whether or not such structures contain a basement, and if the structure has been flood[proofed the elevation (in relation to mean sea level) to which the structure has been flood proofed.

This resolution amends RESOLUTION 9-91.

ADOPTED: This 22 ND day of SEPTEMBER, 2008 at 3 o'clock P M.

> BOARD OF COUNTY **COMMISSINERS** MONTEZUMA COUNTY, COLORADO

# RESOLUTION No. // - 2008

# A Resolution To Establish And Maintain The Montezuma County Public Health Agency

WHEREAS, S.B. 08-194, copy attached, requires that Montezuma County establish and maintain a county public health agency for the purposes set forth therein;

NOW THEREFORE, BE IT RESOLVED by the Montezuma County Board of Commissioners as fellows:

- 1. That the Montezuma County Public Health Agency be and is hereby established and maintained pursuant to S.B. 08-194, codified as C.R.S. 25-1-501 et seq.
- 2. That the Montezuma County Board of Commissioners is hereby designated as the Montezuma County Board of Health. The officers of the Board of Commissioners shall constitute the officers of the Board of Health (Chairman-President, Vice Chair).
  - 3. That said Board shall appoint a Public Health Director and a Medical Officer.
- 4. That the Montezuma County Treasurer shall comply with C.R.S. 25-1-511(1), (2) and (3).
  - 5. That this Resolution shall be in full force and effect upon adoption.

Adopted this 22 day of September, 2008, at 11:05 A.m.

BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO

Jano O Rule

Steve & Chappell

Commissioners voting aye i	n favor if the Resolution were: <u>Herald W. Koppenhafu</u> .  and Steece D. Chappell.			
Commissioners voting nay against the Resolution were:				
	and			
AT SO SO	County Clerk and Recorder Montezuma County, Colorado			

2008 Colo, Legis, Serv. Ch. 406 (S.B. 08-194) (WEST)

COLORADO 2008 LEGISLATIVE SERVICE
Sixty-Sixth General Assembly, Second Regular Session
Copr. ■ 2008 Thomson Reuters/West

Additions are indicated by **Text**; deletions by <del>Text</del>. Changes in tables are made but not highlighted. Vetoed provisions within tabular material are not displayed.

CHAPTER 406
S.B. 08-194
STATE--HEALTH AND SANITATION--PROMOTIONS

AN ACT CONCERNING PUBLIC HEALTH, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it Enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 5 of article 1 of title 25, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

PART 5 PUBLIC HEALTH SUBPART 1 GENERAL

<< CO ST § 25-1-501 >>

- 25-1-501. Legislative declaration. (1) The general assembly hereby finds and declares that:
- (a) The public health system reduces health care costs by preventing disease and injury, promoting healthy behavior, and reducing the incidents of chronic diseases and conditions. Thus, the public health system is a critical part of any health care reform.
- (b) Each community in Colorado should provide high-quality public health services regardless of its location. Thus, the state of Colorado and each local public health agency should have a comprehensive public health plan outlining how quality public health services will be provided.
- (c) Each county should establish or be part of a local public health agency organized under a local board of health with a public health director and other staff necessary to provide public health services;
- (d) A strong public health infrastructure is needed to provide essential public health services and is a shared responsibility among state and local public health agencies and their partners within the public health system; and
- (e) Developing a strong public health infrastructure requires the coordinated efforts of state and local public health agencies and their public and private sector partners within the public health system to:
- (I) Identify and provide leadership for the provision of essential public health services;
- (II) Develop and support an information infrastructure that supports essential public health services and functions;
- (III) Develop and provide effective education and training for members of the public health workforce;
- (IV) Develop performance-management standards for the public health system that are tied to improvements in public health outcomes or other measures; and
- (V) Develop a comprehensive plan and set priorities for providing essential public health services.

#### << CO ST § 25-1-502 >>

25-1-502. Definitions. As used in this part 5, unless the context otherwise requires:

- (1) "Agency" means a county or district public health agency established pursuant to section 25-1-506.
- (2) "Core public health" shall be defined by the state board and shall include, but need not be limited to, the assessment of health status and health risks, development of policies to protect and promote health, and assurance of the provision of the essential public health services.
- (3) "Essential public health services" means to:
- (a) Monitor health status to identify and solve community health problems;
- (b) Investigate and diagnose health problems and health hazards in the community;
- (c) Inform, educate, and empower individuals about health issues;
- (d) Mobilize public and private sector collaboration and action to identify and solve health problems;
- (e) Develop policies, plans, and programs that support individual and community health efforts;
- (f) Enforce laws and rules that protect health and promote safety;
- (g) Link individuals to needed personal health services and ensure the provision of health care;
- (h) Encourage a competent public health workforce;

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- (i) Evaluate effectiveness, accessibility, and quality of personal and population-based public health services; and
- (j) Contribute to research into insightful and innovative solutions to health problems.
- (4) "Medical officer" means a volunteer or paid licensed physician who contracts with or is employed by a county or district public health agency to advise the public health director on medical decisions if the public health director is not a licensed physician.
- (5) "Public health" means the prevention of injury, disease, and premature mortality; the promotion of health in the community; and the response to public and environmental health needs and emergencies and is accomplished through the provision of essential public health services.
- (6) "Public health agency" means an organization operated by a federal, state, or local government or its designees that acts principally to protect or preserve the public's health. "Public health agency" includes a county public health agency or a district public health agency.
- (7) "Public health director" means the administrative and executive head of each county or district public health agency.
- (8) "Public health system" means state, county, and district public health agencies and other persons and organizations that provide public health services or promote public health.
- (9) "State board" means the state board of health created pursuant to section 25-1-103.
- (10) "State department" means the department of public health and environment created pursuant to section 25-1-102.

## << CO ST § 25-1-503 >>

- 25-1-503. State board--public health duties. (1) In addition to all other powers and duties conferred and imposed upon the state board, the state board has the following specific powers and duties:
- (a) To establish, by rule, the core public health services that each county and district public health agency must provide or arrange for the provision of said services;
- (b) To establish, by rule, the minimum quality standards for public health services;
- (c) To establish, by rule, the minimum qualifications for county and district public health directors and medical officers;
- (d) To ensure the development and implementation of a comprehensive, statewide public health improvement plan;
- (e) To review all county and district public health agency public health plans, which review shall be based on criteria established by rule by the state board and against which each

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county or district public health plan shall be evaluated; and

(f) To establish, by rule, for the fiscal year beginning July 1, 2009, if practicable, and for each fiscal year thereafter, a formula for allocating moneys to county or district public health agencies based on input from the state department and from county or district public health agencies.

# SUBPART 2 PUBLIC HEALTH PLANS

<< CO ST § 25-1-504 >>

25-1-504. Comprehensive public health plan--development--approval-- reassessment. (1) On or before December 31, 2009, and at a minimum on or before December 31 every five years thereafter, the state department shall develop a comprehensive, statewide public health improvement plan, referred to in this section as the "plan", that assesses and sets priorities for the public health system. The state board may appoint ad hoc or advisory committees as needed for the plan development process. The plan shall be developed in consultation with the state board and representatives from the state department, county or district public health agencies, and their partners within the public health system. The plan shall rely on existing or available data or other information acquired pursuant to this part 5, as well as national guidelines or recommendations concerning public health outcomes or improvements.

- (2)(a) The plan shall assess and set priorities for the public health system and shall:
- (I) Guide the public health system in targeting core public health services and functions through program development, implementation, and evaluation;
- (II) Increase the efficiency and effectiveness of the public health system;
- (III) Identify areas needing greater resource allocation to provide essential public health services;
- (IV) Incorporate, to the extent possible, goals and priorities of public health plans developed by county or district public health agencies; and
- (V) Consider available resources, including but not limited to state and local funding, and be subject to modification based on actual subsequent allocations.
- (b) The plan shall include or address at a minimum the following elements:
- (I) Core public health services and standards for county and district public health agencies;
- (II) Recommendations for legislative or regulatory action, including but not limited to updating public health laws, eliminating obsolete statutory language, and establishing an effective and comprehensive state and local public health infrastructure;
- (III) Identification and quantification of existing public health problems, disparities, or threats at the state and county levels;
- (IV) Identification of existing public health resources at the state and local levels;
- (V) Declaration of the goals of the plan;
- (VI) Identification of specific recommendations for meeting these goals;
- (VII) Development of public and environmental health infrastructure that supports core public health functions and essential public health services at the state and local levels; (VIII) Explanation of the prioritization of one or more conditions of public health
- importance;
- (IX) Detailed description of strategies to develop and promote culturally and linguistically appropriate services;
- (X) Development, evaluation, and maintenance of, and improvements to, an information infrastructure that supports essential public health services;
- (XI) Detailed description of the programs and activities that will be pursued to address existing public and environmental health problems, disparities, or threats;
- (XII) Detailed description of how public health services will be integrated and public health resources shared to optimize efficiency and effectiveness of the public health system;
- (XIII) Detailed description of how the plan will support county or district public health agencies in achieving the goals of their county or district public health plans;
- (XIV) Estimation of costs of implementing the plan:
- (XV) A timeline for implementing various elements of the plan;
- (XVI) A strategy for coordinating service delivery within the public health system; and

(XVII) Measurable indicators of effectiveness and successes.

- (c) The plan, including core public health services and standards, shall prospectively cover up to five years, subject to annual revisions and the implementation schedule established by the state board.
- (3) The state department shall make the plan available to the governor, the general assembly, the state board, county and district public health agencies, and other partners.
- (4) The state department is authorized to solicit and accept any gifts, grants, or donations to pay for the development of the plan. Any moneys received pursuant to this subsection
- (4) shall be transmitted to the state treasurer, who shall credit the same to the comprehensive public health plan cash fund, which is hereby created and referred to in this subsection (4) as the "fund". Any interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. Moneys in the fund may be expended by the state department, subject to annual appropriation by the general assembly, for the development of the plan described in this section.
- (5) If the moneys received by the state department through gifts, grants, and donations are insufficient to cover the direct and indirect costs of complying with the provisions of section 25-1-503 and this section, the state department shall not be required to implement the provisions of said sections.

25-1-505. County and district public health plans--approval. (1) As soon as practicable after the approval of each comprehensive, statewide public health improvement plan pursuant to section 25-1-504, each county or district public health agency shall prepare a county or district public health plan, referred to in this section as the "local plan". Each local plan shall not be inconsistent with the comprehensive, statewide public health improvement plan required under section 25-1-504.

- (2) Each local plan shall, at a minimum:
- (a) Examine data about health status and risk factors in the local community;
- (b) Assess the capacity and performance of the county or district public health system;
- (c) Identify goals and strategies for improving the health of the local community;
- (d) Describe how representatives of the local community develop and implement the local plan;
- (e) Address how county or district public health agencies coordinate with the state department and others within the public health system to accomplish goals and priorities identified in the comprehensive, statewide public health improvement plan; and
- (f) Identify financial resources available to meet identified public health needs and to meet requirements for the provision of core public health services.
- (3) Subject to available appropriations, the state department shall encourage and provide technical assistance to county or district public health agencies that request such assistance and otherwise work with county or district public health agencies to generate their local plans.

# SUBPART 3 COUNTY OR DISTRICT PUBLIC HEALTH AGENCIES

<< CO ST § 25-1-506 >>

25-1-506. County or district public health agency--repeal. (1) [Formerly 25- 1-501] Each county, by resolution of its board of county commissioners, shall establish and maintain a county public health agency or shall participate in a district public health agency. Any two or more contiguous counties, by resolutions of the boards of county commissioners of the respective counties, may establish and maintain a district public health agency. An agency shall consist of a county or district board of health, a public health director, and all other personnel employed or retained under the provisions of this subpart 3.

(2) [Formerly 25-1-504] (a)(I) The jurisdiction of any agency shall extend over all unincorporated areas and over all municipal corporations within the territorial limits of the

county or the counties comprising the district, but not over the territory of any municipal corporation that maintains its own public health agency. If the county has a county public health agency or a district board of health and if the county is within a district public health agency, any municipal corporation not otherwise within the jurisdiction of an agency, by agreement of its city council, board of trustees or other governing body, and the board of county commissioners of the county wherein the municipal corporation is situated may merge its department with the county or district public health agency.

- (II) In the event of a merger between a health department of a municipal corporation with a county or district public health agency, the agreement of merger, among other things, shall provide that a member or members of the county or district board of health, as is specified in the agreement, shall be appointed by the city council or board of trustees of the municipal corporation rather than as provided in this section. The city council or board of trustees shall appoint the number of members specified in the agreement of merger, and the remaining members shall be appointed as provided in this section.
- (III) The board of county commissioners, in order to give the municipal corporation representation on a county board of health previously established, may declare vacancies in the county board of health and permit the vacancies to be filled by the city council or board of trustees of the municipal corporation.
- (b) All county or district boards of health existing within the county or district shall be dissolved upon the organization of a county or district public health agency under the provisions of this part 5 or upon the acceptance of a county into a district already established.
- (c) In the event of the dissolution of any county or district public health agency, or the withdrawal of a county from an established district, the withdrawal of a municipal corporation that has voluntarily merged its health department or agency with a county or district public health agency, local boards of health shall be reestablished under the provisions of this part 5 and assume the powers and duties conferred upon such local boards.
- (3)(a) Subject to available appropriations, an agency shall provide or arrange for the provisions of services necessary to carry out the public health laws and rules of the state board, the water quality control commission, the air quality control commission, and the solid and hazardous waste commission according to the specific needs and resources available within the community as determined by the county or district board of health or the board of county commissioners and as set out in both the comprehensive, statewide public health improvement plan developed pursuant to section 25-1-504 and the county or district public health plan developed pursuant to section 25-1-505.
- (b) In addition to other powers and duties, an agency shall have the following duties:
- (I) To complete a community health assessment and to create the county or district public health plan at least every five years under the direction of the county or district board and to submit the plan to the county or district board and state board for review;
- (II) To advise the county or district board on public policy issues necessary to protect public health and the environment;
- (III) To provide or arrange for the provision of quality, core public health services deemed essential by the state board and the comprehensive, statewide public health improvement plan; except that the agency shall be deemed to have met this requirement if the agency can demonstrate to the county or district board that other providers offer core public health services that are sufficient to meet the local needs as determined by the plan:
- (IV) To the extent authorized by the provisions of this title or article 20 of title 30, C.R.S., to administer and enforce the laws pertaining to:
- (A) Public health, air poilution, solid and hazardous waste, and water quality;
- (B) Vital statistics; and
- (C) The orders, rules, and standards of the state board and any other type 1 agency created pursuant to the provisions of this title;
- (V) To investigate and control the causes of epidemic or communicable diseases and conditions affecting public health;
- (VI) To establish, maintain, and enforce isolation and quarantine, and in pursuance thereof, and for this purpose only, to exercise physical control over property and over the persons of the people within the jurisdiction of the agency as the agency may find

necessary for the protection of the public health;

- (VII) To close schools and public places and to prohibit gatherings of people when necessary to protect public health;
- (VIII) To investigate and abate nuisances when necessary in order to eliminate sources of epidemic or communicable diseases and conditions affecting public health;
- (IX) To establish, maintain, or make available chemical, bacteriological, and biological laboratories, and to conduct such laboratory investigations and examinations as it may deem necessary or proper for the protection of the public health;
- (X) To purchase and distribute to licensed physicians and veterinarians, with or without charge, as the county or district board may determine upon considerations of emergency or need, approved biological or therapeutic products necessary for the protection of public health;
- (XI) To initiate and carry out health programs consistent with state law that are necessary or desirable by the county or district board to protect public health and the environment; (XII) To collect, compile, and tabulate reports of marriages, dissolutions of marriage, and declarations of invalidity of marriage, births, deaths, and morbidity, and to require any person having information with regard to the same to make such reports and submit such information as is required by law or the rules of the state board;
- (XIII) To make necessary sanitation and health investigations and inspections, on its own initiative or in cooperation with the state department, for matters affecting public health that are within the jurisdiction and control of the agency; and
- (XIV) To collaborate with the state department and the state board in all matters pertaining to public health, with the water quality control commission in all matters pertaining to water quality, the air quality control commission, and the division of administration of the state department in all matters pertaining to air pollution, and with the solid and hazardous waste commission in all matters pertaining to solid and hazardous waste.
- (c) If a county or district board of health does not receive sufficient appropriations to fulfill all the duties described in paragraph (b) of this subsection (3), the county or district board shall set priorities for fulfilling the duties and shall include the list of priorities in its county or district public health plan submitted pursuant to section 25-1-505.
- (4)(a) Until the time that an agency is established pursuant to this section, a county, district, or regional health department established as of July 1, 2008, shall continue to operate and shall have the powers and duties imposed by law as it existed prior to July 1, 2008.
- (b) This subsection (4) is repealed, effective July 1, 2009.

25-1-507. [Formerly 25-1-609] Municipal board of health. Except as otherwise provided by law, the mayor and council of each incorporated town or city, whether incorporated under general statutes or special charter in this state, may establish a municipal public health agency and appoint a municipal board of health. If appointed, the municipal board of health shall have all the powers and responsibilities and perform all the duties of a county or district board of health as provided in this part 5 within the limits of the respective city or town of which they are the officers.

- 25-1-508. [Formerly 25-1-502] County or district boards of public health-public health directors-repeal. (1) Within ninety days after the adoption of a resolution to establish and maintain a county public health agency or to participate in a district public health agency, the respective board of county commissioners shall proceed to organize the agency by the appointment of a county or district board of health, referred to in this part 5 as a "county or district board".
- (2)(a)(I) Each county board of health shall consist of at least five members to be appointed by the board of county commissioners for five-year terms; except that the board of county commissioners shall stagger the terms of the initial appointments. Thereafter,

full-term appointments shall be for five years.

- (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), a county with a population of less than one hundred thousand people may have a county board of health that consists of at least three members to be appointed by the board of county commissioners for five-year terms; except that the board of county commissioners shall stagger the terms of the initial appointments. Thereafter, full-term appointments shall be for five years.
- (b) Each member of the county board of health shall be a resident of the county in which the county agency is located. Appointments shall be made to the board so that no business or professional group or governmental entity shall constitute a majority of the board. Any vacancy on the board shall be filled in the same manner as full-term appointments by the appointment of a qualified person for the unexpired term.
- (c) In a county with a population of less than one hundred thousand people that, as of the effective date of this section, does not have a board of health that is separate from the board of county commissioners, the board of county commissioners may designate itself as the county board of health as of July 1, 2008. The terms of the members of the county board of health shall coincide with their terms as commissioners. Such county boards shall assume all the duties of appointed county boards.
- (d) Notwithstanding the provisions of paragraphs (a) to (c) of this subsection (2), a county board of health in a home-rule county shall comply with the requirements of its home-rule charter.
- (3)(a) Each district board of health shall consist of a minimum of five members. The membership of each district board of health shall include at least one representative from each county in the district. The members of the board shall be appointed by an appointments committee composed of one member of each of the boards of county commissioners of the counties comprising the district. The appointments committee for each district board shall designate the number of members of its district board and shall establish staggered terms for the initial appointments. Thereafter, full-term appointments shall be for five years.
- (b) Each member of the district board shall be a resident of one of the counties comprising the district, and there shall be at least one member from each of the counties comprising the district. Appointments shall be made to the district board so that no business or professional group or governmental entity shall constitute a majority of the district board. The appointments committee shall fill any vacancy on the district board by the appointment of a qualified person for the remainder of the unexpired term.
- (c) Upon establishment of a district board, all county boards previously existing within the county or district shall be dissolved. Upon the acceptance of a new county into an established district, the county or district board previously existing for the county being added shall be dissolved and the chair of the previous county or district board or the chair's designee shall represent the new county on the district board until a new member is appointed by the appointments committee.
- (4)(a) A county or district board, at its organizational meeting, shall elect from its members a president and other officers as it shall determine. The public health director of the agency, at the discretion of the board, may serve as secretary but shall not be a member of the board. All officers and the public health director shall hold their positions at the pleasure of the board.
- (b)(I) Regular meetings of a county or district board shall be held at least once every three months at such times as may be established by resolution of the board. Special meetings of a board may be called by the president, by the public health director, or by a majority of the members of the board at any time on three days' prior notice; except that, in case of emergency, twenty-four hours' notice shall be sufficient.
- (II) A county or district board may adopt, and at any time may amend, bylaws in relation to its meetings and the transaction of its business. A majority of the board shall constitute a quorum. Members of the board shall serve without compensation but shall be reimbursed for their actual and necessary travel and subsistence expenses to attend meetings.
- (5) In addition to all other powers and duties conferred and imposed upon county or district boards by the provisions of this subpart 3, county or district boards shall have and exercise the following specific powers and duties:

- (a) To develop and promote the public policies needed to secure the conditions necessary for a healthy community;
- (b) To approve the local public health plan completed by the county or district agency, and to submit the local plan to the state board for review;
- (c)(I) To select a public health director to serve at the pleasure of the county or district board. The public health director shall possess such minimum qualifications as may be prescribed by the state board. A public health director may be a physician, a public health nurse, or other qualified public health professional. A public health director may practice medicine or nursing within his or her license and scope of practice, as necessary, to carry out the functions of the office of the public health director. The qualifications shall reflect the resources and needs of the county or counties covered by the agency. If the public health director is not a physician, the county or district board shall employ or contract with at least one medical officer to advise the public health director on medical decisions. The public health director shall maintain an office location designated by the county or district board and shall be the custodian of all property and records of the agency.
- (II) A person employed or under contract to act as a medical officer pursuant to this paragraph (c) shall be covered by the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., for duties performed for the agency.
- (d)(I) In the event of a vacancy in the position of public health director or medical officer, to either employ or contract with a person deemed qualified to fill the position or to request temporary assistance from a public health director or a medical officer from another county. The county or district board may also request that an employee of the state department, such as a qualified executive director or the chief medical officer, serve on an interim basis with all the powers and duties of the position.
- (II) A person filling a temporary vacancy as public health director or medical officer shall be covered by the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., for duties performed for the agency.
- (e) To provide, equip, and maintain suitable offices and all necessary facilities for the proper administration and provision of core public health services, as defined by the state board;
- (f) To determine general policies to be followed by the public health director in administering and enforcing public health laws, orders, and rules of the county or district board, and orders, rules, and standards of the state board;
- (g) To issue orders and to adopt rules not inconsistent with the public health laws of this state nor with the orders or rules of the state board as the county or district board may deem necessary for the proper exercise of the powers and duties vested in or imposed upon an agency or county or district board by this part 5;
- (h) To act in an advisory capacity to the public health director on all matters pertaining to public health;
- (i) To hold hearings, administer oaths, subpoena witnesses, and take testimony in all matters relating to the exercise and performance of the powers and duties vested in or imposed upon a county or district board;
- (j) To provide environmental health services and to assess fees to offset the actual, direct cost of such services; except that no fee for a service shall be assessed against any person who has already paid a fee to the state or federal government for the service, and except that the only fee that shall be charged for annual retail food establishment inspections shall be the fee set forth in section 25-4-1607; and
- (k) To accept and, through the public health director, to use, disburse, and administer all federal aid, state aid, or other property, services, or moneys allotted to an agency for county or district public health functions or allotted without designation of a specific agency for purposes that are within the functions of an agency, and to prescribe, by rule consistent with the laws of this state, the conditions under which the property, services, or moneys shall be accepted and administered. The county or district board is empowered to make agreements that may be required to receive such moneys or other assistance.
- (6)(a) Until the time that a county or district board is established pursuant to this section, a county, district, or regional board of health established as of July 1, 2008, shall continue to operate and shall have the powers and duties imposed by law as it existed prior to July 1, 2008.

(b) This subsection (6) is repealed, effective July 1, 2009.

- 25-1-509. County and district public health directors. (1)(a) The director of each agency shall be the public health director.
- (b) All other personnel required by an agency shall be selected by the public health director. All personnel shall perform duties as prescribed by the public health director.
- (c) In the event of a public health emergency, the agency shall issue orders and adopt rules consistent with the laws and rules of the state as the public health director may deem necessary for the proper exercise of the powers and duties vested in or imposed upon the agency or county or district board.
- (2) [Formerly 25-1-508] In addition to the other powers and duties conferred by this part 5 or by the agency, a public health director has the following powers and duties:
- (a) To administer and enforce:
- (I) The public health laws of the state and, as authorized by the provisions of this title or article 20 of title 30, C.R.S., the public health orders, rules, and standards of the state department or the state board; and
- (II) The orders and rules of the county or district board.
- (b) To exercise all powers and duties conferred and imposed upon agencies not expressly delegated by the provisions of this part 5 to a county or district board;
- (c) To hold hearings, administer oaths, subpoena witnesses, and take testimony in all matters relating to the exercise and performance of his or her powers and duties;
- (d) To act as the local registrar of vital statistics or to contract out the responsibility of registrar in the area over which the agency has jurisdiction;
- (e) To direct the resources needed to carry out the county or district public health plan developed pursuant to section 25-1-505; and
- (f) If requested by the county or district board, to serve as secretary to the board responsible for maintaining all records required by part 2 of article 72 of title 24, C.R.S., and ensuring public notice of all meetings in accordance with part 4 of article 6 of title 24, C.R.S. The director shall be the custodian of all properties and records for the agency.

- 25-1-510. [Formerly 25-1-602] County or district board unable or unwilling to act. (1) If the county or district board is unable or unwilling to efficiently or promptly abate a nuisance or prevent the introduction or spread of a contagious or infectious disease, the county or district board or agency shall notify the state department and request assistance to take measures that will abate the nuisance or prevent the introduction or spread of disease.
- (2) Upon receipt of the notice and request described in subsection (1) of this section, or upon determination that the county or district board is unable or unwilling to act, the state department has full power to take measures to ensure the abatement of the nuisance or prevent the introduction or spread of disease. The state department, for this purpose, may assume all powers conferred by law on the county or district board.
- (3) The state department may reallocate state moneys from an agency that is not able to provide core public health services or standards to another entity to deliver services in that agency's jurisdiction.

25-1-511. [Formerly 25-1-509] County treasurer-agency funds. (1) In the case of a county public health agency, the county treasurer, as a part of his or her official duties as county treasurer, shall serve as treasurer of the agency, and the treasurer's official bond as county treasurer shall extend to and cover his or her duties as treasurer of the agency. In the case of a district public health agency, the county treasurer of the county in the district having the largest population as determined by the most recent federal census, as a part of his or her official duties as county treasurer, shall serve as treasurer of the district agency, and

the treasurer's official bond as county treasurer shall extend to and cover his or her duties as treasurer of the district agency.

- (2) The treasurer of an agency, upon organization of the agency, shall create a county or district public health agency fund, to which shall be credited:
- (a) Any moneys appropriated from a county general fund; and
- (b) Any moneys received from state or federal appropriations or any other gifts, grants, donations, or fees for local public health purposes.
- (3) Any moneys credited to a fund created pursuant to subsection (2) of this section shall be expended only for the purposes of this part 5, and claims or demands against the fund shall be allowed only if certified by the public health director and the president of the county or district board or any other member of the county or district board designated by the president for such purpose.
- (4) On or before September 1, 2008, and on or before September 1 of each year thereafter, a county board of health shall estimate the total cost of maintaining the county public health agency for the ensuing fiscal year, and the amount of moneys that may be available from unexpended surpluses or from state or federal funds or other grants or donations. On or before September 1 of each year, the estimates shall be submitted in the form of a budget to the board of county commissioners. The board of county commissioners is authorized to provide any moneys necessary, over estimated moneys from surpluses, grants, and donations, to cover the total cost of maintaining the agency for the ensuing fiscal year by an appropriation from the county general fund.
- (5) On or before September 1, 2008, and on or before September 1 of each year thereafter, a district board of health shall estimate the total cost of maintaining the district public health agency for the ensuing fiscal year, and the amount of moneys that may be available from unexpended surpluses or from state or federal funds or other grants or donations. On or before September 1 of each year, the estimates shall be submitted in the form of a budget to a committee composed of the chairs of the boards of county commissioners of all counties comprising the district. The cost for maintaining the agency, over estimated moneys from surpluses, grants, or donations, shall be apportioned by the committee among the counties comprising the district in the proportion that the population of each county in the district bears to the total population of all counties in the district, population figures to be based on the most recent federal census. The boards of county commissioners of the respective counties are authorized to provide any moneys necessary to cover the proportionate shares of their counties by an appropriation from the county general fund.

#### << CO ST § 25-1-512 >>

- 25-1-512. [Formerly 25-1-516] Allocation of moneys--public health services support fund-created. (1)(a) The state department shall allocate any moneys that the general assembly may appropriate for distribution to county or district public health agencies organized pursuant to this part 5 for the provision of local health services. The state board shall determine the basis for the allocation of moneys to the agencies. In determining the allocation of moneys, the state board shall take into account the population served by each agency, the additional costs involved in operating small or rural agencies, and the scope of services provided by each agency.
- (b)(1) In order to qualify for state assistance, each county and city and county shall contribute a minimum of one dollar and fifty cents per capita for its local health services and may contribute additional amounts as it may determine to be necessary to meet its local health needs.
- (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), for a district public health agency, the counties or cities and counties of the district in total shall contribute a minimum of one dollar and fifty cents per capita for local health services within the district.
- (c) Federally funded and state-funded special projects and demonstrations shall be in addition to the allotments specified in paragraph (b) of this subsection (1).
- (2) The public health services support fund is hereby created in the state treasury and shall be known in this section as the "fund". The principal of the fund shall consist of tobacco litigation settlement moneys transferred by the state treasurer to the fund pursuant to

section 24-75-1104.5(1.5)(a)(IV), C.R.S., and shall, subject to annual appropriation by the general assembly to the state department, be allocated by the state department to all agencies authorized pursuant to this part 5 as specified in subsection (1) of this section; except that, at the end of the 2007-08 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the fund shall be transferred to the short-term innovative health program grant fund created in section 25-36-101(2) in accordance with section 24-75-1104.5(1.5)(b), C.R.S. Interest and income earned on the deposit and investment of moneys in the public health services per capita support fund shall be credited to the fund and shall remain in the fund until the end of the fiscal year in which credited, when it shall be transferred to the short-term innovative health program grant fund created in section 25-36-101(2) in accordance with section 24-75-1104.5(1.5) (b), C.R.S.

# << CO ST § 25-1-513 >>

25-1-513. [Formerly 25-1-511] Enlargement of or withdrawal from a public health agency. (1) Any county contiguous to a district maintaining a district public health agency may become a part of the district by agreement between its board of county commissioners and the boards of county commissioners of the counties comprising the district. The county, upon being accepted into the district, shall thereupon become subject to the provisions of this part 5.

(2) Any county in a district maintaining a district public health agency may withdraw from the district by resolution of its board of county commissioners. A county may not withdraw from a district within the two-year period following the establishment of the district or the county becoming a part of the district. A county may only withdraw from a district after one year's written notice given to the agency. In the event of withdrawal of a county from a district, any moneys that had been appropriated by the county before withdrawal to cover its proportionate share of maintaining the district may be returned to the county. A county shall establish a county public health agency or join another district public health agency once the county withdraws from a district.

(3) A municipal corporation that has voluntarily merged its public health agency with a county or district public health agency under the authority of section 25-1-506 may withdraw from the county or district public health agency by resolution of its city council, board of trustees, or other governing body. A municipal corporation may not withdraw from an agency within the two-year period following the municipal corporation becoming a part of the agency. A county may only withdraw from a district ninety days after a written notice is given to the agency.

## << CO ST § 25-1-514 >>

25-1-514. [Formerly 25-1-512] Legal actions and adviser. The county attorney for the county or the district attorney of the judicial district in which a cause of action arises shall bring any civil or criminal action requested by a county or district public health director to abate a condition that exists in violation of, or to restrain or enjoin any action that is in violation of, or to prosecute for the violation of or for the enforcement of, the public health laws and the standards, orders, and rules of the state board or a county or district board of health. If the county attorney or the district attorney fails to act, the public health director may bring an action and be represented by special counsel employed by him or her with the approval of the county or district board. An agency, through its county or district board of health or through its public health director with the approval of the state board, may employ or retain and compensate an attorney to be the legal adviser of the agency and to defend all actions and proceedings brought against the agency or the officers and employees of the agency.

#### << CO ST § 25-1-515 >>

25-1-515. [Formerly 25-1-513] Judicial review of decisions. (1) Any person aggrieved and affected by a decision of a county or district board of health or a public health director

acting under the provisions of this part 5 shall be entitled to judicial review by filing, in the district court of any county over which the county or district board or public health director has jurisdiction, an appropriate action requesting the review within ninety days after the public announcement of the decision. The court may make any interested person a party to the action. The review shall be conducted by the court without a jury and shall be confined to the record, if a complete record is presented. In a case of alleged irregularities in the record or in the procedure before the county or district board or public health director, testimony may be taken in the court. The court may affirm the decision or may reverse or modify it if the substantial rights of the appellant have been prejudiced as a result of the findings and decision of the county or district board being:

- (a) Contrary to constitutional rights or privileges;
- (b) In excess of the statutory authority or jurisdiction of the county or district board or public health director;
- (c) Affected by any error of law;
- (d) Made or promulgated upon unlawful procedure;
- (e) Unsupported by substantial evidence in view of the entire record as submitted; or
- (f) Arbitrary or capricious.
- (2) Any party may have a review of the final judgment or decision of the district court by appellate review in accordance with law and the Colorado appellate rules.

- 25-1-516. [Formerly 25-1-514] Unlawful acts and penalties. (1) It is unlawful for any person, association, or corporation and the officers thereof to:
- (a) Willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, or rule;
- (b) Fail to make or file a report required by law or rule of the state board relating to the existence of disease or other facts and statistics relating to the public health;
- (c) Willfully and falsely make or alter a certificate or certified copy of any certificate issued pursuant to the public health laws;
- (d) Willfully fail to remove from private property under his or her control at his or her own expense, within forty-eight hours after being ordered to do so by the county or district public health agency, any nuisance, source of filth, or cause of sickness within the jurisdiction and control of the agency whether the person, association, or corporation is the owner, tenant, or occupant of the private property; except that, when the condition is due to an act of God, it shall be removed at public expense; or
- (e) Pay, give, present, or otherwise convey to any officer or employee of an agency any gift, remuneration, or other consideration, directly or indirectly, that the officer or employee is forbidden to receive by the provisions of this part 5.
- (2) It is unlawful for any officer or employee of any agency or member of any county or district board of health to accept any gift, remuneration, or other consideration, directly or indirectly, for an incorrect or improper performance of the duties imposed upon him or her by or on behalf of the agency or by the provisions of this part 5.
- (3) Any person, association, or corporation, or the officers thereof, who violates any provision of this section is guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished pursuant to the provisions of section 18-1.3-501, C.R.S. In addition to the fine or imprisonment, the person, association, or corporation shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. Conviction under the penalty provisions of this part 5 or any other public health law shall not relieve any person from any civil action in damages that may exist for an injury resulting from any violation of the public health laws.

#### << CO ST § 25-1-517 >>

25-1-517. [Formerly 25-1-515] Mode of treatment inconsistent with religious creed or tenet. Nothing in this part 5 authorizes a county or district board of health to impose on any person any mode of treatment inconsistent with the creed or tenets of any religious denomination of which he or she is an adherent if the person complies with sanitary and

quarantine laws and rules.

#### << CO ST § 25-1-518 >>

- 25-1-518. Nuisances. (1) Removal of nuisances. [Formerly 25-1-613] The county or district board of health shall examine all nuisances, sources of filth, and causes of sickness, which, in its opinion, may be injurious to the health of the inhabitants, within its town, city, county, county or district and it shall destroy, remove, or prevent the nuisance, source of filth, or cause of sickness, as the case may require.
- (2) Unhealthy premises cleaned--structures removed. [Formerly 25-1-615] If any cellar, vault, lot, sewer, drain, place, or premises within any city is damp, unwholesome, offensive, or filthy, or is covered for any portion of the year with stagnant or impure water, or is in a condition as to produce unwholesome or offensive exhalations, the county or district board of health may cause the area to be drained, filled up, cleaned, amended, or purified; or may require the owner or occupant or person in charge of the lot, premises, or place to perform such duty; or may cause the removal to be done by the proper officers of the city.
- (3) Expense for abating nuisance. [Formerly 25-1-616] If any person or company neglects to remove or abate any nuisance or to perform any requirement made by or in accordance with any ordinance or resolution of the county or district board of health for the protection of the health of the inhabitants and if any expense is incurred by the board in removing or abating the nuisance or in causing such duty or requirement to be performed, such expense may be recovered by the board in an action against such person or company. In all cases where the board incurs any expense for draining, filling, cleaning, or purifying any lot, place, or premises, or for removing or abating any nuisance found upon such lot or premises, the board, in addition to all other remedies, may provide for the recovery of such expense, charge the same or such part thereof as it deems proper to the lot or premises upon or on account of which such expense was incurred or from which such nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.
- (4) Removal of nuisance on private property--penalty. [Formerly 25-1-617] Whenever any nuisance, source of filth, or cause of sickness is found on private property, the county or district board of health shall order the owner or occupant or the person who has caused or permitted such nuisance, at his or her own expense, to remove the same within twenty-four hours. In default thereof, he or she shall forfeit a sum not to exceed one hundred dollars at the suit of the board of county commissioners of the proper county or the board of the proper city, town, or village for the use of the county or district board of health of the city or town where the nuisance is found.
- (5) Board to remove--when. [Formerly 25-1-618] If the owner or occupant does not comply with an order of the county or district board of health, the board may cause the nuisance, source of filth, or cause of sickness to be removed, and all expense incurred thereby shall be paid by the owner or occupant or by such other person who has caused or permitted the nuisance, source of filth, or cause of sickness.
- (6) Conviction—nuisance to be abated. [Formerly 25-1-619] Whenever any person is convicted of maintaining a nuisance that may be injurious to the public health, the court, in its discretion, may order the nuisance abated, removed, or destroyed at the expense of the defendant under the direction of the county or district board of health of the town, city, county, or district where the nuisance is found, and the form of the warrant to the sheriff or other officer may be varied accordingly.
- (7) Stay warrant of conviction. [Formerly 25-1-620] The court, on the application of the defendant, may order a stay of a warrant issued pursuant to subsection (6) of this section for such time as may be necessary, not exceeding six months, to give the defendant an opportunity to remove the nuisance upon giving satisfactory security to do so within the time specified in the order.
- (8) Expense of a bating. [Formerly 25-1-621] The expense of abating and removing the nuisance pursuant to a warrant issued pursuant to subsection (6) of this section shall be collected by the officer in the same manner as damages and costs are collected upon execution; except that the materials of any buildings, fences, or other things that may be

removed as a nuisance may be sold by the officer in like manner as goods are sold on execution for the payment of debts. The officer may apply the proceeds of the sale to defray the expenses of the removal and shall pay over the balance thereof, if any, to the defendant upon demand. If the proceeds of the sale are not sufficient to defray the expenses incurred pursuant to this subsection (8), the sheriff shall collect the residue thereof as provided in subsection (3) of this section.

- (9) Refusal of admittance to premises. [Formerly 25-1-622] (a) Whenever a county or district board of health finds it necessary for the preservation of the lives or health of the inhabitants to enter any building, car, or train of cars in its town, city, county, or district for the purpose of examining and abating, removing, or preventing any nuisance, source of filth, or cause of sickness and is refused entry, any member of the board may make complaint under oath to the county court of his or her county stating the facts of the case as far as he or she has knowledge thereof.
- (b) The court may thereupon issue a warrant directed to the sheriff commanding him or her to take sufficient aid and, being accompanied by any two or more members of the county or district board of health, during daylight hours, to return to the place where the nuisance, source of filth, or cause of sickness complained of may be and destroy, remove, or prevent the nuisance, source of filth, cause of sickness, or danger to life or limb under the direction of the members of the board of health.
- (10) Damages occasioned by nuisance--action. [Formerly 25-1-653] Any person injured either in his or her comfort or in the enjoyment of his or her estate by any nuisance may have an action for damages sustained thereby.

25-1-519. Existing intergovernmental agreements. Nothing in this part 5 shall void the terms of any intergovernmental agreement concerning public health entered into as of July 1, 2008, so long as all core and essential public health services continue to be provided. SECTION 2. 24-10-103(4)(b)(I), Colorado Revised Statutes, is amended to read:

**24-10-103**. **Definitions.** As used in this article, unless the context otherwise requires:

(4)(b) "Public employee" includes any of the following:

(I) Any health care practitioner employed by a public entity, except for any health care practitioner who is employed on less than a full-time basis by a public entity and who additionally has an independent or other health care practice. Any such person employed on less than a full-time basis by a county **or a district public health agency** and who additionally has an independent or other health care practice shall maintain the status of a public employee only when such person engages in activities at or for the county which or the district public health agency that are within the course and scope of such person's responsibilities as an employee of the county or the district public health agency. For purposes of this subparagraph (I), work performed as an employee of another public entity or of an entity of the United States government shall not be considered to be an independent or other health care practice.

<< Repealed: CO ST §§ 25-1-601, 25-1-602, 25-1-603, 25-1-604, 25-1-607, 25-1-608, 25-1-609, 25-1-610, 25-1-610.5, 25-1-611, 25-1-611.5, 25-1-611.7, 25-1-612, 25-1-613, 25-1-615, 25-1-616, 25-1-617, 25-1-618, 25-1-619, 25-1-620, 25-1-621, 25-1-622, 25-1-630, 25-1-631, 25-1-632, 25-1-634, 25-1-635, 25-1-636, 25-1-637, 25-1-638, 25-1-639, 25-1-640, 25-1-641, 25-1-642, 25-1-643, 25-1-643, 25-1-645, 25-1-648, 25-1-649, 25-1-650, 25-1-650.5, 25-1-650.7, 25-1-652, 25-1-653, 25-1-654, 25-1-655, 25-1-656, 25-1-657, 25-1-650, 25-1-661, 25-1-662, 25-1-663, 25-1-664, 25-1-665, 25-1-666, 25-1-667, 25-1-701, 25-1-702, 25-1-703, 25-1-704, 25-1-705, 25-1-706, 25-1-707, 25-1-708, 25-1-710, 25-1-710, 25-1-711, 25-1-712, 25-1-713, 25-1-714, 25-1-715, 25-1-716, 25-1-717, 25-1-718, 25-1-718, 25-1-719 >>

SECTION 3. Repeal. Parts 6 and 7 of article 1 of title 25, Colorado Revised Statutes, are repealed.

SECTION 4. 8-20.5-101(5), Colorado Revised Statutes, is amended to read:

**8-20.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(5) "Designee" means a qualified municipality, city, home rule city, city and county, county, fire protection district, or any other political subdivision of the state, including a county **or** district <del>or regional</del> **public** health <del>department</del> **agency** created pursuant to section <del>25 1 501 or part 7 of article 1 of title 25</del> 25-1-506, C.R.S., which county **or** district <del>or regional</del> **public** health <del>department</del> **agency** is acting under agreement or contract with the department for the implementation of the provisions of this article.

SECTION 5. 24-22-117(1)(c)(I)(B), Colorado Revised Statutes, is amended to read:

**24-22-117.** Tobacco tax cash fund--accounts--creation. (1)(c) For the 2004-05 fiscal year and each fiscal year thereafter, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, plus three percent of the interest earned on the moneys in the cash fund, for health-related purposes to provide revenue for the state's general fund and old age pension fund and for municipal and county governments to compensate proportionately for tax revenue reductions attributable to lower cigarette and tobacco sales resulting from the implementation of the tax imposed pursuant to section 21 of article X of the state constitution, as follows:

(I)(B) Beginning in fiscal year 2006-07 and for each fiscal year thereafter, of the moneys specified in sub-subparagraph (A) of this subparagraph (I), fifty percent shall be appropriated for the purposes of providing immunizations performed **by county or district public health agencies in areas that were served** by county public health nursing services **prior to July 1, 2008**, and fifty percent shall be appropriated to the pediatric specialty hospital fund, created in paragraph (e) of subsection (2) of this section, for the purposes of augmenting hospital reimbursement rates for regional pediatric trauma centers as defined in section 25-3.5-703(4)(f), C.R.S., under the "Colorado Medical Assistance Act", articles 4, 5, and 6 of title 25.5, C.R.S.

SECTION 6. 24-75-1104.5(1.5)(a)(IV), Colorado Revised Statutes, is amended to read:

**24-75-1104.5.** Use of settlement moneys--programs. (1.5)(a) For the 2007-08 fiscal year and for each fiscal year thereafter, the following programs, services, and funds shall receive the following specified amounts from the portion of any strategic contribution fund moneys received by the state in the current fiscal year that remains after the programs, services, and funds receiving strategic contribution fund moneys pursuant to subsection (1) of this section have been fully funded, and the portion of all other settlement moneys received by the state in the preceding fiscal year that remains after the programs, services, and funds receiving such other settlement moneys pursuant to subsection (1) of this section have been fully funded and all overexpenditures and supplemental appropriations allowed for the 2006-07 and 2007-08 fiscal years pursuant to section 24-22-115(4) have been made:

(IV) The public health services per capita support fund created in section  $\frac{25-1-516(2)}{25-1-512(2)}$ , C.R.S., shall receive seven percent of the settlement moneys, which the state treasurer shall transfer thereto and which, subject to annual appropriation by the general assembly to the department of public health and environment, shall be used to provide additional per capita state support for basic and optional public health services, as defined by the state board of health, in accordance with section  $\frac{25-1-516}{25-1-512}$ , C.R.S.

SECTION 7. 25-4-601(1), (2), and (3), Colorado Revised Statutes, are amended to read:

**25-4-601. Definitions.** As used in this part 6, unless the context otherwise requires: (1) "County board of health" means the body acting as the **county or district** board of health <del>of a county</del> under the provisions of section <del>25-1-608</del> 25-1-508.

- (2) "Health department" means the department of public health and environment or any county or district **public** health <del>department</del> **agency** organized and maintained under the provisions of part 5 of article 1 of this title.
- (3) "Health officer" means the person appointed as the **public** health officer director of a **district**, county, city, or town under the provisions of section 25-1-610 25-1-509. SECTION 8. 25-4-1608(2), Colorado Revised Statutes, is amended to read:

**25-4-1608.** Food protection cash fund--creation. (2) Twenty-five dollars of each fee collected by the department and local board of health pursuant to section 25-4-1607(1)(a), and twenty dollars of each fee collected by the department and local board of health pursuant to section 25-4-1607(1)(b) and (1)(c) shall be transmitted to the state treasurer, who shall credit such fee to the food protection cash fund created in subsection (1) of this section. This portion of the fee shall be used by the department to conduct the duties and responsibilities set forth in section 25-4-1604(1)(a), (1)(b), (1)(c), (1)(f), (1)(g), and (1)(i). The remainder of such fee shall be retained by the local board of health for deposit in the appropriate local board of health cash fund in accordance with sections 25-1-509 and 25-1-713 section 25-1-511, or if the fee is collected by the department it shall be deposited pursuant to section 25-4-1608(1), and used to pay a portion of the cost of conducting a retail food establishment protection program.

SECTION 9. 25-4-2101, Colorado Revised Statutes, is amended to read:

**25-4-2101.** Powers and duties of department--rules. In addition to any other powers and duties, the department of public health and environment shall promulgate rules governing the safe and sanitary practice of body art, the safe and sanitary physical environment where body art is performed, and the safe and sanitary conditions of equipment utilized in body art procedures. Nothing in this section shall be construed to prohibit a city, county, local or district board of health established pursuant to part 5 of article 1 of this title, or a county or district public health department agency established pursuant to part 5 of article 1 of this title from adopting or enforcing ordinances, resolutions, or rules that impose standards for body art that are at least as stringent as the standards imposed by the rules adopted by the department of public health and environment. SECTION 10. 25-4-2502(5), Colorado Revised Statutes, is amended to read:

**25-4-2502. Definitions.** As used in this part 25, unless the context otherwise requires: (5) "Local public health agency" means a county or district department of **public** health **agency** established pursuant to section 25 1 501 or an agency providing public health nursing services as described in section 25 1 610.5 25- 1-506.

SECTION 11. 30-15-401(1)(a)(V)(B) and (8), Colorado Revised Statutes, are amended to read:

- **30-15-401**. **General regulations.** (1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article, the board of county commissioners has the power to adopt ordinances for control or licensing of those matters of purely local concern which are described in the following enumerated powers:
- (a)(V) To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, limited to the following:
- (B) In addition to the authority given counties under section 25-1-612, C.R.S., to restrain, fine, and punish persons for dumping dead animals on public or another person's private property;
- (8) No ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power pursuant to this section or section 30-11-101(1)(f) or (1)(g) or 30-11-107(1)(u), (1)(w), (1)(y), (1)(z), or (1)(bb) or 25-1-507(1)(g) or (1)(h) or 25-1-711(1)(d) or (1)(e) 25-1-508(5)(g) or (5)(j), C.R.S., shall apply within the corporate limits of any incorporated municipality, nor to any municipal service, function, facility, or property whether owned by or leased to the incorporated municipality,

outside the municipal boundaries, unless the municipality consents. If the municipality consents that any ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power shall apply within the municipality or to municipal services, functions, facilities, or property outside the municipal boundaries, such ordinance, resolution, rule, regulation, service, function, or exercise of an authorized power shall be uniform within the municipality and the applicable unincorporated areas of the county, unless the county and the municipality agree otherwise pursuant to part 2 of article 1 of title 29, C.R.S.

SECTION 12. 30-20-203(1)(h), Colorado Revised Statutes, is amended to read:

- **30-20-203.** Powers. (1) The board of county commissioners, following the creation of such district and acting on behalf thereof:
- (h) May promulgate and adopt on behalf of the district such schedules, rules, or regulations as may be necessary for the orderly collection of trash, wastes, or garbage from the district, and for the maintenance and operation of dumps, sanitary fills, or other satisfactory disposal methods and collection areas, which, when so adopted, may be administered and enforced by the county or district **public** health <del>department</del> **agency**, as the case may be, as provided in other cases by sections 25-1-506 and  $\frac{25-1-512}{2}$  25-1-514, C.R.S.:

SECTION 13. 38-1-202(1)(d) and (1)(e), Colorado Revised Statutes, are amended to read:

- **38-1-202. Governmental entities, corporations, and persons authorized to use eminent domain.** (1) The following governmental entities, types of governmental entities, and public corporations, in accordance with all procedural and other requirements specified in this article and articles 2 to 7 of this title and to the extent and within any time frame specified in the applicable authorizing statute may exercise the power of eminent domain:
- (d) Counties, cities and counties, and boards of county commissioners as authorized in sections 24-72-104(2),  $\frac{25-1-659}{25-3-306}$ ,  $\frac{29-6-101}{29-6-101}$ ,  $\frac{30-11-107(1)}{30-11-107(1)}$ ,  $\frac{30-11-205}{30-11-307}$ ,  $\frac{30-20-108(3)}{30-20-402(1)}$ ,  $\frac{30-35-201(37)}{41}$ ,  $\frac{41}{42}$ , and  $\frac{43}{3-107}$ ,  $\frac{31-25-216(2)}{41-4-108}$ ,  $\frac{41-5-101(1)}{41-4-108}$ ,  $\frac{43-1-217(1)}{43-2-112(2)}$ ,  $\frac{43-2-204}{43-2-206}$ , and  $\frac{43-3-107}{30-107}$ , C.R.S.;
- (e) Cities, cities and counties, and towns as authorized in sections 25-1-659, 29-4-104(1)(d), 29-4-105, 29-4-106, 29-6-101, 29-7-104, 30-20-108(3), 31-15-706(2), 31-15-707(1)(a) and (1)(e), 31-15-708(1)(b), 31-15-716(1)(c), 31-25-201(1), 31-25-216(2), 31-25-402(1)(c), 31-35-304, 31-35-402(1)(a), 31-35-512(1)(g), 38-5-105, 38-6-101, 38-6-122, 41-4-108, and 41-4-202, C.R.S.; SECTION 14. **Appropriation—adjustments to the 2008 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public health and environment, for allocation to the local health services division, for the fiscal year beginning July 1, 2008, the sum of thirty thousand dollars (\$30,000) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act. (2) In addition to any other appropriated, there is hereby appropriated, out of any moneys in the comprehensive public health plan cash fund created in section 25-1-504(4), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the local health services division, for the fiscal year beginning July 1, 2008, the sum of one hundred forty-nine thousand seven hundred sixty-one dollars (\$149,761) and 2.5 FTE, or so much thereof as may be necessary, for the implementation of this act.
- (3) For the implementation of this act, the general fund appropriation to the controlled maintenance trust fund made in section 23 of the annual general appropriation act, for the fiscal year beginning July 1, 2008, shall be decreased by thirty thousand dollars (\$30,000).

SECTION 15. Effective date. This act shall take effect July 1, 2008.

SECTION 16. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved June 3, 2008.

CO LEGIS 406 (2008)

END OF DOCUMENT

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# RESOLUTION No. \_\_\_\_\_ - 2008

# A Resolution Pursuant to The Colorado Private Activity Bond Ceiling Allocation Act Authorizing Assignment Of Montezuma County's Allocation to The Colorado Housing And Finance Authority

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority"), and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under C.R.S. 24-32-1706 of the Allocation Act, Montezuma County has an allocation of the 2008 State Ceiling (the "2008 Allocation"); and

WHEREAS, Montezuma County has determined that, in order to increase the availability of adequate affordable housing for low-and moderate-income persons and families within the County and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2008 Allocation; and

WHEREAS, Montezuma County has determined that the 2008 Allocation can be utilized most efficiently by assigning it to the Authority to issue tax-exempt Private Activity Bonds for the purpose of providing single-family mortgage loans to low-and moderate-income persons and families; and

WHEREAS, Montezuma County Board of Commissioners has determined to assign \$1,077,078.00 of its 2008 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the County and the Authority.

NOW THEREFORE, BE IT RESOLVED by the Montezuma County Board of Commissioners as follows:

- 1. The assignment to the Authority of \$1,077,078.00 of Montezuma County's 2008 Allocation be and is hereby approved.
- 2. The form and substance of the Assignment of Allocation is hereby approved and shall be executed and delivered to said Authority.

be held to be invalid or unenforceable,	se, or provision of this resolution shall for any reason the invalidity or unenforceability of such section fect any of the remaining provisions of this resolution.
4. This resolution shall be in full f	force and effect upon adoption.
Adopted this $35$ day of August,	, 2008, at 10.145 A.m.
	BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO
	Jani D Rub
	Stew A. Phropell
Commissioners voting aye in favor	r if the Resolution were: <u>Larrie fo</u> Rule,
Steve D. Chappell	and
•	the Resolution were:
	and
OCOUNTY OOD	Caral Quelles
ST. N. B	County Clerk and Recorder
83: 7 188	Montezuma County, Colorado

#### ASSIGNMENT OF ALLOCATION

This Assignment of Allocation (the "Assignment"), dated this 25<sup>th</sup> day of August, 2008, is between Montezuma County (the "Assignor") and the Colorado Housing and Finance Authority (the "Assignee").

## WITNESSETH

WHEREAS, the Assignee is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low-and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may he issued in the State to provide such mortgage loans and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under C.R.S. 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2008 State Ceiling (the "2008 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable housing for low-and moderate-income persons and families within Montezuma County and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the allocation; and

WHEREAS, the Assignor has determined that the 2008 Allocation can be utilized most efficiently by assigning it to the Assignee to issue tax-exempt Private Activity Bonds for the purpose of providing single-family mortgage loans to low-and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2008 Allocation; and

WHEREAS, the Montezuma County Board of Commissioners has determined to assign to the Assignee \$1,077,078.00 of its 2008 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

- NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:
- 1. The Assignor hereby assigns to the Assignee \$1,077,078.00 of its 2008 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.
- 2. The Assignee hereby accepts the assignment to it by the Assignor of \$1,077,078.00 of Assignor's 2008 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds, in one or more series, and to make proceeds of such Revenue Bonds available from time to time during the period of two (2) years from the date of the Assignment for the purchase of mortgage loans in at least the aggregate amount of \$1,077,078.00 to finance single-family housing facilities located in Montezuma County. Unless otherwise agreed to in writing, the mortgage loans will be subject to all applicable current requirements of Assignee's mortgage revenue bond program, including Assignee's income and purchase price limits.
- 3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.
- 4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.
- 5. Nothing contained in this Assignment shall obligate the Assignee to finance mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans to finance single-family housing facilities located in Montezuma County.
  - 6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the partie date first written above.	s hereto have duly executed this Assignment on the
(SEAL)	BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO  Jane D. Colo  Shappell  Jane D. Chappell
Caral Jullas  Montezuma County Clerk & Recorder	
	COLORADO HOUSING AND FINANCE AUTHORITY
(SEAL)	By:Executive Director
ATTEST:	
By: Assistant Secretary	



10 West Main, Suite 101 P. B. Brawer JJ Cortez, Colorado 81321 970-565-6304

August 25, 2008

Colorado Housing and Finance Authority 1981 Blake Street Denver, Colorado 80202-1272

Gentlemen:

I am an attorney duly admitted to practice in the State of Colorado (the "State"). I have acted as counsel for Montezuma County (the "County") in connection with the assignment by the County to the Colorado Housing and Finance Authority (the "Authority") of the County's allocation of the ceiling on private activity bonds which may be issued in the State during the period from January 1 to December 31, 2008 (the "2008 Allocation"), under Part 17 of Article 32 of Title 24 of the Colorado Revised Statutes (the "Allocation Act"). This assignment is being effected pursuant to a Resolution adopted by the Montezuma County Board of Commissioners on August 25, 2008, and an Assignment of Allocation dated August 25, 2008 (the "Assignment of Allocation"), between the County and the Authority.

I have examined the Resolution, the Constitution of the State, and such statutes and regulations and other documents as I have deemed necessary as a basis for the opinions hereinafter expressed. In the course of such examinations, I have assumed the genuineness of all signatures and the authenticity of all documents submitted to me.

Based upon the foregoing, it is my opinion that:

- 1. Montezuma County is a County validly existing under the Constitution and laws of the State.
- 2. The County has full legal right, power and authority: (a) to assign its 2008 Allocation, or a portion thereof, in accordance with the Resolution and the Assignment of Allocation; (b) to adopt the Resolution; (c) to execute and deliver the Assignment of Allocation; and (d) to perform its obligations under the Resolution.
- 3. The adoption and execution and delivery of the Resolution and the Assignment of Allocation and the performance of the County's obligations thereunder have been duly authorized by the County, and each have been duly adopted or executed and delivered by the County, and each of them constitute valid and binding obligations of the County enforceable in accordance with its terms.

- 4. The adoption of the Resolution and the execution and delivery of the Assignment of Allocation and compliance with the terms, conditions and provisions of each thereof by the County will not conflict with or result in a breach or violation of any of the terms, conditions or provisions of the Constitution or the laws of the State, local ordinances, resolutions, or other regulations, or any other governmental authority of any nature whatsoever as now existing, or to the best of my knowledge, any agreement or instrument to which the County is now a party or by which it is bound, or constitute a default thereunder.
- 5. With respect to the 2008 Allocation, or a portion thereof, being assigned to the Authority pursuant to the Resolution and the Assignment of Allocation, the County has not: (a) issued private activity bonds; (b) assigned the allocation to another "issuing authority" as such term is defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the allocation as an allocation for a project with a carryforward purpose.
- 6. No approval, permit, consent or authorization applicable to the County and not already obtained by the County of any government or public agency, authority or person is required in connection with the adoption and execution and delivery by the County of, and the performance by it of its obligations under, the Resolution and the Assignment of Allocation.

This opinion may be relied upon by: (i) the Authority's Bond Counsel in rendering its opinion in connection with the issuance by the Authority of revenue bonds; and (ii) each institution which may act as an underwriter of any such revenue bonds.

Very truly,

Bob D. Stough

Montezuma County Attorney

#### RESOLUTION # 9-2008

# MONTEZUMA COUNTY, COLORADO

# A RESOLUTION OPPOSING PROPOSED SEVERANCE TAX INITIATIVE #113

WHEREAS, the Board of County Commissioners of Montezuma County, Colorado, supports the dedication of mineral severance tax revenues for the priority purpose of mitigating the adverse impacts of energy development on communities; and

WHEREAS, these communities struggle with inadequate funds to meet growing demands on their local infrastructure and public services; and

WHEREAS, adversely impacted local infrastructure and public services include, but are not limited to, road maintenance, law enforcement, schools, social services, health services, water treatment, sewer treatment, and recreation; and

WHEREAS, currently, 50% of severance tax revenues go back to those local communities through direct allocations or energy impact grants; and

WHEREAS, while Initiative #113 would effectively raise the severance tax rate, it would decrease the local share from 50% to only 22%; and

WHEREAS, such a decrease in severance tax revenues or energy impact grants would limit Montezuma County's ability to mitigate the adverse impacts of energy development.

**NOW THEREFORE, BE IT RESOLVED** that the Montezuma County Commissioners stand opposed to Severance Tax Initiative #113.

PASSED AND ADOPTED THIS 25th DAY OF AUGUST, 2008.

Commissioners voting aye in favor of the resolution were:	Steve D. Chappell
Commissioners voting nay against the resolution were:	

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 25th day of August, 2008

SE AT THE COLOR

County Clerk and Recorder Montezuma County, Colorado

# The Board of County Commissioners Of the County of Montezuma County State of Colorado

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held on the 21<sup>st</sup> day of July, 2008, with the following persons in attendance:

Commissioners: Gerald Koppenhafer, Larrie Rule, and Steve Chappell

Commissioners Absent:

County Administrator: Ashton N. Harrison

County Attorney: Bob Slough Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

Resolution# 8-200 {

A resolution approving Friday, August 1st, 2008 as the first day to early vote in the 2008 Statewide Primary Election.

WHEREAS, the County Commissioners of Montezuma County, State of Colorado at a regular meeting of said Board of County Commissioners, held on the 21st day of July, 2008, where all members were present, and;

WHEREAS, the Colorado Election Code states in 1-8-202, when eligible electors may vote by early ballot;

WHEREAS, the Board of County Commissioners may by resolution increase the hours that the early voters' polling place may be open and that eligible electors who appear in person at the early voters' polling place during this time may cast their ballots in the same manner as any ballot would be cast in a precinct polling place on election day.

NOW, THEREFORE BE IT RESOLVED THAT:

The Board of County Commissioners of Montezuma County approve Friday, August 1st, 2008 as the first day for early voting for the 2008 Statewide Primary Election.

THE BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, STATE OF COLORADO

Gerald W. Koppenhafer, Chairman

Larrie D. Rule

Steve Chappell

# THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTEZUMA STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 21<sup>st</sup> day of July, 2008, with the following persons in attendance:

Commissioners:

Gerald W. Koppenhafer, Larrie D. Rule, and Steve Chappell

Commissioners Absent:

County Attorney:

Bob Slough

County Administrator:

Ashton N. Harrison

County Clerk:

Carol Tullis

the following proceedings, among others, were taken:

#### **RESOLUTION No. 7-2008**

A RESOLUTION AMENDING RESOLUTION NOS. 2-98, 12-2000, 4-2002, 10-2003, 17-2003, 13-2004, 4-2006, and 11-2007

#### THE MONTEZUMA COUNTY LAND USE CODE

WHEREAS, the Montezuma County Land Use Code was adopted on the 20<sup>th</sup> day of July, 1998, and

WHEREAS, the Montezuma County Land Use Code was amended on the 6th day of November, 2000 by Resolution No. 12-2000, the 8<sup>th</sup> day of April, 2002 by Resolution No. 4-2002, the 15<sup>th</sup> day of September, 2003 by Resolution No. 10-2003, the 15<sup>th</sup> day of December, 2003 by Resolution No. 17-2003, the 18<sup>th</sup> day of October, 2004, by Resolution No. 13-2004, the 17<sup>th</sup> of July, 2006, by Resolution No. 4-2006, the 18<sup>th</sup> day of December, 2006, by Resolution No. 13-2006; and subsequently amended on the 29<sup>th</sup> day of October, 2007, by Resolution No. 11-2007;

WHEREAS, on Tuesday, February 12, 2008; Thursday. February 21, 2008; Thursday March 27, 2008; and Thursday, July 10, 2008, during scheduled Planning Commission meetings, the Montezuma County Planning Commission certified to the Board of County Commissioners proposed amendments to said Land Use Code, and

WHEREAS, it has become necessary to amend said Land Use Code.

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Montezuma County as follows:

# MONTEZUMA COUNTY LAND USE CODE Date Amended: July 21, 2008

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1101 General.

- 1101.1 Short Title. This Resolution may be cited and referred to as the "Montezuma County Land Use Code, the "Land Use Code", or the "Code". Individual sections of this Land Use Code may have short titles which are generally applicable to the regulations contained in those sections.
- 1101.2 Authority. This Land Use Code is adopted pursuant to 24-65-101 et seq., C.R.S., as amended (Colorado Land Use Act); 24-67-101 et seq., C.R.S., as amended (PUD Act of 1972); 25-1-611 C.R.S., as amended (Health Regulations); 29-20-101 et seq., C.R.S., as amended, (Local Government Land Use Control Enabling Act); 30-11-101 et seq., C.R.S., as amended, (County Powers); 30-28-101 et seq., C.R.S., as amended, (County Planning and Building Codes, Zoning, and Subdivision Regulations); 30-28-401 et seq., C.R.S., as amended, (Cluster Development); and all other applicable laws.

# 1101.3 Application.

- A. This Land Use Code shall apply to all land in the unincorporated areas of Montezuma County. After the adoption of this Code it shall be unlawful for any person to change the use of land or subdivide property in the unincorporated areas of Montezuma County except in compliance with this Code. The approval or denial of a plat, plan, or agreement shall be supported by written findings.
- B. Because the Dolores River Valley is the primary water source for the People in the Town of Dolores, the City of Cortez, and much of the unincorporated areas of Montezuma County, it is absolutely essential that the quality of the water in the Dolores River be preserved. Therefore, to preserve said water quality it is necessary that some of the generally applicable regulations in this Land Use Code be modified for application in the Dolores River Valley. Said regulations as so modified shall govern development in the Dolores River Valley. For the purposes of this Land Use Code, the Dolores River Valley is the geographical area delineated by the Dolores River Valley Map marked Exhibit 1, attached hereto and made part hereof. Said area shall hereinafter be referred to in this Land Use Code as the Dolores River Valley.
- 1101.4 Vested Rights. A vested property right shall be deemed established with respect to any property upon final approval, with or without conditions, of a site specific development plan following notice and public hearing as provided in 24-68-101 et seq., C.R.S., as amended, and this Resolution. "Site specific development plan" means a Preliminary Plan or planned unit development plan or High Impact Permit as provided in this Resolution. Zoning is not part of a "site specific development plan" and shall not create any vested property rights. Publication of notice of the site specific development plan approval and creation of a vested property right shall be in accordance with 24-68-103 et seq., C.R.S., as amended. A property right which has been vested shall remain vested as provided by 24-68-104 et seq., C.R.S., as amended, subject to forfeiture as provided in 24-68-103 et seq., C.R.S., as amended.

1201 Function of Threshold Standards. One of the major objectives of the Comprehensive Land Use Plan is to protect the rural character of the County through the enactment of development regulations appropriate for rural areas. This objective is addressed by a Landowner-Initiated Zoning system and a complementary High Impact Commercial or Industrial Permitting system, which are combined in this Land Use Code.

The Threshold Standards represent the maximum levels of development or impacts from land use activities that may occur without the approval of the County through a permitting and public hearing process. The Threshold Standards assure landowners that surrounding land uses will not exceed the established standards, unless appropriate mitigation measures have been considered and applied. Some Threshold Standards may be relaxed through the permit review process based on existing or proposed surrounding land uses.

In the Landowner-Initiated Zoning system, zoning designations are created that are based generally on lot sizes ranging from 3 acres to 80+ acres. The Threshold Standards are applied to the zoning system, but certain standards are relaxed through the definitions of the zoning designations as parcel sizes increase, reflecting the general nature of agricultural uses located on larger parcels.

Most importantly, the Threshold Standards provide continuity between the primary elements of the Land Use Code, including the High Impact Permitting system, the Landowner-Initiated Zoning system, Planned Unit Developments, and the Montezuma County Subdivision Regulations.

1202 Threshold Standards Established. The following represent the Threshold Standards for all development in the unincorporated areas of Montezuma County. They apply unless a different Threshold is established in an applicable zoning category or other development approval under these regulations. These standards are designed to ensure that development does not cause significant adverse impacts on other property in the area or conflict with applicable provisions of this Code. A significant adverse impact shall be any impact that creates an increased risk to the health, safety or welfare of the citizens of the County, a significant reduction in neighboring property values, or other unfavorable or harmful consequences.

Site, Lot and Building Standards

1	Minimum lot size	3 acres     10 acres within the Dolores River Valley
2	Maximum Building Height	• 35 feet
3	Maximum Building Footprint	Maximum building footprint overall shall not exceed 12 percent of the lot size.     Building footprint does not apply to Commercial or Industrial zoned parcels immediately adjacent to a state or federal highway with an approved CDOT access permit and in accordance with 5103.4 A-E of this Code.

	Building setbacks	Primary Residence: See 5103.1 50' from County road and State Hwy. 50' from lot lines or interior subdivision roads Commercial/Industrial use: See 5103.4 50' from County road and State Hwy. Rights-of-way 50' from residential lot lines and 25' from non-residential lot lines Within the Dolores River Valley: All new commercial and residential construction, including I.S.D.S, set back 100' from existing stream bank.
5	New Construction and Remodeling for Commercial, Industrial And Public Buildings	<ul> <li>All new construction and remodeling of commercial or industrial use buildings and public buildings must be built according to the Uniform Building Code, 1997 Edition.</li> </ul>
6	Livestock Fencing	Adequate to protect from livestock encroachment. 5103.2(c)
7	Protection of Normal Agriculture Operations	<ul> <li>No significant adverse impacts on normal agriculture operations. 5103.2</li> </ul>
8	Outdoor Storage and/or Fabrication areas	Appropriate screening may be required     Merchandise displays are exempt

# Road, Traffic, Parking and Access

9	Roads	All interior roads built to County road standards. 5105.3.B.
10	Parking/Access/Loading Areas	<ul> <li>Adequate for intended use such that traffic flow and circulation are not impeded, 5103.4.D</li> <li>Approved County or CDOT highway access permit.</li> </ul>
11	Traffic	Less than 15 vehicle round trips per day.

# Health, Safety and Welfare

12	Water	Proof of availability and adequate flow. See 5105.3.G.
13	Sanitary Sewer Disposal	→ Compliance with 5103.1.F; 5105.3.F; and 5402.3.E
14	Stormwater Control and Site Drainage	No adverse impacts on any County road, state highway or adjacent land use. See 5105.3.H.
15	Solid Waste -garbage, refuse, sludge and other discarded material	Proof of disposal service     No materials transferred off-site by natural forces     No on-site burning except for contained flammable domestic waste or as part of an agricultural operation or weed control program.
16	Fire and Wildfire Protection	◆ Compliance with 5103.1. G; 5105.2.A; 5402.3.J; and 5404.3.W.
17	Law Enforcement and Emergency Service	Letter of adequacy from law enforcement and/or emergency service provider may be required.
18	Floodplain	Compliance with the Montezuma County Floodplain Resolution     No. 1-91 and completion of a Floodplain Development Plan Permit,     where applicable.
19	Geologic and Natural hazards	Identification and avoidance or mitigation of potential hazards,     See 5105.2.
20	Public Facilities for Outdoor Recreation Facilities, Camp and RV Parks and Mobile Home parks	Adequate restroom: one men/women set plus one extra sink and stall per 100 weekly peak season visitor. See 4108.5.A.

# **Nuisance Standards**

	Muisance Standards	
21	Operational Electric Disturbances	No detrimental effects such as radio and television interference beyond the boundaries of the site.
22	Fire and Explosive Hazards	National Fire Protection Association standards and any other fire code or standard employed by the appropriate fire district apply.
23	Glare and Heat	Must be contained, enclosed or treated to make glare and heat imperceptible from any point on the boundary line.
24	Lighting	All direct rays confined to site and adjacent properties protected from glare.
25	Noise	<ul> <li>Volume less than 70 decibels at any point on any boundary at any time as established by 25-12-101, et seq. C.R.S., as amended.</li> <li>Adjacent to residential areas: not to exceed 55 decibels at any point on the boundary line between 7:00pm -6:59am.</li> <li>Noise from normal agricultural operations is exempt.</li> </ul>
26	Vibration	Not perceptible, without instruments, at any point on any boundary line.
27	Odors	Not perceptible at property boundaries.     Agriculture operations: no violation if the best practical maintenance, and control available is being used to maintain the lowest possible emission of odors.
28	Dust, Smoke and Particulate	<ul> <li>Dust and Fumes: None beyond property line (Dust control of County roads at expense of operator may be required)</li> <li>Particulate matter: Less than 0.2 grain/cf flue gas at 500F stack temperature.</li> <li>Smoke: USEPA Regulations: Opacity System, Method 9.</li> <li>Agriculture operations: no violation if the best practical maintenance and control is being used.</li> </ul>
29	Radioactivity	Subject to State and Federal Regulations
30	Water Pollution	Subject to State and Federal Regulations
31	Noxious Weeds	Compliance with State (35-5.5-101 et seq. C.R.S. as amended) and Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended.

# Other Standards

32	Other Significant Adverse	Pertaining to the Health, Safety and Welfare of the Citizens of
	Impacts	Montezuma County
33	Other Federal, State, and	◆ Federal, State, and Local required permits must be obtained
	Local requirements	◆ Per 2203.1 (F) and 2205.1 (F)

# Chapter 1: Section 3 - Permits Required

- 1301 Permits Required. No person may change the use of land or enlarge an existing use in a manner that exceeds the Threshold Standards within the unincorporated areas of Montezuma County without first obtaining a Permit or Waiver pursuant to these regulations or other development approval under the Land Use Code, except as specifically exempted from this Permit requirement. These exemptions apply only to the Permit regulations contained in **Chapter 3**. The applicant for such approval must be the owners of the land or their authorized agent. Any such agent must have express written authority to act on behalf of the owner.
  - **1301.1 Exemptions.** The following land uses are exempt from the Permit requirement under this Land Use Code, provided that nothing in these regulations exempts an applicant from any other County requirements or from other local, state or federal requirements:
    - A. Normal agricultural operations as protected by Montezuma County Right-to Farm policies and state laws.
    - B. Localized agricultural water distribution systems.
    - C. Land uses existing at the time of adoption of these regulations that would otherwise exceed the Threshold Standards and/or constitute a High Impact Development, unless the degree of adverse impact increases materially after the adoption of these regulations.
    - **D.** Telecommunication equipment exempted from local regulation by the Federal Telecommunications Act of 1996.
    - **E.** Road improvement projects by governmental entities.
  - **1301.2 Determination of Permit Requirement.** If there is any uncertainty or disagreement about a permit requirement for a proposed project, the County may determine through the Waiver Process whether the proposed project constitutes a High Impact Development project for which a permit requirement applies. This determination may be initiated at the request of the developer or the County.
  - **1301.3 All Phases Considered.** If a project is to be phased over time, it cannot be segmented to avoid the requirements of these regulations.
  - 1301.4 Subdivision and Planned Unit Development (PUD) Covenants Considered. The primary responsibility for the enforcement of subdivision and planned unit development covenants is the responsibility of lot owners or associations established on their behalf. The County will, however, consider subdivision and PUD covenants in reviewing High Impact Waiver Petitions and High Impact Permit Applications. Waiver Petitions and Permit Applications which violate properly recorded subdivision or planned unit development covenants shall not be approved without the signatory consent of all lot owners within the PUD or subdivision.

### CHAPTER 2: HIGH IMPACT COMMERCIAL OR INDUSTRIAL PERMITTING

# Chapter 2: Section 1 - General Provisions

# 2101 General Provisions.

- **2101.1 Short Title.** The regulations contained in this section may be cited as the "High Impact Permit Regulations" or the "Permit Regulations".
- **2101.2 Purposes.** The general purpose of the Permit Regulations is to facilitate the identification, designation, and regulation of High Impact Development projects in the unincorporated areas of Montezuma County. This process will ensure compatibility of Commercial or industrial uses with surrounding land uses. The specific purposes of these regulations are:
  - **A.** To protect and strengthen the established industries of agriculture, commerce, industry, tourism, recreation, and to protect property values.
  - **B.** To protect and strengthen the economic viability of the private and governmental sectors of the County;
  - C. To regulate development that would otherwise cause excessive noise, water or air pollution;
  - D. To ensure, to the maximum extent practicable, that growth will pay for itself, and that the present residents do not have to subsidize new growth and development;
  - **E.** To ensure that High Impact Development projects are sited, constructed, developed and operated in a manner that is consistent with the land use policies and regulations of Montezuma County.
  - **F.** To protect the rural character and visual and aesthetic resources of the County and to protect the health, safety, and welfare of the people of the County and the State of Colorado.
- **2101.3 Scope.** This Chapter 2 applies to **all** commercial or industrial land uses in the unincorporated areas of Montezuma County. Proposed development projects or existing land uses that comply with these standards may verify compliance through a Permit Application granted by the County. Proposed development projects that exceed the Threshold Standards, or by definition constitute a High Impact Development Project shall apply for a Permit or Waiver as required under these regulations.
- **2101.4 High Impact Development** is a commercial or industrial development, including all of its components and associated elements, involving any construction, activity, and/or ongoing operation that (a) changes the basic character or the use of the environment in which the construction, activity, or operation occurs, (b) exceeds the Threshold Standards of these regulations, or (c) involves either:
  - Any Commercial or industrial use that will generate a total of 15 or more round trip vehicle trips per operating day.
  - Any multi-family residential development consisting of 3 or more dwelling units.
  - Proposed projects involving outdoor recreation facilities, campgrounds and RV Parks, and Mobile Home Parks.

- If an existing land use already exceeds the Threshold Standards, a change or expansion that produces a measurable change of over 10 percent from the existing conditions regarding any Threshold Standard category.
- A major extension of an existing domestic water or wastewater treatment system, or a new water or waste water treatment system.
- Major facilities of a public or private utility; major pipelines and power lines; gravel and mining operations, oil and gas drilling, pumping disposal, gathering and transmission facilities, including coal bed methane and CO2, public or private landfills, waste disposal sites, salvage yards, and communication towers.
- Development that would cause excessive noise, water pollution, or air pollution; and development resulting in visual impacts that would substantially degrade property values.
- Projects that involve significant impacts that go beyond the surface and boundaries of the parcel owned by the applicant.
- 2101.5 Impact of Commercial or Industrial Use on County Roads. High Impact Land Use Effects on County Roads. To address the effects of high impact land use on County Roads, the County has established a Road Impact Fee relative to trips per day in excess of the Threshold Standards. The Road Impact Fee is applied to the improvement of County Roads directly accessing the property or to the improvement of the nearest County Road on the County Road Improvement Plan. The Road Impact Fee is payable by the High Impact Permit applicant prior to the final signature process by the Board of County Commissioners.

# 2102 Urban Influence Restrictions.

**2102.1 One-Mile Area:** Some business uses may be prohibited within one mile of a municipality, in accordance with 31-15-501 (1)(a) C.R.S., as amended.

**2102.2** Three-Mile Area: Development may be required to conform to a major street plan of a municipality, in accordance with 31-23-212, et seq., C.R.S., as amended.

# Chapter 2: Section 2 – Permit Procedures

2201 Permit Application Procedure. Any landowner may voluntarily submit to the County a completed Permit Application certifying to the County that the current or proposed Commercial or industrial land use is in compliance with the Threshold Standards. The Permit Application notifies the County of the land use and protects the landowner from unwarranted criticism or complaints from neighbors if the use is within the Threshold Standards.

Permit Applications filed with the County shall be available for public inspection during regular business hours. If complaints are received by the County based on existing or changed land uses, the actual land use conditions and Permit Application may be reviewed by the County to determine whether a High Impact Permit application or Waiver Petition shall be submitted by the landowner.

No landowner is required to submit a Permit Application if their land use falls within the Threshold Standards. Failure to have an approved Permit Application shall not affect the review of such use if a complaint is later made about the use or if the owner applies for another type of development permit or approval.

- **2201.1 Permit Application Submittal Requirements.** Landowners who wish to obtain a Permit Application shall complete the form provided by the County and submit it with a site plan or map illustrating the property with current and proposed uses and structures. If the Permit Application involves a lot within a subdivision or planned unit development a copy of properly recorded covenants shall be submitted with the application. County staff will review the Permit Application.
- **2201.2 County Commissioner Action**. Staff recommendations for Permit Applications exceeding the threshold standards will be a regular agenda item for County Commissioner meetings. If the County Commissioners determine that a High Impact Permit process is warranted, and should be forwarded to the Planning Commission, specific reasons shall be stated in writing.
- **2201.3 Decision Criteria**. The decision of the County Commissioners shall be based on whether the information submitted and other information available to the County indicates compliance with the Threshold Standards and any recorded subdivision or planned unit development covenants.
- **2201.4 Effect of Denial.** If the Permit Application is denied by the County Commissioners the applicant shall comply with the Permit or Waiver process or other development approval in order to continue pursuing the change in land use. All denials must be supported by written findings specifying the provision of this Code that the plat, plan or agreement failed to address or satisfy.
- 2202 Waiver Petition and Procedure. Whenever (a) it is uncertain as to whether a Commercial or industrial land use or change in land use should be reviewed under these regulations, or (b) a change in land use or an enlargement of existing uses that will result in only minor impacts beyond the Threshold Standards, and those impacts are mitigated, the developer may request, on their own initiative or in response to a request from the County Commissioners, a Waiver of specific Threshold Standards.

If no significant adverse impacts are apparent, based on a review of the Waiver Petition, the County may grant a Waiver of certain Threshold Standards and allow the applicant to proceed with the activity, change in land use, or enlargement of existing uses without a High Impact Permit, with or without special conditions. The County

may also allow the applicant to proceed or operate under limited conditions under a Waiver and require the applicant to apply and obtain a High Impact Permit within a certain time. The following procedure is required to obtain a Waiver:

- **2202.1 Waiver Petition.** The petitioner shall submit a Waiver Petition to the County Commissioners in compliance with the requirements listed in 2203.
- 2202.2 Planning Commission Review and Recommendations. Petition will be referred to the Planning Commission for review at a regular The Planning Commission will review the Planning Commission meeting. application and forward any recommendations to the County Commission.
- 2202.3 Decision Criteria. The decision of the County Commissioners shall be based on the following:
  - A. Whether the information submitted and other information available to the County indicates compliance with the Threshold Standards.
  - B. Whether any minor or significant deviations from the Threshold Standards have been accurately identified.
  - C. Whether any minor or significant deviations from Threshold Standards have been mitigated to adequately reduce significant adverse impacts on surrounding property owners and the County.
  - D. Whether Waiver Petitions involving lots within an existing Subdivision are in compliance with recorded covenants.
- 2202.4 Effect of Denial of a Waiver Petition. If the Waiver Petition is denied by the County Commissioners the applicant shall comply with the full High Impact Permit process in order to continue pursuing the activity or change in land use. denials must be supported by written findings specifying the provision of this Code that the plat, plan or agreement failed to address or satisfy.

# 2203 Waiver Petition Submittal Requirements.

- A Waiver Petition shall include the following information, if 2203.1 **Petition.** applicable:
  - A. The names, addresses, and contact information for the applicant, and, if different, the owner and/or operator of the change in land use.
  - B. A current, completed Permit Application, summarizing the level of compliance with each Threshold Standard.
  - C. A copy of any recorded subdivision or planned unit development covenants and a statement indicating compliance of the change in land use with those
  - D. A general site plan and any preliminary plans, specifications, and design criteria or other documentation for the change in land use as are available, sufficient to indicate the level of compliance with the Threshold Standards and any recorded subdivision or planned unit development covenants.
  - E. Tentative planning, permitting, construction, operating schedules, estimated life of the change in land use and other information as applicable to ongoing activities.
  - F. A list of all other federal, state, and local permits that will be required, and/or documentation of other permits already obtained, for the change in land use, together with any proposal for coordinating these approvals with the County permitting process. It is the responsibility of the applicant to obtain all other required permits.

- G. A general statement of any minor and significant adverse impacts resulting from the change in land use and actions taken or proposed efforts, to mitigate impacts exceeding the Threshold Standards.
- 2204 High Impact Permit Public Hearing and Review Procedure. When a change in land use will exceed Threshold Standards, and a Waiver Petition has not been approved, a High Impact Permit is required, subject to the following procedure.
  - 2204.1 High Impact Permit Application. A High Impact Permit Application shall be submitted in accordance with 2205.1 and 2205.2. For projects involving the potential of highly significant impacts as defined in 2205.3, further requirements may be specified in accordance with 2205.4. When the application is complete it shall be submitted to the County Commission, who will forward it to the Planning Commission.

# 2204.2 Notice of Planning Commission Review

- **A.** The notice of Application and review shall be given:
  - 1. By written notice. Applicants shall cause written notice to be sent to all adjacent property owners and mineral interest owners by Certified Mail, United States Postal Service at least, and including, ten (10) days prior to the review by the Planning Commission Board. Any Planned Unit Development Application will require fifteen (15) days notice prior to the review. A list of Mineral Owner(s) can be obtained by Applicant through deed records recorded in the Montezuma County Clerk & Recorders Office. Proof of mailing shall be submitted to the Planning Department prior to the scheduled review.
- B. At a regular Planning Commission meeting, the Planning Commission will review the application and forward their recommendations to the County Commission. This is not a public hearing, but the Planning Commission will comments and consider them in formulating public recommendations.

# 2204.3 Public Hearing Before the County Commission.

- A. Notice of Public Hearing. Upon receipt of recommendations from the Planning Commission, the County Commission may hold a public hearing in accordance with 6101.1, Notice of Public Hearing of this Code.
- B. Focus of Public Hearing. The public hearing will focus on submittals, Planning Commission recommendations, Findings of Fact and Decision Criteria as specified in 2205 along with oral comments made at the public hearing as well as written comments received at, or prior to, the public
- C. Option to Continue Public Hearing or Schedule Additional Hearings. Where the complexity of the issues, or the need for additional information warrant, the County Commission may continue the public hearing to a date certain, or schedule additional public hearings.
- D. Rendering a Decision. Upon recommendation of the Planning Commission or completion of the public hearing process, the County Commission shall render a decision on the High Impact Permit Application based on the Decision Criteria in 2205.5.

**2205 High Impact Permit Submittal Requirements.** The High Impact Permit application shall include, but not be limited to, the following:

# 2205.1 General Requirements.

- **A.** The names, addresses, and contact information for the owner or representative of the owner.
- **B.** A current, completed Permit Application, summarizing the level of compliance with each Threshold Standard and any recorded subdivision or planned unit development covenants.
- **C.** A site plan, including a vicinity map, indicating to the extent feasible, compliance with the applicable Threshold Standards.
- **D.** Detailed plans and specifications of the change in land use and conceptual or detailed plans for any potential enlargement of the development or land use.
- **E.** If the permit application concerns an enlargement of an existing use, the past history and expansion of the use.
- **F.** A list of the status of all other federal, state, and local permits and approvals that will be required for the change in land use, together with any proposal for coordinating these approvals with the County permitting process. It is the responsibility of the applicant to obtain all other required permits.
- **G.** A description of the public facilities required by the change in land use and evidence of service or specific proposals for providing facilities not currently available.
- **H.** Descriptions of those adverse impacts resulting from the change in land use which are not mitigated and which are irreversible and irretrievable.
- I. The applicant shall provide copies of the entire packet for distribution to appropriate reviewing agencies.
- **2205.2 Mitigation Plan.** The application shall include a summary plan mitigating significant adverse impacts for the proposal, as applicable:
  - **A.** Plans for mitigating conditions that exceed the Threshold Standards during its construction and operation.
  - B. Plans for winding down activities and service and facility demands:
    - 1. When the construction and/or operation of the project is complete.
    - 2. In the event that the project is suspended or terminated prior to completion, and
    - **3.** For controlling, restoring, and remediation of any impacts that will continue after the construction and/or operation of the change in land use is complete.
  - **C.** Plans for controlling and remediation of hazardous, toxic, and explosive substances that are used, stored, transported, disturbed, or produced in connection with the change in land use;
  - **D.** Plans for monitoring the effectiveness of the mitigation measures:
  - **E.** A description of how and when the mitigation plan will be implemented and financed; and
  - F. Performance Bonds, as cited in **5405.3 Improvement Agreements and Security.**
- 2205.3 Additional Requirements for Projects Involving the Potential of Highly Significant Impacts. If the scope and magnitude of the project involves significant impacts that go beyond the surface and boundaries of the parcel owned by the applicant, the applicant shall address any aspects of the change in land use

listed below. Projects involving the potential for highly significant impacts also include, but are not limited to:

- major facilities of a public or private utility,
- major pipelines and power lines.
- gravel and mining operations,
- oil and gas drilling.
- pumping, disposal, gathering and transmission facilities, including coal bed methane and CO2.
- public or private landfills.
- waste disposal sites,
- salvage yards,
- communication towers.
- development that would cause excessive noise, water pollution, air or soil pollution, and
- development resulting in visual or other impacts that would substantially degrade property values.
- 2205.4 Further Requirements. Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of potential highly significant impacts:
  - A. Major Facilities of a Public or Private Utility and other Pipelines and Power lines. Description of:
    - 1. Sources of power being generated or commodities being transported.
    - 2. Voltage and lengths of power lines, locations and sizes of substations, towers and other facilities.
    - 3. Diameters and lengths of pipelines and location, sizes, and noise levels of compressor stations and other facilities.
    - 4. A map of corridor locations, right-of-way dimensions, parcel boundaries and owners, and residential and commercial structures within 100 feet of the corridor right-of-way.
  - B. Surface and ground water: Information on immediate and long term impacts on water quality and quantity.
  - C. Floodplains, Wetlands, and Riparian Areas: Information on the impacts of the change in land use.
    - 1. In regard to gravel operations: a flood mitigation plan will be prepared as part of the reclamation plan for the gravel operations. The flood mitigation plan should address, at a minimum, the existing and post-mining areas of the floodplain; the location, type and size of any temporary or permanent levee systems; the location and quantity of material stockpiles; any temporary or permanent flood protection measures.
    - 2. Compliance with the Montezuma County Floodplain Resolution No. 1-91 and completion of a Floodplain Development Plan Permit, where applicable.
  - D. Air Quality: Information on impacts of the change in land use on air quality and visibility.
  - E. Vegetation: Information on potential wildfire hazards, and impacts on critical wildlife habitat.

- F. Agriculture and Grazing: The potential for off-site impacts on the viability of crop production and grazing, including adverse impacts on irrigation and drainage patterns, resources, fences and existing facilities.
- G. Soils and Geology: Information on natural hazards, unstable soils and the potential for significant soil erosion.
- H. Public Services and Facilities: Description of the currently available capacities of public services and facilities, the added demand on public services and facilities relative to capacity, and how any deficiencies and added public costs resulting from the change in land use will be addressed.
- Property Rights: Information on property rights that will be obtained, eliminated or impacted as a result of the change in land use including water rights, surface rights, mineral rights, rights-of-way and easements including the identity of property rights owners.
- J. Wastewater Treatment: A description of adverse impacts on waste water treatment facilities, disposal systems, and discharges as a result of the change in land use.
- K. Socio-Economic Elements: Information on socio-economic impacts of the change in land use which may include the appraisal of significant impacts on property values, as well as impacts on transportation, population, employment, local government revenues and expenditures, housing, education and social services.
- 2205.5 Findings of Fact and Decision Criteria. The Planning Commission shall make its recommendation and the County Commissioners shall render a decision on the proposed use based on the following:
  - A. The proposed use is in conformity with the Code, and
  - B. The proposed use shall not generate any significant adverse impacts on other property in the area and is consistent with this Code.
  - C. Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.
  - D. If the applicant fails to meet these decision criteria, the permit shall either be approved with conditions, insuring compliance with the decision criteria, or it shall be denied.
  - **E.** The validity of an approved permit is contingent on continued compliance with the performance standards and attached conditions. Permits that do not maintain such compliance will be subject to suspension or revocation of the permit in accordance with these regulations.
- 2205.6 Periodic Review. Approved High Impact Permits will be subject to review if there is any change that exceeds the standards set forth in the permit.
- 2205.7 Certification of Approval. Notice of each permit approval will be certified by the County Commissioners to the County Clerk and Recorder for recording.
- 2205.8 Approval or Denial of Plat. The approval or denial of a plat, plan, or agreement shall be supported by written findings specifying the provisions, if any, that the plat, plan or agreement failed to address or satisfy.

# **CHAPTER 3: LANDOWNER-INITIATED ZONING**

# Chapter 3 : Section 1 - General

- 2101 Landowner-Initiated Zoning. Landowner-Initiated Zoning (LIZ) adapts conventional zoning concepts to the circumstances, values and goals of Montezuma County and relaxes certain Threshold Standards through the definition of the zoning designations. The Threshold Standards as defined for each zoning designation apply to all uses unless specifically defined.
  - **3101.1 Short Title.** The regulations in this chapter may be cited as "LIZ" or "Landowner-Initiated Zoning Regulations."
- **3102 Purposes and Objectives.** This Code is drawn in accordance with the Montezuma County Comprehensive Land Use Plan and is designed for the purpose of promoting the health, safety and welfare of the present and future inhabitants of Montezuma County, including all purposes enabled under Colorado Revised Statutes.
  - **3102.1 Purposes.** Based on the recommendations in the Comprehensive Land Use Plan, the specific purposes of the Landowner-Initiated Zoning plan are to provide:
    - **A.** A menu of agricultural and residential zones for landowners to choose from with lot sizes ranging up to 80+ acres.
    - **B.** Development standards within each zone that take into account the impact of particular uses on the allowed range of parcel sizes, potential impacts on nearby uses, and any recorded subdivision or planned unit development covenants.
    - C. Coordination with the High Impact Commercial or industrial Permit systems. These are subject to the Threshold Standards which are designed to identify and mitigate high impacts to surrounding lands resulting from such uses.
    - D. A voluntary zoning sign-up period of 12 months enabling landowners to select zoning designations, or remain unzoned, followed by review and approval by the County Commissioners.
  - **3102.2 Objectives.** Based on the recommendations of the Montezuma County Comprehensive Land Use Plan, the Landowner-Initiated Zoning system is designed to achieve the following objectives:
    - A. Landowner choice and responsibility. Landowners will have the opportunity to make informed choices about the future of their land, while having the responsibility to abide by the standards of this Code, in order to mitigate any significant adverse impacts on other landowners and the County.
    - B. An incentive based approach to the preservation of Open Space and productive agriculture lands. The LIZ zones provide incentives for the preservation of Open Space and the protection of productive agricultural lands while allowing for opportunities to develop and sell home sites.
    - C. Predictability concerning property rights. Landowners who place their land in a LIZ zone will know what their development rights are and what standards will be required when they choose to develop. Landowners who choose to have their land remain unzoned may do so until they make a land use change that requires zoning, compliance with subdivision regulations, or a Commercial or industrial permit, except those landowners in the A/R ES zone.
    - D. Predictability concerning property values. As landowners put their land into a LIZ zone, neighbors, potential buyers, and the public will know what kind of

- development to anticipate and be able to adjust expectations and plans accordingly.
- E. Opportunities to establish neighborhood goals and cooperation. The opportunity will be provided for neighbors to work together to plan for the future of their neighborhoods.
- F. Predictability concerning the provision of infrastructure and services. As zoning patterns are established, the County, utility and service providers, and others will be in a better position to plan for future development and to respond to growth in a more cost effective manner.
- 3103 Application and Scope. The zoning regulations contained in this section shall apply to all land in the unincorporated areas of Montezuma County.
  - **3103.1 Other Regulations.** Uses permitted by these regulations shall also be subject to provisions of other applicable County and state regulations.
  - 3103.2 Enforcement and Administration. Unless as specified in this section, the provisions of this section shall be enforced and administered in accordance with **Chapter 8** and other applicable provisions of this Land Use Code.
- 3104 Official Zoning Map. The Official Zoning Map will be developed by the County. Existing subdivisions, as well as subdivision exemptions, will be designated on the Official Zoning Map as A/R ES (Agriculture/Residential Existing Subdivision). The A/R ES designation allows uses existing at the time that the Code is adopted to continue. notwithstanding the right of lot owners to enforce covenants through civil action. Uses undertaken after the adoption of this Code must comply with Threshold Standards, at a minimum, as well as subdivision covenants of record,

Land development applications processed during the sign-up period, including subdivision applications, will be required to concurrently zone the land pursuant to these regulations. A map of approved applications and the County designations as described above will comprise the Official Zoning Map of Montezuma County during the sign-up period. The Official Zoning Map, together with all data shown thereon, and all amendments thereto, are incorporated by reference into this Code.

- 3104.1 Zone District Boundaries. Except where otherwise indicated, zone designation boundaries shall follow existing parcel boundary lines.
- 3104.2 Management and Maintenance of Official Zoning Map. Changes in the boundary of any zone designation shall promptly be entered on the Official Zoning
- 3104.3 Location of Official Zoning Map. The Official Zoning Map shall be located in the County Planning office with copies available for public reference.
- 3105 Zoning Designations Established. To carry out the purpose and provisions of these regulations, the following zoning designations are established (Specific standards for each zone are found in Chapter 3, Section 3, Zoning Regulations, and Chapter 4, Section 1, Planned Unit Development-Authority, Purposes and Objectives):

3105.1	A-80+	Large Scale Agriculture
3105.2	AGZ	Agricultural Use
3105.3	A/R 35	Large Scale Agriculture and Residential
3105.4	A/R 10-34	Medium Scale Agriculture and Residential
3105.5	A/R 3-9	Small Scale Agriculture and Residential

3105.6	R-3	Rural Residential
3105.7	A/R ES	<b>Existing Subdivision</b>
3105.8	USZ	Urban Services Zone
3105.9	INDZ	Industrial Zone
3105.10	COMZ	Commercial Zone
3105.11	UNZ	Unzoned

3105.12 Planned Unit Development (PUD) Options:

A. CIPUD **Cluster Incentive Planned Unit Development** 

B. MHPUD Mobile Home and RV Park Planned Unit Development

C. INDPUD **Industrial Planned Unit Development** D. COMPUD **Commercial Planned Unit Development** E. GPUD **General Planned Unit Development** 

# 3106 Land Use Categories Defined.

3106.1 Agricultural Uses Defined. Agricultural land use that involves cultivating the soil to produce and harvest crops or raise livestock, and the preparation, sale, and transportation of these products to the public market.

# A. Agricultural Primary Uses:

- Farming and ranching activities
- Agricultural Buildings: barns, pole barns, sheds, equipment storage, animal shelters, to benefit a primary agricultural use
- Fish Hatchery
- Agricultural Tourism Uses: guiding, outfitting, stables and riding, theme farms, farm tours
- Agricultural Home Occupations: Retail or mail-order for farm products, canning, baking, crafts
- Timber Harvesting of on-site material
- Agricultural Facilities: Fencing, livestock feeding and handling, irrigation pipelines, ditches and structures, crop harvesting, processing, and storage facilities
- Noncommercial feedlots
- Nursery/Greenhouse/Truck farm: under 25,000 sq. ft. buildings and shelters
- Agricultural Land Stewardship: Erosion control, water impoundment, windbreaks, weed control, etc. to benefit a primary agriculture use
- On-farm agriculture product storage, packaging, transportation, shipping
- B. Agriculture Accessory Uses. Normally incident to Agricultural Uses, may include, but not limited to:
  - Primary single family residence
  - Housing for ranch and farm operation family members and employees
- C. Commercial Agribusiness Uses: may include, but are not limited to:
  - Agricultural implements sales and service
  - Animal sales and auction businesses conducting regular sales events that involve multiple customers
  - Farm animal truck washing and cleaning
  - Farm supply stores
  - Fairgrounds and rodeo facilities
  - Nursery / greenhouse / truck farm: 25,000 to 50,000 sq. ft. buildings and shelters

- Kennels / Animal shelters and enclosures for commercial purposes
- Veterinary clinics
- Retail outlet for agricultural products (25,000-50,000 sq. ft. building)
- D. Industrial Agribusiness Uses: May include, but are not limited to:
  - Commercial feed lot: 1000 animals or more
  - Crop dusting operations and airstrip
  - Dairy farm: based on Colorado Department of Health standards
  - Meat processing facility
  - Nursery / greenhouse / truck farm: over 50,000 sq. ft. buildings
  - Slaughter house
- 3106.2 Commercial Uses Defined. A commercial use involves any type of business activity that is carried on for profit, but not including business or other activities defined as agricultural primary or accessory uses or industrial uses in these regulations. This definition does include Commercial Agribusiness Uses. For purposes of this Code commercial uses also include public and private institutional facilities.
- 3106.3 Industrial Uses Defined. An industrial use is a use that involves the operations of extraction, processing, assembly, fabrication, storage, repair, material handling, Industrial Agribusiness Uses, and other similar uses.
- 3106.4 Residential Uses Defined. Residential and Residential Accessory Uses are defined as follows:

# A. Residential Uses:

- One primary single-family residence, or
- One mobile or modular home (subject to state and local standards), or
- One State-licensed group home for up to eight persons

# B. Residential Accessory Uses:

One guest or caretaker unit: Attached 1,500 sq. ft. maximum, subject to the Montezuma County Individual Sewage Disposal System Rules and Regulations.

- Accessory outside storage
- Garages and carports
- Bed and breakfast
- Home occupation
- Domestic animals for family use and consumption
- Non-commercial telecommunications site
- Solar/Wind energy system for site use or utility service uses
- Gardens and orchards
- Stewardship practices

# Chapter 3: Section 2 – Establishment of Zoning

3201 List of Zoning Designations Available for Selection. The following zoning designations may be applied for subject to a public hearing before the Planning Commission, and recommendation by the same to the County Commissioners, in accordance with 30-28-116 et seg., C.R.S., as amended.

3201.1	A-80+	Large Scale Agricultural
3201.2	AGZ	Agricultural Use
3201.3	A/R 35+	Large Scale Agricultural and Residential
3201.4	A/R 10-34	Medium Scale Agricultural and Residential
3201.5	A/R 3-9	Small Scale Agricultural and Residential
3201.6	R-3	Rural Residential
3201.7	USZ	Urban Service Zone
3201.8	INDZ	Industrial Zone
3201.9	COMZ	Commercial Zone

- **3202 Establishing Zoning or Rezoning.** Any landowner, or their authorized agent, may submit to the County a completed application for establishing zoning or rezoning.
  - 3202.1 Submittal Requirements.
    - A. Application Form. All zoning and rezoning permit applications shall be filed by the owner(s) of the subject parcel with the County on a form provided by the County. The owner may submit a letter designating an agent to act on their behalf in the application process.
    - **B.** Map. A property location map.
    - C. Proof of Ownership in the form of a Certificate of Ownership from a title company or a title opinion from an attorney showing that the applicant is the owner of record.
    - D. A Presketch Plan. For Development involving a potential for significant impacts, a Site Specific Development Plan may also be required, and
    - E. Fee.
  - 3202.2 Public Hearing Before the Planning Commission. A public hearing shall be set in accordance with 6101.1 Notice of Public Hearing of this Code.
  - 3202.3 Public Hearing Before the County Commission.
    - A. Notice of Public Hearing. Upon receipt of recommendations from the Planning Commission, the County Commission will hold a public hearing in accordance with 6101.1, Notice of Public Hearing of this Code.
    - B. Focus of Public Hearing. The public hearing will focus on submittals, Planning Commission recommendations, Findings of Fact and Decision Criteria as specified in 3202.4 along with oral comments made at the public hearing as well as written comments received at, or prior to, the public hearing,
    - C. Option to Continue Public Hearing or Schedule Additional Hearings. Where the complexity of the issues, or the need for additional information warrant, the Board of County Commissioners may continue the public hearing to a date certain, or schedule additional public hearings.
    - D. Rendering a Decision. Upon recommendation of the Planning Commission and completion of the public hearing process, the County Commission shall render a decision on the Zoning Application based on the Decision Criteria in 3202.4.

- **3202.4 Findings of Fact and Decision Criteria.** The Planning Commission shall make its recommendation and the County Commissioners shall render a decision on the proposed use based on the following:
  - A. The proposed use is in conformity with the Code, and
  - **B.** The proposed use shall not generate any significant adverse impacts on other property in the area and is consistent with this Code.
  - **C.** Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.
- **3203** Development of Landowner-Initiated Zoning Map of Montezuma County. The Landowner-Initiated Zoning Map of Montezuma County was developed in the 12-month phase following the adoption of the Land Use Code, during which time landowners applied for zoning designations.
  - **3203.1 Official Landowner-Initiated Zoning Map Available for Public Review.** In order to continue to foster discussion and cooperation between landowners, the Landowner-Initiated Zoning Map is available for public review during regular business hours in the Planning Office at the County Courthouse.
  - **3203.2 Regular Update of the Official Landowner-Initiated Zoning Map.** The zoning applications as filed with the County shall be indicated on the Official Landowner-Initiated Zoning Map, which shall be updated on a regular basis.
- **Zoning Board of Adjustment.** The Board of County Commissioners shall appoint a Zoning Board of Adjustment to consider appeals of zoning decisions in conformance with 30-28-117 and 118, C.R.S., as amended.
- **3205** Board of Adjustment Review of Disputes. In situations where a landowner, or any person aggrieved, claims that a zoning designation was incorrectly made by the County, and in the case of any other dispute regarding the zoning designation process, the Board of Adjustment shall have authority to resolve the dispute pursuant to these regulations.

# Chapter 3: Section 3 – Zoning Regulations

- 3301 Modification of Threshold Standards. The Threshold Standards provide the basis for the definition of each zoning designation. Some of the Threshold Standards are relaxed as specifically defined in the zoning designations, based generally on the increase in lot size. Threshold Standards apply to all land uses unless modified according to the zoning designation definition or Permit exemptions contained in 1301.1. Short Title.
- 3302 Urban Influence Restrictions Applicable to all Zoning and Planned Unit Development Designations.
  - **3302.1 One-Mile Area:** Some business uses may be prohibited within one mile of a municipality, in accordance with 31-15-501 (1)(a) C.R.S., as amended.
  - **3302.2 Three-Mile Area:** Development may be required to conform to a major street plan of a municipality, in accordance with 31-23-212 et seq., C.R.S., as amended.
- 3303 A-80+: Large Scale Agricultural.
  - **3303.1 Purpose.** This zone applies to parcels of 80 acres or more. The zoning designation is designed to:
    - A. Provide a zone for landowners whose highest priority is agricultural production and who wish to remain, as much as possible, unconstrained by the impact of residential subdivisions.
    - B. Protect primary and accessory agricultural uses as defined in 3106.1 and related primary and accessory residential uses; and
    - C. Allow for Special uses as defined in 3303.4.
    - **D.** At such time as landowners in the A-80+ zone need to undertake the development of residential lots, rezoning to A/R 35+ will be routinely approved, so long as the uses and threshold standards listed below are in compliance.
  - 3303.2 Minimum Lot Size: 80 acres.
  - 3303.3 Uses by Right:
    - **A.** Agricultural, Agricultural Accessory. See 3106.1, a and b.
    - B. Residential, Residential Accessory. See 3106.4, a and b.
  - 3303.4 Conditional Uses-Special Use Permit: Purposes and Objectives. To allow sufficient flexibility for special uses that may include any or all of the following; temporary or interim in use, created by nature, permitted by law or regulation, have a potentially greater impact than Uses by Right or are of unusual circumstance such that said use can be accommodated without the possible detrimental long-term effects that a change to commercial or industrial zoning could have on the neighborhood. Judicial authority for such is the case of Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983). That judicial holding is the intent and goal sought to be achieved herein.
    - A. Said special uses must meet the requirements of Chapter 2 of this code and comply with Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983), including the following conditions: Such use does not create any danger to safety in surrounding areas, does not

cause water pollution, and does not create excessive noise, vibration, smoke, dust, odors, heat glare, snow storage problems, does not aggravate an existing wildfire hazard or create a wildfire hazard to structures on adjacent property, does not aggravate an existing flood hazard or increase flood hazard to upstream or downstream properties, and does not create or increase geologic hazard or subject adjacent properties to geologic hazard. Said special uses include the following:

- 1. Commercial or Industrial Agribusiness as defined in 3106.1, c and d
- 2. Water systems
- 3. Sewage systems
- 4. Public or private utility facilities
- 5. Oil, Gas, or CO2 drilling and production wells
- 6. Pipelines
- 7. Power Lines
- 8. Seismograph testing for natural resources
- 9. Gravel mining and crushing operations
- 10. Mobile Asphalt Plants, to date certain
- 11. Concrete Batch Plants, to date certain
- 12. Communication Towers
- 13. Special events including, but not limited to, outdoor music concerts, motorcycle rallies, Off Highway Vehicle Events and similar events.
- 14. Retreat/Guest Ranch
- B. Planned Unit Developments: Cluster Incentive PUD and General PUD.
- C. Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of impacts: evidence that the proposed use(s) shall not destroy visual amenities, that it include a plan for land reclamation, and that it is in conformance with commercial and industrial performance standards promulgated by the county, where necessary.

### 3303.5 Threshold Standards:

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- **D.** New Construction and Remodeling: Uniform Building Code, 1997 Edition,
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards for non-agricultural uses
- K. Nuisance Standards: Threshold Standards for non-agricultural uses.

# 3304 AGZ: Agricultural Use.

- **3304.1 Purpose.** This zone applies to parcels of 35 acres or more. The zoning designation is designed to:
  - **A.** Provide a zone for landowners whose highest priority is agricultural production.
  - B. Protect primary and accessory agricultural uses as defined in 3106.1; and
  - C. Allow for Special uses as defined in 3304.4.
  - **D.** At such time as landowners in the AGZ zone need to undertake the development of residential lots, rezoning to A/R 35+ will be routinely approved, so long as the uses and threshold standards listed below are in compliance.

# 3304.2 Minimum Lot Size: 35 acres.

# 3304.3 Uses by Right:

- A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
- B. Residential, Residential Accessory. See 3106.4, a and b.
- 3304.4 Conditional Uses-Special Use Permit: Purposes and Objectives. To allow sufficient flexibility for special uses that may include any or all of the following; temporary or interim in use, created by nature, permitted by law or regulation, have a potentially greater impact than Uses by Right or are of unusual circumstance such that said use can be accommodated without the possible detrimental long-term effects that a change to commercial or industrial zoning could have on the neighborhood. Judicial authority for such is the case of Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983). That judicial holding is the intent and goal sought to be achieved herein.
  - A. Said special uses must meet the requirements of Chapter 2 of this code and comply with Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983), including the following conditions: Such use does not create any danger to safety in surrounding areas, does not cause water pollution, and does not create excessive noise, vibration, smoke, dust, odors, heat glare, snow storage problems, does not aggravate an existing wildfire hazard or create a wildfire hazard to structures on adjacent property, does not aggravate an existing flood hazard or increase flood hazard to upstream or downstream properties, and does not create or increase geologic hazard or subject adjacent properties to geologic hazard. Said special uses include the following:

- 1. Commercial or Industrial Agribusiness as defined in 3106.1, c and d
- 2. Water systems
- 3. Sewage systems
- 4. Public or private utility facilities
- 5. Oil, Gas, or CO2 drilling and production wells
- 6. Pipelines
- 7. Power Lines
- 8. Seismograph testing for natural resources
- 9. Gravel mining and crushing operations
- 10. Mobile Asphalt Plants, to date certain
- 11. Concrete Batch Plants, to date certain

- 12. Communication Towers
- 13. Special events including, but not limited to, outdoor music concerts, motorcycle rallies, Off Highway Vehicle Events and similar events.
- 14. Retreat/Guest Ranch
- **B.** Planned Unit Developments: Cluster Incentive PUD and General PUD.
- C. Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of impacts; evidence that the proposed use(s) shall not destroy visual amenities, that it include a plan for land reclamation, and that it is in conformance with commercial and industrial performance standards promulgated by the county, where necessary.

# 3304.5 Threshold Standards:

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards for non-agricultural uses
- K. Nuisance Standards: Threshold Standards for non-agricultural uses

# 3305 A/R 35+: Large Scale Agricultural and Residential.

- 3305.1 Purpose. This zone applies to parcels of 35 acres or more. The zoning designation is designed to:
  - A. Protect primary and accessory agricultural uses as defined in 3106.1,
  - B. Allow for Special uses as defined in 3305.4; and
  - C. Allow the development of up to three (3) clustered lots as home sites per 35 acres as a Cluster Incentive Planned Unit Development (CIPUD), which allows limited residential development and economic security without eliminating productive agricultural land. Except that any Cluster Development under 30-28-401 et seq., C.R.S., as amended, shall not exceed two (2) residential units per each 35 acre increment.
  - D. An additional clustered home site may be obtained per each 15 acre increment over the 35 acre minimum parcel size.
  - E. For purposes of this code, "clustered lots", "clustered homesites" and the "Cluster Incentive Planned Unit Development" may include the development of dispersed lots or home sites provided that the purpose of retaining 75 percent of the site in agricultural production or open space is met.

# 3305.2 Minimum Lot Size: 35 acres

### 3305.3 Uses by Right:

- A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
- B. Residential, Residential Accessory. See 3106.4, a and b.

- 3305.4 Conditional Uses-Special Use Permit: Purposes and Objectives. To allow sufficient flexibility for special uses that may include any or all of the following; temporary or interim in use, created by nature, permitted by law or regulation, have a potentially greater impact than Uses by Right or are of unusual circumstance such that said use can be accommodated without the possible detrimental long-term effects that a change to commercial or industrial zoning could have on the neighborhood. Judicial authority for such is the case of Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983). That judicial holding is the intent and goal sought to be achieved herein.
  - A. Said special uses must meet the requirements of Chapter 2 of this code and comply with Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983), including the following conditions: Such use does not create any danger to safety in surrounding areas, does not cause water pollution, and does not create excessive noise, vibration, smoke, dust, odors, heat glare, snow storage problems, does not aggravate an existing wildfire hazard or create a wildfire hazard to structures on adjacent property, does not aggravate an existing flood hazard or increase flood hazard to upstream or downstream properties, and does not create or increase geologic hazard or subject adjacent properties to geologic hazard. Said special uses include the following:
  - 1. Commercial or Industrial Agribusiness as defined in 3106.1, c and d
  - 2. Water systems
  - 3. Sewage systems
  - 4. Public or private utility facilities
  - 5. Oil, Gas, or CO2 drilling and production wells
  - 6. Pipelines
  - 7. Power Lines
  - 8. Seismograph testing for natural resources
  - 9. Gravel mining and crushing operations
  - 10. Mobile Asphalt Plants, to date certain
  - 11. Concrete Batch Plants, to date certain
  - 12. Communication Towers
  - 13. Special events including, but not limited to, outdoor music concerts, motorcycle rallies, Off Highway Vehicle Events and similar events.
  - 14. Retreat/Guest Ranch
  - B. Planned Unit Developments: Cluster Incentive PUD and General PUD.
  - C. Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of impacts: evidence that the proposed use(s) shall not destroy visual amenities, that it include a plan for land reclamation, and that it is in conformance with commercial and industrial performance standards promulgated by the county, where necessary.

### 3305.5 Threshold Standards:

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- **G.** Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards for non-agricultural uses
- K. Nuisance Standards: Threshold Standards for non-agricultural uses

# 3306 A/R: 10-34 Medium Scale Agricultural and Residential.

3306.1 Purpose. This zone allows for agricultural use while protecting surrounding areas from higher impact through the use of the Threshold Standards. This zone also allows for Special uses as defined in 3306.4.

# 3306.2 Minimum Lot Size: 10 acres

A. Within the Dolores River Valley an allowable 10-acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.

# 3306.3 Uses by Right:

- A. Agricultural, Agricultural Accessory See 3106.1, a and b.
- B. Residential, Residential Accessory See 3106.4, a and b.
- 3306.4 Conditional Uses-Special Use Permit: Purposes and Objectives. To allow sufficient flexibility for special uses that may include any or all of the following: temporary or interim in use, created by nature, permitted by law or regulation, have a potentially greater impact than Uses by Right or are of unusual circumstance such that said use can be accommodated without the possible detrimental long-term effects that a change to commercial or industrial zoning could have on the neighborhood. Judicial authority for such is the case of Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983). That judicial holding is the intent and goal sought to be achieved herein.
  - A. Said special uses must meet the requirements of Chapter 2 of this code and comply with Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983), including the following conditions: Such use does not create any danger to safety in surrounding areas, does not cause water pollution, and does not create excessive noise, vibration, smoke, dust, odors, heat glare, snow storage problems, does not aggravate an existing wildfire hazard or create a wildfire hazard to structures on adjacent property, does not aggravate an existing flood hazard or increase flood hazard to upstream or downstream properties, and does not create or increase geologic hazard or subject adjacent properties to geologic hazard. Said special uses include the following:

- 1. Commercial or Industrial Agribusiness as defined in 3106.1, c and d
- 2. Water systems
- 3. Sewage systems
- 4. Public or private utility facilities
- 5. Oil, Gas, or CO2 drilling and production wells
- 6. Pipelines
- 7. Power Lines
- 8. Seismograph testing for natural resources
- 9. Gravel mining and crushing operations
- 10. Mobile Asphalt Plants, to date certain
- 11. Concrete Batch Plants, to date certain
- 12. Communication Towers
- 13. Special events including, but not limited to, outdoor music concerts, motorcycle rallies, Off Highway Vehicle Events and similar events.
- 14. Retreat/Guest Ranch
- B. Planned Unit Developments: Cluster Incentive PUD and General PUD.
- C. Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of impacts: evidence that the proposed use(s) shall not destroy visual amenities, that it include a plan for land reclamation, and that it is in conformance with commercial and industrial performance standards promulgated by the county, where necessary.

# 3306.5 Threshold Standards:

- A. Maximum Building Height 45'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards for non-agricultural uses
- H. Roads, Traffic, and Access: Threshold Standards for non-agricultural uses
- I. Parking and Loading Areas: Threshold Standards
- **J.** Health, Safety, and Welfare: Threshold Standards
- K. Nuisance Standards: Threshold Standards

# 3307 A/R: 3-9 Small Scale Agricultural and Residential.

- **3307.1** Purpose. This zoning designation is intended for residential purposes with accessory agricultural uses.
- 3307.2 Minimum Lot size: 3 acres
  - A. This zoning is not allowable within the Dolores River Valley.
- 3307.3 Uses by Right:
  - A. Agricultural, Agricultural Accessory. See 3106.1, a and b.
  - B. Residential Residential Accessory. See 3106.4, a and b.
- 3307.4 Conditional Uses:
  - A. Planned Unit Developments: General Planned Unit Development.

#### 3307.5 Threshold Standards:

- A. Maximum Building Height 35'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Uniform Building Code, 1997 Edition.
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards
- H. Roads, Traffic, and Access: Threshold Standards
- I. Parking and Loading Areas: Threshold Standards
- J. Health, Safety, and Welfare: Threshold Standards
- K. Nuisance Standards: Threshold Standards

#### 3308 R-3: Rural Residential.

- **3308.1 Purpose.** This zone is intended to be a residential zone.
- 3308.2 Minimum Lot Size: 3 acres
  - A. This zoning is not allowable within the Dolores River Valley.
- 3308.3 Uses by Right: Residential, Residential Accessory. See 3106.4,a and b.
- 3308.4 Conditional Uses: None
- 3308.5 Prohibited Uses:
  - A. All Agricultural
  - B. All Commercial
  - C. All Industrial
  - D. All Planned Unit Developments

# 3308.6 Threshold Standards:

- A. Maximum Building Height 35'
- B. Building Footprint: Maximum building footprint overall shall not exceed 12 percent of the lot size.
- C. Building Setbacks: Threshold Standards
- D. New Construction and Remodeling: Not applicable
- E. Livestock Fencing: Threshold Standards
- F. Agricultural Protection: Threshold Standards
- G. Outdoor Storage: Threshold Standards
- H. Roads. Traffic. and Access: Threshold Standards
- I. Parking and Loading Areas: Threshold Standards
- J. Health. Safety, and Welfare: Threshold Standards
- K. Nuisance Standards: Threshold Standards

#### 3309 A/R ES: Existing Subdivision.

- 3309,1 Purpose. The A/R ES Zone will be applied to platted subdivisions and exemptions existing, or under review, at the time this Code is adopted. A/R: ES zoning will be adopted as part of the official zoning map. The purpose of this zone is to protect residential subdivisions and lots existing at the time of the adoption of this Code.
- 3309.2 Use Standards. The use standards for the A/R: ES zone will conform with those standards established when the final plat was approved along with the covenants of record. The Threshold Standards listed in Chapter 1, Section 1

provide minimum standards for land use changes undertaken after the adoption of the Code. Threshold Standards apply as minimum standards in order to provide for the mitigation of significant adverse impacts on other property owners and the County.

#### 3310 USZ Urban Services Zone.

**3310.1 Purpose.** The Urban Services Zone allows for higher-intensity development where urban services appropriate to the intended use are available. An Urban Service Zone designation cannot be established without clear evidence that services are, or can be made available, to the site within a reasonable time without undue public costs.

#### 3311 INDZ Industrial Zone.

- 3311.1 Purpose. The Industrial Zone allows for the establishment and expansion of uses that are predominately industrial. Establishment of industrial zoning requires the existence or establishment of infrastructure capable of supporting industrial uses. Industrial Zoning is also contingent on a setting where significant adverse impacts on residential and agricultural uses can be avoided or mitigated.
- **3311.2 Minimum Lot Size.** Three acres unless modified by an approved PUD Plan or High Impact Permit.
- 3311.3 Uses by Right: Industrial uses that comply with Threshold Standards.

#### 3311.4 Conditional Uses:

- A. Uses approved through the Industrial PUD or General PUD review process.
- B. Uses approved through the High Impact Permit Process.
- **C.** Residential or agricultural uses are allowed in this zone, but are subordinate to the industrial intent of the zone.
- **3311.5 Threshold Standards:** Threshold standards established in **1202** of this Code apply to this zone. These Threshold Standards may be adjusted through the Industrial PUD, General PUD or High Impact Permit review and approval process provided that significant adverse impacts can be mitigated.

#### 3312 COMZ Commercial Zone.

- 3312.1 Purpose. The Commercial Zone allows for the establishment and expansion of uses that are predominately commercial. Establishment of commercial zoning requires the existence or establishment of infrastructure capable of supporting commercial uses. Commercial Zoning is also contingent on a setting where significant adverse impacts on residential and agricultural uses can be avoided or mitigated.
- **3312.2 Minimum Lot Size.** Three acres unless modified by an approved PUD Plan or High Impact Permit.
- **3312.3 Uses by Right:** Commercial uses that comply with Threshold Standards.

#### 3312.4 Conditional Uses:

- A. Uses approved through the Commercial PUD or General PUD review process.
- B. Uses approved through the High Impact Permit Process.
- **C.** Residential or agricultural uses are allowed in this zone, but are subordinated to the commercial intent of the zone.

3312.5 Threshold Standards: Threshold standards established in 1202 of this Code apply to this zone. These Threshold Standards may be adjusted through the Commercial PUD, General PUD or High Impact Permit review and approval process, provided that significant adverse impacts can be mitigated.

#### 3313 UNZ Unzoned.

3313.1 Purpose. Except for A/R ES zones, landowners may elect to remain unzoned by indicating this to the County or by not filing a zoning certification form with the County. Landowners in this designation may continue present uses without interruption but any change in use or enlargement of use exceeding the Threshold Standards or the subdivision of land, requires compliance with one or more of the following: the High Impact Permitting Regulations, the establishment of a zoning designation, or other development approval to allow the new use. Unzoned landowners who subdivide land will be required to comply with subdivision regulations and to concurrently establish the appropriate zoning designation.

3313.2 Minimum Lot Size: n/a

3313.3 Uses by Right: Existing uses.

- 3313.4 Conditional Uses-Special Use Permit: Purposes and Objectives. To allow sufficient flexibility for special uses that may include any or all of the following; temporary or interim in use, created by nature, permitted by law or regulation, have a potentially greater impact than Uses by Right or are of unusual circumstance such that said use can be accommodated without the possible detrimental long-term effects that a change to commercial or industrial zoning could have on the neighborhood. Judicial authority for such is the case of Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983). That judicial holding is the intent and goal sought to be achieved herein.
  - A. Said special uses must meet the requirements of Chapter 2 of this code and comply with Hudspeth v. Board of County Commissioners of the County of Routt, 667 P.2d 775 (Colo.App.1983), including the following conditions: Such use does not create any danger to safety in surrounding areas, does not cause water pollution, and does not create excessive noise, vibration, smoke, dust, odors, heat glare, snow storage problems, does not aggravate an existing wildfire hazard or create a wildfire hazard to structures on adjacent property, does not aggravate an existing flood hazard or increase flood hazard to upstream or downstream properties, and does not create or increase geologic hazard or subject adjacent properties to geologic hazard. Said special uses include the following:

- 1. Commercial or Industrial Agribusiness as defined in 3106.1, c and d
- 2. Water systems
- 3. Sewage systems
- 4. Public or private utility facilities
- 5. Oil, Gas, or CO2 drilling and production wells
- 6. Pipelines
- 7. Power Lines

- 8. Seismograph testing for natural resources
- 9. Gravel mining and crushing operations
- 10. Mobile Asphalt Plants, to date certain
- 11. Concrete Batch Plants, to date certain
- 12. Communication Towers
- 13. Special events including, but not limited to, outdoor music concerts, motorcycle rallies, Off Highway Vehicle Events and similar events.
- 14. Retreat/Guest Ranch
- B. Planned Unit Developments: Cluster Incentive PUD and General PUD.
- C. Any or all of the following may be required in the form of maps, narrative descriptions, photographs, data and studies to determine the nature and extent of impacts: evidence that the proposed use(s) shall not destroy visual amenities, that it include a plan for land reclamation, and that it is in conformance with commercial and industrial performance standards promulgated by the county, where necessary.
- 3313.5 Accessory and Temporary Uses: n/a
- 3313.6 Threshold Standards: Any change or enlargement from existing uses in excess of the Threshold Standards requires zoning, High Impact Permit, or other development approval.
- 3314 Summary Chart. On the following pages are summary charts of Montezuma County Zoning Designations and other zoning requirements, for reference purposes only.
- TS Threshold Standards as listed in Chapter 1, Section 2
- Planned Unit Development descriptions can be found in Chapter 4, Section 2
- P/C,TSM: "Plat/Covenants. Threshold Standards Minimum" in the A/R ES Zone indicates standards are based on the recorded plat and covenants, with threshold standards as minimum standards (see 3309).

# SUMMARY CHART OF ZONING CHOICES-PREFERENCE ZONES

Γ		URBAN	VI OI ZON	ING CHOICES TITLE		]
	ZONING CHOICES	SERVICES ZONE	R-3	A/R3-9	COMMERCIAL	INDUSTRIAL
A CONTRACTOR OF THE CONTRACTOR	Uses by Right		Residential, Residential Accessory	Primary Agriculture Agriculture Accessory Residential Residential Accessory	Commercial	Industrial
Conditional Uses			None	General PUD High Impact Permit	Commercial PUD General PUD High Impact Permit	Industrial PUD General PUD High Impact Permit
			THRESH	OLD STANDARDS		
у туунинаринингин түүн	Minimum lot size		3 acres	3 acres	3 acres or per approved Planned Unit Development or Permit	3 acres or per approved Planned Unit Development or Permit
2	Maximum Building height		35'	35'	35'	35'
3	Maximum Building Footprint		TS	TS	TS	TS
4	Building Setbacks		TS	TS	TS	TS
5	New Construction and Remodeling for Commercial, Industrial and Public Buildings	27.	N/A	UBC, 1997 Edition for Commercial or Industrial Uses	UBC, 1997 Edition for Commercial or Industrial Uses	UBC, 1997 Edition for Commercial or Industrial Uses
6	Livestock Fencing	age;	TS	TS	TS	TS
7	Protection of Normal Agricultural operations	See page 27.	TS	TS	TS	TS
8	Outdoor Storage	yldo	TS	TS	TS	TS
9	Roads	S ag	TS	TS	TS	TS
10	Parking / Access and Loading areas	the municipalities apply.	TS	TS	TS	TS
11	Traffic		TS	TS	TS	TS
20	Health, Safety and Welfare (water, wastewater, storm water, solid waste, Fire protection, law enforcement, Floodplain, natural hazards, public facilities)	Standards for the areas adjacent to the	TS	TS	TS	TS
21 - 31	Nuisance standards (Electrical Disturbances, fire and explosive hazards, glare and heat, lighting, noise, and vibration)	andards for the	TS	TS	TS	TS
32	Other Significant Adverse Impacts	<b>8</b>	TS	TS	TS	TS
				An also constructions of the construction of t		E CONTRACTOR CONTRACTO

	STANDARDS FOR THE URBAN SERVICES AC LEOR AREAS ADJIACEMENTO THE MUNIC	OPAGMES STORES			
Improvements (* )	Proposed County Union Services One Standards— Moderate Residential 24 units per acre	Richosed County Uniting Services Zone Standards Hight Residential Unit per acre			
Street Standards	1. Curb and gutters 2. Sidewalks 3. 2½" asphalt and 8" gravel 4. 36' wide (32' asphalt & 2x2' curb and gutter)	1. No curb and gutter or sidewalks required 2. 36' wide gravel base (8") 3. 28' wide asphalt (2½") & 4' gravel shoulder or chip seal to county standards			
Storm Water	<ol> <li>Curbs to inlets</li> <li>Storm piping to major drainways</li> <li>Culverts sized as needed</li> <li>Easements for drainage</li> </ol>	Side ditches-—owner maintained     Culverts sized as needed in drainage study     Easements for drainage			
Water Piping <sup>1</sup>	<ol> <li>6" main minimum—C900 DR14 (200 psi)</li> <li>Pumper and 2 hose connections on hydrants</li> <li>1 fire hydrant w/in 500' and 2 w/in 1000'</li> <li>In-line valve 800' min. spacing</li> </ol>	1. 6" main minimum—C900 DR14 (200 psi) 2. Pumper and 2 hose connections on hydrants 3. 1 fire hydrant w/in 500' and 2 w/in 1000' 4. In-line valve 800' min. spacing			
Fire Protection	Developer will be required to construct water lines with pipe sizes adequate to convey required future fire flows	Developer will be required to construct     water lines with pipe sizes adequate to     convey required future fire flows			
Right-Of-Ways	60' minimum for residential     80' minimum for collector	60' minimum for residential     80' minimum for collector			
Building Codes	Uniform Building Code, 1997 Edition and the municipality's Fire Marshal <sup>2</sup> . Includes:     A. Commercial development     B. Residential development on less than three acres.      Landowner-Initiated Zoning, administered by Montezuma County	<ol> <li>Uniform Building Code, 1997 and the municipality's Fire Marshal<sup>2</sup>. Includes, A. Commercial development</li> <li>B. Residen lad development on less than three acres.</li> <li>Landowner-Initiated Zoning, administered by Montezuma County</li> </ol>			
Density	Any development under three acres must be connected to the municipality's sanitation system	Any development under three acres must be connected to the municipality's sanitation system			
Sanitation	Attached to District if lot sizes are under three acres	Attached to District if lot sizes are under three acres			
Road Maintenance	Homeowners association required with annual fees	Homeowners association required with annual fees			
Setbacks and Building Heights	<ol> <li>20' min. front yard³, 7' min. side and rear yard⁴</li> <li>35' max. height for principal structures</li> <li>15' max. height for accessory structures</li> </ol>	<ol> <li>50' min. front yard³, 50' min. side yard⁴ 25' min. rear yard⁴</li> <li>35' max. height for principal structures</li> <li>15' max. height for accessory structures</li> </ol>			
Buffering Between Development Types					

<sup>&</sup>lt;sup>1</sup>Future negotiations with 3<sup>rd</sup> party water providers for standards are necessary <sup>2</sup>Adoption of resolution by County Commissioners for enforcement is necessary <sup>3</sup>Measured from edge of future right-of-way <sup>4</sup>Measured from side or rear property line

# SUMMARY CHART OF ZONING CHOICES

	**************************************		KICHARIOR			A/R ES	]
	ZONING CHOICES	A/R 10-34	A/R 35+	AGZ	A:80+	Existing Subdivisions	UNZONED
Topingarian and the state of th	Uses by Right	Primary Agriculture, Agriculture Accessory, Residential, Residential Accessory	Primary Agriculture, Agriculture Accessory, Residential, Residential Accessory	Primary Agriculture, Agriculture Accessory, Residential, Residential Accessory	Primary Agriculture, Agriculture Accessory, Residential Residential Accessory	Per Recorded Plat/Covenants Threshold Standards Minimum	All existing Uses
NAME AND ADDRESS OF THE PROPERTY OF THE PROPER	Conditional Uses	GPUD, Special Use Permit with a valid High Impact Permit	CIPUD, GPUD Special Use Permit with a valid High Impact Permit	Special Use Permit with a valid High Impact Permit	Special Use Permit with a valid High Impact Permit	Per Recorded Plat/Covenants TS Minimum	Special Use Permit with a valid High Impact Permit
			THRESHO	LD STANDAR	DS		
1	Minimum lot size	10 acres	35 acres or PUD clusters	35 acres	80 acres	Per Recorded Plat/Covenants	3 acres
2	Maximum Building Height	45'	45'	45'	45'	P/C, TSM	35'
3	Maximum Building Footprint	TS	TS	TS	TS	P/C, TSM	TS
4	Building Setbacks	TS	TS	l TS	TS	P/C, TSM	l TS
5	New Construction and Remodeling for Commercial, Industrial and Public Buildings	UBC, 1997 Edition for Commercial or Industrial Uses	UBC, 1997 Edition for Commercial and Industrial Uses	UBC, 1997 Edition for Commercial or industrial Uses	UBC, 1997 Edition for Commercial or industrial Uses	P/C, TSM	TS
6	Livestock Fencing	TS	TS	f TS	TS	P/C, TSM	† TS
7	Protection of Normal Agricultural operations	TS	TS	TS	TS	P/C, TSM	TS
8	Outdoor Storage	TS	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural Uses	P/C, TSM	TS
9	Roads	TS	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural uses	P/C, TSM	TS
10	Parking/Access and Loading areas	TS	TS	TS	TS	P/C, TSM	TS
11	Traffic	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural uses	P/C, TSM	TS
12 - 20	Health, Safety and Welfare: (water, wastewater, storm water, solid waste, Fire protection, law enforcement, Floodplain, natural hazards, public facilities)	TS	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural uses	P/C, TSM	TS
21 31	Nuisance standards (Electrical disturbances, fire and explosive hazards, glare and heat, lighting, noise, and vibration)	TS	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural uses	P/C, TSM	тѕ
32	Other Significant Adverse Impacts	TS	TS for non- agricultural uses	TS for non- agricultural uses	TS for non- agricultural uses	TS minimum	TS

#### CHAPTER 4: PLANNED UNIT DEVELOPMENT

# Chapter 4: Section 1 – Authority, Purposes and Objectives

# 4101 Authority, Purposes and Objectives of PUD Development.

- **4101.1 Authority, Purposes, and Objectives.** Planned Unit Developments as defined and authorized, pursuant to 24-67-101 et seq. C.R.S., as amended, for the following purposes and to achieve the following objectives of development:
  - A. To provide for necessary commercial, recreational and educational facilities conveniently located to housing, and
  - **B.** To provide for well-located, clean, safe and pleasant industrial sites involving a minimum strain on transportation facilities and minimum impact of traffic on streets and highways.
  - C. To encourage a more efficient use of land, public services and facilities.
  - D. To conserve the value of the land; and
  - E. To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural and agricultural characteristics
- **4102 Scope.** Applications for specific planned unit development may be made for land located in any zoning designation where such PUD category is allowed. See Summary Chart at **4109**.
  - **4102.1 Not limited to one owner or parcel.** A planned unit development application may involve more than one parcel and/or more than one landowner. Such possibilities include, but are not limited to:
    - A. Parcels in an area suited for a mix of Commercial or industrial uses where common highway access, utility planning, recorded covenants, design standards, etc., would make for more orderly and effective development.
    - **B.** Unincorporated areas with the opportunity to develop infrastructure capable of serving more intensive or higher density commercial, industrial or residential development.
    - C. Adjacent property owners who wish to incorporate amenities such as trails and natural areas into adjoining residential development.

# 4103 Relationship to Subdivision, Zoning, and High Impact Commercial or industrial Permitting.

- **4103.1 Applicability of Other Regulations.** The Montezuma County Subdivision Regulations and this Land Use Code apply to planned unit developments. However, specific standards, specifications or requirements may be modified as part of the planned unit development approval process to meet the unique circumstances and objectives of the proposed PUD.
- **4103.2 Modifications Authorized.** The County may waive or modify certain standards and requirements of this Code as necessary to meet the intended purpose of a planned unit development, so long as potentially significant adverse impacts are mitigated.

4103.3 Compatibility of Planned Unit Developments. Potentially incompatible uses within a PUD or between a planned unit development and surrounding uses must be mitigated for the PUD plan to be approved.

#### 4104 CIPUD Cluster Incentive Planned Unit Development.

- 4104.1 Intent. This planned unit development allows for phased residential cluster development on parcels of 35 acres or greater. The purpose is to allow for small lot home site development while retaining a minimum of 75 percent of the parcel in agricultural production or Common Open Space. Where this purpose can be met, "clustered lots". "clustered home sites" and the "Cluster Incentive Planned Unit Development" may include the development of dispersed lots or home sites. Development of up to three home sites per 35 acres is allowed, except that any Cluster Development under 30-28-401 et seq., C.R.S., as amended, shall not exceed two (2) residential units per each 35 acre increment.
- 4104.2 Underlying Zoning Designations: A/R 35+
- 4104.3 Land Use Categories: Agricultural, Residential.
- 4104.4 Conditional Uses: Commercial or industrial Uses exceeding Threshold Standards or other applicable standards, approved through appropriate review process.
- 4104.5 Standards: For residential home sites, the A/R 3-9 or R-3 zoning standards apply, except that lots less than three acres may be created in the interest of preserving agricultural land or Common Open Space. Adequate sewage disposal facilities, as approved by the County Health Department, must be provided.
- 4104.6 Preservation of Agricultural Land and Open Space: At least 75 percent of the total parcel must be permanently platted for agricultural use or Common Open On that portion of the parcel preserved for agricultural use. Threshold Standards for the A/R 35+ Zone, apply. Refer to 3305 of this Code.
- 4104.7 PUD Plan Approval and Phased Development Options. The Cluster Incentive PUD Plan must be approved and platted prior to commencement of home site development. Once the PUD Plan is approved and platted, the home sites may be developed in total or in phases. For the Cluster Incentive PUD, administrative and impact fees may also be phased as home site development occurs.
  - A. In the event the administrative and impact fees are phased, plat notes will state:
    - 1. "Future home sites to be developed and replatted at a later date."
    - 2. "The developer is responsible for payment of appropriate fees regarding development and infrastructure."

#### **4105 INDPUD Industrial Planned Unit Development.**

- 4105.1 Intent. This planned unit development is designed for predominantly industrial uses.
- 4105.2 Underlying Zoning Designations: Industrial Zone and Urban Services Zone (USZ)
- 4105.3 Land Use Categories: Predominantly industrial. Residential and agricultural uses are allowed, but are subordinate to the industrial intent of this zone.
- 4105.4 Conditional Uses: Exceeding Threshold Standards must mitigate significant adverse impacts.

**4105.5 Standards:** Threshold Standards apply, but may be exceeded based on an approved PUD plan which mitigates significant adverse impacts.

# 4106 COMPUD Commercial Planned Unit Development.

- **4106.1 Intent.** This planned unit development is designed for predominantly commercial uses.
- **4106.2 Underlying Zoning Designations:** Commercial Zone and Urban Services Zone (USZ).
- **4106.3** Land Use Categories: Predominantly commercial. Residential and agricultural uses are allowed, but are subordinate to the commercial intent of this zone.
- **4106.4 Conditional Uses:** Uses exceeding Threshold Standards must mitigate significant adverse impacts.
- **4106.5 Standards:** Threshold Standards apply, but may be exceeded based on an approved PUD which mitigates significant adverse impacts.

# 4107 GPUD General Planned Unit Development.

- **4107.1 Intent.** A planned unit development is a tool to provide flexibility regarding site and design features. This PUD is applicable to small-scale mixed uses such as business/ residential combinations.
- **4107.2 Underlying Zoning Designations:** A-80+, A/R 35+, A/R 10-34, A/R 3-9, USZ, Commercial, Industrial
- **4107.3 Land Use Categories:** Agricultural, Residential, Commercial, Industrial, Mixed
- **4107.4 Conditional Uses:** Commercial or industrial Uses exceeding Threshold Standards or other applicable standards, approved through appropriate review process.
- **4107.5 Standards.** Threshold Standards apply, but may be exceeded based on an approved PUD plan which mitigates significant adverse impacts.

# 4108 MHPUD Mobile Home and RV Park Planned Unit Development.

- **4108.1 Intent.** This planned unit development option allows for variation from regulations for mobile home and RV parks to meet planned unit development design flexibility objectives.
- 4108.2 Underlying Zone Designation: Urban Services Zone (USZ), Commercial
- 4108.3 Land Use Categories: Residential
- 4108.4 Mobile Home Park Regulations.
  - **A.** A Mobile Home Park shall not be developed and operated on a site of less than three acres.
  - **B.** All factory built and/or mobile homes must be in compliance with applicable Colorado laws.
  - C. Mobile Home Parks or R.V. Parks shall be developed at densities reasonably comparable to adjacent residential uses or have adequate landscape buffering, fencing or open space to avoid adverse influence on adjacent uses. Likewise, mobile home parks shall be sited so that adverse influences from adjacent subdivisions such as noxious industrial uses, heavily traveled highways, airport runways, and other intolerable noise and safety problems are avoided or mitigated.

- D. Mobile home parks shall comply with General Design Guidelines, 5103.
- E. Mobile home parks or R.V. Parks located along highways and major arterials will be subject to Design Guidelines for Development Along Highways, 5103.3.
- F. Mobile home parks or R.V. Parks adjoining or affecting agricultural lands will be subject to Design Guidelines for Development Affecting Agricultural Lands, 5103.2.
- G. Mobile home parks or R.V. Parks shall conform with the following provisions from Subdivision Regulations: Avoidance and Mitigation of Hazardous Conditions, Drainage Systems and Livestock Fencing.
- H. No part of any mobile home park shall be used for non-residential purposes, except such uses as are required for the direct servicing and well being of the park residents.
- I. Minimum Lot Area: Each standard mobile home lot shall have a minimum area of 3,500 square feet. In no case shall the lot be less than 2.5 times the area of said lot covered by the mobile home thereon.
- J. Site Setbacks: Setbacks between the perimeter of the Mobile Home Park and any mobile home shall not be less than the following:
  - 1. Adjacent to dedicated streets, roads or highways See General Design Guidelines, 5103.1. Setback from Roads.
  - 2. Adjacent to park roadways or walkways ten (10) feet.
  - **3.** Adjacent to on site driveways five (5) feet.
- K. Distance between Mobile Homes: A minimum distance of thirty (30) feet shall be maintained between mobile home and accessory structures and those on adjacent lots.
- L. Recreation Facilities: A recreational area or areas designed for joint usage of all mobile home inhabitants shall be provided at a ratio of not less than three hundred (300) square feet of area for each lot provided in the Mobile Home Park. The recreational area(s) shall be sited in safe and convenient location(s) within the Park or Subdivision.
- M. Fencing. Approved fencing and/or may be required to screen mobile home parks or R.V. parks from the view of highway corridors or adjacent properties. Fencing may also be required to provide for the health and safety of park applicants and the general public.
- N. Access and Service Roads. The Mobile Home Park shall have direct access to public roadways or highways. No dead end access roads shall be permitted in a Mobile Home Park. Each Mobile Home Park lot shall have direct access to a park service road.
- O. Utilities. Provisions shall be made to provide at each lot electric service, central potable water service and central sewage disposal. The main water service line shall be looped to prevent service interruption, and keep it to a minimum during breaks and repairs.
- P. Lighting. All service roads and recreation areas shall be illuminated at night with downward directed light.
- Q. Lot Numbering. Each lot in a Mobile Home Park shall have displayed the lot number in a fashion to make it readily visible by day or night.
- R. Each mobile home park shall comply with the Federal Americans with Disabilities Act.

- 4108.5 RV/Camper Park Regulations. RV/Camper Park lots, or such lots in a mobile home park, may be a minimum of 1,000 square feet with a maximum density of 25 units per gross acre. With the exception of lot size, RV/Camper Parks and lots shall meet, but not be limited to, the following standards:
  - A. Sanitary Facilities Dependent Mobile Homes. In every Mobile Home Park accommodating dependent Mobile Homes, sanitary facilities shall be provided as follows:
    - **1.** Toilets. One toilet for each sex for every fifteen (15) dependent mobile home lots or fractional part thereof.
    - 2. Urinals. Urinals may be substituted for up to one-third (1/3) of the required number of toilets.
    - 3. Lavatories. One lavatory for each sex for every fifteen (15) dependent mobile home lots or fractional part thereof. Laundry tubs, kitchen sinks, and bath tubs shall not be acceptable substitutes for lavatories.
    - **4.** Bathing or shower facilities. One for each sex for each fifteen (15) dependent mobile home lots or fractional part thereof.
    - **5.** Water hydrants shall be provided to wash service buildings, walkways, passageways and other common use areas.
    - **6.** Drinking fountains, when provided, shall not be located in service rooms or connected to water faucets or lavatories. Drinking fountains shall be the approved angle-jet above the bowl rim type with adequate water pressure.
  - B. Service Buildings. Service buildings accommodating dependent mobile homes shall conform to the following standards.
    - 1. Service buildings and rooms housing required sanitary facilities in parks accommodating dependent mobile homes, shall be constructed of easily clean able, non-absorbent materials, maintained in good repair and in a clean and sanitary condition. They shall be conveniently located at a distance of not less than ten (10) feet from any mobile home and within three hundred (300) feet of any dependent mobile home served.
    - 2. Separate rooms containing required plumbing fixtures shall be provided for each sex. If located in the same building, they shall be separated by a solid wall extending from floor to ceiling and shall be clearly marked for "Men" and "Women".
    - 3. The floors of service buildings shall have a smooth, impermeable and easily clean able surface, sloped to drain. Floor drains, properly trapped, shall be provided in all shower baths and shower rooms to remove waste water and to facilitate cleaning. The walls and partitions shall have a smooth, nonabsorbent, light colored, easily clean able surface extending to a height of four feet in toilet rooms and six feet in shower rooms.
    - 4. Rooms in service buildings shall have a ceiling height of not less than seven and one-half (7 1/2) feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least 50 percent of the rooms and no portion of any room having a ceiling height of less than five feet shall be considered as contributing to the minimum required areas.
    - 5. Service rooms shall be provided with light and ventilation by means of windows or by artificial light and mechanical ventilation. The window area in each service room shall be equivalent to at least 10 percent of the floor area with at least one half of the required window area openable to the

- outside air. Windows shall be installed so they do not create safety hazards. In lieu of the required window area in each service room, an approved mechanical ventilation system may be installed which will provide at least five (5) air changes per hour, be vented directly to the outside, and be connected to the electrical lighting system.
- 6. When necessary for exclusion of flies, mosquitoes and other insects, exterior openings of service buildings shall be protected with fly screening of not less than sixteen (16) mesh per square inch unless other approved protection devices are provided. Doors shall be provided with self-closing devices.
- 7. Exterior doors in service buildings shall be provided with a landing which has a depth and width not less than the door opening.
- 8. Each service room shall have at least one double convenience outlet adjacent to lavatories and one ceiling light fixture to provide thirty (30) foot candles at lavatory level. At least one light fixture, operated by switch, shall be provided at each entrance and shall be lighted during hours of darkness unless the yard lighting provided light levels of at least five (5) foot candles.
- **9.** Service buildings shall be provided with approved heating facilities properly installed, maintained in a safe working condition, and capable of providing and maintaining a room temperature of 68 degrees.
- **10.** Toilets and showers shall be partitioned so they are individually accessible. Each toilet and shower compartment shall have a self-closing door, except that showers may be equipped with a water-proof curtain.
- **11.** Toilet space shall be in compliance with the Federal Americans with Disabilities Act.
- 12. Shower stalls shall be in compliance with the Federal Americans with Disabilities Act and shall be constructed to prevent water flowing into the dressing spaces. Shower floors shall be impervious and skid resistant or provided with a non-slip impervious mat. Wooden racks (duck boards) are prohibited. Dry dressing room space, screened from view and equivalent to the size of the shower floor area, shall be provided adjacent to bathing facilities and shall be equipped with clothes hooks and benches.
- 13. Hot and cold water under pressure shall be supplied to all required plumbing fixtures except that cold water only shall be supplied to water closets. The system shall be designed to prevent discharge of water in excess of 120 degrees Fahrenheit at the shower heads. The water heating facilities shall have the capacity to supply hot water at the minimum rate of three gallons per hour per each dependent mobile home lot. Such facilities shall be approved types and shall be properly installed and maintained.
- **14.** Plumbing fixtures shall be maintained in good working order and in a clean and sanitary condition.
- **15.** Toilet paper, soap, single service towels, and trash receptacles shall be provided in all common use or centralized toilet and lavatory facilities. The use of common towels is prohibited.
- **16.** If service buildings are kept locked, the operator shall provide a key for dependent mobile home occupants.

- **17.** Clothes drying areas or mechanical dryers shall be provided for use with laundry facilities.
- **18.** Plumbing fixtures shall be installed in accordance with provisions of the effective edition of the Colorado Technical Plumbing Code.
- 19. Swimming pools shall be operated and maintained in accordance with Colorado Department of Health Regulations and Standards Governing Swimming Pools.
- C. Operational Standards. Mobile home parks shall be subject to the following operational requirements.
  - Certificate of Occupancy. Prior to any occupancy of the proposed park there must be a Certificate of Occupancy signed by a designated official of the County, the County Health Department and the Colorado Electrical Inspector.
  - 2. The Park shall be maintained in a clean sanitary condition at all times. Grasses, weeds, and other vegetation not considered a part of the ornamental landscape, shall be moved or trimmed regularly and in no case permitted to exceed twelve (12) inches high. Sanitary facilities, washrooms and storage areas may be inspected regularly by the County Health Department and Fire Department.
  - 3. A Mobile Home shall not be occupied for dwelling purposes in a park unless it is properly placed on a conforming Mobile Home lot, and connected to all utility services including water, sewage and electricity. Dependent mobile homes may be excepted in part.
  - **4.** Mobile traffic shall be restricted to not more than ten (10) m.p.h. and signs regulating same shall be posted at all service road entrances.
  - 5. The Mobile Home lot shall be kept clean and free of refuse and hazardous or noxious materials.
  - **6.** Adequate storage buildings shall be provided for storage of all materials and equipment not in use in the park.
  - 7. Mobile Homes shall be properly installed and stabilized to insure the safety of the occupants of the park and the general public.
  - 8. Mobile Homes occupying a park shall have adequate heating systems, have evidence of safe electrical and gas wiring and piping as well as safe equipment.
  - **9.** Where skirting of Mobile Homes is installed, readily openable doors or access panels shall be provided to permit convenient access to services under the mobile home.
  - 10. The storage, collection and disposal of refuse in a mobile home park shall be so conducted as to control odors, rodents, insects, accidents, fire hazards, air pollution, or other nuisance conditions. Durable, washable, and non-absorbent metal or plastic containers with tight fitting lids shall be provided at each mobile home lot or at a central storage area conveniently located not more than 200 feet from any mobile home lot. Refuse containers shall be provided at the rate of at least one 30 gallon container for each mobile home lot or an equivalent storage capacity in centralized storage facilities. The number of containers used and the frequency of collection shall be sufficient to prevent over filled containers. Refuse shall be routinely collected and removed from the premises not less than once

- weekly. Refuse shall be disposed of at a lawful disposal site in accordance with requirements of the Colorado Solid Wastes Disposal Site and Facilities Act.
- **11.** Rodents and insects shall be controlled by approved sanitary practices, vermin-proofing of buildings extermination and other control methods.
- 12. Noxious weed infestations shall be controlled under provisions of the Colorado Weed Management Act and the Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended.
- 13. Where services are provided for dependent mobile homes all service buildings shall have plumbing fixtures in operation at all times, adequate supplies of toilet paper, soap, single service towels, and trash containers. The use of common towels is prohibited.
- 14. A responsible attendant shall be in attendance daily in the park.
- **15.** Qualified inspectors for both the State and County must be permitted to make proper inspections during regular weekday hours from 8:00 a.m. to 5:00 p.m.
- 16. Violations of these operating procedures when first noted will result in a written notice of such violations and a period for correction cited. Appeals for violations may be referred to the Board of County Commissioners. Continued violations or refusal to correct a noted violation may result in withdrawal of the permit by the Board of County Commissioners after formal hearing for such matters. Appeals to decisions of the Board of County Commissioners shall thence be carried to the court of proper jurisdiction.
- **17.** Each RV camper park shall comply with the Federal Americans with Disabilities Act.

4109 Summary Chart. The following is a summary chart of Planned Unit Development District options and underlying zoning requirements, for reference purposes only. The text sections preceding the chart provide the full planned unit development requirements.

Planned Unit Development	Underlying Zoning Designations	Land Use Categories Available	Intent
CIPUD: Cluster Incentive	♦ AR 35+	◆ Agricultural     ◆ Residential	Phased residential cluster development to allow for home site development while retaining 75 percent of the parcel in agricultural production or Common Open Space. Allows for development of up to 3 home sites per 35 acres. Standards for residential clusters are the same as A/R 3-9 or R-3
MHPUD: Mobile Home	<ul><li>Urban Services     Zone</li><li>Commercial     Zone</li></ul>	◆ Residential	The Mobile Home Planned Unit Development allows for variation from standards for mobile home and RV parks to meet PUD design flexibility objectives provided that significant adverse impacts are mitigated.
INDPUD: Industrial	<ul><li>Industrial Zone</li><li>Urban Services Zone</li></ul>	<ul> <li>Industrial</li> <li>Agricultural and Residential uses allowed, but are subordinate.</li> </ul>	For predominantly industrial uses. Threshold Standards apply, but may be exceeded based on an approved PUD Plan that mitigates significant adverse impacts.
GPUD: General	<ul><li>AR35+</li><li>AR10-34</li><li>AR3-9</li><li>USZ</li></ul>	<ul><li>Agricultural</li><li>Residential</li><li>Commercial</li><li>Industrial</li><li>Mixed</li></ul>	Allows for flexible design and mixed uses. Threshold Standards apply, but may be exceeded based on an approved PUD Plan that mitigates significant adverse impacts.
COMPUD: Commercial	<ul> <li>Commercial Zone</li> <li>Urban Services Zone</li> </ul>	Commercial     Agricultural and     Residential uses     are allowed, but are     subordinate	For predominantly commercial uses. Threshold Standards apply, but may be exceeded based on an approved PUD Plan that mitigates significant adverse impacts.

# 4201 Establishing a Planned Unit Development.

#### 4201.1 General.

- A. A planned unit development is a site-specific development plan requiring an appropriate underlying zone designation. Zoning or rezoning may be established prior to, or concurrently with, the review of a PUD Plan.
- B. A decision on each planned unit development application shall be made by the County Commissioners after receiving a recommendation from the Planning Commission.
- C. Planned unit development alternatives are only available in specified zoning designations. Refer to Chapter 4, Planned Unit Development.
- 4201.2 Design Flexibility for Planned Unit Developments. A planned unit development is a tool to provide flexibility regarding site and design features, including, but not limited to:
  - A. Threshold standards may be modified to meet the purposes of the planned unit development providing that adverse impacts can be mitigated.
  - B. The clustering of development with usable Open Space areas shall be permitted to encourage common open areas and to save street and utility construction and maintenance costs.
  - **C.** The clustering of development to preserve agricultural land.
  - **D.** Lot size and configuration.
- 4201.3 Planned Unit Development Submittal Requirements will consist of an application, map and plan.
  - A. Application form. All PUD applications shall be filed by the owner(s) or their authorized agent on forms provided by the County and contain the following information on the subject parcel:
    - 1. The landowner's name and address with written consent of all owners.
    - 2. Proof of ownership in the form of a Certificate of Ownership from a title company or title opinion from an attorney showing that the applicant is the owner of record.
    - 3. Existing zoning or requested zoning designation.
    - 4. Intended land uses.
    - 5. The objectives to be achieved by the planned unit development.
  - B. Map. Map indicating the following:
    - **1.** Regional location map.
    - 2. All existing and proposed roads with running surface and width indicated. Access and utility easements shall be noted.
    - 3. Property boundaries of the subject parcel with dimensions and area calculations. Include locations of existing and proposed buildings and structures on this site.

- 4. Sufficient contours to determine lot slopes.
- 5. All drainage, irrigation, water and other distinctive natural features.
- 6. Delineated 100 year floodplain areas.
- 7. Open space and no build zones.

- **C. Plan.** The Plan will contain a project description indicating a broad concept of the proposed development including, but not limited to, the following:
  - 1. A development schedule indicating the approximate dates when construction of the various phases of the planned unit development can be expected to begin and be completed;
  - 2. Maximum number of dwelling units proposed.
  - 3. Minimum acreage to be dedicated to Open Space, if any.
  - 4. The types of all uses proposed and acreages devoted to each use.
  - **5.** Provision for water, sewer, telephone, electricity and other utilities as applicable. Provide evidence of:
    - **a.** The proposed water source is adequate to service the planned unit development;
    - **b.** The proposed method of sewage treatment;
  - **6.** A statement of ownership interest, including minerals, relevant to the property planned for a planned unit development.
  - A request for the waiver or modification of certain Threshold or other applicable standards, and reasons why such waiver or modification is necessary.
  - 8. Copies of any special covenants, conditions and restrictions, which will govern the use or occupancy of the planned unit development.
  - **9.** A list of owners of properties located within three hundred (300) feet of the boundaries of the planned unit development and their addresses;
  - **10.** A statement of the following:
    - a. The general manner in which storm drainage will be handled.
    - **b.** The general manner in which provision will be made for any potential natural hazards.
  - **11. Other Information.** Supporting information, plans, letters of approval, other documentation from responsible agencies and any other information to satisfy requirements listed under Threshold Standards or other applicable regulations.
- **4201.4** Planned Unit Development Procedure. Applications to establish a planned unit development shall be reviewed in accordance with Chapter 5, Section 3, Review Procedure.
- **4201.5** Findings of Fact and Decision Criteria. The Planning Commission shall make its recommendation and the County Commissioners shall render a decision on the proposed use based on the following:
  - A. The proposed PUD is in conformity with this Code and the PUD Act of 1972 (Article 67 of Title 24, C.R.S., as amended), and
  - B. The PUD Plan shall minimize significant adverse impacts on other property in the area, and
  - C. The PUD Plan provides access routes in compliance with the Montezuma County Road Specifications and of adequate design to accommodate traffic volume generated by the proposed use.
  - **D.** Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.
  - E. If cluster planning principles are used, the PUD Plan adequately addresses the preservation of productive agricultural land and the designation and maintenance of Common Open Space.

- **4202 Phased PUD Development.** A planned unit development may be developed in phases, according to the following:
  - **4202.1 Independent Phases.** Each phase within a planned unit development shall be planned and developed in relation to existing surrounding and available facilities and services so that failure to proceed to a subsequent phase will not have a substantial adverse impact on the PUD or its surroundings.
  - **4202.2 Nonresidential Uses.** If a planned unit development contains nonresidential uses, they may be constructed in advance of residential uses if the County finds that such phasing is consistent with sound principles of ordered development and will have no substantial adverse impacts on the quality or character of the PUD or its surroundings.

# 4203 Ownership and Maintenance of Common Open Space.

- 4203.1 Maintenance and Enforcement by Owners. If a planned unit development includes Common Open Space, that space shall be owned and maintained by the property owners within the PUD or by an organization established by the PUD Plan, in accordance with recorded covenants approved as part of the PUD Plan. Common Open Space is a parcel or parcels of land, or a combination of undeveloped land, water, and natural features within the site designated for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development. Covenant provisions are enforceable by the property owners within the PUD.
- **4203.2 Conditions and Enforcement by the County.** The County may also place conditions on the development and maintenance of Open Space to avoid adverse impacts. Such conditions are enforceable by the County

# CHAPTER 5: MONTEZUMA COUNTY SUBDIVISION REGULATIONS

# Chapter 5: Section 1 - Development Policies, Guidelines and Regulations

# 5101 Development Policies, Guidelines and Regulations.

- 5101.1 Introduction. This article contains the standards by which proposed subdivisions, including planned unit developments, in the unincorporated areas in Montezuma County will be reviewed. The following policies, design guidelines and regulations will be used by the developer, the County and the Public in reviewing. evaluating, constructing or otherwise undertaking subdivision actions. following terms apply to this Code:
  - Subdivider as defined in 30-28-101(9), C.R.S., as amended.
  - Subdivision or subdivided land as defined in 30-28-101(10), C.R.S., as amended.
  - Subdivision Improvement Agreement as defined in 30-28-101(11), C.R.S., as amended.

# 5102 Subdivision Policies. The following shall be the subdivision policies of Montezuma County:

- A. To guide subdivision of agricultural land to attempt to protect irrigation and drainage patterns; and provide for ditch easements, stock drives, fencing, control of noxious weed infestations and animal control so commercial farming and ranching operations are not disrupted.
- B. To avoid subdivisions that result in unacceptable or unsafe traffic, noise, or dust levels on County roads.
- C. To minimize conflicts from land subdivisions that will result in significant adverse impacts on adjoining land.
- D. To guide development so as to provide adequate public facilities without undue costs to the taxpayers of Montezuma County.
- **E.** To minimize unsightly development.
- F. To consult with municipalities regarding any division of land within three (3) miles of their boundaries with regard to the major street plan.
- G. To avoid development in areas that are unsafe or unsuitable due to natural hazards such as flooding, wildfire, unstable slopes; or due to the unfeasibility of providing basic services such as adequate road access, electricity, potable water, sanitation, telephone and fire protection.

# 5103 Design Guidelines.

- 5103.1 General Design Guidelines. Approval of any Subdivision will require covenants which at a minimum contain the following Design Guidelines.
  - A. Setbacks. The following setbacks are required:
    - 1. New fences are to be set back a minimum of 30 feet from the centerline of County roads.
    - 2. Setbacks for dwellings are to be a minimum of 50 feet from County Road rights-of-way, a minimum of 50 feet from the right-of-way of service roads or streets within a platted subdivision, and 50 feet from lot lines.

- 3. Setbacks for barns, garages, and other auxiliary structures shall be a minimum of 25 feet from County road rights-of-way and property lines not adjacent to roads and highways.
- 4. Within the Dolores River Valley all new commercial and residential construction, including Individual Sewage Disposal Systems, shall be set back 100 feet from the existing stream bank.
- B. Lighting. All outdoor lighting shall be designed to illuminate only the premises and to minimize nuisance to adjoining landowners.
- C. Drainage. All open areas of any site, lot, tract or parcel shall be graded and planted as appropriate to provide proper drainage and minimize flooding. erosion and pollution.
- D. Views and Sunlight. Buildings and structures constructed in a subdivision shall be placed, so as to minimize undue obstruction of views and sunlight to existing dwellings on adjacent properties.
- E. Noxious Weed Control. Any subdivision will require inspection for noxious weed infestation under provisions of the Colorado Weed Management Act, the Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended, and development and submittal of an approved weed management plan.
- F. Sanitation. Percolation tests or soils analysis, as determined by a Colorado Registered Professional Engineer, shall be required to adequately determine the type of standards for on-lot disposal systems. Prior to commencing construction, any person who wishes to install, alter, or repair an individual sewage disposal system in the County shall obtain a permit from the County Health Department.
- G. Wildfire Mitigation. All new subdivisions which are located completely or partially within areas identified on A or B Community at Risk Map, or other areas that fall outside of the A or B zone of the Community at Risk Map that have native vegetative cover deemed to be a wildfire risk, will require the submittal of a Comprehensive Wildfire Mitigation Plan. This Wildfire Mitigation Plan shall define defensible space standards to be met in the subdivision as recommended in Colorado State University Fact Sheet No. 6.302, "Creating Wildfire Defensible Zones." Planning Department Review and Waiver. All new subdivisions which are not located completely or partially within areas identified on the A or B Community at Risk Map, or are located within the A or B Community at Risk Map but do not have vegetative cover may request a waiver from the Planning Department. Upon review and approval of the waiver request, the applicant may submit an affidavit with directional photographs of the property for which a development application was submitted. This affidavit shall define defensible space standards to be met in the subdivision as recommended in Colorado State University Fact Sheet No. 6.302, "Creating Wildfire Defensible Zones."
  - 1. The developer will be required to complete fuels mitigation in the subdivision, as defined in the Plan, to the following standards:
  - 2. Fuels mitigation to Zone 3 standards on all land within the development boundary.
  - 3. Fuels mitigation to Zone 2 standards on all land within existing and proposed roadway and utility easements.

# 5103.2 Design Guidelines for Development Affecting Agricultural Land.

- A. When land is subdivided, dogs and other pets will not be permitted to interfere with livestock or the care of livestock on adjoining agricultural lands. Suitable covenants or deed restrictions will be provided therefor.
- **B.** When land is subdivided prairie dogs and other such nuisances to agricultural productivity will be controlled by suitable and enforceable covenants and deed restrictions.
- C. Fences shall be constructed which separate the development from adjoining agricultural lands, stock drives or public roads used as stock drives. Existing fences along stock drives or roads used as stock drives shall not be removed or, if removed, shall be replaced by a minimum four barbed wire fence with substantial posts set at a distance of approximately 12' apart, and sufficient to turn ordinary horses and cattle, with all gates equally as good as the fence, or any other fence of like efficiency. Such newly constructed fences and existing fences serving the same purpose shall be maintained and any breaks in the fence shall be at a properly maintained gate or cattle guard. A method of notification of the lot owner's duty to maintain such fences shall be provided on subdivision plats and in recorded covenants.
- D. Where irrigation ditches and/or pipelines cross or adjoin the land proposed to be developed, adequate provisions shall be made to insure that the use of such irrigation ditches and/or pipelines, including the maintenance thereof, can continue uninterrupted. Ditch rights-of-way shall not be interfered with and an adequate maintenance easement including gates at fences crossing ditch easements shall be provided.
- **E.** Existing historical easements utilized to gain access to irrigation ditches and/or pipelines, head gates and fences for maintenance or operational purposes shall be preserved or replaced with alternate easements suitable for a continuation of historic use.
- F. Noxious Weed Control. Any subdivision of land will require inspection for noxious weed infestation under provisions of the Colorado Weed Management Act, the Montezuma County Comprehensive Weed Management Plan Resolution No. 4-93, as amended, and development and submittal of an approved weed management plan.
- 5103.3 Design Guidelines for Development Along Highways. In addition to other applicable design guidelines, unattractive development or storage along highways or major arterial roads which causes visual distractions, visual pollution and detracts from the beauty of the landscape will be prohibited or screened by appropriate fencing and/or vegetation.

#### 5103.4 Design Guidelines for Commercial Development.

- A. Business and commercial developments shall be designed and constructed for safe and convenient pedestrian circulation within the development; and, where possible, easy pedestrian access to the development.
- B. Commercial developments located on major arterial roads shall also comply with the **Design Guidelines for Development Along Highways.**
- C. The minimum setback between commercial buildings and adjacent lot or property lines shall be:

- 1. Adjoining all other non-residential uses: twenty-five (25) feet unless adjoining uses enter into agreements permitting the construction of adjoining buildings to the common lot line.
- 2. Adjoining residential areas: fifty (50) feet.
- 3. From county road and state highway rights-of-way: fifty (50) feet.
- **D.** Business and commercial development shall provide for off-street parking facilities sufficient to minimize traffic congestion and provide safe vehicular access and circulation, subject to the following guidelines:
  - 1. Parking, access and circulation areas shall be designed and constructed to provide adequate space for the removal, piling and storage of snow.
  - 2. All parking facilities shall be designed with a dust-free all-weather surface and shall be graded and drained to dispose of all surface water.
  - 3. Parking facilities will be adequate to the proposed use and the anticipated demand for parking spaces. Business and commercial development, storage and parking areas that negatively impact the privacy and views of adjacent residential properties shall be screened by appropriate fencing or vegetation.
- E. All new, and any change or enlargement of Commercial or industrial uses, require a Permit as outlined in Chapter 1. Section 3 of this Code. If Threshold Standards are exceeded, an approved plan for mitigating adverse impacts is required.

# 5103.5 Design Guidelines for Residential Development.

- A. The minimum lot size for residential development must be three (3) acres. The net 3 acre lot size shall not include Official Green Signed County road rights-of-way. The length of residential lots shall not exceed 2.5 times their width. This guideline may be modified in an approved PUD Plan.
- B. Within the Dolores River Valley the minimum lot size for residential development must be ten (10) acres. An allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.
- **C.** Residential development will require the following:
  - 1. Approval of septic system location and type.
  - 2. Approval of the driveway access design and location.
  - 3. Assignment of a County address.
- D. Compliance with General Design Guidelines.
- E. Compliance, as appropriate, with Design Guidelines for Development Which Affects Agricultural Land.
- F. Siting of residential structures, including accessory structures, so as to minimize the obstruction of views, sunlight, and privacy for adjacent property owners is strongly encouraged. At a minimum, accessory structures shall be set back no less than 25 feet from property lines.
- G. Siting of residential structures at an adequate distance from roads to significantly reduce current and future traffic noise, dust and hazards is strongly encouraged. At a minimum, residential fences and structures shall comply with setback requirements specified in General Design Guidelines.
- H. All factory built and/or mobile homes must be in compliance with the Uniform Building Code, 1997 Edition and HUD codes.

- I. Residential development resulting in the creation of one or more parcels of less than 35 acres will be subject to these regulations.
- 5103.6 Design Guidelines for Flood Plains. Flood Plain Resolution No. 1-91, as amended, is incorporated herein and made a part hereof and completion of a Floodplain Development Plan Permit, where applicable.
- 5103.7 Design Guidelines for Single Lot Development that is not intended to circumvent the Subdivision Regulations.
  - A. To qualify for a Single Lot Development the remaining acreage must be in excess of 35 acres or adjoined to an adjacent property to create a tract with a minimum of 35 acres.
  - B. The lot must meet all development and design criteria as outlined in the Montezuma County Land Use Code.
- 5104 Impact of Subdivisions and Planned Unit Developments on County Roads. To address the impacts of Subdivisions and Planned Unit Developments on County Roads, the County has established a Road Impact Fee. The Road Impact Fee is applied to the improvement of County Roads directly accessing the proposed subdivision or to the improvement of the nearest County Road on the County Road Improvement Plan. The Road Impact Fee is payable by the developer prior to the final signature process by the Board of County Commissioners.
- **5105** Subdivision Regulations. Any tract of less than 35 acres created by a division of land shall be platted with protective covenants. Such tracts shall also be subject to the design guidelines, standards, regulations and review procedures contained in this Code.
  - 5105.1 Preservation of Site Assets. The design and development of subdivisions shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil and trees.
  - 5105.2 Avoidance and Mitigation of Hazardous Conditions. Land subject to hazardous conditions such as flooding, wildfire, or natural hazards, and polluted or non-potable water supply shall not be subdivided until the hazards have been eliminated or satisfactorily modified by subdivision and construction plans.
    - A. Control of wildfire by creating firebreaks, restricting developments in relation to slope and fire chimneys, vegetation thinning or such other fuel modification as may be recommended in the Colorado State University Fact Sheet No. 6.302, "Creating Wildfire Defensible Zones."

# 5105.3 Development Criteria.

- A. Lots. The minimum lot size for residential development must be three (3) acres unless central sewer and water is provided. The net 3 acre lot size shall not include Official Green Signed County road rights-of-way. The length of residential lots shall not exceed 2.5 times their width.
  - 1. Within the Dolores River Valley the minimum lot size for residential development must be ten (10) acres. An allowable 10 acre lot must include a minimum of 30 percent developable land. Developable land includes slopes less than 30 degrees, capable of supporting an engineer designed septic system per Montezuma County Resolution No. 4-97.
  - 2. Each lot shall abut a roadway or street meeting County construction standards.

3. Lots with double frontage shall be avoided, except where essential to provide separation from major arterials or incompatible subdivisions.

# B. Street Requirements.

- 1. The street or roadway layout shall conform to the Montezuma County Road and Bridge Standard Specifications. Streets shall be aligned to join with planned or existing streets as near as practical.
- 2. Streets shall be designed to bear a logical relationship to the topography and shall provide for the non-erosive deposition of run-off waters.
- 3. Streets within three (3) miles of the incorporated municipalities shall conform with the municipality's major street plan, insofar as an approved street plan is in place.
- 4. Intersections of local streets with major streets shall be kept at a minimum.
- 5. Intersections shall be as nearly at right angles as possible with no intersection designed at an angle of less than 60 degrees.
- 6. Cul-de-sac streets shall only be permitted when subdivision design cannot accommodate a through street and still utilize, to a reasonable degree, the available land area. The drainage shall be toward the intersecting street or a drainage shall be required.
- 7. Dead end streets, with the exception of turnarounds, shall be prohibited unless they are designed to connect with future streets in adjacent land, in which case a temporary turnaround easement may be permitted if written agreement is obtained from the adjoining landowner.
- 8. Minimum right-of-way widths for streets shall be 60'.
- 9. Roadbed construction shall meet the Montezuma County Road and Bridge Standard Specifications. Inspection of the roadway construction shall be made by the County Road Department in three phases: Phase 1 - road grade and structures. Phase 2 - Base material and application. Phase 3 finish roadway. No work shall begin on the next phase until the previous phase has been completed and approved.
- 10. Street Names, Signage, and House Numbering.
  - a. The County shall assign street and road numbering in accordance with the County system. The subdivider will furnish such signs in compliance with the County numbering system and the material and type shall be approved by the Montezuma County Road Department. Traffic control signs shall be provided and installed by the developer as prescribed by the County.
  - **b.** House numbering shall also be assigned by the County in compliance with the County system. It shall be the responsibility of the owner to furnish such numbering devices. The area Fire Protection District can guide the owner with specific emergency location standards for numbering devices.
- C. Driveways. Each subdivision lot shall have a driveway access. driveway shall not have a grade exceeding 12 percent. Entrance driveways into public roads and streets shall intersect at as near 90 degrees as possible.
- D. Utility Easements shall be provided as determined in advance by the utility provider. They shall be designed so as to provide efficient installation of utilities.

E. Sidewalks shall be a minimum of four (4") feet width and four (4") inches thickness on an approved base.

# F. Sanitary Sewage Disposal.

- 1. All lots or parcels which are not connected to a public sanitary sewage system shall have a sewage disposal system prior to occupancy of buildings constructed thereon.
  - a. Within the Dolores River Valley Individual Sewage Disposal Systems shall be constructed in accordance with Montezuma County Resolution No. 4-97.
- 2. If the lots within a development are utilizing individual sewage disposal systems, the plan shall comply with 25-10-101 C.R.S., et. seq., and Montezuma County Resolution No's, 86-1 and 4-97, as amended.
- 3. In the event that a public or community waste disposal system is proposed or required. State Health Department standards and procedures will apply.
- G. Water Supply. An adequate supply of potable water shall be available to each lot in a subdivision:
  - 1. Subdivisions that are served by existing rural or municipal water systems require a formal commitment of water service from the appropriate water supplier, and the installation of water lines by the subdivider to the boundary of each lot.
  - 2. Subdivisions to be served by the development of an on-site treatment plant must also comply with Colorado Department of Health regulations.
  - 3. If the proposed development involves well water, permit(s) from the State Water Engineer are required.
  - 4. Cisterns are only allowed in the event that a potable water supply is not otherwise available and may be installed by the lot buyer.
  - 5. A review of the water supply for fire control shall be made by the appropriate fire department and the County. The review shall determine the most feasible fire control water source. The developer shall provide for such source supplies and it shall be the responsibility of the subdivider or a Subdivision Home Owners Association to maintain such source and supply in an acceptable manner.

# H. Drainage Systems.

- 1. Drainage systems shall be designed to permit the unimpeded flow of natural courses; to insure adequate drainage of all low points; and to control, as nearly as possible, storm waters generated from a one hundred vear storm.
- 2. Drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the state of Colorado and qualified to perform such work.
- 3. The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and "upstream" from the Potentially negative impacts on "downstream" subdivision itself. properties and improvements, both public and private, shall be mitigated to a reasonable degree.

- **4.** All existing drainage features which are to be incorporated in the design shall be so identified, and all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials and elevations shall be included in the drainage plans.
- **5.** If the Final Plat for the parcel is to be presented in phases, a general drainage plan for the entire area shall be presented with the first section and appropriate development stages for the drainage system for each stage shall be indicated.
- I. Livestock Fencing. Whenever a livestock fence is removed or altered between subdivision and a County Road, State Highway, Federal lands, a stock drive, or a working livestock unit, the fence shall be replaced by adequate fencing and gates to contain the type of animal to be controlled and a minimum four wire stock fence along County roads. Refer to 5103.2(C).
- **J.** Where an entire parcel is not subdivided, the subdivider must indicate his intended plans for the disposition of the remainder of the parcel. If a subdivision is developed in phases, the remaining property must retain at least 35 acres.

# 5105.4 Dedication of Sites and Land Areas or Payments in Lieu Thereof for Schools.

- A. Prior to approval of any future subdivision in the unincorporated areas of Montezuma County by the Montezuma County Board of Commissioners, the subdivider or developer shall comply with C.R.S. 30-28-133(4)(a) by dedicating such sites and land areas for schools, or payments in lieu thereof, or combinations thereof, as are reasonably necessary to serve the proposed subdivision and the future residents thereof. The value of a combination shall not exceed the fair market value of the sites and land areas. Dedication of sites and land areas, or payments in lieu thereof, or combinations thereof, for schools shall be to the school district in which said subdivision is located.
- B. 1. The Montezuma County Board of Commissioners hereby finds that the Mancos School District School Land Dedication/Fee Resolution dated September 6, 2006, attached hereto and made a part hereof as an addendum to this Code, is an appropriate method to satisfy the "reasonably necessary" requirements of C.R.S. 30-28-133(4)(a).
  - 2. The Montezuma County Board of Commissioners hereby finds that the Montezuma-Cortez RE-1 School District School Land Dedication/Fee Resolution dated July 10, 2007, attached hereto and made a part hereof as an addendum to this Code, is an appropriate method to satisfy the "reasonably necessary" requirements of C.R.S. 30-28-133(4)(a).

- 3. The Montezuma County Board of Commissioners hereby finds that the Dolores RE-4 School District School Land Dedication/Fee Resolution dated February 28, 2008, attached hereto and made a part hereof as an addendum to this Code, is an appropriate method to satisfy the "reasonably necessary" requirements of C.R.S. 30-28-133(4)(a).
- C. Proof of compliance shall be provided to the Montezuma County Board of Commissioners prior to approval of any subdivision.

# Chapter 5: Section 2 - Impact Classification

# 5201 Impact Classification.

- **5201.1 Introduction**. The purpose of impact classification is to classify each proposed development in terms of its impact on the economic, social, governmental and environmental systems of the County. The impact classification provision makes the amount of information and review required by the County proportional to the impacts that will be generated by the proposed development. Average lot size and the number of lots in a proposed subdivision are major factors in determining impact classification.
- **5201.2 Classification Determination.** Whenever it is uncertain as to which classification a development should be given, the classification which requires the more comprehensive review shall be used.

# 5202 Definitions of Impact.

- **5202.50 Single Lot Development** will be reviewed as a minor impact.
- **5202.1 Development of Minor Impact.** A development of minor impact involves the division of land into two (2) or three (3) parcels, lots, tracts, spaces or interests, with an average lot size of ten (10) or more acres, all of which can be separately accessed and served with existing roads and utilities, whether intended for eventual sale or not.
- **5202.2 Development of Moderate Impact: Definition.** A development of moderate impact involves:
  - A. At least two (2) but not more than five (5) living units, whether single-family residences, units within a multi-family residential development or any combination thereof; or
  - **B.** The division of land into at least two (2) and not more than five (5) lots, tracts parcels, interests or spaces any of which is less than thirty-five (35) acres.
- **5202.3 Development of Major Impact: Definition.** A development of major impact involves one or more of the following:
  - A. Six (6) or more living units, whether single-family residences, units within a multi-family residential development or any combination thereof,
  - B. The division of land into six (6) or more lots, tracts, parcels, interests or spaces any of which is less than thirty-five (35) acres,
  - C. Mobile Home Parks and RV/Camp Parks,
  - **D.** A major conflict with the Policies and Design Guidelines contained in this Code,
  - E. A major demand for additional public services, infrastructure or public funds, or
  - **F.** A major impact on adjoining land uses.

# 5203 Impact Classification Procedure.

**5203.1 Determination of Impact Classification.** Impact classification is initially determined in an informal discussion with the Planning staff at which time the required submittals and procedures will be outlined.

- **5203.2 Change of Impact Classification.** The classification as determined by the Planning staff can be changed by the Planning Commission at the initial Commission Review and Public Hearing if, in the judgment of the Commission, taking into account input from the applicant and/or the public, a reduced or increased classification or level of review is warranted.
- 5203.3 Appeal of Impact Classification. Once a request for a change of impact classification has been decided by the Planning Commission, the applicant or any aggrieved party may appeal by filing a written request with the Board of County Commissioners within ten (10) days of the decision. The Board will consider the appeal as soon as the schedule of the Board allows after written notice of the time and place for reconsideration to the applicant and any other person requesting such reconsideration. The Board shall only address the question of impact classification and its decision shall be final.

# Chapter 5: Section 3 -- Review Procedure for Subdivisions and Planned Unit Developments

# 5301 Review Procedure for Subdivisions and Planned Unit Developments.

- **5301.1 Purpose of Review Procedure.** The purpose of the review procedure is to involve the County and the Public in the establishment of zoning and the planning of a subdivision or planned unit development (PUD) at an early stage. The review process involves the analysis and review of one or more of the following:
  - A. Zoning Certification or Application. The required zoning certification or application shall be filed with the Presketch Plan.
  - **B.** Presketch Plan. Planning Department review of the Presketch Plan is to provide the information for certifying or establishing the appropriate zoning in conjunction with a subdivision or planned unit development application.
  - C. Sketch Plan. Sketch Plan review procedures contemplate a process of joint planning and negotiation between the County and the applicant to promote development and land subdivision which is consistent with the intent and purpose of this Code. Conflicts in applying policies, standards and guidelines shall be identified at this stage.
  - **D. Preliminary Plan.** Review of the preliminary plan will require the applicant to specifically address any planning and development issues identified in the sketch plan. The preliminary plan will be submitted to the appropriate reviewing agencies for comment.
    - 1. Comments by Reviewing Agencies. The reviewing agencies, which are sent copies of the Preliminary Plan, shall make recommendations within twenty-one (21) days after the mailing by the Planning Department. A necessary extension of up to thirty (30) days may be granted with the consent of the Planning Department. The failure of any Agency to respond within twenty-one (21) calendar days or within the period of an extension shall be deemed an approval by the agency. The applicant shall review the comments and recommendations received and may submit additional information and make changes in the development proposal to meet the objections or comments of the reviewing agencies.
  - E. Final Plan. Review of the final plan will provide a permanent and accurate public record of the development plan exact size, shape and location of lots, blocks, streets, easements and other parcels of land within the development, together with all applicable recorded covenants, conditions, use restrictions and design and development criteria. A final plan or plat shall conform in all respects to the preliminary plan or plat previously reviewed and approved, including all modifications and special conditions.
- **5301.2 Filing of Plat.** After approval of the Preliminary Plan, the applicant shall submit the required number of copies of a final plat meeting the **Submittal Requirements** of **Chapter 5**, **Section 4** to the Planning Department. All dates, signatures and information to be provided by the applicant shall be on the final plat, including necessary spaces and blanks for County approval and recording information.

# 5302 Minor and Moderate Impact Review Procedure.

- 5302.1 Presketch Plan. For a subdivision or planned unit development classified as minor or moderate impact, the applicant shall submit to the Planning Department at least one (1) copy of a presketch plan meeting Submittal Requirements of Chapter 5, Section 4 which shall be reviewed as follows:
  - A. Planning Department Review. Upon receipt of the completed zoning certification or application and Presketch Plan, the Planning Department shall make in writing observations, comments and recommendations as may be Comments shall contain the Department's opinion of the appropriate. compatibility or conflict of the proposed zoning, planned unit development or subdivision with the policies and requirements contained in the Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines and whether or not the proposed development will significantly, adversely impact other property in the area or conflict with this Code.
- 5302.2 Sketch Plan. After review of the Presketch Plan, the developer shall submit the required number of copies of a sketch plan meeting the Submittal Requirements in Chapter 5, Section 4.
  - A. Planning Department Review. Upon receipt of all required sketch plan information, the Planning Department shall review the submittals for completeness and compliance with the Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines. The Planning make observations. Department shall written comments. recommendations as it deems appropriate and shall refer the sketch plan application to the Planning Commission. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed development or subdivision with each of the policies contained in this Code, including discussion of those conflicts that were apparent at presketch review.
  - B. Referral to Planning Commission. The completed Sketch Plan, including comments, shall be forwarded to the Planning Commission for its consideration at the earliest reasonable time consistent with the schedule and procedures of the Commission.
  - C. Planning Commission Public Review and Hearing. The Planning Commission shall conduct a public hearing on the application. This will be done in accordance with the provisions of Public Review and Hearing Procedure in Chapter 6.
  - D. Comments by Reviewing Agencies. The Planning Commission may refer the Sketch Plan to agency review if it is determined that significant adverse impacts require a more detailed review process.
  - E. Significance of Sketch Plan Approval. Approval of a Sketch Plan shall constitute approval for the general development concept, but shall not constitute approval of any detailed design, engineering submittals or proposed solutions to specific problems. If submittals are not approved, or if specific problems are not solved, the development application shall be denied at final plan stage.

- 5302.3 Final Plat. After approval of the Sketch Plan by the Planning Commission the applicant shall submit the required number of copies of a Final Plat meeting the Submittal Requirements in Chapter 5, Section 4 of this Code.
  - A. Planning Department Review. The Planning Department shall review the final plat for accuracy and compliance with the requirements of this Code and any conditions of Sketch Plan approval, and refer it to the Board.
  - B. Board Decision. The Board shall consider and render a decision on the plat within thirty-five (35) days and approve the same if said application meets all requirements.
- 5302.4 Filing of Plat. Following approval by the Board the Final Plat, including covenants, shall be recorded by the County in the office of the County Clerk and Recorder.

# 5303 Major Impact Review Procedure.

- 5303.1 Presketch Plan. For a subdivision or planned unit development classified as major impact the applicant shall submit to the Planning Department at least one (1) copy of a presketch plan meeting Submittal Requirements in Chapter 5, Section 4 which shall be reviewed as follows:
  - A. Planning Department Review, Upon receipt of the completed zoning certification or application and presketch plan, the Planning Department shall make in writing observations, comments and recommendations as may be appropriate. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed zoning, planned unit development or subdivision with the policies contained in the Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines.
- 5303.2 Sketch Plan. After review of the Presketch Plan, the developer shall submit the required number of copies of a sketch plan meeting the Submittal Requirements in Chapter 5, Section 4.
  - A. Planning Department Review. Upon receipt of all required sketch plan information, the Planning Department shall review the submittals for completeness and compliance with the Zoning, Planned Unit Development or Subdivision Policies, Standards and Guidelines. The Planning make written Department shall comments, observations, recommendations as it deems appropriate and shall refer the sketch plan application to the Planning Commission. Comments shall contain the Department's opinion of the compatibility or conflict of the proposed development or subdivision with each of the policies and requirements contained in this Code, including discussion of those conflicts that were apparent at presketch review and the identification of significant adverse impact on other property in the area.
  - B. Referral to Planning Commission. The completed Sketch Plan, including comments, shall be forwarded to the Planning Commission for its consideration at the earliest possible time consistent with the schedule and procedures of the Commission.
  - C. Planning Commission Public Review and Hearing. A Review and Public Hearing before the Planning Commission shall be announced and conducted in compliance with the Public Review and Hearing Procedure in Chapter 6.

- D. Significance of Sketch Plan Approval. Approval of a Sketch Plan shall constitute approval for the general development concept, but shall not constitute approval of any detailed design, engineering submittals or proposed solutions to specific problems. If submittals are not approved, or if specific problems are not solved, the development application shall be denied at preliminary plan or final plan stage.
- 5303.3 Preliminary Plan Application. After approval of the Sketch Plan application by the Planning Commission, the applicant shall submit the required number of copies of a preliminary plan meeting the Submittal Requirements in Chapter 5, Section 4. The Preliminary Plan may relate to all or part of the approved Sketch Plan. If the Preliminary Plan does relate to only part of the development, the appropriate phase number shall be used to identify the development in addition to the name.
  - A. Planning Department Review. Upon receipt of the required preliminary plan information, the Planning Department shall review the submittals for accuracy, completeness and compliance with the Zoning, Planned Unit Development, or Subdivision Policies, Standards and Guidelines and for compliance with any conditions imposed by the Planning Commission in its Sketch Plan approval. When the Planning Department is satisfied that all necessary information has been submitted, it shall refer the preliminary plan to the Planning Commission and to the appropriate reviewing agencies as provided in 30-28-136 et seq., C.R.S., as amended and to any other agencies appropriate to review the particular proposal.
  - B. Comments by Reviewing Agencies. The reviewing agencies, which are sent copies of the Preliminary Plan, shall make recommendations within twenty-one (21) days after the mailing by the Planning Department. A necessary extension of up to thirty (30) days may be granted with the consent of the Planning Commission. The failure of any Agency to respond within twenty-one (21) calendar days or within the period of an extension shall be deemed an approval by the agency. The applicant shall review the comments and recommendations received and may submit additional information and make changes in the development proposal to meet the objections or comments of the reviewing agencies.
  - C. Planning Commission Review. The Planning Commission shall review the Preliminary Plan at the next regularly scheduled meeting after receiving comments from the reviewing agencies. The Planning Commission shall render a decision based on:
    - 1. Compliance with the Zoning, Planned Unit Development, or Subdivision Polices, Standards and Guidelines.
    - 2. The Preliminary Plan complies with the approved mitigation measures and other conditions, and
    - The proposal will not cause any significant adverse impact on other property in the area and does not conflict with any applicable provision of this Code.

- **5303.4 Final Plat.** After approval of the Preliminary Plan, the applicant shall submit the required number of copies of a final plat meeting the Submittal Requirements of Chapter 5, Section 4 to the Planning Department. All dates, signatures and information to be provided by the applicant shall be on the final plat, including necessary spaces and blanks for County approval and recording information.
  - A. Planning Department Review. The Planning Department shall review the Final Plat for accuracy and for compliance with the requirements of this Code and for any conditions of the Preliminary Plan.
  - B. Referral to Board. The Planning Department may observations and recommendations regarding the Final Plat upon referral to the Board.
  - C. Board Approval. The Board shall consider and render a decision on the plat within thirty (30) days and approve the same if said application meets all requirements.
- 5303.5 Filing of Plat. Following approval by the Board the Final Plat, including protective covenants, shall be recorded by the County in the office of the County Clerk and Recorder.

# 5401 Submittal Requirements.

- **5401.1 Purpose.** This article sets forth the minimum information which must be submitted by the applicant. The Planning Commission or the Board of County Commissioners may require additional information as they deem necessary.
- **5401.2** Application for Subdivision or Planned Unit Development. An application for minor, moderate or major impact as defined in this Code shall be made on forms provided by Montezuma County which shall include the following information:
  - A. Applicant's name, address and telephone number, and if different from the owner, the name of the owner of the property together with evidence of ownership in the form of a Certificate of Ownership from a title company or title opinion from an attorney, and that the owner consents to the filing of the application.
  - **B.** The name and address of the adjoining surface owners and mineral owners upon which the proposed development is located.
  - C. The legal description of the proposed development
  - **D.** Existing or requested zoning designation.
  - **E.** A brief description of adjacent land usage.
  - **F.** A brief description of the proposed development including number and type of living units, type of industrial, business or commercial use proposed, general description of planned or future expansion and acreage dedicated to Open Space, if any.
  - G. Application Completeness. An application will be considered complete if it is submitted in the required number and form, includes all mandatory information and is accompanied by the applicable fees. The determination of application completeness shall be made within fifteen (15) days of application filing. If an application is determined to be incomplete the Planning Director shall supply written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within thirty (30) days, the application shall be considered withdrawn and the application shall be returned to the applicant.
- **5401.3 Presketch Plan.** The applicant shall submit sufficient copies of a presketch plan which shows the general location of the development in sufficient detail to evaluate the relationship between the development and the physical features of the land and abutting lands. The presketch plan shall relate to all of the land proposed for immediate or future development. At a minimum, the presketch plan shall include:
  - A. Subdivision or Planned Unit Development Application.
  - **B.** Zoning application or certification.
  - C. Site Map to include:
    - 1. The location of proposed development areas upon the site.
    - 2. Total acreage, abutting land uses and zoning designations, abutting land owners names and addresses.

Date Amended: July 21, 2008

3. Existing roads, streets and highways.

- 4. Major physical features including structures, buildings, boundary fencing, irrigation ditches and pipelines, utilities, topography, drainage, wetlands, noxious weed infestations and location of natural hazards.
- 5402 Sketch Plan Submittals for Minor, Moderate or Major Impact.
  - **5402.1** Sketch Plan. If the proposed development is one of minor, moderate or major impact as defined in this Code, the applicant shall submit a copy of the Sketch Plan which shall relate to all of the area proposed for immediate or future development. This information shall also build on the requirements of the Presketch Plan.
  - **5402.2 Map.** Maps shall show the name of the development, date of preparation. scale, and arrows designating true north. Maps shall be of a scale to permit adequate review. The sheet size shall be twenty-four (24) inches by thirty-six (36) inches. Maps shall include:

#### A. Development Layout.

- 1. The location, dimensions and acreages of all parcels or home sites.
- 2. Square footage and uses of all existing and proposed buildings, structures, storage yards, waste disposal areas, parking areas, major utility installations and other major features of the development.
- 3. Location and associated easements of boundary fences, irrigation ditches, pipelines and utilities, proposed and existing, associated with the proposed development.

#### B. Road Layout.

- 1. Location of all access easements and rights-of-way.
- 2. Road surface, width, curve radii and other dimensions of all proposed and existing roads.
- C. Natural Features. Indicate the location of streams, lakes, wetlands, natural hazard areas, one hundred year floodplain, topography (sufficient to determine lot slope) and vegetation, including areas of noxious weed infestation on the proposed development site.
- The Development Plan is intended to provide written 5402.3 Development Plan. narrative and supporting documentation addressing the issues outlined below. Where Development Plan information can best be presented on a map, it may be included in the Map required in 5402.2 or attached to the narrative as a separate map.
  - A. Development Schedule. The plan shall include a development schedule indicating the approximate dates when construction can be expected to begin and be completed.
  - B. Waiver or Modification Requests. Any requests for the waiver or modification of certain Threshold Standards, 1202 or Design Guidelines, **5103**, shall justify the reasons why such waiver or modification is necessary. The applicant may show how variations in Threshold Standards and Design Guidelines will be addressed in subdivision or PUD covenants.
  - C. Traffic and Parking. A narrative report or submittals including:
    - Driveway permits from County Road Department or highway access permit from Colorado Department of Transportation.
    - 2. Estimated existing traffic flow on streets, roads or highways serving or related to the proposed development.

- 3. The estimated increase in traffic flow resulting from the proposed development.
- **4.** Visibility at existing and proposed intersections.
- 5. The total number of proposed off-street parking spaces for Commercial or Industrial development.
- 6. The maximum number of vehicles that can reasonably be expected to be parked in the area at any one time because of activities related to the proposed development.
- D. Water Supply. The plan shall include appropriate evidence that a water supply sufficient in terms of quality, quantity and dependability will be available to insure an adequate supply of water for the type of development proposed. The evidence may include, but shall not be limited to:
  - 1. Estimated water requirements in gallons per day for non-agricultural uses specifying potable and non-potable uses.
  - 2. Evidence that the proposed water source or sources will actually supply adequate quantities of water to the proposed development, such as:
    - a. Evidence that a public or private water supplier can and will supply water to the proposed development, stating the amount of water available for use within the development.
    - **b.** A permit from the State Water Engineer, and a favorable report from a qualified hydrologist, or results from a pumping test.
  - 3. Evidence concerning the potability of the proposed water supply if the water is intended for human consumption.
  - 4. Cisterns are only permitted in the event that rural water is not available.
    - a. In the instance that cisterns are proposed as the primary water supply, provisions for fire protection within the proposed development must be approved by the appropriate fire protection district.
- E. Sewage and Waste Management. The Plan shall include covenant requirements describing:
  - a. Prior to commencing construction, each lot owner will submit a Septic Application to the County Health Department for an individual sewage disposal system permit, a Sanitarian or a Colorado Registered Professional Engineer shall visit the applicant's property to make a preliminary investigation on behalf of the Department, consisting of:
    - 1. Inspection of the premise.
    - Soil percolation or hydraulic conductivity tests when necessary. 2.
    - 3. General geological conditions.
    - The determination of the suitability of the site and of the proposed design based upon the land use and population density in the area; the use to which the property is to be put; the size of the lot, depth verification of the ground water table, suitable soil, and depth to bedrock; the location of water supply systems; and the location of the disposal system with reference to well, streams lakes, ditches, structures, and other geographical features, in accordance with Montezuma County Resolution No. 86-1. This requirement shall become part of the covenants of the property and be filed with, and noted on, the plat.

- F. Drainage Plan. The application shall contain general maps and plans for storm drainage facilities to prevent storm waters in excess of historic runoff, caused by the proposed development, from damaging or exceeding the carrying capacity of existing natural or man made drainage ways or structures both on and off site.
- G. Estimated Costs. The plan shall also include an estimate of the construction costs and proposed method of financing of streets and related facilities, a water distribution system, any sewage collection system, storm drainage facilities and other utilities as may be required of the developer by the County.
- H. Soils and Natural Hazards. A geologic investigation shall address potentially hazardous conditions and shall indicate the suitability of types of
- Developments Impacting Agricultural Lands. If a proposed development adjoins or has impact upon agricultural lands, the Sketch Plan shall identify, in written or graphic form, the following:
  - 1. The location and name of the owner of any agricultural land adjoining or possibly impacted by the proposed land use change.
  - 2. The location, name, name of owner, size and decree of any agricultural irrigation ditch or pipeline crossing the development property.
  - 3. The location of historical easements utilized to gain access to headgates, irrigation ditches, pipelines and fences for maintenance and operational purposes.
  - 4. The location of any established stock drive crossing or adjoining the development property, including the location of any existing fences along, and the location of new fences or other obstacles proposed to be built across, such stock drives.
  - **5.** The location of existing and proposed boundary fences.
- J. Wildfire Mitigation Plan. As recommended in Colorado State University Fact Sheet No. 6.302, "Creating Wildfire Defensible Zones," attached hereto and made a part hereof as an addendum to this Code, a wildfire mitigation plan shall be submitted defining fuels mitigation requirements to be met within the development boundary. The plan will require certification that the recommendations have been completed prior to final approval of the development.

# 5403 Preliminary Plan Submittals.

- 5403.1 Preliminary Plan. The Planning Commission has approved a sketch plan for the proposed development; the applicant shall submit a preliminary plan consistent with these requirements.
  - A. The Planning Department shall determine the number of copies of the Preliminary Plan for department and agency review.
  - B. The Preliminary plan may relate to all or part of the area approved by the Sketch Plan.
  - C. Written submittals shall be bound in an order specified by the Planning Department.

Date Amended: July 21, 2008

5403.2 Relationship to Sketch Plan. If the Preliminary Plan represents significant variations from the approved Sketch Plan, those variations shall be clearly identified and described. If variations from the approved Sketch Plan substantially change the impact of the project, the applicant may be required to file, and obtain approval of, an amended Sketch Plan.

#### 5403.3 Preliminary Plan Maps.

- A. The map shall be drawn to a scale not less than one inch equals two hundred (200) feet, or as otherwise approved by the Commission.
- B. In the case of large development requiring more than two (2) sheets at the required scale, the applicant shall also submit a total area plan showing the entire development on a single sheet at an appropriate scale.
- C. The size of the Preliminary Plan shall be at a scale to permit adequate review. The sheet size shall be twenty-four (24) inches by thirty-six (36) inches.
- **D.** In addition to the requirements of the Sketch Plan map, the following information will be included:
  - 1. Elevation contour certified by a professional engineer or land surveyor drawn at sufficient intervals to determine lot slope.
  - 2. References to permanent survey monuments with a tie to a section corner or quarter section comer.
  - 3. The location, size (in square feet and/or acres) and numbering sequence of lots and blocks within subdivisions.

#### 5403.4 Soils and Drainage.

- A. The preliminary plan shall discuss the methods proposed by the applicant to deal with problems arising from soil characteristics within the development.
- B. If drainage impacts are potentially significant, the Preliminary Plan shall also contain a drainage study certified by a registered engineer showing all existing watercourses, irrigation ditches, pipelines, wetlands, limits of tributary areas, computations of expected tributary flows and the results indicated.
- C. Where applicable, the limits of the one-hundred year flood shall be studied and plotted. Where permanent flood control dams have been built, their effects shall be noted.
- D. If drainage impacts are potentially significant, location and sizes of all culverts, bridges, underground drainage facilities, drainage ditches, pipelines, channels and easements required to prevent major damage on and off site from a twenty-five year storm shall be shown.
- 5403.5 Roads. In all developments where streets or roads are intended for use by the general public, by lot or unit owners, or by anyone other than the applicant, the preliminary plan shall meet the Montezuma County Road and Bridge Standard Specifications. Driveway permit(s) from the Road Department or a highway access permit from Colorado Department of Transportation are required.
- 5403.6 Solid and Hazardous Waste Materials. The preliminary plan shall describe in narrative form, the method to be utilized by the development for the disposal of solid and hazardous wastes, where applicable.
- 5403.7 Sewage Treatment. The Preliminary Plan must address the proposed method of sewage treatment.
  - A. If the lots within a development are utilizing individual sewage disposal systems, the plan shall comply with 25-10-101 C.R.S., et. seq., and Montezuma County Resolution Nos. 86-1 and 4-97, as amended.

- B. If the proposed development will utilize a centralized sewer system the applicant shall submit a letter of agreement from any existing sewage treatment service committing to service the proposed development.
- C. New central sewage disposal systems which are part of a development proposal must be evaluated and approved by the Colorado Department of Health. This approval must be included in the Preliminary Plan submittals. The location of proposed facilities must be included on the Preliminary Plan Map.
- 5403.8 Water Supply. The Preliminary Plan application shall contain evidence that definite provisions have been made for a water supply that is sufficient in terms of quantity, quality and dependability to provide an appropriate supply of water for the type of development proposed. For development proposals involving a new centralized water treatment system, the system must be evaluated and approved by the Colorado Department of Health. This approval must be included in the Preliminary Plan submittals. The location of the proposed facilities must be included on the Preliminary Plan map.
- 5403.9 Fire Protection. If the proposed development includes a central water system or other features which will be utilized for fire suppression purposes, the preliminary plan shall include a map showing hydrants and other fire suppression features.
- 5403.10 Statement of Ownership. A title commitment or title policy from a title insurance company or title opinion from a licensed Colorado attorney showing that the applicant is the owner of record or the applicant has the written consent of the owner of record.
- **5403.11 Covenants or Restrictions.** The preliminary plan shall include a preliminary draft of protective covenants and deed restrictions along with any other conditions imposed during the review process. Threshold Standards will be incorporated as applicable. Proof shall be provided of the establishment of any association, district or group which will enforce or administer such covenants, declarations and restrictions.
- 5403.12 Common Areas. The Preliminary Plan shall identify any areas which will be set aside as common areas and shall include a plan for these areas. Maintenance shall be assured on a continual basis.
- 5403.13 Developments within Hazard Areas. If the Sketch Plan revealed that part or all of the proposed development is within an area subject to hazardous conditions, the Preliminary Plan shall include sufficient design detail and information to demonstrate adequate engineering and design solutions to the problems caused by any hazards.
- 5403.14 Developments Having Impact on Agricultural and Other Land. If the development has impact upon agricultural lands or other subdivisions, the Preliminary Plan shall describe and identify those features of the Preliminary Plan design which eliminate or mitigate adverse impacts on adjoining or impacted land uses.
- 5403.15 Noxious Weed Management Plan. Noxious weeds shall inspected, identified, diagrammed and submitted with the sketch plan and must have an approved weed management plan submitted with the preliminary plan. This plan will become part of the covenants of the property and be filed with, and noted on, the plat.

5403.16 Additional Information. If any other conditions were placed on approval of the Sketch Plan to achieve compatibility between the proposed development and surrounding uses and with the policies, standards and guidelines of this Code, the Preliminary Plan shall describe and identify those features of the Preliminary Plan design which fulfill these conditions.

#### 5404 Final Plat Submittals for Minor, Moderate and Major Impact.

5404.1 Final Plat. After the Board has approved the Sketch Plan of a development of minor or moderate impact or the Preliminary Plan of a development of major impact, the applicant shall submit one (1) copy of a Final Plan consistent with the requirements of this part, two (2) copies of the plat drawn on mylar and one (1) blueline or blackline print of the mylar plat.

#### 5404.2 Conformity with Approved Plan.

- A. Any Final Plat shall conform in all respects to the approved Sketch Plan for a development of minor or moderate impact or the approved Preliminary Plan for a development of major impact.
- B. Any Final Plat shall incorporate all modifications and special conditions previously specified by the Planning Commission and Board as necessary to comply with the subdivision policies, standards and guidelines of this Code and all applicable laws, rules and regulations.
- C. Any changes between the previously approved plan and the submitted final plat shall be identified in a statement provided by the applicant. If the Board determines that such changes are substantial in nature, they shall refer the application back to the Planning Commission for further review.
- 5404.3 Required Accompanying Data. All written submittals included with the Final Plat shall be approved according to the impact level submittal and review requirements of the development. These will include, as applicable:
  - A. Application
  - B. Zoning certification
  - C. Development plan: presketch, sketch, preliminary
  - D. Map: presketch, sketch, preliminary
  - E. Waiver/Mitigation plan
  - F. High Impact permit
  - G. Water plan
  - H. Sewage and waste management plan
  - I. Fire Protection plan
  - J. Access permits: County or state
  - **K.** Geologic Investigation; soils and natural hazards
  - L. Drainage plan
  - M. Noxious weed plan
  - N. Compliance with major street plan within 3 miles of a municipality
  - O. Statement of ownership
  - P. Covenants
  - Q. Estimated costs
  - **R.** Proof of taxes paid.
  - S. Solid and Hazardous wastes for Commercial or industrial developments

Date Amended: July 21, 2008

T. Road inspection and final approval

- **U.** Bond for improvements, as required in a form and amount satisfactory to the County, and
- **V.** Any plat notes and covenants specified during review process.
- W. Wildfire Mitigation Plan with signature of Colorado State Forest Service certified wildfire mitigation specialist verifying completion of fuels mitigation. If plan author performs their own wildfire mitigation work, they shall not sign off on their own plans. If a Waiver is approved by the Planning Department then a signature of a certified wildfire mitigation specialist verifying completion of fuels mitigation will not be required.

#### 5405 General Requirements for Maps, Plans and Plats.

- **5405.1** Any map, plan or plat submitted with a final plan application shall comply with the following:
  - A. Scale shall be two hundred (200) feet to the inch unless a larger scale is determined at the Sketch Plan stage in which case one hundred (100) feet or fifty (50) feet to the inch may be required.
  - B. Sheet sizes for all maps, plans or plats shall be twenty-four (24) by thirty-six (36) inches.
  - C. A Final Plat may be submitted in sections covering representative and reasonable portions of the subdivision tract at the appropriate scale. In such cases submission shall include a key map of the same size and material as the Final Plat indicating the sections, their relationships and order.
  - D. Each sheet shall contain a scale (written and graphic), north arrow and a heading containing the name of the development, and the location of the development by reference to a quarter section, township and range.
  - E. The point of beginning shall be indicated and its proper reference to the monumented perimeter survey shall be delineated on the drawing.
  - F. All bearings and distances of boundary lines shall be indicated outside the boundary line, not inside with the lot dimensions, and all dimensions necessary to establish the boundaries in the field shall be shown; and such other survey requirements as required by 38-51-102, et seq., C.R.S., as amended. When the plat is bounded by an irregular shoreline or body of water, the bearings and distances of a closing intermediate traverse shall be given and a notation made that the plat includes all land to the water's edge or otherwise.
  - G. Excepted parcels shall be marked "Not included in this plat" and the boundary completely indicated by bearings and distances.
  - H. All streets, walkways, alleys, and any other public common areas shall be designated as such and named; bearings and dimensions must be given.
  - I. All easements and rights-of-way including irrigation ditches, pipelines, boundary fences, utility lines, roads and paths or trails shall be designated as such and bearings and dimensions given.
  - J. Planned or existing, recorded or apparent easements, the closing or changing of which might affect the rights of others shall be indicated and the bearings and dimensions given.
  - K. All lands within the boundaries of the plat shall be accounted for either by lots, walkways, streets, alleys or other public common area, or excepted parcels.

- L. All dimensions of irregularly shaped lots shall be indicated in each lot.
- **M.** Bearings shall be given for all lot lines, except that bearings need not be given for interior lot lines where the bearings are the same as those of both exterior lot lines.
- N. Parcels not contiguous shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be embraced in one plat, provided that all owners join in the dedication and acknowledgment.
- O. Other information on the plat shall include but not be limited to:
  - 1. Name of subdivision, true north line and date.
  - 2. Name of owner or owners and address.
  - 3. Total acreage of tract and total number of lots.
  - 4. Township, Range, Section and Quarter Section.
  - 5. Block and Lot numbers.
  - **6.** Graphic and written scale.
- **P.** Permanent reference monuments shall be located and set as required by 38-51-101 et seq., C.R.S., as amended.
- Q. The surveyor making a plat shall certify on the plat that it is correct and that the monuments described in it have been placed as described. He shall affix his name and seal.
- R. All utilities and easements shall be shown on the Final Plat along with certification from utility companies showing their approval.
- **S.** Signature block for municipality stating compliance with current major street plan.
- **5405.2 Subdivision Plats.** In addition to the requirements of the foregoing section, subdivision plats intended for recording shall comply with 30-28-133 et seq., C.R.S., as amended, including the following:
  - A. All lots, blocks or spaces shall be consecutively numbered.
  - **B.** All covenants, conditions and restrictions shall be filed with the plat and the plat shall contain a reference to the book and page and reception number where the covenants, conditions and restrictions are recorded.
  - C. All curve data may be shown on the plat which shall include radii, internal angles and lengths of all arcs. Points of all curvature shall be shown on the plat.
  - D. Where the subdivider is to dedicate land for roads, parks, easements and other public purposes, a dedication statement acceptable to the County shall be shown on the Final Plat.
- 5405.3 Improvement Agreements and Security. No final plat showing improvements not yet completed shall be approved until the developer has submitted a development improvement agreement or a contract approved by the Board guaranteeing the construction of required public improvements, as well as performance of all terms and conditions as set forth in presketch, sketch or preliminary plan approval. The development improvement agreement shall accompany the Final Plan.
- **5405.4 Covenants Provided by Seller.** Developments of minor, moderate and major impact shall include protective covenants and deed restrictions to be filed with the Plat. Covenants shall run with the land, and a copy of the recorded covenants

	shall be provided by the splanned unit development	seller to all fu t.	ture purchasers o	of lots in the subdi	vision or
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#### CHAPTER 6: PUBLIC NOTICE PROCEDURE

- 6101 Public Notice Procedure. Public hearings shall be required for the establishment of, or change of zoning, to review planned unit developments, subdivisions, High Impact Permits and Special Use Permits. The intent of the Public Hearing Process is to arrive at conditions which will make a proposed development compatible with Zoning, minor, moderate, and major Development and Planned Unit Development regulations and High Impact Permits, Threshold Standards and Design Guidelines, and with existing land uses that will be impacted by the proposed development.
  - **6101.1 Notice of Public Hearing.** After the Planning Department has received the required submittals, and scheduled an application for public hearing, it shall cause public notice of the application for either establishment or change in zoning, minor, moderate, or major subdivision development, planned unit development or High Impact Permit:
    - **A.** The notice of public hearing shall be prepared at the direction of the Planning Director and include the following:
      - A description of the location of such proposed development by reference to known landmarks such as, road intersections, existing towns and developments, addresses; and by reference to quarter-section, township and range.
      - 2. A brief description of the proposal.
      - 3. The date, time and place of the public hearing.
      - **4.** A statement that interested persons may attend and give input at such hearing.
      - **5.** The phone number and address of the Planning Office where additional information may be obtained.
    - **B.** The Notice of Application and Public Hearing shall be given:
      - 1. By written notice. Applicant shall cause written notice to be sent to all adjacent property owners and mineral interest owners by Certified Mail, United States Postal Service at least, and including, ten (10) days prior to the Public Hearing. Any Planned Unit Development Application will require fifteen (15) days notice prior to the Public Hearing. A list of Mineral Owner(s) can be obtained by Applicant through deed records recorded in the Montezuma County Clerk & Recorders Office. Proof of mailing shall be submitted to the Planning Department prior to the scheduled Public Hearing.
      - 2. By at least one publication in a newspaper of general circulation within Montezuma County. The Planning Department shall draft said notice and cause same to be published at least, and including, ten (10) days prior to the hearing. Any Planned Unit Development Application will require notice to be published at least fifteen (15) days prior to the Public Hearing.
      - 3. By posting public hearing notice sign(s) on the subject property. The Planning Department shall prepare the sign(s) to be posted. Applicant shall post the sign(s) on the proposed development at least, and including, ten (10) days prior to the public hearing. Any Planned Unit Development Application will require notice to be posted at least and including fifteen (15) days prior to the Public Hearing.

- 4. The location of the sign(s) shall be identified by the Planning Department and shall be readily visible from roads or streets serving the area of the proposed development. Applicant shall maintain and keep sign posted for the duration of the ten (10) days and Planned Unit Developments for (15) days.
- 5. Planning Commission Review/Public Hearing. If the development proposal involves a parcel with approved zoning, review and public comment shall be limited to issues of compliance with applicable Threshold Standards, Design Guidelines and Regulations.
- C. The Planning Commission Review/Public Hearing shall be conducted as follows:
  - 1. The applicant or applicant's representative shall inform persons at the hearing of the nature, location and scope of the proposed development.
  - 2. Members of the Planning Commission may ask questions of the applicant concerning the proposed development.
  - 3. The interested public will be given an opportunity to ask questions and comment upon the proposed development, within the framework of Development Policies, Standards and Guidelines in this Code. Written comments will also be accepted and read.
  - 4. The Planning Commission and staff may conduct discussions with the applicant and the interested public seeking agreement on conditions that would make the proposed development reasonably compatible with existing land uses, and the Development Policies and Guidelines.
  - 5. Agreements and conditions arrived at through these discussions will, at the direction of the Planning Commission, become recommended conditions for the approval of the proposed development.
  - 6. In the event that the Planning Commission needs more information or time to deliberate the proper resolution of outstanding issues the Public Hearing may be continued to a time certain.
  - 7. If the Planning Commission recommends denial of the development, the developer has thirty (30) days from the date of the Planning Commission hearing to petition for a public hearing before the Board of County Commissioners.
  - 8. If there are unresolved issues, the Planning Commission may forward the application to the Board of County Commissioners for further review.
  - 9. At the direction of the Planning Commission the Planning staff will prepare Findinas.
  - 10. Findings will be forwarded to the Board of Commissioners within 35 days after the completion of the Public Hearing. Findings will also be sent to the applicant, and will be available for inspection by the interested public.

# 6101.2 County Commission Hearing on Sketch Plan (Optional).

- A. In the event that there are unresolved issues from the Sketch Plan hearing before the Planning Commission, the County Commission may announce a public hearing in conformance with 6101.1.
- B. The public hearing will focus on the unresolved issues including relevant submittals and findings along with written and oral public comments made at the Planning Commission Hearing.

- C. Upon conclusion of the public hearing, the County Commission shall render a decision regarding the Sketch Plan.
- 6101.3 County Commission Review and Approval of Final Plat shall be conducted in accordance with 5303.4 of this Code.

#### CHAPTER 7: TRANSFERABLE DEVELOPMENT RIGHTS (TDRs)

#### 7101 General Purpose.

- **7101.1 Short Title. T**DR regulations contained in this section may be cited as "Transferable Development Rights" or "TDRs".
- 7101.2 Scope. This Chapter notwithstanding, existing parcels of land legally created shall retain such development rights as provided under the Montezuma County Land Use Code unless such rights are transferred hereunder. TDR regulations apply to the Dolores River Valley, which for purposes of this Land Use Code is a geographical area delineated by the Dolores River Valley Map, Exhibit 1 of the Montezuma County Land Use Code.
- 7101.3 Purposes. This Chapter provides a method for transferring development rights from one parcel of land in the Dolores River Valley to another parcel of land in the Dolores River Valley. The General Purpose of TDRs in the Dolores River Valley is to allow commercial development and/or residential development that exceeds one residential unit per ten acres, provided that the proposed development is approved through the High Impact Permit process and/or the Subdivision process which shall include proof that the required number of TDRs have been acquired, or are under contract to be acquired, by the applicant. The specific purposes of these regulations are:
- A. To preserve the quality of water in the Dolores River Valley, the primary water source for the People in the Town of Dolores, the City of Cortez, and much of the unincorporated areas of Montezuma County by limiting the overall density of new development in the Dolores River Valley to the equivalent of one residential unit per ten acres.
- **B.** To provide a mechanism by which property owners in the Dolores River Valley with a minimum of ten undeveloped acres can voluntarily sever and convey development rights.
- **C.** To provide a mechanism by which commercial or residential development can be undertaken which exceeds the base density of one residential unit per ten acres by purchasing development rights and by utilizing development rights attached to the property proposed for development.
- 7102 Regulations for Establishment and Conveyance of Transferable Development Rights. TDRs are a real property right for property owners within the Dolores River Valley that own ten or more acres of undeveloped land. Such properties constitute the Dolores River Valley TDR Sending Area. TDRs are calculated and may be sold or otherwise transferred as follows:
  - A. Parcels within the Dolores River Valley on slopes of less than 30 degrees are allocated one TDR per ten acres of land outside of the floodplain, and 1.5 TDRs per ten acres of land within the floodplain. Those portions of parcels on slopes of 30 degrees or more retain development rights in conformance with the Montezuma County Land Use Code, but have no TDR value.
  - **B.** The transfer of a TDR shall include all commercial and residential development rights. The number of TDRs allocated to a sending parcel shall be calculated in increments of one-tenth of a TDR on parcels of ten acres or more.

- **C.** The establishment of TDRs shall require a legal survey which addresses the above criteria, and plats specific parcels of land.
- **D.** Property owners are under no requirement to plat TDRs unless they intend to transfer TDRs. TDRs shall be transferred and conveyed by Deed. Said Deed shall be recorded in the Deed Records of the Montezuma County Clerk and Recorder.
- **E.** Once TDRs are severed from a parcel, the parcel is restricted from future commercial or residential development, unless additional TDRs are purchased and landed on the parcel.

#### 7103 Regulations for Acquiring and Landing TDRs in a Receiving Site.

Commercial Development within the Dolores River Valley or Residential Development that exceeds one unit per 10 acres will require the purchase and landing of TDRs in conformance with the following:

- A. The number of TDRs required for new development exceeding one residential unit per 10 acres shall be in accordance with the Dolores River Valley TDR Chart, attached hereto and made a part hereof. The TDR requirement for types of development not listed on the TDR Chart shall be determined by applying the same standards for effluent volume and strength utilized in developing the TDR Chart.
- B. The landing of TDRs shall require the establishment of a TDR Receiving Site.
- **C.** Receiving Sites can only be designated within the Dolores River Valley as delineated by the Dolores River Valley Map.
- **E.** Receiving Sites shall be designated as part of the High Impact Permit process and/or the Subdivision Review process. Receiving Site approval is contingent on meeting other High Impact Permit and Subdivision Regulation Requirements.
- **F.** The minimum Receiving Site for Condominium and Residential Development shall be 10 acres as to any tract created after the date of this amendment. There is no minimum parcel size for landing TDRs required for commercial development on a Receiving Site, provided the development meets the requirements of the High Impact Permit review and approval process. Proposed development, in which the impacts established in the review process can not be adequately mitigated, shall be denied.
- **G.** For Residential and Condominium Development outside of the floodplain, one TDR is required for each unit that exceeds a density of one unit per 10 acres.
- H. TDRs transferred into the floodplain shall require the floodplain ratio of 1.5 TDRs per unit of development. New residential development that does not require TDRs may be developed at a density of up to one unit per 10 acres in compliance with the Subdivision Regulations in this Code. All development within the floodplain shall require a Floodplain Development Plan Permit.
- I. The minimum parcel size for residential development shall be three acres provided that TDRs are purchased and landed for each unit that exceeds the one unit per 10 acre density.
- **J.** TDRs are landed by attaching a copy of the TDR Deed to the High Impact Permit or Subdivision Plat approving the proposed development, and Recording the same in the Deed Records of the Montezuma County Clerk and Recorder.
- K. TDRs may be transferred within a tract subject to the requirements in this Chapter 7.

Date Amended: July 21, 2008

## 7104 Other TDR Regulations include the following:

- **A.** The use of a Development Right in a development shall make said Development Right non-transferable unless and until said development ceases to exist and the property has been reclaimed to its predevelopment condition.
- **B.** Severed TDRs may float until such time as the owner wishes to land them through the High Impact Permit and/or Subdivision Process.
- **C.** TDR Regulations shall be the controlling mechanism for exceeding densities of one residential unit per 10 acres in the Dolores River Valley outside of the Town of Dolores. TDR regulations can not be circumvented by Urban Services Zoning or the availability of centralized sewer.
- **D.** Within the Dolores River Valley any Accessory Residential Unit including guest and caretaker units shall meet the TDR requirements in this Chapter 7 for a Residential Unit.

**DOLORES RIVER VALLEY TDR CHART** 

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Per Unit Effluent Only	Unit	Number of Units per TDR
1	1 Home	1
0.91	1 Apartment	1
.1	1 Space	1
0.52	1 Room	2
0.33	1 Room	3
0.26	Space	4
0.04	Seat	105
		ADD HE WAS A STATE OF THE STATE
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	Operational days/year	25
0.13	Seat	8
0.04	Seat	26
	1,500 square feet	1
	4 toilets, 750 square feet	1
	0.52 0.33 0.26	1

#### Exhibit 1

The Dolores River Valley Map is also available for examination in the Montezuma County Planning Office, 109 West Main, Room 305, Cortez, Colorado.

# CHAPTER 8: ADMINISTRATION Enforcement, Fees, Miscellaneous Provisions

#### 8101 Enforcement.

#### 8101.1 Enforcement.

- A. Any person, firm, or corporation violating any regulation or provision of this Code shall be subject to criminal and civil actions and proceedings and penalties as provided in 25-1-611 and 613, C.R.S. as amended; and 30-28-124, C.R.S., and that portion of Senate Bill 98-055, codified as 30-28-124.5, C.R.S., as amended.
- **B.** The Board of County Commissioners may bring an action to enjoin any person, firm or corporation from selling subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners.
- **C.** Subdivision Improvements Agreements may be required as provided in 30-28-101 (11) C.R.S., as amended, and shall be enforceable by appropriate legal action.
- **D.** Conditions of Approval. In approving applications the Planning Commission and/or Board of County Commissioners shall be authorized to impose such reasonable conditions as may be necessary to reduce or minimize any significant adverse impact upon other property in the area and to comply with applicable provisions of this Code which shall be enforceable by appropriate legal action.

#### 8102 Administrative Fees.

- **8102.1 Statement of Intent.** For the cost of reviewing and processing applications for zoning, subdivisions, and permits each applicant shall pay the fees set forth by the Board.
- **8102.2** Fees Charged by Review Agencies. If a proposed Land Use change will be sent for a review to any agency which assesses a fee, such fee shall be paid to the County at the time of the preliminary plan submittal or when such costs are incurred.
- 8102.3 Additional Fees. If, after receipt of the sketch plan, preliminary plan, or permit application, the Board determines that the demand for additional public funds resulting from the review of the proposed development is likely to be substantial the Board may, after consultation and discussion with the applicant, assess additional fees. Such additional fees shall be set in an amount that will, as far as can be determined, cover the public costs.

## 8103 Non-Conforming Uses and Previous Approvals and Exemptions.

- **8103.1 Existing and Non-conforming Uses.** Except as hereinafter provided in this section, the lawful use of any building, structure or land existing at the time of the enactment of this Code may be continued even though it does not conform to the requirements of this Code.
- **8103.2 Previous Approvals.** The adoption of this Code shall not affect, cancel or invalidate any approval previously granted under prior Montezuma County Subdivision Regulations.
- **8103.3 Exemptions.** The Board of County Commissioners may grant exemptions as provided by 30-28-101 (10) (d) C.R.S., as amended.

#### 8104 Correction, Amendment and Vacation of Existing Subdivision.

- 8104.1 Correction of Plats. The Board may approve a correction plat of a subdivision if:
  - A. All affected lot owners in the subdivision sign on the corrected plat approving said correction.
  - B. The sole purpose of such correction plat is to correct one or more technical errors in the plat; and
  - C. The correction plat is consistent with an approved preliminary plan or where no preliminary plan was presented, an approved sketch plan.

#### 8104.2 Amendment of Plats.

- A. The amendment of an approved plat shall be done in accordance with the provisions of this Code; provided, however, that submittals utilized in the original application may be utilized for the amendment where appropriate.
- B. All lot owners in the subdivision or planned unit development must sign on the amended plat approving said amendment, except when lot owners are combining adjacent subdivision lots to their existing lot or amending a common lot line, then only the signatures of the affected lot owners are required.

#### 8104.3 Vacation of Plats.

- A. A person may make application to the Board to vacate any undeveloped subdivision plat of record.
- B. Procedure. The owner or owners shall present a petition signed by all owners of all the land in the undeveloped subdivision or planned unit development to the Board containing the legal description of the development and requesting vacation thereof. The Board shall approve or deny the petition.

## 8105 Resolution Amendments Interpretation and Review.

- 8105.1 Amendments. This Resolution may be amended, supplemented, changed, modified or repealed by the Board in accordance with the provisions of this section.
- The Planning Commission or the Board may initiate such A. Initiation. amendment procedure.
- B. Review. Any application for an amendment, supplement, change, modification or repeal of this Resolution shall be considered in the following manner:
  - 1. Planning Commission Recommendation. Every proposed amendment, supplement, change, modification or repeal of this Resolution shall be referred to the Planning Commission for its study and recommendation. Within 35 days of the receipt thereof, the Commission shall submit its recommendations for approval or disapproval and any suggestions thereon to the Board.
  - 2. Public Hearing. Upon receipt of the recommendation of the Commission, the Board shall schedule a public hearing on the proposed amendment. supplement, change modification or repeal of this Resolution. Notice of said public hearing setting forth the time, place and purpose thereof shall be published in a newspaper of general circulation in Montezuma County at least fifteen (15) days prior to the date set for the public hearing. A

decision will be rendered by the Board at the conclusion of the public hearing.

- 8105.2 Severability. If any provision of this Resolution is held invalid with respect to its application to any person or factual situation, all other provisions shall continue to apply, and to that end the provisions of this Resolution are hereby declared severable.
- 8105.3 Judicial Review. The adoption of this Resolution is a legislative function. Judicial review of a final judicial or quasi-judicial local land use decision shall be as provided by 13-51.5-101 to 103 et seq., C.R.S., as amended.
- 8105.4 Repeal. That Resolution No. 15-78, dated July 17, 1978 declaring that certain matters shall not be regulated is hereby repealed.
- 8105.5 Effective Date. This Code is necessary for the immediate preservation of the public health, safety and welfare, and shall be effective immediately upon adoption.

NOW THEREFORE BE IT RESOLVED that this Resolution is hereby adopted and said Montezuma County Land Use Code is so amended.

Adopted this 21st day of July, 2008, at 3: 70 o'clock p.m.

**Board of County Commissioners** of Montezuma County, Colorado

Commissioners voting aye in favor of this Resolution were:

Karrie D. Rule and Stews D. Cha Hweld wkinned

Commissioners voting no against this Resolution were:

County Clerk and Recorder Montezuma County, Colorado

I certify that the above and foregoing Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners for Montezuma County, Colorado, and the votes upon same are true and correct.

Dated this 21st day of July, 2008.



County Clerk and Recorder Montezuma County, Colorado

# Montezuma-Cortez School District Re-1 School Land Dedication/Fee Resolution

WHEREAS, the Montezuma-Cortez School District Re-1 Board of Education believes that it is in the best interest of the Montezuma-Cortez School District Re-1 to pursue the establishment of a school land dedication/fee in lieu requirement as a condition for approval for new subdivisions within its school district as statutorily enabled by Colorado State Statute 30-28-133; and

WHEREAS, the Montezuma-Cortez School District Re-1 School Board believes that new residential development will have an impact on the Montezuma-Cortez School District Re-1 facilities; and

WHEREAS, Montezuma-Cortez School District Re-1 has hired a consultant to study the land dedication requirements for the County and to additionally examine the associated in-lieu fee for purposes of making recommendations to the District, and the County regarding such matters; and

WHEREAS, the Montezuma-Cortez School District Re-1 School Board feels it is reasonable and fair that a fee of eight hundred seventeen dollars and eighty seven cents for single family dwelling, nine hundred twenty dollars and forty three cents for multi family dwellings and five hundred seven dollars and fifty eight cents for a mobile home be assessed to units in subdivisions within the school district boundary; and

WHEREAS, the Montezuma-Cortez School District Re-1 will accept and issue receipt for all necessary land dedications/fee in lieu of dedications; and

WHEREAS, the Montezuma-Cortez School District Re-1 School Board has provided opportunity for public input regarding this request;

EXHIBIT "A"

# Mancos School District School Land Dedication/Fee Resolution

WHEREAS, the Mancos School District RE-6 Board of Education believes that it is in the best interest of the Mancos School District to pursue the establishment of a school land dedication/fee in lieu requirement as a condition for approval for new subdivisions within its school district as statutorily enabled by Colorado State Statute 30-28-133; and

WHEREAS, the Mancos RE-6 School Board believes that new residential development will have an impact on the Mancos School District and facilities; and

WHEREAS, Mancos School District has hired a consultant to study the land dedication requirements for the Town and the County and to additionally examine the associated in-lieu fee for purposes of making recommendations to the District, the Town and the County regarding such matters; and

WHEREAS, the Mancos RE-6 School Board feels it is reasonable and fair that a fee of two hundred and seventy six dollars be assessed to new residential units in subdivisions within its school district; and

Whereas the Mancos School District will accept and issue receipt for all necessary land dedications/fee in lieu of dedications; and

WHEREAS the Mancos School Board has provided opportunity for public input regarding this request;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF MANCOS SCHOOL DISTRICT RE-6, IN THE COUNTY OF MONTEZUMA AND THE STATE OF COLORADO:

It is in the best interest of the Mancos School District that a school land dedication/fee in lieu of requirement of two hundred and seventy six dollars be paid to the Mancos School District as a condition for approval for residential units in new subdivision within its school district and respectively requests that the Town of Mancos and Montezuma County amend their subdivision review and approval process to reflect such a fee.

ADOPTED AND APPROVED this September 6, 2006.

President

Mancos School District RE-6

ATTEST:

Manoos School District RE-6

EXHIBIT "B"

# Dolores School District Re-4A School Land Dedication/Fee Resolution

WHEREAS, the Dolores School District Re-4A Board of Education believes that it is in the best interest of the Dolores School District to pursue the establishment of a school land dedication/fee in lieu requirement as a condition for approval for new subdivisions within its school district as statutorily enabled by Colorado State Statute 30-28-133; and

WHEREAS, the Dolores School District Re-4A School Board believes that new residential development will have an impact on the Dolores School District and facilities; and

WHEREAS, Dolores School District Re-4A has hired a consultant to study the land dedication requirements for the Town and the County and to additionally examine the associated in-lieu fee for purposes of making recommendations to the District, the Town and the County regarding such matters; and

WHEREAS, the Dolores School District Re-4A feels it is reasonable and fair that a fee of five hundred thirty five dollars be assessed to new residential units in subdivisions within its school district; and

WHEREAS, the Dolores School District Re-4A will accept and issue receipt for all necessary land dedications/fee in lieu of dedications; and

WHEREAS, the Dolores School District Re-4A has provided opportunity for public input regarding this request;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF DOLORES SCHOOL DISTRICT RE-4A, IN THE COUNTY OF MONTEZUMA AND THE STATE OF COLORADO:

It is in the best interest of Dolores School District Re-4A that a school land dedication/fee in lieu of requirement of five hundred and thirty five dollars be paid to Dolores School District as a condition for approval for residential units in new subdivision within its school district and respectively requests that the Town of Dolores and Montezuma County amend their subdivision review and approval process to reflect such a fee.

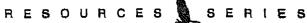


# ADOPTED AND APPROVED this 28th day of February 2008.

Theresa L. Phillips
President - Dolores School District Re-4A

ATTEST:

Secretary – Dolores School District Re-4A



### Quick Facts...

Wildfire will find the weakest links in the defense measures you have taken on your property.

The primary determinants of a home's ability to survive wildfire are its roofing material and the quality of the "defensible space" surrounding it.

Even small steps to protect your home and property will make them more able to withstand fire.

Consider these measures for all areas of your property, not just the immediate vicinity of the house.



#### Puzzing Amowledge to Work

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# RESTRY

**Creating Wildfire-Defensible Zones** 

no. 6.302

by F.C. Dennis 1

Fire is capricious. It can find the weak link in your home's fire protection scheme and gain the upper hand because of a small, overlooked or seemingly inconsequential factor. While you may not be able to accomplish all measures below (and there are no guarantees), each will increase your home's, and possibly your family's, safety and survival during a wildfire.

Start with the easiest and least expensive actions. Begin your work closest to your house and move outward. Keep working on the more difficult items until you have completed your entire project.

## Defensible Space

Two factors have emerged as the primary determinants of a home's ability to survive wildfire. These are the home's roofing material and the quality of the "defensible space" surrounding it.

Use fire-resistive materials (Class C or better rating), not wood or shake shingles, to roof homes in or near forests and grasslands. When your roof needs significant repairs or replacement, do so with a fire-resistant roofing material. Check with your county building department. Some counties now restrict wood roofs or require specific classifications of roofing material.

Defensible space is an area around a structure where fuels and vegetation are treated, cleared or reduced to slow the spread of wildfire towards the structure. It also reduces the chance of a structure fire moving from the building to the surrounding forest. Defensible space provides room for firefighters to do their jobs. Your house is more likely to withstand a wildfire if grasses, brush, trees and other common forest fuels are managed to reduce a fire's intensity.

The measure of fuel hazard refers to its continuity, both horizontal (across the ground) and vertical (from the ground up into the vegetation crown). Fuels with a high degree of both vertical and horizontal continuity are the most hazardous, particularly when they occur on slopes. Heavier fuels (brush and trees) are more hazardous (i.e. produce a more intense fire) than light fuels such as grass.

Mitigation of wildfire hazards focuses on breaking up the continuity of horizontal and vertical fuels. Additional distance between fuels is required on

Creating an effective defensible space involves developing a series of management zones in which different treatment techniques are used. See Figure 1 for a general view of the relationships among these management zones. Develop defensible space around each building on your property. Include detached garages, storage buildings, barns and other structures in your plan.

The actual design and development of your defensible space depends on several factors: size and shape of buildings, materials used in their construction, the slope of the ground on which the structures are built, surrounding topography,



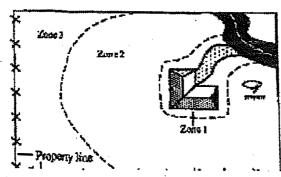


Figure 1: Forested property showing the three fire-defensible zones around a home or other structure.

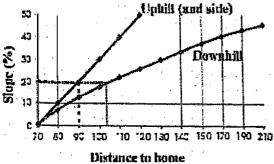


Figure 2: This chart indicates the minimum recommended dimensions for detensible space from the home to the outer edge of Zone 2. For example, if yourhome is situated on a 20 percent slope, the minimum defensible space dimensions would be 90 feet uphili and to the sides of the home and 104 feet downhill from the home.

and sizes and types of vegetation on your property. These factors all affect your design. You may want to request additional guidance from your local Colorado State Porest Service (CSFS) forester or fire department. (See the Special Recommendations section of this fact sheet for shrubs, lodgepole pine, Engelmann spruce, and aspen.)

## Defensible Space Management Zones

Zone 1 is the area of maximum modification and treatment. It consists of an area of 15 feet around the structure in which all flammable vegetation is removed. This 15 feet is measured from the outside edge of the home's eaves and any attached structures, such as decks.

Zone 2 is an area of fuel reduction. It is a transitional area between Zones 1 and 3. The size of Zone 2 depends on the slope of the ground where the structure is built. Typically, the defensible space should extend at least 75 to 125 feet from the structure. See Figure 2 for the appropriate distance for your home's defensible space. Within this zone, the continuity and arrangement of vegetation is modified. Remove stressed, diseased, dead or dying trees and shrubs. Thin and prune the remaining larger trees and shrubs. Be sure to extend thinning along either side of your driveway all the way to your main access road. These actions help eliminate the continuous fuel surrounding a structure while enhancing homesite safety and the aesthetics of the property.

Zone 3 is an area of traditional forest management and is of no particular size. It extends from the edge of your defensible space to your property boundaries.

# Prescriptions

Zone 1

The size of Zone 1 is 15 feet, measured from the edges of the structure. Within this zone, several specific treatments are recommended.

Plant nothing within 3 to 5 feet of the structure, particularly if the building is sided with wood, logs or other flammable materials. Decorative rock, for example, creates an attractive, easily maintained, nonflammable ground cover.

If the house has noncombustible siding, widely spaced foundation plantings of low growing shrubs or other "fire wise" plants are acceptable. Do not plant directly beneath windows or next to foundation vents. Be sure there are no areas of continuous grass adjacent to plantings in this area.

Frequently prune and maintain plants in this zone to ensure vigorous growth and a low growth habit. Remove dead branches, stems and leaves.

Do not store firewood or other combustible materials in this area. Enclose or screen decks with metal screening. Extend the gravel coverage under the decks. Do not use areas under decks for storage.

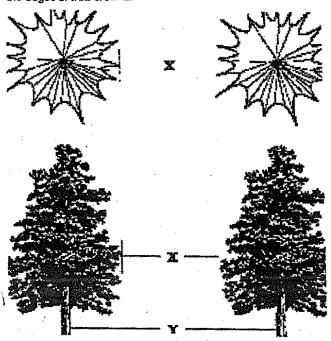
Ideally, remove all trees from Zone 1 to reduce fire hazards. If you do keep a tree, consider it part of the structure and extend the distance of the entire defensible space accordingly. Isolate the tree from any other surrounding trees. Prune it to at least 10 feet above the ground. Remove any branches that interfere with the roof or are within 10 feet of the chimney. Remove all "ladder fuels" from beneath the tree. Ladder fuels are vegetation with vertical continuity that allows fire to burn from ground level up into the branches and crowns of trees. Ladder fuels are potentially very hazardous but are easy to mitigate. No ladder fuels can be allowed under tree canopies. In all other areas, prune all branches of shrubs or trees up to a height of 10 feet above ground (or 1/2 the height, whichever is the least).



Zone 2 is an area of fuel reduction designed to reduce the intensity of any fire approaching your home. Follow these recommended management steps.

Thin trees and large shrubs so there is at least 10 feet between crowns. Crown separation is measured from the furthest branch of one tree to the nearest branch on the next tree (Figure 3). On steep slopes, allow more space between tree crowns. (See Figure 4 for *minimum recommended* spacing for trees on steep slopes.) Remove all ladder fuels from under these remaining trees. Carefully prune trees to a height of at least 10 feet.

Figure 3: X = crown spacing; Y = stem spacing. Do not measure between stems for crown — measure between the edges of tree crowns.



Small clumps of 2 to 3 trees may be occasionally left in Zone 2. Leave more space between the crowns of these clumps and surrounding trees.

Because Zone 2 forms an aesthetic buffer and provides a transition between zones, it is necessary to blend the requirements for Zones 1 and 3. Thin the portions of Zone 3 adjacent to Zone 2 more heavily than the outer portions.

Isolated shrubs may remain, provided they are not under tree crowns. Prune and maintain these plants periodically to maintain vigorous growth. Remove dead stems from trees and shrubs annually. Where shrubs are the primary fuel in Zone 2, refer to the Special Recommendations section of this fact sheet.

Limit the number of dead trees (snags) retained in this area. Wildlife needs only one or two snags per acre. Be sure any snags left for wildlife cannot fall onto the house or block access roads or driveways.

Mow grasses (or remove them with a weed trimmer) as needed through the growing season to keep them low, a maximum of 6 to 8 inches. This is extremely critical in the fall when grasses dry out and cure or in the spring after the snow is gone but before the plants green up.

Stack firewood and woodpiles uphill or on the same elevation as the structure but at least 30 feet away. Clear and keep away flammable vegetation within 10 feet of these woodpiles. Do not stack wood against your house or on or under your deck, even in winter. Many homes have burned from a woodpile that ignited as the fire passed. Wildfires can burn at almost any time in Colorado.

Locate propane tanks at least 30 feet from any structures, preferably on the same elevation as the honse. You don't want the LP container below your house — if it ignites, the fire would tend to burn uphill. On the other hand, if the tank is above your house and it develops a leak, LP gas will flow downhill into your home. Clear and keep away flammable vegetation within 10 feet of these tanks. Do not screen propane tanks with shrubs or vegetation.

Dispose of slash (limbs, branches and other woody debris) from your trees and shrubs through chipping or by piling and burning. Contact your local CSFS office or county sheriff's office for information about burning slash piles. If neither of these alternatives is possible, lop and scatter slash by cutting it into very small pieces and distributing it over the ground. Avoid heavy accumulations

Figure 4: Minimum tree crown and shrub clump spacing.

% slope	Tree Crown Spacing	Brush and Shrub Clump Spacing
0-10%	10′	2 1/2 x shrub height
11 - 20%	15°	3 x shrub height
21 - 40%	20°	4 x shrub height
> 40%	30"	6 x shrub height

Figure 5: Minimum tree spacing for Zone 3.

Tree Diameter (in inches)	Average Stem Spacing Between Trees (in feet)
3	10
4	11
5	12
6	13
7	14
8	15
9	16
10	17
11	19
12	21
13	23
14	· 24
15	26
118	28
17	29
16	31
19	33
20	35
21	36
, 22	38
23	40

of slash. Lay it close to the ground to speed decomposition. If desired, no more than two or three small, widely spaced brush piles may be left for wildlife purposes. Locate these towards the outer portions of your defensible space.

#### Zone 3

This zone is of no specified size. It extends from the edge of your defensible space to your property lines. A gradual transition into this zone from defensible space standards to other management objectives you may have is suggested. Typical management objectives for areas surrounding homesites or subdivisions are: provide optimum recreational opportunities; enhance aesthetics; maintain tree health and vigor; provide barriers for wind, noise, dust and visual intrusions; support limited production of firewood, fence posts and other forest commodities; or grow Christmas trees or trees for transplanting.

Specific requirements will be dictated by your objectives for your land and the kinds of trees present. See Figure 5 for the *minimum* suggested spacing between "leave" trees. Forest management in Zone 3 is an opportunity for you to increase the health and growth rate of the forest in this zone. Keep in mind that root competition for available moisture limits tree growth and ultimately the health of the forest.

A high canopy forest reduces the chance of a surface fire climbing into the tops of the trees and might be a priority for you if this zone slopes steeply. The healthiest forest is one that has multiple ages, sizes, and species of trees where adequate growing room is maintained over time. Remember to consider the hazards of ladder fuels. Multiple sizes and ages of trees might increase the fire hazard from Zone 3 into Zone 2, particularly on steep slopes.

A greater number of wildlife trees can remain in Zone 3. Make sure that dead trees pose no threat to power lines or fire access roads.

While pruning generally is not necessary in Zone 3, it may be a good idea from the standpoint of personal safety to prune trees along trails and fire access roads. Or, if you prefer the aesthetics of a well-manicured forest, you might prune the entire area. In any case, pruning helps reduce ladder fuels within the tree stand, thus enhancing wildfire safety.

Moving is not necessary in Zone 3.

Any approved method of slash treatment is acceptable for this zone, including piling and burning, chipping or lop-and-scatter.

# Special Recommendations

Tree spacing guidelines do not apply to mature stands of aspen trees where the recommendations for ladder fuels have been complied with. In areas of aspen regeneration and young trees, the spacing guidelines should be followed.

#### Brush and shrubs

Brush and shrubs are woody plants, smaller than trees, often formed by a number of vertical or semi-upright branches arising close to the ground. Brush is smaller than shrubs and can be either woody or herbaceous vegetation.

On nearly level ground, minimum spacing recommendations between clumps of brush and/or sbrubs is 2 1/2 times the height of the vegetation. Maximum diameter of clumps should be 2 times the height of the vegetation. As with tree crown spacing, all measurements are made from the edges of vegetation crowns (Figure 3).

For example: For shrubs 6 feet high, spacing between shrub clumps should be 15 feet or more apart (measured from the edges of the crowns of vegetation clumps). The diameter of shrub clumps should not exceed 12 feet (measured from the edges of the crowns). Branches should be pruned to a height of 3 feet.

#### Grasses

Keep dead, dry or curing grasses mowed to less than 6 inches. Defensible space size where grass is the predominant fuel can be reduced (Figure 5) when applying this practice.

#### Windthrow

In Colorado, certain locations and tree species, including lodgepole pine and Engelmann spruce, are especially susceptible to damage and uprooting by high winds (windthrow). If you see evidence of this problem in or near your forest, or have these tree species, consider the following adjustments to the defensible space guidelines. It is highly recommended that you contact a professional forester to help design your defensible space.

Adjustments: If your trees or homesite are susceptible to windthrow and the trees have never been thinned, use a stem spacing of diameter plus five instead of the guides listed in the Zone 3 section. Over time (every 3 to 5 years) gradually remove additional trees. The time between cutting cycles allows trees to "firm up" by expanding their root systems. Continue this periodic thinning until the desired spacing is reached.

Also consider leaving small clumps of trees and creating small openings on their lee side (opposite of the predominant wind direction). Again, a professional forester can help you design the best situation for your specific homesite and tree species. Remember, with species such as lodgepole pine and Engelmann spruce, the likelihood of a wildfire running through the tree tops or crowns (crowning) is closely related to the overabundance of fuels on the forest floor. Be sure to remove downed logs, branches and excess brush and needle buildup.

## Maintaining Your Defensible Space

Your home is located in a forest that is dynamic, always changing. Trees and shrubs continue to grow, plants die or are damaged, new plants begin to grow, and plants drop their leaves and needles. Like other parts of your home, defensible space requires maintenance. Use the following checklist each year to determine if additional work or maintenance is necessary.

#### Defensible Space and FireWise Annual Checklist

- □ Trees and shrubs are properly thinned and pruned within the defensible space. Slash from the thinning is disposed of.
- □ Roof and gutters are clear of debris.
- ☐ Branches overhanging the roof and chimney are removed.
- □ Chimney screens are in place and in good condition.
- ☐ Grass and weeds are moved to a low height.
- ☐ An outdoor water supply is available, complete with a hose and nozzle that can reach all parts of the house.
- ☐ Fire extinguishers are checked and in working condition.
- ☐ The driveway is wide enough. The clearance of trees and branches is adequate for fire and emergency equipment. (Check with your local fire department.)
- □ Road signs and your name and house number are posted and easily visible.
- ☐ There is an easily accessible tool storage area with rakes, hoes, axes and shovels for use in case of fire.
- ☐ You have practiced family fire drills and your fire evacuation plan.
- Your escape routes, meeting points and other details are known and understood by all family members.
- Attic, roof, eaves and foundation vents are screened and in good condition. silt foundations and decks are enclosed, screened or walled up.

Figure 6: Minimum defensible space size for grass fuels.

% slope	D-space size (uphill, downhill, sidehill)
0-20 %	30'
21 - 40%	50'
> 40%	70'



FIREWISE is a multi-agency program that encourages the development of defensible space and the prevention of catastrophic wildfire.

- ☐ Trash and debris accumulations are removed from the defensible space.
- A checklist for fire safety needs inside the home also has been completed.
   This is available from your local fire department.

#### References

Colorado State Forest Service, Colorado State University, Fort Collins, CO 80523-5060; (970) 491-6303:

- FireWise Construction Design and Materials
- Home Fire Protection in the Wildland Urban Interface
- Wildfire Protection in the Wildland Urban Interface
- · Landowner Guide to Thirming

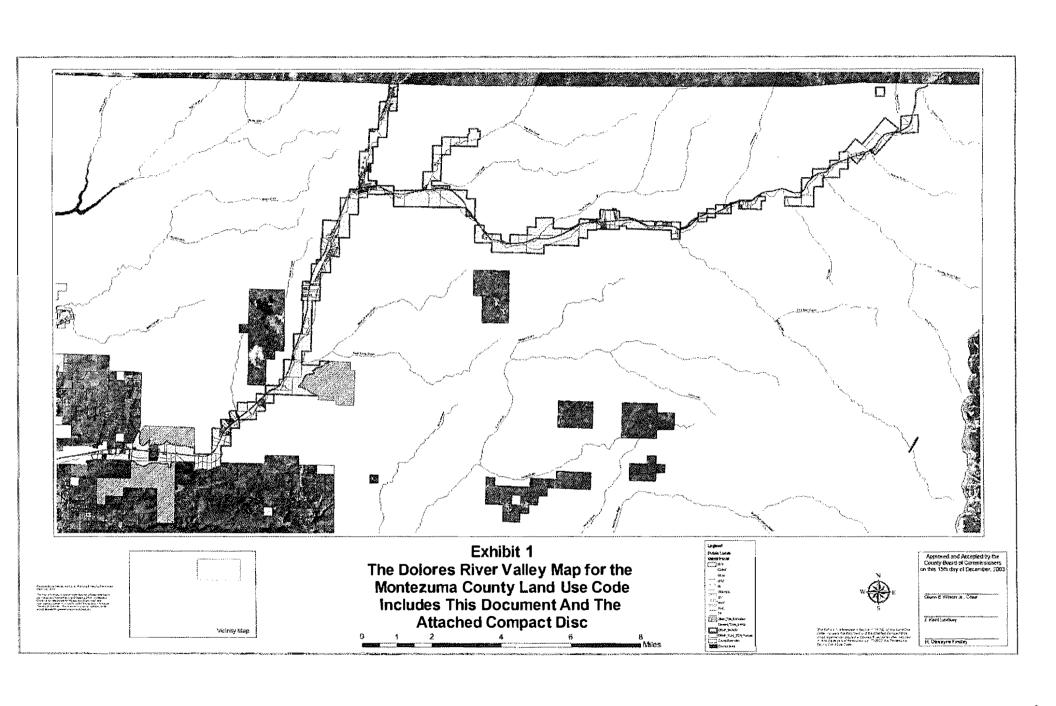
Colorado State University Cooperative Extension, 115 General Services Bldg., Fort Collins, CO 80523-4061; (970) 491-6198; E-mail: resourcecenter@ucm.colostate.edu:

- 6.303, Fire-Resistant Landscaping
- 6.304, Forest Home Fire Safety
- 6.305, FireWise Plant Materials
- 6.306, Grass Seed Mixes to Reduce Wildfire Hazard
- 7.825, Pruning Mature Shade Trees
- 7.826, Pruning Flowering Shrubs
- 7.827, Pruning Evergreens



This fact sheet was produced in cooperation with the Colorado State Forest Service.

Wildline Hazard Mitigation Coordinator, Colorado State Forest Service. Colorado State University, U.S. Department of Agriculture, and Colorado counties cooperating. Cooperative Extension programs are available to all without discrimination. No endorsement of products mentioned is intended nor is criticism implied of products not mentioned.



#### THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTEZUMA STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado. duly convened and held the 14th day of July, 2008, with the following persons in attendance:

Commissioners:

Gerald Koppenhafer, Larrie Rule, and Steve Chappell

Commissioners Absent:

County Administrator: Ashton N. Harrison

County Attorney:

Bob Slough

Clerk and Recorder:

Carol Tullis

the following proceedings, among others, were taken:

#### Resolution #6-2008

#### A Resolution in Support of Locating a Federal District Court in Southwest Colorado

WHEREAS, Montezuma County is geographically larger than the states of Delaware and Rhode Island and, furthermore, is the largest county in Southwestern Colorado; and

WHEREAS, 1/3 of Montezuma County is federal land and 1/3 Ute Mountain Ute tribal land: and

WHEREAS, Montezuma County recognizes the importance of the effective and efficient exercise of criminal and civil justice to the people of Southwest Colorado; and

WHEREAS, Montezuma County appreciates the significant contribution of the Federal Court System to the operation of the criminal and civil justice system in Southwest Colorado; and

WHEREAS, Montezuma County recognizes the hardship placed on various parties involved in court proceedings in having to travel many hours in order to attend Federal Court proceedings in Denver.

#### NOW THEREFORE, BE IT RESOLVED THAT:

- 1. The Montezuma County Board of County Commissioners supports the location of a Federal Courthouse in Southwest Colorado so long as the cost of its construction and future operations does not financially burden Montezuma County citizens both present and future.
- 2. The Monteznma County Board of County Commissioners supports the appointment of an Article III judge to such a Federal Courthouse.
- 3. The Montezuma County Board of County Commissioners believes it very feasible and strongly encourages the use of cooperative efforts between the federal government, area counties, cities, and towns, the Ute Mountain Ute Tribe, and the Southern Ute Tribe in determining a more specific location of a Federal Courthouse in Southwestern Colorado.

# BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO

Gerald W. Koppenhafer, Chair

Commissioners voting age in favor of the resolution were:

Commissioners voting nay against the resolution were:

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 14th day of July, 2008.

County Clerk and Recorder Montezuma County, Colorado

#### Montezuma County /531 Funds

# RESOLUTION 5-2008

#### MONTEZUMA COUNTY

A RESOLUTION AUTHORIZING THE BOARD PRESIDENT TO ENTER INTO AN AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION DEVELOPMENT, FOR THE PROVISION OF PUBLIC TRANSPORTATION SERVICES FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES- FTA GRANT SECTION 5310.

#### BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MONTEZUMA COUNTY.

#### Section 1. The Board of Montezuma County finds:

- A. It has the power to enter into agreements with the State of Colorado; and,
- B. The State of Colorado, State Department of Transportation, Division of Transportation Development, has obtained certain unencumbered Federal funds for the provision of transportation services for elderly persons and persons with disabilities; and,
- C. The State Department of Transportation, Division of Transportation Development, is responsible for the disbursement of these funds; and
- D. <u>Montezuma County</u> is desirous of obtaining said funds for the provision of transportation services, and has filed an application with the State for this purpose; and,
- E. <u>Montezuma County</u> desires to accept the funds for such services pursuant to the conditions of the agreement; and,
- F. Montezuma County desires to work together with the State Department of Transportation to affect said services as provided in the agreement.

Section 2. Montezuma County hereby approves the attached contract between Montezuma County and the State Department of Transportation, agrees with the terms and conditions stated therein, and authorizes its president to sign said contract.

Section 3. Montezuma County hereby obligates the local fund share of \$4,040, as required by Exhibit A.

PASSES AND ADOPTED, SIGNED AND APPROVED THIS 24 DAY OF Which 200

ATTEST:

MONTEZUMA COUNTY

Chairman of Board of Commissioners

PO#: 2910#0400 CLIN#: 08-HTD-00118

# 5310 - CONTRACT - Montezuma County (Montezuma Senior Services) (Public Enuty)

THIS CONTRACT, made this	day of	, 20	, by and between	the STATE OF
COLORADO for the use and benef	it of the DEPARTI	MENT OF TRANSPO	DRTATION, DIVISIO	N OF
TRANSPORTATION DEVELOPM	MENT, hereinafter:	referred to as the "Sta	ite", and MONTEZUM	A STITUTE SERVICES, 107
NORTH CHESTNUT, CORTEZ, CO	81321, a public bo	dy, hereinafter refeme	ed to as the "Grantee."	Guita
		•		Y

#### RECITALS

WHEREAS, authority exists in the Law, and funds have been budgeted, appropriated and otherwise made available, and a sufficient accommitted balance thereof remains available for encumbaring and subsequent payment of this contract in

GAL Account: 451800001	D .	Company Code: 100	CO Area: 1000
WBSElement CO-16-0037.MZUM		Fend: 400	Functional Area: Not Relevant
Fund Center: D9701-401			Vendor Code: 2000075
And the state of t			Catalog Federal Domestic Assistance Number (CFDA) 20.513
Total Committed Amount: \$20,200			
Total Federal Amount (80%): \$16,160	Lecal M (20%):\$	Inch Total 4,040	

WHIREAS, required approval, clearance, and coordination have been accomplished from and with appropriate agencies; and

WHEREAS, Section 5310 of 49 U.S.C. §§ 5301 et seq., as amended, hereinafter referred to as the "Act", institutes a program offering federal assistance for public transportation by way of a formula grant program administered by the State to meet the scal needs of elderly individuals and individuals with disabilities; and

WHEREAS, the Grantee has proposed a project in the form of an application for funding under Section 5310 of the Act, hereinafter referred to as the "Project"; and

WHEREAS, Sections 43-1-701 and 702, C.R.S. authorize the Department of Transportation to take all steps and adopt all procedures necessary to make and enter into such contracts as may be necessary for state application and administration of Section 5310 of the Act, including participation in grant programs for the purpose of assisting transportation services; and

WHEREAS, the Governor of the State of Colorado, in accordance with a request by the Federal Transit Administration, hereinafter referred to as "FTA," has designated the State to manage the Section 5310 program, including the responsibility to evaluate and select public transportation projects proposed by State agencies, local public bodies and agencies thereof (including Indian Tribes), and nonprofit operators of public transportation services in areas other than urbanized; and

WHEREAS, the Grantee desires to and has the legal capacity and authority to contract with the State; and

WHEREAS, the Grantee possesses the necessary fiscal and managerial capability to implement and manage the project and utilize grant funds for public transportation in non-urbanized areas of the State.

NOW, THEREFORE, it is hereby agreed that:

PO#: 291000400 CLIN #: 08-HTD-00118

# SPECIAL PROVISIONS

# THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:	STATE OF COLORADO:
•	BILL RITTER, JR. GOVERNOR
Mantezum County	<b>B</b> y
Montezuma County Legal Name of Contracting Entity	Executive Director
	Department of Transportation
W 12 Me	Date
Signature of Authorized Officer	
Gerald W. Kepenhafer (Print) Name & Title of Authorized Officer	LEGAL REVIEW:
(Print) Name & Title of Authorized Officer	Attorney General, John W. Suthers
Date 3/24/2008	Ву
	Date
CORPORATIONS:	~~0000000
(A corporate attestation is required.)	800 00 1030 P
0 01 00.	8 \ 1886 \ 8 S = 2FVI \<8
Attest (Seal) By War at Secretary or Equivalent, or Town/C	065
(Corporate Secretary of Equivalent, of 15414-2	( approximate sea representation (
ALL CONTRACTS MILET RE	APPROVED BY THE STATE CONTROLLER
valid until the State Controller, or such assi	ntroller approve all state contracts. This contract is not stant as he may delegate, has signed it. The contractor is
not authorized to begin performance until begins prior to the date below, the State and/or services provided.	the contract is signed and dated below. If performance of Colorado may not be obligated to pay for the goods
	TE CONTROLLER
	eslie M. Shenefelt
Ву	
	· · · · · · · · · · · · · · · · · · ·
Date	

Revised: January 9, 2007

## MONTEZUMA COUNTY RESOLUTION NO. 2008-4

# A RESOLUTION OF THE MONTEZUMA COUNTY AUTHORIZING LEASE-PURCHASE FINANCING FOR THREE (3) 2008 DODGE DURANGO'S, ONE (1) 2008 FORD EXPEDITION AND ALL EQUIPMENT THEREIN

WHEREAS, Montezuma County ("County") is a political subdivision of the State of Colorado and a duly organized; and

WHEREAS, pursuant to applicable law, the County is authorized to acquire, dispose of and encumber real and personal property, including without limitation rights and interest in property and leases necessary to the functions and operation of the County; and

WHEREAS, the Board of County Commissioners ("Board") of the County hereby finds and determines that the execution of one or more lease-purchase agreements for the purpose of leasing with the option to purchase Three (3) 2008 Dodge Durango's One (1) 2008 Ford Expedition Equipment (Light Bars and Bumpers) (the "Equipment") in a principal amount not-to-exceed \$192,362.80 is appropriate and necessary to the function and operation of the County; and

WHEREAS, Wells Fargo Public Finance ("Wells Fargo") shall act as Lessor under said lease.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Montezuma County as follows:

- 1. Authority to Enter into Lease Purchase Financing. The Board President is authorized to execute such contracts and supporting documents with Wells Fargo, in substantially the form set forth in the document presently before the County Board, for the acquisition and lease-purchase financing of the Equipment, in a principal amount not-to-exceed \$192,362.80. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized.
- 2. <u>Lease Subject to Annual Appropriation</u>. The County's obligations under the Lease shall be subject to annual appropriation or renewal by the County Board as set forth in each Lease and the County's obligations under the Lease shall not constitute general obligations of the County or indebtedness under the Constitution or laws of the State.
- 3. Qualified Tax-Exempt Obligation. The County reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the fiscal year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

March [[], 2008
Resolution No. 2008-
Dago 2

- 4. <u>Severability</u>. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.
- 5. <u>Effective Date</u>. This Resolution shall take effect and be enforced immediately upon its approval by the Boa d of County Corumissioners.

ADOPTED by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_ day of \_\_\_\_\_, 2008.

By: Herseld Mignely
President

ATTEST:

By: Caral Julia Secretary County Clark



554643 RES 02/27/2008 02:00:13 PM
Page: 1 of 7 R 0.00 D 0.00 T 0.00
Carol Tullis Clerk/Recorder, Montezuma County, Co

RESOLUTION No. 3-2008

## A RESOLUTION VACATING THAT PORTION OF COUNTY ROAD K.6 LOCATED ON GONZALES' PROPERTY

WHEREAS, approximately 425 feet of County Road K.6 is located on real property owned by Gerald A. Gonzales, Donnie J. Gonzales and Helen Gonzales, hereinafter referred to as "Gonzales"; said real property described on Exhibit 1 attached hereto and made a part hereof; and

WHEREAS, said County Road K.6 terminates at the legal boundary line between said Gonzales' property and real property owned by Robert E. Bement and Thelma F. Bement, hereinafter referred to as "Bements"; and

WHEREAS, Bements access their property via said County Road K.6; and

WHEREAS, Gonzales and Bements have requested per Exhibit 2 attached hereto that Montezuma County vacate that portion of County Road K.6 located on Gonzales' property subject to a private-access easement per Exhibit 3 attached hereto and made a part hereof; and

WHEREAS, there is no other real property owned by other property owners accessed by said portion of said County Road K.6.

NOW THEREFORE BE IT RESOLVED that the Montezuma County Board of Commissioners pursuant to C.R.S. 43-2-302(1)(f) and 43-2-303 hereby vacates that portion of County Road K.6 from the eastern boundary line of the Gonzales' property to the western boundary line of the Gonzales' property, which is also the eastern boundary line of the Bements' property, and title to said vacated roadway shall vest in said Gonzales, subject to the private-access easement as set forth in said Exhibit 3, and a private-access easement to the Gonzales property in perpetuity to Montezuma County for the purpose of Montezuma County turning its trucks and equipment around. Said easement is described on Exhibit 4 attached hereto and made a part hereof.

This Resolution is adopted this 194 day of February, 2008, at 4.30 P.m.

BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO

Herold Kupperhaf

Gerold A. B	Longales Donnie J. Hongales			
Helan Son	gales Juhan Then palas Arry for Gouzales -			
My presence.	in favor if the Resolution were: <u>Gerald Wkoppenhafen</u> , Larrie gelle Joneals against the Resolution were:			
Commissioners voting hay				
COCOCOCOCOCOCOCOCOCOCOCOCOCOCOCOCOCOCO	and			
SEAL ISSUED	(Deputy) County Clerk and Recorder Montezuma County, Colorado			
I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado, and the votes upon same are true and correct.  Dated this 19 day of, 2008.				
(Seal) COUNTY CONTROL OF COUNTY OF C	(Deputy) County Clerk and Recorder Montezuma County, Colorado			
	E54542 DES 02/27/2008 02:00:12 DM			

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Page: 2 of 7 R 0.00 D 0.00 T 0.00
Carol Tullis Clerk/Recorder, Montezuma County, Co

SEP 2 0 1992

0110x542 rgc+566

JAKE F. GONZALES and HELEN L. GONZALES

whose address is Mancos, Colorado

County of Montezuma

. State of

Colorado for the consideration of TEN DOLLARS AND OTHER CORD AND VALUABLE CONSIDERATION dollars, in hand paid, hereby sells) and conveys) to

- GERALD A. GONZALES and DONNIE V. GONZALES

whoselegal addressis P.O. Box 574, Mancos, Colorado 81328

County of

Montezuma

, and State of Colorado

the following real property in the

County of Moncezuma

, and State of Colorad , to wit:

Total Consideration

All that part of the SE% of the NE% of Section 20, Township 36 North, Range 13 West, N.M.P.M., lying west of the Rio Grande Southern Railroad Company, the description of which is of record in book 3 at page 287 of the books and records of Montezuma County, Colorado, together with ten acre feet of Mancos Conservancy District water and one share of stock in the Bauer Lakes Water Company as represented by certificate No. 156.

FXCEPTING and reserving unto the grantors jointly, severally and to each of them, a life estate for the remainder of either or both of their natural lives.

also known as street and number

with all its appurtenances, and warrant(s) the title to the same, subject to

No Exceptions

Signed this // 9th

day of September , 1983

Jeff for clar

STATE ullet Colorado,

County of Montezuma

The foregoing instrument was acknowledged before me this foregoing in the foregoing instrument was acknowledged before me this foregoing instrument was acknowledged before me this foregoing in the foregoing in th

My commission expires
Witness my hand and official seal.
9-35-85

Houng Ex 22

HELEN L. GOWALES

Exhibit 1

la. 881. - Setennis Bard....Bante Burm ... Sibin Brauford Publishing Co., intente et Street, Benten Crivindo (418-6813). 4-7

35

#### HATTER & GREEN P.O. Box 1466 CORTEZ, COLORADO 81321 (970) 565-6362 FAX (970) 565-9475

Leceived 12/3/07

JAMES HATTER, P. C. MICHAEL F. GREEN, P.C.

IN REPLY PLEASE REFER TO FILE NO. 2610-43

November 13, 2007

Bob Slough Montezuma County Commissioners 109 W. Main Cortez, CO 81321

Re: Gonzales/Bement

#### Dear Gentlemen:

Pursuant to the agreement reached in the Gonzales v. Bement and Montezuma County case, Gonzaleses and Bements hereby submit the following request for the County to vacate the County Road across the Gonzales land. This request is jointly made by Bements and Gonzaleses, pursuant to §43-2-201 C.R.S.

Please advise when the public hearing may be held so the parties may attend.

Sincerely,

HATTER & GREEN

MICHAEL F. GREEN

/bb

**Donald Gonzales** CC:

Gerald Gonzales

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Page: 4 of 7 R 0.00 D 0.00 T 0.00
Carol Tullis Clerk/Recorder, Montezuma County, Co

☑ District Court, Montezuma County, Colorado Court Address: 109 W. Main St. Cortez, CO 61321 Telephone: (970) 565-1111 GERALD A. GONZALES, DONNIE J. GONZALES and HELEN L. GQNZALES, Plaintiffs, ..., in the same of the same o VS. COURT USE ONLY MONTEZUMA COUNTY COMMISSIONERS, ROBERT E. BEMENT and THELMA F. BEMENT, Defendants. Case Number: Attorney or Party Without Attorney: (Name & Address) MICHAEL F. GREEN 07 CV 04 P.O. Box 1486 Cortez, CO 81321 Phone Number: (970) 565-6362 E-Mail: FAX Number: (970) 565-9475 Atty. Reg. #13741 STIPULATION

The parties, having engaged in a settlement conference and having explored opportunities to resolve the situation among them, stipulate and agree as follows:

- 1. Gerald A. Gonzales and Donnie V. Gonzales are the owners of real property located in S20 T36N R13W NMPM, Montezuma County, Colorado. This property is subject to a life estate in Helen L. Gonzales. Collectively all Plaintiffs are hereafter referred to as Gonzales.
- 2. Robert E. Bement and Thelma F. Bement, the Bement Family Trust, own land adjacent to the Gonzales' (NW½ S20 T36N R13W NMPM, Montezuma County, Colorado). All Defendants Bement are hereafter collectively referred to as Bement.
- 3. Montezuma County Commissioners, hereafter referred to as County, claim a county road across the Gonzales property ending at the Bement property line with Gonzales.
- 4. In order to settle the disputes, which have arisen between the parties and with mutual consideration for the promises contained below, the parties agree.
- 5. Gonzales and Bement agree to jointly withdraw the request that the roadway across Gonzales' property be designated and maintained as a county road by Montezuma County.
  - Gonzales agrees to the following:

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Page: 5 of 7 R 0.00 D 0.00 T 0.00
Carol Tullis Clerk/Recorder, Montezuma County, Co

Exhibit S

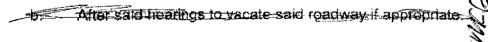
- a. Bement, their heirs, succesors and assigns, shall have an easement for ingress and egress. 12 feet in width running along the existing roadway across the Gonzales property
- b. To maintain the easement in a smooth graveled condition until Robert E. Bement and Thelma F. Bement permanently leave the property.
- c. To provide adequate snow removal while Robert E. Bement and Thelma F. Bement live on the property.
  - d. To provide a wheel on any gates they install along the easement.
- e. While Robert E. Bement and Thelma F. Bement live on the property, gates will not be closed unless a Plaintiff or Plaintiff's representative is available to open said gate on request.

#### 7. Bement agrees to the following:

- a. This easement shall serve two lots, three houses used as residences and an old house which will be used only for storage, on the south half of the Bement property only.
- b. Trucks hauling cattle and other commodities, necessary for agricultural use of Bement's property, shall be limited to one-ton trucks with stock trailer.
- c. Bements shall give three day's notice to Gonzales regarding construction delivery trucks so precautions may be taken if the driveway is unstable or muddy. If no notice is given, Bement shall be responsible for repairs to any road damage.
- d. The easement shall be limited to residential use only with no commercial trucks, except this restriction does not include trucks necessary for the building and maintenance of homes and driveways on the Bernent property, nor include delivery trucks, garbage trucks, etc.
- e. To allow two gates, with wheel, on the easement at the entrance to the Gonzales property and at the entrance to the Bernent property.

#### 8. Montezuma County agrees:

a. To hold public hearings on vacating the section of roadway across the Gonzales property.



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Page: 6 of 7 R 0.00 D 0.00 T 0.00
Carol Tullis Clerk/Recorder, Montezuma County, Co

Reviewed by:

**BOB SLOUGH, #10116** 

DONNIE & GONZALES	GERALD A. GONZALES
HELEN L. GONZALES  Prepared by:  MICHAEL F. GREEN, #13741	<del>-</del>
ROBERT E. BEMENT  Reviewed by:	Pahut Earl Bemeat as attempt In Fact for The MF. Bement THELMA F. BEMENT
GEORGE & BUCK. #594	
Montezuma County Commissioners	
GERALD W. KOPPENHAFER  STEVE CHAPPELL	LARRIE RULE

# THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTEZUMA STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 4<sup>th</sup> day of February, 2008, with the following persons in attendance:

Commissioners: Gerald Koppenhafer, Larrie Rule, and Steve Chappell

Commissioners Absent:

County Administrator: Ashton N. Harrison

County Attorney: Bob Slough Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

#### Resolution #2-2008

A Resolution Authorizing a Loan from the Capital Reserve Fund to the Landfill Enterprise Fund in the Amount of Five Hundred Thousand Dollars (\$500,000.00)

WHEREAS, the Landfill Enterprise Fund accounts for all operations at the Montezuma County Landfill; and

WHEREAS, an enterprise fund is not permitted to receive more than 10% of its annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, a loan is not a grant; and

WHEREAS, it is permissible for enterprise funds to receive loans; and

WHEREAS, the Montezuma County Landfill must build an additional cell in order to accommodate for growth aud remain compliant with various state and federal laws and regulations; and

WHEREAS; the Capital Reserve Fund has sufficient funds to loan to the Landfill Enterprise Fund.

#### NOW THEREFORE BE IT RESOLVED THAT

Section 1: An interest free loan in the amount of Five Hundred Thousand Dollars (\$500,000.00) is authorized from the Capital Reserve Fund to the Landfill Enterprise Fund in ad full lump sum amount effective immediately.

Section 2: The Payment terms are as follows

Year 2009 \$100,000.00 No later than February 28 of such year Year 2010 \$100,000.00 No later than February 28 of such year Year 2011 \$100,000.00 No later than February 28 of such year Year 2012 \$100,000.00 No later than February 28 of such year Year 2013 \$100,000.00 No later than February 28 of such year

Section 3: Late payments will be assessed a penalty of \$200.00 per day for each day past the scheduled due date.

Stew D. Chappell

BOARD OF COUNTY COMMISSIONERS OF MONETEZUMA COUNTY, COLORADO

Hinte w Kappedy San

Gerald W. Koppenhafer, Chair

Commissioners voting age in favor of the resolution were:

Commissioners voting nay against the resolution were:

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Beard of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this <u>Il</u> day of January, 2008.

County Clerk and Recorder Montezuma County, Colorado

## THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTEZUMA STATE OF COLORADO

At a regular meeting of the Board of County Commissioners of Montezuma County, Colorado, duly convened and held the 21<sup>st</sup> day of January, 2008, with the following persons in attendance:

Commissioners: Gerald Koppenhafer and Steve Chappell

Commissioners Absent: Larrie Rule

County Administrator: Ashton N. Harrison

County Attorney: Bob Slough Clerk and Recorder: Carol Tullis

the following proceedings, among others, were taken:

#### Resolution #1-2008

A Resolution Clarifying the Responsibility of the Road & Bridge Department as to the Removal of Snow from Driveways and Damage to Mailboxes and Other Objects Erected in County Easements and Rights-of-Way Caused by Snowplowing Operations

WHEREAS, in order to protect the safety of the traveling public and maintain the efficient movement of traffic, the Road & Bridge Department needs the ability to remove and store elements such as snow and ice and any other material that is deposited unto county roads by nature or humans and onto the County easements and rights-of-way in the most efficient manner possible; and

WHEREAS, snow plowing operations at times causes snow to be plowed into driveway entrances, sometimes referred to as windrows; and

WHEREAS; such driveway entrances are located in County easements or rights-of-way, and

WHEREAS, Montezuma County recognizes the public requires the ability to erect and maintain mailboxes in order to send and receive United States Postal Service from their homes or businesses; and

WHEREAS, at times mailboxes are damaged by snowplowing operations; and

WHEREAS, such mailboxes are located in County easements or rights-of-way

#### NOW THEREFORE BE IT RESOLVED THAT

Section 1: The Road & Bridge Department is not responsible for the removal of snow and ice and other material or element that is deposited into driveways located in County easements or rights-of-way cause by snowplowing operations.

Section 2: The Road & Bridge Department is not responsible to replace or repair any damage caused to mailboxes and other objects erected in County easement or rights-of-way.

Section 3: Nothing in this resolution shall be construed to negate anything in Montezuma County Resolution Nos. 11-1995 and 20-1991, the Montezuma County Road & Bridge Standard Specifications, or any other policy adopted by Montezuma County concerning roads.

BOARD OF COUNTY COMMISSIONERS
OF MONETEZUMA COUNTY, COLORADO

Mendel Management (Control of the County)

Gerald W. Koppenhafer, Chair

Commissioners voting aye in ravo	or or the resonution	were:	
Gerolde Houggedet	Struc	Chappell	

Commissioners voting nay against the resolution were:

I certify that the above Resolution is a true and correct copy of same as it appears in the minutes of the Board of County Commissioners of Montezuma County, Colorado and the votes upon same are true and correct.

Dated this 21 day of January, 2008.

(SEAL)



County Clerk and Recorder Montezuma County, Colorado

### ORDINANCE NO. \_/ - 2008

AN ORDINANCE AMENDING ORDINANCE NO. 1-96 PURSUANT TO C.R.S. 30-15-401(1)(n.5) AND (n.7), AND PROVIDING THAT VIOLATIONS SHALL BE PUNISHABLE BY FINE PURSUANT TO C.R.S. 30-15-402.

WHEREAS, on June 24, 1996, the Montezuma County Board of Commissioners adopted Ordinance No. 1-96 stating "based upon competent evidence, finds that the danger of forest and grass fires is high throughout the unincorporated areas of Montezuma County and that to protect the public health, safety and welfare it is necessary to reduce the danger of wildfires within those areas".

WHEREAS, the Montezuma County Board of Commissioners now finds that the immediate preservation of said public health, safety and welfare requires that said Ordinance No. 1-96 be amended.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Montezuma County pursuant to C.R.S. 30-15-401(1)(n.5) and (n.7) and 30-15-402 that Ordinance No. 1-96 is hereby amended as follows:

- 1. Open fires and the use of fireworks are prohibited in the unincorporated areas of Montezuma County except as hereinafter provided.
- 2. An "open fire" is any fire in an outdoor location where fuel being burned is not contained in an **enclosed** incinerator, outdoor fireplace, barbecue grill or barbecue pit.
- 3(a). The ban on open fires and the use of fireworks shall continue in full force and effect at all times, except that the Montezuma County Board of Commissioners, based upon competent evidence, may by resolution suspend said ban from time to time to the degree and manner consistent with existing wildfire dangers and the requirements of C.R.S. 30-15-401(1)(n.7). Such a suspension shall not constitute a repeal of this Ordinance. Said Board may cancel such a suspension at any time by resolution. This Ordinance shall continue in full force and effect until specific repeal hereof, subject to any such suspension from time to time.
- (b). Any such resolution suspending the ban on open fires and the use of fireworks shall **not** apply to any "Red Flag Day", defined as a day when the United States National Weather Service issues a "Red Flag Warning" for any portion of the unincorporated areas of Montezuma County. There shall be no open fires or use of fireworks in the unincorporated areas of Montezuma County on a "Red Flag Day".
- (c). To assist any person contemplating an open fire or use of fireworks during periods of suspension to know if that day is a "Red Flag Day", said person may call Dispatch at 970-565-8441 on the same day of but prior to the proposed open fire or use of fireworks.

- 4. Any person who violates this Ordinance shall be punished by fine not to exceed \$1,000.00 for each separate violation and surcharge as provided in C.R.S. 30-15-402.
- 5. Because of the high wildfire danger, this Ordinance is necessary for the immediate preservation of the public health, safety and welfare and shall be effective immediately upon adoption.

ADOPTED this 34 day of Mouentle 2008, at 10:25 o'clock Am.

Montezuma County Board of Commissioners

Sand upampag

Stew D. Chappell

ATTEST:

Carol Tullis, Montezuma County Clerk and Recorder

Commissioners voting aye in favor of this O	
Gerald W Koppenhafer Larri	e D. Rule and Stice Charpell
Commissioners voting no against this Ordina	
·	and
	County Clerk and Recorder Montezuma County, Colorado
,	ance is a true and correct copy of same as it appears missioners for Montezuma County, Colorado, and the
Dated this 34 day of Nouembeer	, 2008.
EST COCOCOCOCOCOCOCOCOCOCOCOCOCOCOCOCOCOCO	County Clerk and Recorder Montezuma County, Colorado

### MONTEZUMA COUNTY LAW ENFORCEMENT AUTHORITY AGREEMENT NO. 2008-1

AN AGREEMENT OF THE BOARD OF COUNTY COMMISSIONERS, ACTING AS THE EXOFFICIO GOVERNING BOARD OF THE MONTEZUMA COUNTY LAW ENFORCEMENT AUTHORITY, ENTERING INTO AN AGREEMENT WITH THE MONTEZUMA COUNTY SHERIFF, FOR THE PURPOSES OF PROVIDING ADDITIONAL LAW ENFORCEMENT SERVICES IN THE UNINCORPORATED AREAS OF MONTEZUMA COUNTY

WHEREAS, per C.R.S. Section 30-11-404(5), the Montezuma County Board of County Commissioners are the ex officio Governing Board of the Montezuma County Law Enforcement Authority; and

WHEREAS, per C.R.S. 30-11-406(1)(c), the Governing Board of the Montezuma County Law Enforcement Authority is permitted to enter into contracts and agreements with the Sheriff to provide law enforcement services for the authority; and

WHEREAS, per C.R.S. 30-11-409, moneys paid to the Sheriff for services shall be expended by the Sheriff for law enforcement purposes only, including administration and capital expenditures, pursuant to agreements entered into as authorized by law; and

WHEREAS, both the Governing Board and the Sheriff find it necessary to raise all POST certified deputies to mid-state level pay as presented in the 2008 County Budget in order to attract and retain qualified deputies in the interest of better protecting the peace and safety of its citizens in the unincorporated areas of Montezuma County; and

WHEREAS, the Board of County Commissioners has allocated moneys from the 2008 General Fund to raise the fiscal year 2008 salaries of all POST certified deputies by 5% over their fiscal year 2007 salaries; and

WHEREAS, in addition to the 5% raise from the General Fund, an additional \$181,746 is needed to bring POST certified deputies to mid-state level pay as presented in the 2008 County Budget; and

WHEREAS, the Law Enforcement Authority Fund has the necessary moneys available to bring the POST certified deputies to mid-state level pay; and

WHEREAS, the budget of the Sheriff's Office, including the salaries of all POST certified deputies, is entirely accounted for in the General Fund; and

WHEREAS, accounting for the salaries of the POST certified deputies through multiple funds would create unnecessary costs to the taxpayer by creating unneeded administrative overhead.

NOW, THEREFORE, the Montezuma County Board of County Commissioners, acting as the Governing Board of the Montezuma County Law Enforcement Authority:

Section 1: Hereby enter into an agreement with Gerald Wallace, Montezuma County Sheriff, to raise the POST certified deputies to mid-state level pay in the amount presented in the 2008 County Budget by authorizing \$181,746 to be transferred from the Law Enforcement Authority Fund to the General Fund beginning fiscal year 2008 and every year thereafter unless otherwise amended by resolution of the Governing Board.

Section 2: Restricting the \$181,746 to increasing and maintaining the salaries and related benefits of POST certified deputies in fiscal year 2008 and every year thereafter unless otherwise amended by resolution of the Governing Board.

Section 3: Requiring the Sheriff to return any of the \$181,746 not spent toward increasing the salaries of POST certified deputies to the Law Enforcement Authority Fund in fiscal year 2008 and any year thereafter.

LAW ENFORCEMENT AUTHORITY GOVERNING BOAT	RD
Montezuma County, Colorado	
W. 11 1.	
Hond w Kyapenlafe Gerald W. Koppenhafer, Chair	
Gerald W. Koppenhafer, Chair	
Montezuma County Sheriff's Office	
<b>.</b>	
Gerald A. Wallace, Sheriff	
Gerald A. Wallace, Sheriff	
Commissioners voting in favor of the Agreement	were:
	al)
Howler Kormung. Steer Chappell	and
,	
Commissioners voting nay against the Agreemen	t were:
	and
I certify that the above Agreement is a true and	• •
minutes of the Board of County Commissioners of votes upon same are true and correct.	or Montezuma County, Colorado and the
•	
Dated this 2/dday of January, 2008.	
(0)7 A 7 A	
(SEAL)	wal Jullie
Cou	nty Clerk and Recorder
ALE PLUSARE IN	ntezuma County, Colorado
Section 1.	rozana coanty, cororado
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~0000000v~	