

## CHAPTER 5 USE AND DIMENSIONAL STANDARDS

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## CHAPTER 5 USE AND DIMENSIONAL STANDARDS

### 5.1. USE TABLES

#### 5.1.1. Purpose

The purpose of the use tables in this Chapter are to summarize what uses may be made of lots, tracts or parcels within each base zoning district in conformance with the requirements of this Code.

#### 5.1.2. Types of Uses and Limit on the Number of Uses per Lot or Parcel

Each base zoning district regulates land uses as either a principal use or an accessory use. Only one principal use is allowed per lot or parcel, except in the A-35 zoning district and in commercial and industrial zoning districts where more than one principal use may be established subject to the requirements and limitations of this Code. An accessory use requires that a principal use is established on the same lot or parcel as the accessory use before the accessory use is established and that the principal use continue on the lot or parcel so long as the accessory use continues, unless otherwise provided by this Code. Multiple accessory uses may be allowed on a lot or parcel subject to the requirements and limitations of this Code.

#### 5.1.3. Principal Use Table Described

Principal uses are organized into three categories for purpose of regulation: allowed uses, special uses, and temporary uses. Table 5-1 identifies principal uses which may be located on a lot or parcel in each base zoning district. Base zoning districts are shown on the horizontal axis and specific uses or categories of land uses are shown on the vertical axis. The following symbols shall be used to interpret the list of uses and means by which they may be located on a lot or parcel within each base zoning district:

- If the symbol "A" appears in the box at the intersection of the column and row, the use is allowed subject to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If the symbol "S" appears in the box at the intersection of the column and the row, the use is allowed subject to the Special Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If the symbol "T" appears in the box at the intersection of the column and the row, the use is allowed subject to the Temporary Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).

If no symbol appears in the box at the intersection of the column and the row, the use is not allowed as a principal use in that zoning district.

The table also identifies whether or not specific use standards are provided for the use in this Code and whether a site plan review or site development plan review shall be approved prior to establishing the use.

#### **5.1.4. Accessory Use Table Described**

Table 5-2 identifies accessory uses which may be located on a lot or parcel within each base zoning district. Base zoning districts are shown on the horizontal axis and specific accessory uses or categories of accessory land uses are shown on the vertical axis. The following symbols shall be used to interpret the list of accessory uses and means by which they may be located on a lot or parcel within each base zoning district:

- If the symbol "A" appears in the box at the intersection of the column and row, the use is allowed subject to the Accessory Use provisions of this Code and to applicable development standards (Chapter 6), use and dimensional standards (Chapter 5) and other applicable provisions of this Code, (including site plan or site development plan approval, if a building or other development permit is required).
- If no symbol appears in the box at the intersection of the column and the row, the use is not allowed as an accessory use in that zoning district.

The table also identifies whether or not specific use standards are provided for the use in this Code and whether a site plan review or site development plan review shall be approved prior to establishing the use.

#### **5.1.5. Applicability of Multiple Use Types**

The specific use shall control the general use.

#### **5.1.6. Unlisted Uses**

The DSD Director is authorized to classify any unlisted use based on similar uses. If no similar use can be identified by the DSD Director, the DSD Director may initiate an amendment to the text of this Code to clarify where the unlisted use is allowed, or the applicant for an unlisted use may file an application to amend this Code following the prescribed procedures.



**Table 5-2 Accessory Uses.**<sup>2</sup>

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?			
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4						
Additional Dwelling Unit		A																														YES		YES
Agricultural Accessory Structures and Uses <sup>3,4</sup>	A	A	A	A																								A	A		YES			
Airport Hangers		A																															YES	
Animal Keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Bed and Breakfast Home	A	A	A	A	A	A	A	A	A	A	A	A																			YES		YES	
Bee Keeping	A	A	A	A	A							A <sup>1</sup>																						
Caretaker's Quarters																A				A	A		A	A				A		YES		YES		
Cemetery, Personal		A																													YES		YES	
Central Storage Facility													A	A																	YES			
CMRS Facility, Building Roof-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES		
CMRS Facility, Building Wall-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES		

Notes:

"A" = Allowed Use, "S" = Special Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

<sup>3</sup>See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

<sup>4</sup>Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

<sup>5</sup>Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

<sup>6</sup>Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

<sup>7</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>8</sup>A minimum of 1acre is required for a private stable.

<sup>9</sup>A site plan is only required for accessory structures greater than 120 square feet in area.

<sup>10</sup>A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

<sup>11</sup>A special use approval is required to exceed the general standards governing number of employees or daily trips.

**Table 5-1. Principal Uses.**

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?		
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4					
Acid Manufacturing																								S			S				YES		
Adult Care Home	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>															YES		YES	
Agricultural Business		S																													YES		
Agricultural Stand	A	A	A	A																										YES		YES	
Airstrip, Personal		S																													YES		YES
Amusement Center, Indoor																		S	A	A					A	A	A				YES		
Amusement Center, Outdoor	S	S	S <sup>2</sup>															S	S	S					S	S	A				YES		
Animal Day Care Facility																			A	A		A					A			YES		YES	
Animal Refuge	S	S	S	S																											YES		
Auction	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES		
Auction Facility		S	S															S		A						A	A				YES		
Automobile and Boat Storage Yards																		S		A		A	A				A			YES		YES	
Automobile Sales																		S		A							A				YES		
Bakery, Retail																	A		A	A							A				YES		
Bakery, Wholesale																				A		A	A				A				YES		
Bar																	S		A	A	A				A	A	A				YES		

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?		
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4					
Barber/Beauty Shop																	A	A	A	A	A				A	A	A				YES		
Batch Plant																								S			S				YES		
Batch Plant, Temporary	T	T	T	T	T	T	T	T	T	T	T	T					T	T	T	T	T	T	T	T	T	T	T	T	T	YES	YES		
Bed and Breakfast Inn	S	S	S	S	S	S	S	S	S	S	S	S																		YES	YES		
Billiard Parlor																	A		A	A	A				A	A	A				YES		
Boarding House											A	A							S	S	A				S	S	A				YES		
Bottling Works																					A			A		A	A				YES		
Bus Station																			S	S	S				A	A	A				YES		
Business and Event Center		S	S														S	A	A	A	A				S	S	A				YES		
Car Wash																	A		A	A	A				A	A	A				YES		
Carnival or Circus																			T	T	T									YES	YES		
Cement Manufacturing																								S			S				YES		
Cemetery	S	S	S	S	S	S																									YES		
Child Care Center	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	A	A	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>		A	S	A	S	A				A	A	S		YES	YES			
Christmas Tree Sales																	T	T	T	T	T				T	T	T					YES	
Club	S		S																	A	A				A	A	A				YES		
CMRS Facility, Freestanding		S															S	S	S	S	S	S	S	S	S	S	S		YES	YES			

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?	
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4				
CMRS Facility, Stealth	S	A	S	S	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES		
Commercial or Retail as Part of Overall Shopping Center																	A		A	A	A				A	A	A			YES		
Community Building		S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	S	A	A	A	A				S	S	A			YES		
Composting Facility																							S			S		YES	YES			
Construction Equipment Storage and Field Offices, Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES	YES
Contractor's Equipment Yard																					S		S	A		S	A			YES		
Convenience Store																	A		A	A	A				A	A	A			YES		
Copy Shop																	A	A	A	A	A				A	A	A			YES		
Dairy		A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>																							S			YES		
Dry Cleaning Plant																							A	A			A			YES		
Dwelling, Attached Single-Family								A	A	A	A																	YES		YES		
Dwelling, Detached Single-Family	A	A	A	A	A	A	A	A	A			A															S			YES		
Dwelling, Multifamily										A	A																		YES			
Dwelling, Two-Family	S	A	S	S		S			A	A		S																		YES		
Educational Institution, Private	S	S	S	S	S	S	S	S	S	S	S	S							S		S				S	S	A			YES		
Educational Institution, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A	A	A	A	YES		

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?	
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4				
Electronic, Electrical, Communication Equipment Manufacturing																						A	A	A			A			YES		
Emergency Facility, Private	S	S	S	S	S	S	S	S	S	S	S	S	S	S			A	A	A	A	A	A	A	A	S	S	S			YES		
Emergency Facility, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		YES		
Energy Generation Facilities																								S			A			YES		
Equipment Rental																			S		S			A	A			A		YES		
Explosives Manufacturing																									S			S		YES		
Family Care Home	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>															YES		YES	
Farm	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>																												
Fertilizer Manufacturing																								S			S			YES		
Financial Institution																	S	A	A	A	A					A	A	A		YES		
Firewood Sales		S <sup>2</sup>	S <sup>2</sup>																		A			A			A			YES		
Fireworks Sales																			T	T	T					T	T	T		YES		YES
Flea Market																			S	A	S			S			A			YES		
Food Processing																					A		A	A		A	A			YES		
Freight Terminal																					S		A	A			A			YES		
Fuel Sales and Storage																								S	S		S	S		YES		

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?								
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4											
Fuel Storage with Agricultural Use	S	A <sup>1</sup>	S	S																																			
Funeral Home																	S	A	S	A	A					A	A	A										YES	
Gas Station																	S		A	A	A						A	A										YES	
Glue Manufacturing																								S				S										YES	
Golf Course	S	S	S	S																		A				S	S	A										YES	
Greenhouse	S	A <sup>1</sup>	A	S																								A										YES	
Greenhouse (>1 acre)	S	S	S	S																																		YES	
Group Home	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>																						YES	YES	
Half-Way House	S	S	S	S																																		YES	
Hazardous Material Storage																						S	S	S				A										YES	
Hazardous Waste Facility																								S				S								YES	YES		
Health Club																	S	A	A	A	A	A	S					A										YES	
Heavy Equipment Sales																					S		S	A			A	A										YES	
Heavy Equipment Storage																					S		S	A			A	A										YES	
Home Improvement Center																			S	A	A		A	A			A	A										YES	
Hospital											S								A	A	S					S	S	A										YES	
Hospital, Convalescent	S	S	S							S	S								S		S					S	S	A										YES	

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?		
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4					
Hospital, Veterinary	S	S	S	S												S		S		S					S	S	A				YES		
Hotel																	S	S	S	A						A	A	A				YES	
Human Service Shelter																	S	S	S	A						S	S	S			YES	YES	
Inert Material Disposal Site	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			YES		YES
Inert Material Disposal Site-Minor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Infectious Waste Transfer Station																							S	S			S			YES	YES		
Institution, Philanthropic	S		S	S	S	S										A	A	A	A	A					S	S	A				YES		
Kennel		A <sup>2</sup>	S	S														S		S					A	A	A				YES		
Laboratory																		S		S	A	A	A	A	A	A	A				YES		
Laundromat																A		A	A	A							A				YES		
Library	S		S	S						S	S					A	A	A	A	A					S	S	A				YES		
Light Industry																				S	A	A	A			S	A				YES		
Light Manufacturing																				S	A	A	A			S	A				YES		
Liquor Store																A	A	A	A	A					A	A	A				YES		
Livestock Feed Yard		S <sup>3</sup>	S <sup>3</sup>																				S			S				YES			
Livestock Sales Yard		A <sup>3</sup>	S <sup>2</sup>																				S		S	S				YES			
Lumber Yard		S	S															S	S	S		A	A		A	A				YES			

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?				
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4							
Manufactured Home	A	A	A	A	A	A	A	A	A			A																S							YES
Meat Processing, Custom		S	S																		A		A	A										YES	
Medical Clinic																S	A	A	A	A								A						YES	
Metal Processing Plant																								S			S							YES	
Mineral and Natural Resource Extraction Operations, Commercial	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	YES	YES	
Mineral Processing Plant																								S			S							YES	
Mining, Construction-Related	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES	YES	
Mini-Warehouse																S		S		A		A	A				A							YES	
Mixed-Use Residential Units																S	S	S	S	S													YES	YES	
Mobile Home, Post-1976		A	A	A									A	A	A																			YES	
Model Home/Subdivision Sales Office	T	T	T	T	T	T	T	T	T	T	T	T		T																			YES	YES	
Museum	S	S	S													S		A	A	A						S	S	A					YES		
Night Club																		S	A	S							A							YES	
Nursery, Retail																A		A	A	A						A	A	A						YES	
Nursery, Wholesale	A	A <sup>1</sup>	A	A														S		A		A	A				A							YES	
Office, General																A	A	A	A	A	A	A	S			A	A	A						YES	
Off-Premise Sign																		S		S				S	S	S	S					YES	YES		

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

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<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.



Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?		
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4					
Outdoor Concert			S <sup>2</sup>																									A			YES		
Outside Storage																								A				A		YES	YES		
Parking Garage																		S	A	A	A	A						A		YES			
Parking Lot																		S	A	A	A	A				A	A	A			YES		
Peddler Sales																	T	T	T	T	T					T	T	T		YES	YES		
Petroleum Refining																								S				S		YES			
Plaster Manufacturing																								S				S		YES			
Printing																					S	S	A	A				A		YES			
Prison, Private		S																	S		S		S	S				S		YES			
Proprietary School																S	A	A	A	A	A	A	S					A		YES			
Public Building, Way or Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Public Park and Open Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Race Track		S <sup>2</sup>	S <sup>2</sup>																					S				A		YES			
Ranch	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>																													
Recreation Camp	S	S	S	S																										YES			
Recreational Vehicle and Boat Storage																			S		A		A	A				A		YES			
Recycling Facility																								A				A		YES	YES		

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<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

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<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?	
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4				
Rehabilitation Facility	S	S	S	S	S	S	S	S	S	S	S	S					S	S	S	S	S				S	S	S				YES	
Religious Housing		S								A	A																			YES		
Religious Institution	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				A	A	A			YES		
Rendering Plant		S	S <sup>2</sup>																				S			S			YES			
Repair Shop																	A	A	A	A	A				A	A	A			YES		
Restaurant																	A	S	A	A	A	S			A	A	A			YES		
Retail Sales, General																	A		A	A	A		S	S	A	A	A			YES		
Retirement Center										A	A																		YES			
Riding Academy		A <sup>2</sup>	S <sup>2</sup>	S <sup>2</sup>																						A			YES			
Rodeo		S <sup>2</sup>	S <sup>2</sup>																							A			YES			
Salvage Yard																							S			S		YES	YES			
Sawmill		S <sup>2</sup>	S <sup>2</sup>																					A		A						
Seasonal Produce Sales																	T	T	T	T	T				T	T	T			YES	YES	
Sexually-Oriented Business																			A		A				A	A	A			YES	YES	
Shooting Range, Outdoor	S <sup>2</sup>	S <sup>2</sup>	S <sup>2</sup>																										YES			
Shopping Center																				A	A									YES		
Slaughterhouse																								S		S			YES			

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?			
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4						
Smelter																								S			S						YES	
Solar Farm		S																						S									YES	
Solid Waste Disposal Site and Facility		S	S																					S			S					YES	YES	
Stables, Commercial		A <sup>2</sup>	S <sup>2</sup>	S <sup>2</sup>																							A					YES		
Stables, Private	A	A	A	A	A	A <sup>5</sup>							A <sup>1</sup>																		YES		YES	
Store																	A		A	A	A					A	A	A				YES		
Studio																	A		A	A	A					A	A	A				YES		
Tannery																								S			S					YES		
Temporary Housing	T	T	T	T									T																		YES		YES	
Theater																			S	A	A					A	A	A				YES		
Theater, Outdoor	S		S																S	S	S					S	S	A			YES			
Tower, Commercial		S																	S	S	S		S	S	S	S	S	S			YES	YES		
Trailer Sales																			S	S	A		S				A				YES			
Train Station																			S	S	S					A	A	A			YES			
Trash Transfer Facility																								S			S			YES	YES			
Tree Farm	A	A	A	A																														
Truck and Recreational Vehicle Repair Garage																					A		S	A			A				YES			

Notes:

"A" = Allowed Use, "S" =Special Use, "T"= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?						
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4									
Truck Farm		A <sup>2</sup>	A																																		
Truck Stop		S <sup>2</sup>																			S <sup>2</sup>			S <sup>2</sup>												YES	
Vehicle Repair Garage																			S	S	A		S			A	A							YES	YES		
Warehouse																			S		A		A	A		A	A								YES		
Warehouse, Flammable Material																								S			S								YES		
Waste Tire Recycling			S																					S			S							YES	YES		
Wholesale Business																			S		A		A	A		A	A								YES		
Wind Energy Generation Facility		S																						S											YES		
Wind/Meteorological Measuring Facilities	S	S	S	S								S												S			S						YES		YES		
Wood Sales (Firewood)	S	S	S																		S													YES			
Yard Sales	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES			

Notes:

“A” = Allowed Use, “S” =Special Use, “T”= Temporary Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status

<sup>3</sup>Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status

<sup>4</sup>Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

<sup>5</sup>A minimum of 1acre is required for a private stable.

**Table 5-2 Accessory Uses.<sup>2</sup>**

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts		Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?			
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2				M	R-4	
Additional Dwelling Unit		A																												YES		YES
Agricultural Accessory Structures and Uses <sup>3,4</sup>	A	A	A	A																							A	A	YES			
Airport Hangers		A																												YES		
Animal Keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Bed and Breakfast Home	A	A	A	A	A	A	A	A	A	A	A	A																	YES		YES	
Bee Keeping	A	A	A	A	A							A <sup>1</sup>																				
Caretaker's Quarters																A			A	A		A	A				A		YES		YES	
Cemetery, Personal		A																											YES		YES	
Central Storage Facility													A	A																YES		
CMRS Facility, Building Roof-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
CMRS Facility, Building Wall-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	

Notes:

"A" = Allowed Use, "S" = Special Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

<sup>3</sup>See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

<sup>4</sup>Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

<sup>5</sup>Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

<sup>6</sup>Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

<sup>7</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>8</sup>A minimum of 1acre is required for a private stable.

<sup>9</sup>A site plan is only required for accessory structures greater than 120 square feet in area.

<sup>10</sup>A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

<sup>11</sup>A special use approval is required to exceed the general standards governing number of employees or daily trips.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?	
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4				
CMRS Facility, Pole-Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Commercial and Industrial Accessory Structures and Uses <sup>3,5</sup>																	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES <sup>9</sup>
Construction Equipment Storage and Field Offices, Accessory	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Convenience Store													A		A															YES		
Farm/Ranch Residence																													YES		YES	
Garden Supplies and Nursery Stock																	A		A	A	A					A	A	A	YES	YES		
Guest House	A	A	A	A	A	A	A	A	A			A																	YES		YES	
Hobby Farm	A	A	A	A								A <sup>1</sup>																				
Home Occupation, Residential	A	A	A	A	A	A	A	A	A	A	A	A	A	A															YES			
Home Occupation, Rural	S	A <sup>11</sup>	S	S	S	S	S	S	S	S	S	S	S	S															YES			
Light Manufacturing, Accessory																																
Management Headquarters													A	A																YES		
Mother-in-Law Apartment	A	A	A	A	A	A	A	A	A			A															A		YES		YES	

Notes:

"A" = Allowed Use, "S" = Special Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

<sup>3</sup>See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

<sup>4</sup>Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

<sup>5</sup>Accessory use shall be associated with an allowed, special, or temporary principal commercial or industrial use located on the same lot, parcel or tract.

<sup>6</sup>Accessory use shall be associated with an allowed, special, or temporary principal residential use located on the same lot, parcel or tract.

<sup>7</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>8</sup>A minimum of 1acre is required for a private stable.

<sup>9</sup>A site plan is only required for accessory structures greater than 120 square feet in area.

<sup>10</sup>A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

<sup>11</sup>A special use approval is required to exceed the general standards governing number of employees or daily trips.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?						
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4									
Office, Accessory																							A	A				A							YES		
Outside Storage, Accessory																			A		A		A											YES	YES		
Personal Use Greenhouse	A	A	A	A	A	A	A	A	A			A	A	A	A																					YES	
Pigeon Keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A														A					YES		YES	
Recycling Collection Center																	A	A	A	A	A					A	A	A								YES	
Retail Sales, Accessory																								A	A				A						YES		
Residential Accessory Structures and Uses <sup>3, 6</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A																			YES	YES <sup>10</sup>	YES <sup>9</sup>	
Restaurant, Outdoor																	A	A	A	A	A					A	A								YES		
Restroom and Shower Facilities													A	A		A																			YES		
Security Guard House													A	A		A																					
Solar Energy System	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES	
Stables, Private	A	A	A	A	A	A <sup>8</sup>						A <sup>7</sup>																						YES		YES	
Storage and Repair of Vehicles and Machines	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A	A	A	A	A				YES			

Notes:

"A" = Allowed Use, "S" = Special Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

<sup>3</sup>See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

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<sup>9</sup>A site plan is only required for accessory structures greater than 120 square feet in area.

<sup>10</sup>A site development plan is required for accessory structures equal to or greater than 50% of the principal building area, uses or structures that eliminate required parking or landscaping, and parking structures.

<sup>11</sup>A special use approval is required to exceed the general standards governing number of employees or daily trips.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts					Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?	
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CN	CO	CC	CR	CS	I-1	I-2	I-3	C-1	C-2	M	R-4				
Tower, Private	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Wind Powered Generator	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A	A	A	YES		YES	

Notes:

"A" = Allowed Use, "S" = Special Use

<sup>1</sup>Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status

<sup>2</sup>All accessory uses are subject to the General Accessory Structure and Use Standards in the Use-Specific Development Standards Section of this Chapter.

<sup>3</sup>See Use-Specific Development Standards Section of this Chapter for specific uses included as accessory uses in these generalized accessory use categories.

<sup>4</sup>Accessory use shall be associated with an allowed, special, or temporary principal agricultural use located on the same lot, parcel or tract.

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Notes:

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<sup>11</sup>A special use approval is required to exceed the general standards governing number of employees or daily trips.

## 5.2. USE-SPECIFIC DEVELOPMENT STANDARDS

The use-specific development standards provided in this Section are those specific requirements that shall be met when establishing a use or conducting an activity within a particular zoning district. Specific uses may be subject to more than one set of standards.

### 5.2.1. Accessory Use and Structure Standards, General

**(A) Accessory Use to Conform to Zoning District Standards**

Unless otherwise indicated within this Code, accessory structures or uses shall conform to the development standards specified in the zoning district in which the building or use is located. The area of the accessory structure shall be included in the lot coverage calculation.

**(B) Accessory Uses Do Not Include Allowed or Special Uses**

Allowed uses or special use listed in any zoning district in Table 5-1 shall not be considered accessory uses, unless otherwise provided by this Code.

**(C) Secondary Uses Now Considered Accessory Uses**

For purposes of administration of this Code, after the effective date of adoption, those uses previously classified as Secondary Uses are now classified as Accessory Uses.

**(D) Accessory Use to Be Located on Same Lot, Parcel or Tract as Principal Use**

An accessory use or structure shall be located on the same lot, parcel or tract as the principal structure or use. The accessory use or structure may be located on a contiguous lot or parcel under the same ownership, upon the recording of a use or combination agreement that binds the use or structure to both lots, parcels, or tracts in common ownership.

**(E) Building Permit Required**

Any accessory structure exceeding 120 square feet shall obtain a building permit. All accessory structures shall comply with the Building Code.

**(F) Principal Structure Required**

No building permit for construction of an accessory structure shall be issued prior to construction of the principal structure except in the A-35 zoning district.

**(G) Accessory Uses and Structures to Meet Setbacks**

Accessory uses and structures shall meet the setbacks shown in Table 5-4 and Table 5-5, and shall not be located within any easement unless specifically allowed in accordance with this Code.

**(H) Accessory Uses to Meet Development Standards**

Accessory uses shall meet all applicable development standards in Chapter 5 and Chapter 6.

**(I) Storage Buildings as Accessory Uses**

Semi-trailers with attached running gear (i.e. axles, wheels) and mobile homes except in the A-35 Zoning District shall not be used as storage buildings after the effective date of this Code. Existing semi-trailers and mobile homes being used as storage buildings in conformance with County rules and regulations on the effective date of this Code shall be considered nonconforming uses.

**(J) Structures or Uses Not Considered Accessory Uses a Violation**

Any building, structure or use that does not qualify as an accessory structure or use and that is not identified as an allowed use, approved as a special use, or granted a use variance is a violation of this Code and subject to zoning enforcement.

**(K) Square Footage of Accessory Structure and Use Limited**

The building footprint of accessory structures which are not classified as agricultural structures and accessory uses in all residential zoning districts shall not exceed the building footprint of the primary use (residence) to which they are subordinate, except when the parcel size is 2.5 acres or greater the accessory structure building footprint may be two (2) times the building footprint of the primary use.

**5.2.2. Adult Care Homes, Child Care Centers, Family Care Homes, and Group Homes**

The following standards apply, subject to the provisions and limitations of the County and State Departments of Human Services and Health.

**(A) Separation Requirements**

No family care homes, child care centers, adult care homes, or group homes shall be located on an adjacent lot or parcel or within 500 linear feet along the same road from the lot or parcel boundaries line as another family care home, child care center, adult care home, or group home except for those facilities that: (1) qualify as a single-family dwelling and have an enrollment in the family care home, child care center, adult care home, or group home of fewer than 6; or (2) where the family care home, child care center, adult care home, group home is located within the commercial zone district.

**(B) Consistent with Residential Uses**

A family care home, child care center, adult care home, or group home requiring a special use permit may not result in an over intensive use of land in relation to surrounding residential uses. All commercial components, such as parking lots and playgrounds, shall be screened and buffered from neighboring residences and uses.

**(C) Group Home, Adult Care Home, or Child Care Facility Allowances**

A family care home, child care center, adult care home, or group home shall be considered an allowed use or require a special use permit based on the specific

facility type and enrollment as shown in Table 5.3 when located within a forestry, agricultural, and residential zone district.

**Table 5-3. Use Table and Occupancy Limits for Group Home, Adult Care, and Child Care Facilities in Forestry, Agricultural and Residential Zone Districts.**

Use Type	Allowed Use (Max. Occupancy/ Enrollment)	Special Use (Occupancy/ Enrollment)
<b>Family Care Home</b>		
Family Foster <sup>2</sup>	8	NA
Day Care Home <sup>2</sup>	8	9-12
Adult Day Care	8	9-12
Specialized Group Facility <sup>2</sup>	8	9-12
<b>Child Care Center<sup>1</sup></b>		
Large Day Care Center <sup>2</sup>	NA	13 or more
Small Day Care Center <sup>2</sup>	NA	12 or fewer
Nursery <sup>2</sup>	NA	As Limited by State
Day Camp <sup>2</sup>	NA	As Limited by State
Center for Developmentally Disabled <sup>2</sup>	8	9 or more
Crisis Center <sup>2</sup>	8	9 or more
Residential Camp <sup>2</sup>	NA	5 or more
Trip Camp <sup>2</sup>	NA	5 or more
Day Treatment Center <sup>2</sup>	8	9 or more
Residential Child Care Facility <sup>2</sup>	8	9 or more
<b>Adult Care Homes</b>		
Adult Foster Care Home <sup>2</sup>	8	9-15
<b>Group Homes</b>		
Mentally Ill <sup>2</sup>	8	9 or more
Developmentally Disabled <sup>2</sup>	8	9-15
Aged (Assisted Living Residence) <sup>2</sup>	8	9 or more
Notes:		
<sup>1</sup> Child care centers are allowed as an accessory use when operated in the same building as a religious institution.		
<sup>2</sup> As defined by State law and rules and regulations.		

**5.2.3. Agricultural Accessory Structures and Uses**

The following structures and uses are considered accessory to any agricultural use defined as agricultural by this Code and is an exception to Section 1.19.6:

- Farming, ranching and dairy vehicles, equipment and material, barns, sheds, etc;
- Domesticated livestock and pets, subject to the requirements of this Code;
- Any residential accessory structure, or use;
- Outside storage incidental to and necessary for uses allowed on the property (but not junk yards);
- Fence, wall or hedge;
- Fuel storage for the farming, ranching, or dairy vehicles and equipment; and

- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

#### **5.2.4. Agricultural Stand**

All products offered for sale shall be raised, grown or made within the same ownership on which they are sold.

#### **5.2.5. Animal Keeping**

##### **(A) Dogs and Cats**

The keeping of more than 4 dogs or cats, in any combination, over 4 months of age, per ownership shall be considered a kennel and shall meet the standards for kennels.

##### **(B) Horses**

The keeping of horses shall be considered a private or commercial stable and shall meet the standards for private or commercial stable. No horses shall be kept in any zoning district that does not allow a private or commercial stable.

##### **(C) Livestock**

Livestock is allowed in any agricultural zoning district, and in association with a hobby farm.

##### **(D) Other Domesticated Animals**

In addition to dogs, cats, horses, and livestock, other types of domesticated animals may be kept as a pet in a residential zoning district provided:

- The animals do not exceed 100 pounds in weight each;
- The animals are thoroughly secured within the boundaries of the ownership;
- The animals produce no sounds or smell that may be reasonably regarded as offensive;
- The animals are not exotic, wild or ordinarily considered dangerous; and
- The animals are properly maintained to remain healthy and to prevent the accumulation of wastes.

No more than 2 other domesticated animals shall be located on any ownership except where the other domesticated animals are fish, small reptiles and amphibians, small rodents, or small birds kept within a dwelling unit where there shall be no restriction on the number kept.

##### **(E) No Other Animals Allowed**

The keeping of animals, including exotic animals, not qualifying in any of the above categories shall not be allowed.

**5.2.6. Animal Day Care Facility**

Overnight indoor boarding and outdoor exercise areas may be provided as an accessory use, but outdoor holding facilities are prohibited. Where overnight boarding occurs, animals shall not be allowed unsupervised outdoor access.

**5.2.7. Auction**

Where auctions will be conducted no more than 3 times within an ownership during a year and no auction will exceed 5 days in length, the auction shall be considered an accessory use and the auction shall not be required to obtain a temporary use permit or meet the temporary use standards of this Code.

**5.2.8. Automobile and Boat Storage Yards**

Automobile and boat storage yards shall comply with the outdoor storage standards of this Chapter.

**5.2.9. (Reserved)**

**5.2.10. Batch Plant, Temporary**

A temporary batch plant associated with a federal, State, or local construction public improvement project is subject to the following requirements.

**(A) Adjacent to Project**

The plant shall be located on, adjacent to, or in the immediate proximity of the right-of-way being improved.

**(B) Hours of Operation Limited**

A temporary batch plant shall only be operated between 7 a.m. to 7 p.m.

**(C) Repair of Road Damage**

Damage to any roads that provide access to the temporary batch plant that may be attributable to the use of the site for a temporary batch plant shall be repaired by the temporary batch plant owner or operator to the satisfaction of the ECM Administrator. Surety may be required by the ECM Administrator to cover potential repair costs.

**(D) Other Permits Required**

A construction permit, work in the right-of-way permit, and ESQCP shall be obtained from the ECM Administrator prior to the issuance of a temporary use permit authorizing the use of the subject property for a temporary batch plant.

**(E) Hauling Routes**

The ECM Administrator may limit hauling routes and the size of loads to protect the general welfare of the citizens in accordance with the ECM.

**(F) Duration of Use**

The duration of time the batch plant is operated shall be limited to the duration of the associated public improvement project.

**(G) Use of Asphalt or Concrete**

The use of any asphalt or concrete produced at the temporary batch plant shall be limited to the public improvement project described in the temporary use permit.

**5.2.11. Bed and Breakfast Home**

A bed and breakfast home shall comply with the standards for home occupations and the following additional standards:

**(A) Maximum Number of Guest Rooms**

A maximum of 2 guest rooms may be rented on a nightly basis.

**(B) Owners to Reside on Subject Property**

The owner of the bed and breakfast home shall reside on the subject property.

**(C) Meals Served to Guests Only**

Meals shall be served to overnight guests of the bed and breakfast home only.

**(D) Smoke Detectors**

Each guest room shall be provided with a smoke detector.

**(E) Licenses Required**

The bed and breakfast home shall obtain all required licenses.

**5.2.12. Bed and Breakfast Inn**

A bed and breakfast inn shall comply with the following standards.

**(A) Resident Innkeeper Reside on Subject Property**

A resident innkeeper shall reside on the subject property.

**(B) Meals Served to Guests Only**

Meals shall be served to overnight guests of the bed and breakfast inn only.

**(C) Maximum Length of Stay**

The maximum length of stay for overnight guests is limited to 30 days.

**(D) Character of Inn**

The character and exterior appearance of the bed and breakfast inn shall be residential in nature and consistent with the surrounding area.

**(E) Signage**

Signage shall meet the requirements of this Code except as otherwise modified or limited by this Section. One sign is allowed. The sign area shall not exceed 8 square feet. A freestanding sign shall not exceed 4 feet in height. The sign shall be located at least 5 feet from all lot, parcel or tract lines. The sign may be indirectly illuminated. If the sign is attached to the bed and breakfast inn, no part of the sign may extend above the wall of the bed and breakfast inn.

**(F) Parking**

Parking shall meet the parking requirements of this Code. The parking area surface shall meet the standards specified for rural areas, regardless of the bed and breakfast inn's location in a rural or urban area.

**(G) Smoke Detector and Emergency Lighting**

Each guest room shall be provided with a smoke detector. Emergency lighting for emergency exits shall also be installed.

**(H) Required Licenses**

The bed and breakfast inn shall obtain and maintain all required licenses.

**5.2.13. Car Wash**

A car wash shall be serviced by a central sewer system.

**5.2.14. Caretaker's Quarters**

**(A) Number of Caretaker's Quarters**

One caretaker's quarters is allowed per ownership.

**(B) Type of Structure**

A caretaker's quarters may be a detached single-family dwelling, manufactured home, apartment-type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home may be used as a caretaker's quarters.

**(C) Occupancy Limited**

A caretaker's quarters may be occupied only by a caretaker and their immediate family.

**(D) Other Applicable Standards**

A caretaker's quarters shall meet all standards for a principal dwelling unit of the same type and the accessory dwelling standards in this Chapter unless specifically modified by this Section.

**5.2.15. Carnival or Circus**

A carnival or circus shall not be operated more than 3 times during a year within any ownership. No operation of a carnival or circus shall exceed 14 days in length.

**5.2.16. Cemetery, Personal**

A document, identifying the existence and location of a personal cemetery which may consist of an official survey or other type of map, shall be recorded against the subject property.

**5.2.17. Child Care Centers (See Adult Care Homes)**



### **5.2.18. Commercial and Industrial Accessory Structures and Uses**

The following structures and uses are considered accessory to commercial and industrial use:

- Onsite parking garage or lot that provides required parking for a structure or commercial/industrial use;
- On-premise signs;
- Totally enclosed facilities for storing merchandise or materials needed for commercial/industrial use;
- Fence, wall and hedge;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code.
- Any accessory structure, structure or related use expressly designated as accessory in a commercial or industrial zoning district established under this Code.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

### **5.2.19. Commercial Mobile Radio Service Facility (CMRS) Facilities**

#### **(A) General**

##### **(1) Purpose**

The purposes of this Section are:

- to facilitate the provision of wireless telecommunication services, including personal wireless services, throughout the unincorporated area of El Paso County;
- to allow the location of commercial mobile radio service facilities (CMRS facilities) in El Paso County subject to certain standards;
- to encourage co-location of CMRS facilities; and
- to prevent unreasonable discrimination among providers of functionally equivalent services.

##### **(2) Applicability**

The standards in this Section apply to all CMRS facilities located, constructed or modified after the effective date of this Code.

##### **(3) Relationship to Other Provisions**

A CMRS facility shall comply with all applicable provisions of this Code. Where a conflict exists between the requirements of this Section and another applicable standard in this Code, the most restrictive standard shall control.

**(B) General Standards**

**(1) Co-Location**

Co-location of CMRS facilities is encouraged when feasible to minimize the number of CMRS facility sites. To further the goal of co-location:

- No CMRS facility owner or operator (other than a private residence) shall unreasonably exclude a telecommunications competitor from using the same facility or location. The owner or operator of CMRS facility or location shall provide evidence and a written statement to explain why co-location is not possible at a particular facility or site at the request of the DSD Director;
- If a telecommunications competitor attempts to co-locate a CMRS facility on an existing or approved CMRS facility or location, and the parties cannot reach an agreement, the County may require a third-party technical study to be completed at the expense of both parties to determine the feasibility of co-location; and
- All facilities shall be designed and constructed to allow for co-location of a minimum of 2 users unless specifically exempted by the BOCC.

**(2) Compliance with FCC standards.**

At the request of the DSD Director, which request shall occur no more than once per year, CMRS facility owners and operators shall certify that:

- The CMRS facility complies with the current FCC regulations prohibiting localized interference with reception of television and radio broadcasts; and
- The CMRS facility complies with the current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

In adopting this requirement, the County is not attempting to regulate radio frequency power densities or electromagnetic fields, which regulation is controlled by the FCC.

**(3) Abandonment and Expiration**

If the CMRS facility ceases operation for any reason for a period of one year:

- The owner or operator shall remove the CMRS facility within 6 months of the expiration; and
- Any permit or approval authorizing the CMRS facility shall be considered expired.

**(4) Change in Ownership**

In the event there is a change in either the owner or operator of a CMRS facility, the new owner or operator shall notify the DSD of the change in identity of the owner or operator within 15 days after the date the change becomes effective by providing the name and business address of the new owner or operator and verifying in writing that the new owner or operator has fully reviewed the applicable permit or approval and is familiar with its terms; and shall ensure that any required financial assurance is transferred. After receipt of notification of a change in the owner or operator of a CMRS facility, the DSD may inspect the property to make certain that the new owner or operator is complying with all of the terms and conditions of the permit or approval. The DSD may charge the owner an inspection fee authorized in the adopted fee schedule.

**(5) Application Approval or Denial**

In considering an application for a CMRS facility, the County shall base its decision as to the approval or denial of the application on whether the proposed CMRS facility meets the design standards set forth in this Section and any approval criteria associated with the applicable application or review process.

**(6) Facility Inventory**

The first proposed CMRS facility by a provider shall include a detailed inventory of all the provider's existing and approved facilities in the County, including those facilities which will connect into the proposed CMRS.

**(7) Design Standards for Freestanding CMRS Facilities**

**(a) Financial Surety**

Prior to commencing construction of a CMRS facility, the owner of a freestanding CMRS facility shall be required to provide the County with adequate financial surety to cover removal of the facility if abandoned. The form of financial surety shall be approved by the DSD Director.

**(b) Minimum Setbacks for Freestanding CMRS Facilities**

- (i) Located Within 250 Feet of Residential Zoning District  
A freestanding CMRS facility located within 250 feet of any property zoned for residential use shall be set back from any residential property line one foot of distance for every foot of facility height (as measured from grade elevation), plus an additional 10 feet.
- (ii) Located Over 250 Feet from Residential Zoning District

A freestanding CMRS facility located greater than 250 feet from property zoned for residential use shall meet the minimum setback requirements for structures and structures of the underlying zoning district and located in a manner to contain any freefall or icefall on the same property.

**(c) Maximum Height for Freestanding CMRS Facilities**

A freestanding CMRS facility, including antennae, shall not exceed the maximum structure height limit in the zoning district unless otherwise specifically authorized by the permit or approval. In no case shall a freestanding CMRS facility exceed 120 feet in height.

**(d) Design Standards for Freestanding CMRS Facilities**

A freestanding CMRS facility shall adhere to the following design standards to minimize impacts:

**(i) Compatible with Surrounding Area**

A freestanding CMRS facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area, subject to any applicable FAA regulations.

**(ii) Existing Vegetation**

Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in with the surrounding environment, to the extent practicable. Existing vegetation shall be preserved or enhanced, where feasible.

**(iii) Landscaping**

The facility shall be landscaped in accordance with the requirements of Chapter 6.

**(iv) Equipment Storage Shelters**

The total area of all equipment storage shelters shall not exceed 400 square feet per facility. No equipment storage shelter shall exceed 15 feet in height. Equipment storage shelters shall be grouped as closely together as practical, so as to minimize impact on adjoining properties.

- (v) No Lighting  
The facility antennae shall not be lighted unless required by the FAA and authorized by the permit or approval.
  - (vi) Dangerous Equipment and Attractive Nuisance  
Any equipment that could be dangerous to persons or wildlife shall be adequately fenced. The attractive nuisance potential shall be minimized through fencing and methods to discourage unauthorized climbing.
  - (vii) Dish Diameter Limited  
The diameter of a microwave dish antenna shall not exceed 4 feet.
- (e) **Design Standards for Building Roof or Wall-Mounted CMRS Facilities**
- (i) Wall-Mounting Preferred  
Because wall-mounted CMRS facilities on buildings generally have less visual impact than building roof-mounted CMRS facilities, the County's goal is to encourage the use of wall-mounted CMRS facilities on buildings as opposed to roof-mounted facilities. In furtherance of this goal, any application to locate a roof-mounted CMRS facility shall include a statement explaining why the use of a wall-mounted CMRS facility is not feasible.
  - (ii) Accessory Equipment Enclosed  
Accessory equipment for a roof or wall-mounted CMRS facility shall be placed inside the building if feasible. All equipment storage shelters shall be grouped as closely as technically possible, and the total area of all accessory equipment, including storage shelters, shall not exceed 400 square feet per CMRS facility.
  - (iii) Wall-Mounted CMRS Facility Design Standards  
Wall-mounted CMRS facilities shall adhere to the following design standards to minimize impacts:
    - The facility shall be screened from view of adjacent properties or passersby, and colored to match the building or structure to which it is attached.
    - If the roof of the building is pitched, the facility shall not extend above the roof line of the building. For purposes of this Section, the roof

line does not include already existing facilities and equipment on the roof.

- If the roof of the building is flat, the facility shall not extend above the roof line of the building. For purpose of this Section, the roof line includes already existing facilities and equipment on the roof.

(iv) Roof-Mounted CMRS Facility Design Standards

A roof-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

- The maximum allowable height of each roof-mounted CMRS facility shall be planned in consultation with County staff on a case-by-case basis; however, in no case shall a building roof-mounted CMRS facility extend more than 10 feet above the roof line of the building. For purposes of this Section, the roof line includes parapets and equipment already existing on the roof, but does not include other CMRS facilities. When determining the maximum allowable height for the facility, staff shall consider the purpose of and technological constraints affecting the facility, the topography and location of other structures and obstructions in the area, the height of the building, the height and appearance of other appurtenances on the building, if any, and the distance between the location of the proposed facility and the edge of the building. The County's goal is to encourage the location of roof-mounted CMRS facilities as far from the edge of the roof or parapet as possible.
- The facility shall be screened from view and colored to match the building or structure to which it is attached.
- Antennae, support structures, screening, accessory equipment and all other roof-mounted appurtenances shall not exceed a total of 25% of the total surface area of the roof per facility.
- The diameter of a microwave dish antenna shall not exceed 4 feet.

**(f) Pole Mounted CMRS Facilities Design Standards**

A pole-mounted CMRS facility shall adhere to the following design standards to minimize impacts:

- (i) **Compatible with Surroundings**  
The facility shall be designed to be compatible with surrounding buildings, structures or trees and existing or planned uses in the area.
- (ii) **Colored to Match Pole**  
The facility shall be colored to match the pole to which it is attached.
- (iii) **Height Limit**  
The facility shall not extend more than 10 feet above the height of the existing pole.
- (iv) **Accessory Equipment and Shelters**  
The total area of all accessory equipment, including equipment storage shelters, shall not exceed 400 square feet per CMRS facility. Equipment storage shelters shall be screened from view by landscaping, vegetation, fencing, or comparable method of screening.

**(g) Stealth CMRS Facility Design Standards**

A stealth CMRS facility shall meet the same design standards and maximum height allowance as a freestanding CMRS facility.

**5.2.20. Construction Equipment Storage, Accessory**

**(A) General Standards**

The storage of vehicles, materials, equipment, field offices associated with a federal, state, or local public improvement project, public or special district utility project, or private development-related project construction project, occurring on the same lot, parcel or tract as the project, is allowed as an accessory use, provided construction equipment storage shall cease and the subject property shall be restored within 30 days after the project is completed. The same lot, parcel, or tract shall include all lots, parcels, and tracts within a subdivision when the project is for the purposes of construction of the subdivision.

**(B) Construction Trailers and Field Offices**

Construction trailers and field offices shall comply with required zoning setbacks and dimensional standards, and all other applicable requirements of this Code.

**(C) Storage within Right-of-Way**

Construction equipment storage within a County right-of-way is not regulated or authorized by this Section, and is subject to a work in the right-of-way permit pursuant to the requirements of the ECM.

**5.2.21. Construction Equipment Storage, Temporary**

**(A) General Standards**

The storage of vehicles, materials, equipment, field offices associated with a federal, state, or local public improvement project, public or special district utility project, or private development-related project construction project and occurring on a lot, parcel or tract adjacent to or in immediate proximity to the project may be allowed, as a temporary use provided construction equipment storage shall cease and the subject property shall be restored within 30 days after the project is completed.

**(B) Construction Trailers and Field Offices**

Construction trailers and field offices shall comply with required zoning setbacks and dimensional standards, and all other applicable requirements of this Code.

**(C) Storage within Right-of-Way**

Construction equipment storage within a County right-of-way is not regulated or authorized by this Section, and is subject to a work in the right-of-way permit pursuant to the requirements of the ECM.

**5.2.22. Dwelling, Additional**

In the A-35 District, one additional single-family dwelling unit is allowed per lot or parcel. The additional dwelling unit may be occupied by the immediate family of the owner or tenant of the property or used for rental purposes.

**5.2.23. Dwelling, Single-Family Attached**

**(A) Standards that Apply in RS-6000 and RS-5000 Districts**

The following standards apply to single-family attached dwellings in the RS-6000 and RS-5000 zoning districts.

**(1) Limited Number of Contiguous Units**

No more than 2 dwelling units may be attached. Structures containing 3 or more attached dwelling units are prohibited in the RS-6000 and RS-5000 zoning districts.

**(2) Lot Area to Meet Minimum Standards**

Each single-family attached dwelling shall be on a lot that complies with the lot area and width standards for new lots in the zoning district. Single-family attached dwellings shall not be placed on lots with a nonconforming lot area.



**(3) Side Setbacks Modified**

The minimum required side setback on the side of the dwelling unit containing the common wall is reduced to zero. The minimum required side setback on the side of the dwelling unit opposite the common wall shall be at least double the side setback standard of the zoning district.

**(4) Corner Lot Setbacks**

On corner lots, either the rear setback or side setback on the side of the dwelling unit containing the common wall may be reduced to zero; however, the remaining side or rear setback shall comply with the rear setback standard of the zoning district.

**(5) Front Facade**

The front facade of a single-family attached dwelling shall not be comprised of more than 40% garage wall area, and all garage doors shall be recessed at least 5 feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.

**(6) Easements Remain In Force**

While setbacks may be reduced to zero, any easements remain in force and shall be vacated or an encroachment granted prior to construction.

**(B) Standards that Apply in the RM-12 and RM-30 Zoning Districts**

The following standards apply to single-family attached dwellings in the RM-12 and RM-30 zoning districts.

**(1) Limited Number of Contiguous Units**

No more than 8 dwelling units may be attached. Structures containing 9 or more attached dwelling units are prohibited in the RM-12 and RM-30 zoning districts.

**(2) Density and Lot Size**

The density and lot size (area and width) requirements of the zoning district apply. Commonly-owned areas, including commonly-owned open space, driveway, or parking areas apply toward the overall density standard.

**(3) Setbacks Around Perimeter**

The front, side, and rear setback standards of the zoning district apply around the perimeter of the property.

**(4) Side Setback Modified**

The side setback on the side containing a common wall is reduced to zero.

**(5) Corner Lot Setbacks**

On corner lots, either the rear setback or side setback on the side of the dwelling unit containing the common wall may be reduced to zero; however, the remaining side or rear setback shall comply with the rear setback standard of the zoning district.

**(6) Front Facade**

The front facade of a single-family attached dwelling may not be comprised of more than 40% garage wall area, and all garage doors shall be recessed at least 5 feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.

**(7) Roof-Lines**

The roof of each single-family attached dwelling shall be distinct from the others through separation of roof pitches or direction, or other variation in roof design.

**(8) Common Accesses**

A common access to the rear of the lots for common or individual parking is allowed and may take the form of an easement. Common access drives shall be at least 12 feet wide if designed for one-way traffic and at least 20 feet wide if designed for two-way traffic. When the access drive abuts residentially-zoned property that is not part of the single-family attached dwelling project, it shall be buffered by a screening fence meeting the requirements of Chapter 6

**(9) Easements Remain In Force**

While setbacks may be reduced to zero, any easements remain in force and shall be vacated or an encroachment granted prior to construction.

**5.2.24. Farm/Ranch Residence**

**(A) Minimum Qualifying Acreage**

A farm/ranch residence shall only be allowed as an accessory use where the ownership in the farm or ranch operation includes a minimum of 35 acres.

**(B) Number of Farm/Ranch Residences**

The total number of residences (including any principal dwellings, farm/ranch residences, caretaker's quarters, or other dwelling units) within a farm or ranch ownership shall not exceed one unit per 5 acres.

**(C) Type of Structure**

A farm/ranch residence may be a detached single-family dwelling, manufactured home, apartment type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home may be used as a farm/ranch residence.

**(D) Occupancy Limited**

A farm/ranch residence may be occupied only by a person principally employed at or engaged in the operation of the farm or ranch and their immediate family, and may not be leased or rented. The request to allow additional dwellings or mobile homes allowed in the operation of a farm, ranch, dairy, or fur farm, may be substantiated by verification of employment necessary to the operation of the site. The verification may consist of tax records, employment agreements or other documentation as determined suitable by the DSD. This verification shall substantiate the need for the employee and on-site living quarters to the operation of the farm, ranch, dairy, or fur farm

**(E) Other Applicable Standards**

A farm or ranch residence shall meet all standards for a principal dwelling unit of the same type.

**5.2.25. Fireworks Sales**

**(A) Sales Period Limited**

Fireworks sales are limited to the period from May 31<sup>st</sup> to July 6th each year.

**(B) Fire Department Approval Required**

The fireworks sales area shall be located within an area provided with fire protection by a fire department. Fire department approval is required prior to the approval of a temporary use permit.

**(C) Driveway Permit Required**

A driveway permit shall be issued to allow access to the fireworks sales area prior to the approval of a temporary use permit.

**(D) Required Signage**

A fireworks sales area shall post signage noting it is illegal to shoot fireworks within all towns and cities in El Paso County and violators will be prosecuted. Each fireworks sales area shall provide either one sign, with minimum 3 inch letter size, or 4 signs of 8½ by 11 inches, placed in a conspicuous location easily readable by the public, noting the language as stated or similar language approved by the DSD Director.

**5.2.26. Family Care Homes (See Adult Care Homes)**

**5.2.27. Garden Supplies and Nursery Stock**

When the sale of garden supplies and packaged nursery stock is conducted outside, the activity shall be contained within a fenced area. The fenced area shall comply with the minimum setback requirements of the zoning district.

**5.2.28. Group Homes (See Adult Care Homes)**

**5.2.29. Guest House**

**(A) Number of Guest Houses**

One guest house is allowed per lot, parcel, or tract.

**(B) Type of Structure**

A guest house may be within the principal structure, in a garage, or in an accessory structure.

**(C) Kitchen Allowed**

A guest house shall not have a kitchen unless an affidavit signed by the owner is filed for recording with the Clerk and Recorder acknowledging that the guest house may not be leased or rented.

**(D) Size**

Guest houses shall be limited to 850 square feet in floor area.

**(E) No Separate Meter for Utilities**

All electric, gas, sewer and water services to the guest house shall be interconnected to and indistinguishable from that of the principal dwelling unit and shall not have separate meters, service lines or billings.

**(F) Occupancy Limited**

A guest house may be occupied only by a guest and may not be leased or rented.

**(G) Other Applicable Standards**

The guest house shall meet all other applicable standards in this Code unless specifically modified by this Section.

**5.2.30. Home Occupations**

There are two categories of home occupations: residential home occupation and rural home occupation. Separate standards and criteria apply to each category. This Section is not meant to regulate a small home lawn mowing service, lemonade stand, magazine sales, cookie sales, or other traditional small-scale businesses or business-like activities operated by a child residing in the dwelling, which are considered exempt from the provisions of this Code.

**(A) Residential Home Occupation**

**(1) Intent**

It is the intent of this Section to provide clear standards for home occupations in zones that allow residential use which will ensure compatibility with the residential purposes of those zones and that there are no adverse effects on the residential character of those zones, and which will not allow in residential zones those uses allowed in commercial and industrial zones except as specifically authorized by this Section.

**(2) Allowed Residential Home Occupations**

The following home occupations shall be allowed in a zoning district where residential uses are allowed, subject to the standards and requirements of this Section:

- Any principal or sideline occupation or trade or any hobby which results in the sale or trade of any products manufactured by the resident on the premises or the preparation or provision of any service by the resident on the premises;
- Any professional or business office, whether the resident's principal or occasional work place;
- Any educational or training service requiring pupils, students or trainees to come to the premises for instruction by resident (e.g., music or art studios);
- Any non-profit, civic, or religious organization or association for which the resident is employed, works, serves, or represents, whether or not the resident is remunerated for the services; and
- Any bed and breakfast home, which operates in conformance with specific-use and all other applicable development standards of this Code.

**(3) Excluded Uses**

A residential home occupation shall not include the following uses:

- Auto repair garages, auto re-conditioning (detailing), or auto body/ paint shops;
- Any form of food service (restaurants, catering, etc.);
- Any form of vehicle/trailer sales or rental storage;
- Contractor's equipment yard or equipment rental or sales;
- Funeral parlor;
- Any form of hospital (other than doctor's office);
- Any form of pet boarding or veterinary hospital;
- Any form of rental warehousing;
- Commercial stables;
- Any trucking, hauling, bussing, taxi, or limousine dispatch service which would require the parking of vehicles on site between jobs or service calls; or
- Any industrial or heavy commercial use.

**(4) General Standards for Residential Home Occupations**

**(a) Accessory in Character**

The residential home occupation shall be clearly subordinate to the use of the lot as a residence, and the use of the dwelling or detached accessory structure for the home occupation shall not

result in any visual or other essential change in the residential character of the property.

**(b) Person Conducting Occupation Resides on Lot**

The residential home occupation shall be conducted only by a person or persons residing on the lot or parcel and only so long as contained entirely within the dwelling or a detached accessory structure.

**(c) Limit on Area**

The total area used for the home occupation shall not exceed 25% of the existing dwelling or more than 500 square feet of any accessory structure. The operation of a home occupation shall not result in the elimination of the dwelling's kitchen or all of its bedrooms.

**(d) Signage and Advertising**

There shall be no advertising of the home occupation visible outside the dwelling except in accordance with the signage provisions in Chapter 6. Except by customary exterior residential lighting, no sign illumination is allowed.

**(e) Outside Storage Prohibited**

There shall be no outside storage or display on the premises of material, tools or equipment used as part of the home occupation or any products manufactured as part of the home occupation.

**(f) Sales Limited**

No sale of goods, supplies, or other inventory shall be allowed unless the sales are clearly incidental and related to providing a service (e.g., sale of hair care products at a beauty shop; occasional sale of a firearm by a gunsmith) or unless the items are produced, constructed or assembled on the premises or are clearly incidental and related to the sale of the homemade items. Nothing in this Section shall limit the ability of the home occupation to sell products mail order via the internet or by telephone.

**(g) Limit on Visitation by Clients**

The occupation will ordinarily not bring more than 3 clients or customers to the lot or parcel at any one time.

**(h) Parking Spaces Required**

If the home occupation will result in any clients or customers coming to the property, no less than 2 parking spaces shall be available.

**(i) Nuisances and Hazards Avoided**

Any mechanical, electrical or electronic equipment or machinery used in the home occupation shall be operated in a fashion so that no noise, vibration, glare, fumes, odors, heat, or electrical interference are detectable to the normal senses beyond the boundary line of the lot or parcel. In no case shall any equipment be allowed which involves the use of hazardous, explosive or highly flammable (other than fuel needed to power the equipment) substances or which produces hazardous, explosive or highly flammable wastes or products.

**(j) Conducted In Accordance with Laws**

The occupation is conducted in compliance with all applicable building, fire, health, and environmental laws, codes, and regulations.

**(k) No Visual Impacts**

No activity associated with a home occupation shall be allowed which results in detrimental visual impacts to the surrounding neighborhood.

**(l) More than One Home Occupation Allowed**

More than one home occupation may be conducted on any property provided all of the above provisions are complied with.

**(m) Deliveries Limited**

Deliveries other than standard parcel services are prohibited when associated with a home occupation.

**(B) Rural Home Occupation**

**(1) Rural Home Occupation Defined**

A rural home occupation is an accessory use of a dwelling or detached accessory structure which otherwise meets the requirements of a residential home occupation except as specifically modified and expanded by this Section.

**(2) Intent**

The intent of the more broadly defined rural home occupation is to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

**(3) Allowed Home Occupations**

The following types of uses, in addition to those allowed as a residential home occupation, may qualify as rural home occupations, if the general standards of a rural home occupation are met:

- Contractor's equipment yards, construction businesses, welding shops;
- Trucking and hauling businesses;
- Automobile storage or repair businesses; and
- Other small businesses which primarily serve a rural agricultural or ranching clientele.

**(4) Excluded Uses**

The following types of businesses, among others do not qualify as a rural home occupation:

- Any heavy industrial, solid waste disposal, solid waste transfer, scrap tire recycling or mineral extraction use;
- Any heavy commercial use;
- Any use involving significant public occupancy or overnight accommodations other than those uses specifically allowed in the zoning district;
- Any commercial tower or utility use, not otherwise allowed; and
- Any outdoor concert, shooting range, race track or comparable use.

**(5) General Standards for Rural Home Occupation**

Rural home occupations shall conform to the requirements and standards of a residential home occupation with the following specific allowances.

**(a) Outside Storage and Work Areas Allowed**

Outside storage, parking and work areas are allowed provided these are set back a minimum of 50 feet from all property lines and are limited in combination to one acre or 5% of the total lot or parcel area, whichever is less. The screening standards of Chapter 6 of this Code shall apply to outside storage areas located on parcels less than 35 acres, and to all outside storage greater than 5000 square feet.

**(b) Employees**

A maximum of 2 employees are allowed, who are not family members or principally employed in a use which is otherwise allowed on the lot or parcel.

**(c) Trips Generated by Home Occupation Limited**

The total number of one-way vehicle trips generated by the rural home occupation shall not exceed an average of 20 per day.

**(d) Unlicensed and Inoperable Vehicles**



A maximum of 10 unlicensed or inoperable non-agricultural vehicles shall be allowed in conjunction with the rural home occupation.

**(e) Environmental Impacts**

The rural home occupation shall not result in any generation of solid waste or hazardous substances or petroleum or excessive noise, vibration, dust, glare, drainage, erosion or other environmental impacts to surrounding lot or parcel owners.

**(f) More than One Home Occupation Allowed**

More than one rural home occupation is allowed on a single property, provided that aggregate impacts are limited to those allowed by this Code.

**(C) Rural Home Occupations as a Special Use**

**(1) Intent**

The intent of allowing a rural home occupation as a special use is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential or agricultural property in manner that protects neighboring properties from extreme or unreasonable impacts.

**(2) Where Allowed**

A rural home occupation is allowed as a special use on any parcel or lot that is 5 acres or more in area and is located in a residential or agricultural zoning district.

**(3) General Requirements**

A rural home occupation by special use shall conform to all standards for locating and operating a rural home occupation except as otherwise modified by these standards and the special use approval.

**(4) Special Provisions and Allowances**

**(a) Special Use Approval Required**

Where a special use approval is required to locate and conduct a rural home occupation, the special use may be approved administratively except where an adjacent property owner objects. In the case where a written objection is filed, the special use shall be referred to the Board of County Commissioners for consideration.

**(b) Limit of Administrative Approval**

A rural home occupation which receives administrative special use approval shall expire 5 years from the date of approval. The

special use may be renewed following the same procedure as the original application.

**(c) Special Use Fee**

A rural home occupation by special use shall be subject to an application fee of 20% of the standard application fee for a special use.

**(d) Employees and Traffic**

A rural home occupation approved by special use may be approved to employ a maximum of 10 employees and generate a maximum of 50 daily trips.

**5.2.31. Light Manufacturing, Accessory Use**

Light manufacturing as an accessory use shall be conducted in conjunction with a retail use and shall not exceed a maximum of 600 square feet in gross floor area.

**5.2.32. Mineral and Natural Resource Extraction**

**(A) Commercial Mineral and Natural Resource Extraction Operations**

**(1) Purpose**

To establish specific standards for commercial mineral and natural resources extraction operations to minimize impacts to the community while providing for the efficient removal of commercially-viable minerals and natural resources.

**(2) Applicability**

These standards are applicable to any new or expanding commercial mineral and natural resources extraction operation.

**(3) General Requirements**

**(a) Compliance with this Section**

In addition to compliance with the special use permit standards, any other applicable requirements of this Code, and any conditions imposed by the BoCC, a commercial mineral and natural resource extraction operation shall also comply with the standards, requirements and conditions required by this Section.

**(b) Valid Mining Permit Required**

A commercial mineral and natural resource extraction operation shall have a valid mining permit from the Colorado Mined Land Reclamation Board prior to beginning or expanding operations, and during the entire period of operation.

**(c) Written Notice of Filing for Permit with MLRB**

Written notice of the filing of an application for a reclamation permit or renewal of an existing mining permit to the Colorado Mined Land Reclamation Board shall be provided to the DSD by the applicant concurrent with the placement of a copy of the application or renewal for public inspection at the office of the Clerk and Recorder in accordance with C.R.S. §34-32-112 (10)(a).

**(d) Proof of Publication Required**

The applicant shall provide copies of the proof of publication of any notice required by C.R.S. §34-32-112 (10)(b) to the DSD.

**(e) Comply with Construction Permit and Erosion and Sediment Quality Control Permit**

Mineral and natural resource extraction operations shall comply with ECM and any required permits.

**(4) Local Approval and State of Colorado Discharge Permits**

Approval of a special use permit does not relieve the applicant from compliance with discharge requirements of the State of Colorado.

**(B) Additional Standards**

A mineral and natural resource extraction operation shall, in addition to meeting the special use standards, demonstrate conformance with the following standards:

**(1) Consistent with Master Plan**

The operation shall be consistent with the Master Plan for Extraction of Commercial Mineral Deposits.

**(2) No Adverse Long-Term Visual Impacts**

The operation shall have no adverse long-term visual impact either from adjacent properties or major transportation corridors.

**(3) Reclaimed to a Compatible Use**

The land on which the operation is located shall be reclaimed to a use and character compatible with surrounding uses and zoning.

**(4) Operation to Result in Efficient Use of Resource**

The operation shall result in an efficient use of the mineral deposit.

**(5) Disturbance of Sensitive Environment Limited**

The operation shall not substantially disturb uniquely sensitive environmental features including but not limited to wetlands, riparian habitats, wildlife habitats, threatened or endangered species habitat, high priority land for conservation, and rare or unusual natural features.

**(6) Disturbance of Historic Resources Limited**

The use shall not substantially disturb identified historical, archaeological or pale ontological sites.

**(7) Buffering Required**

The site and associated special use operations shall be adequately buffered from surrounding properties and uses.

**(8) Water Supply Adequate for Operations and Reclamation Uses**

Adequate water supplies shall be available for drinking, dust control, landscaping, general operations and effective reclamation. Proof of approved water supply shall be provided to DSD.

**(9) Mitigation of Impacts to Adjacent Properties**

Adverse impacts from vibration, noise, glare, blowing or flowing materials, or odors shall be mitigated to ensure minimal impacts to adjacent properties and travelers.

**(10) Commercial Mineral Deposit Required**

A commercial mineral deposit as defined by State Statute shall exist on the land on which the operation will be located.

**(11) Site Security and Safety**

Adequate site security and safety plans shall be provided at all times.

**(12) Hours of Operation**

Hours of operation shall be compatible with neighboring uses, traffic volumes, affected transportation corridors and school bus operations, and designated pedestrian crosswalk activity over the lifetime of the operation.

**(13) Reclamation of Visual and Environmental Impacts**

Reclamation of adverse visual and other environmental impacts shall take place within a reasonable and specified time frame.

**(14) Mineral Processing**

Mineral processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of the special use. If processing is to occur on the property where a special use is requested for mineral extraction, then the special use cannot be approved administratively, and the public hearing process to review the special use will be triggered.

**(C) Construction-Related Mining**

**(1) Construction-Related Mining Limitations**

Construction-related mining shall be limited to the following types of mining operations:

- A sand, gravel, or quarry aggregate operation which is to be operated for the sole purpose of obtaining materials for road, utility, or similar public construction projects under a federal, State, or local government, or special district contract where the contract calls for the work to be commenced within 90 days of contract approval and which will affect 10 acres or less. The administrative approval shall last only so long as the contract or any supplement thereto is in effect but no longer than 24 months.
- Any sand, gravel, or quarry aggregate operation the primary purpose of which is to level, excavate, or otherwise prepare land for road or building construction and which: (1) Involves the removal from the site of less than 50,000 cubic yards of product, whether or not said product is sold; (2) Can be completed within 4 months of initial earthmoving activity; (3) Does not involve crushing or processing of the mineral product on site; and (4) Is not located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and Section 404 permits have been obtained.

**(2) Standards**

**(a) Grading**

Interim and final grading shall be designed to protect adjacent lands from damage associated with storm drainage including concentrated flows or ponding, or collapse. A grading plan for the proposed site on completion of the mining activity shall be approved as part of the special use permit.

**(b) Erosion and Sediment Control**

All operations and activities shall conform to the ECM and any permitting requirements including the requirement to obtain an ESQCP.

**(c) Noxious Weed Management Plan**

A noxious weed management plan (including revegetation or restoration of the site) conforming to the requirements of this Code shall be prepared approved by the County, and implemented.

**(d) Fugitive Dust and Air Quality**

No special use permit shall be approved until a copy of the fugitive dust and any other required air or water quality permits are submitted to the DSD Director.

**(e) Hours of Operation Limited**

Construction-related mining shall only be conducted between 7 a.m. to 7 p.m.

**(f) Repair of Road Damage**

Damage to any roads that provide access to the construction-related mining site that may be attributable to the use of the site for construction-related mining shall be repaired by the construction-related mine owner or operator to the satisfaction of the ECM Administrator. Surety may be required by the ECM Administrator to cover potential repair costs.

**(g) Other Permits Required**

A construction permit, work in the right-of-way permit, and ESQCP shall be obtained from the ECM Administrator prior to the issuance of a special use permit authorizing the use of the subject property for construction-related mining.

**(h) Hauling Routes**

The ECM Administrator may limit hauling routes and the size of loads to protect the general welfare of the citizens in accordance with the ECM.

**(i) Duration of Use**

The duration of time the construction-related mine is operated shall be limited to the duration of the associated project.

**(j) Mineral Processing**

Mineral processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of the special use.

**(k) Conditions of Approval**

The DSD Director may impose any condition or requirement deemed necessary to protect the health, safety, and welfare of the public; to prevent a nuisance or hazard to property; and to ensure proper completion of the project, including but not limited to:

- Mitigation of adverse environmental and visual impacts;

- Fencing or other protection needed to avoid hazardous situations;
- Dust, erosion, sediment, and noise control, water quality protection, blasting, hours of operation, minimal weather conditions for operation, access roads and haul routes, and times of hauling; and
- Reimbursement to the County or other governmental entity for damage to public roads and highways caused by truck hauling of mineral products.

#### **5.2.33. Mixed Use Residential**

Mixed use residential uses shall comply with the following standards:

##### **(A) Residential Use to be Subordinate to Commercial Use**

Mixed-use residential units shall be subordinate to the commercial use of the mixed use building.

##### **(B) Lot Area Required Per Residential Unit**

The following minimum gross lot area requirements apply to all mixed use buildings:

- 7,000 square feet of lot area for the first 2 dwelling units; and
- 2,500 square feet of additional lot area for each additional dwelling unit.

In calculating minimum lot area requirements, the entire area of the lot or parcel shall be counted.

##### **(C) Parking Area Reduction**

The parking requirements in Chapter 6 shall be reduced by 15% for mixed use buildings that include 5 or more residential dwelling units. This parking reduction will be applied against both the residential and nonresidential components of the mixed use buildings.

#### **5.2.34. Mobile Homes**

Mobile homes shall be placed on a permanent foundation or shall have skirting installed to obscure the chassis prior to occupancy.

#### **5.2.35. Model Home/Subdivision Sales Office**

The use of a model home as a model and subdivision sales office shall cease within 30 days of build out of the subdivision.

#### **5.2.36. Mother-in-Law Apartment**

A mother-in-law apartment shall meet the following requirements:

##### **(A) Exterior Appearance Single-Family in Character**

The exterior appearance of the resulting structure shall be that of an architecturally-integrated single-family dwelling unit.

**(B) Interior Connection with Unit**

The apartment shall include the ability to access the main dwelling unit through interior connections.

**(C) Size**

Mother-in-law apartments shall be limited to 850 square feet in floor area.

**(D) No Separate Meter for Utilities**

All electric, gas, sewer and water service to the apartment shall be interconnected to and indistinguishable from that of the main dwelling unit and shall not have separate meters, service lines or billings.

**(E) Use Limited to Family Members or Employees**

The apartment shall be used exclusively by family members or an employee of a person residing in the main dwelling unit and not otherwise rented or leased.

**(F) Kitchen Allowed**

A mother-in-law apartment shall not have a kitchen unless an affidavit signed by the owner is filed for recording with the Clerk and Recorder acknowledging that the mother-in-law apartment may not be leased or rented.

**(G) Other Applicable Standards**

The mother-in-law apartment shall meet all other applicable standards in this Code unless specifically modified by this Section.

**5.2.37. Outside Storage**

**(A) Applicability**

All outside storage is subject to the requirements of this Section.

**(B) Outside Storage Standards**

Outside storage shall meet the following standards.

**(1) Materials to be Stored and Principal Use Required**

Outside storage may include vehicles, raw materials, supplies, finished or semi-finished products or equipment used in conjunction with, and specifically accessory to, an allowed principal use conducted on the premises unless listed as a principal use. Inoperable vehicles or equipment may not be stored outside. Employee or customer parking or merchandise display areas shall not be considered outside storage.

**(2) Materials Screened by Solid Fence or Vegetation**

Outside storage shall be enclosed and concealed by a solid fence or wall at least 6 feet in height or any combination of berming, shrubs, trees fencing or walls which will provide at maturity a minimum of 6 feet of height and 100% opaque screening for the area utilized for outside storage.



**(3) Outside Storage Not to Exceed Height of Screening**

Outside storage or stacked materials shall not exceed the height of the screening fence except for operable vehicles, trailers, or other equipment designed to be towed or lifted as a single component.

**(4) Storage of Equipment and Vehicles Exceeding Height of Fence**

All equipment and vehicles exceeding the height of the fence shall be stored on the rear 1/3 of the property except when adjacent to a residential zoning district, in which case the equipment or vehicles shall be a minimum 50 feet from the residential zoning district boundary.

**(5) Storage Adjacent to Road**

Outside storage is allowed within the required setback area from a road provided that the storage area does not occupy more than 50% of the lineal frontage at the right-of-way.

**(6) No Storage in Required Landscape Area**

Outside storage shall not be allowed within any required landscaped area.

**(7) Screening Fence Waived Between Adjacent Storage Areas**

When outside storage areas abut each other and are not visible from public areas, administrative relief may be sought from the requirement for a solid fence between the outdoor storage areas.

**(8) Salvage Yards and Solid Waste Landfills**

Salvage yards and solid waste landfills are not regarded as outside storage, but salvage yards are required to meet the screening standards of this Section.

**(9) Temporary Storage**

Administrative relief from the outside storage standards may be sought in association with approved temporary uses.

**(10) Landscaping Requirements to be Met**

Outside storage shall comply with the landscaping requirements in this Chapter.

**(C) Relationship to Site Development Plan**

Outside storage areas shall be so identified on the site development plan prior to the establishment of the outside storage use.

**5.2.38. Peddler Sales**

Parking lots may be used for peddler sales provided the following standards are met:

**(A) Adequate Parking Available**

The area occupied by the temporary sales does not reduce the number of available parking spaces below the minimum number of parking spaces required by Chapter 6.

**(B) Safe Ingress and Egress**

Adequate and safe ingress and egress is provided.

**(C) No Sales Areas or Parking In Right-of-Way**

Sales areas or parking for customers shall not be located within a right-of-way.

**5.2.39. Pigeon Keeping**

The keeping of pigeons is subject to the following requirements:

**(A) Clean and Sanitary Condition**

The pigeon loft shall be of sufficient size, design, and construction that it can be easily maintained in a clean and sanitary condition

**(B) Meets Health Regulations**

The pigeon loft shall be in compliance with all applicable EPCDHE regulations.

**(C) Setbacks**

The pigeon loft shall be setback from all lot or parcel boundary lines in accordance with the applicable accessory structure setbacks.

**(D) Feeding within Loft**

All pigeons shall be fed within the confines of the pigeon loft.

**(E) Time Outside Pigeons Lofts Limited**

All pigeons shall be confined to the pigeon loft, except for limited periods necessary for exercise, training and competition. At no time shall pigeons be allowed to perch or linger on the buildings or property of individuals other than the owner of the pigeons.

**5.2.40. Public Building, Project, Way, Place, or Space**

A public building, project, way, place or space or expansion thereof, including jail or prison facility, is an allowed use in any zoning district but may require approval of location prior to implementation.

**5.2.41. Residential Accessory Structures and Uses**

The following structures and uses are considered accessory to a residential use:

- Detached private parking garage or carport;
- Storage shed;
- Gazebo;
- Deck (attached or detached, covered or uncovered);
- Pets;

- Swimming pool, hot tub, tennis court or similar private recreational facility;
- Private greenhouse;
- Fence, wall and hedge; and
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

**5.2.42. Retail Sales, Accessory**

Retail sales located in industrial zoning districts shall be conducted within the same structure and in conjunction with a principal use allowed in the zoning district. The retail sales may not occupy more than 20% of the gross floor area of the principal structure, unless special use approval is granted.

**5.2.43. Salvage Yards**

**(A) General**

**(1) Purpose**

The purpose of this Section is to: (1) achieve visual screening from public roads and adjacent residences for existing and proposed salvage yards; (2) facilitate compliance with all federal, State, and local environmental regulations governing the use, storage, generation, and disposal of hazardous substances and hazardous wastes within the salvage industry; and (3) prevent the release of hazardous substances to the environment resulting from leaks, fugitive air emissions, accidents, or improper disposal.

**(2) Applicability**

**(a) Establishing a Facility**

The requirements of this Section shall apply to all development applications to establish a salvage yard, automobile recycling center, scrap and waste recycling facility, junkyard or other similarly classified use.

**(b) Existing Facilities After January 1, 2010**

Effective January 1, 2010, the requirements of this Section shall apply to all existing salvage yards, automobile recycling centers, scrap and waste recycling facilities, junk yards, or other similarly classified uses, whether conforming or nonconforming, sited or nonsited.

**(c) Not Applicable to Solid Waste or Recycling Facilities**

This Section does not apply to those solid waste or recycling facilities regulated under Chapter 6 or under the CDPHE Solid Waste Regulations unless expressly stated.

**(3) No Amortization Intent**

This Section is not intended to amortize out of existence, uses which lawfully exist at the date of adoption, but is intended to establish performance and operational standards for all facilities subject to this Section.

**(4) Not Intended to Supersede Other Environmental Regulations**

This Section is not intended to supersede any federal, State or local requirement or regulation regarding environmental compliance which is applicable, or which is subsequently adopted or imposed.

**(B) General Requirements**

**(1) Notice and Requirement of Owner to Comply with Regulations**

DSD will attempt to notify existing facilities and facility owners of these requirements or changes to these requirements. The owner is responsible for complying with all applicable requirements of the federal, State, and local environmental laws and regulations

**(2) Maintain Records of Hazardous Substances**

The owner is responsible for identifying all hazardous substances used, processed, stored or handled at the facility and for maintaining updated qualitative and quantitative records of these materials at the facility.

**(3) Reporting Requirements Not Relieved**

Compliance with this Section does not release any facility from the reporting requirements of the Local Emergency Planning Committee or any federal, State, or local environmental law.

**(C) Operational Standards for All Facilities**

**(1) Screening**

**(a) Require to Comply with Screening Standard**

All storage areas, processing areas and parts removal areas shall be screened from public roads and adjacent residential use in conformance with the screening standards of Chapter 6, or located within an enclosed structure.

**(b) Berms Allowed**

The use of berms is allowed in conjunction with the fencing and landscaping requirements of this Code to achieve effective screening.

**(2) Landscaping**

**(a) Landscaping to Conform to Landscaping Requirements**

The facility shall be landscaped in conformance with the requirements of Chapter 6, except that landscaping may be concentrated on the road frontage area where screening is required.

**(b) Relief for Pre-Existing Facilities**

Existing facilities not previously subject to the landscaping requirements of this Code may request administrative relief from the landscaping requirement, but not the screening or fencing requirements.

**(3) Fencing**

**(a) Require to Comply with Fencing Standard**

The facility shall be fenced in accordance with the requirements of Chapter 6 of this Code. The facility shall be fenced with the equivalent of a 6 foot chain link fence.

**(b) Fencing and Screening Requirements Combined**

The fencing and screening requirements may be combined.

**(c) Storage within Fence**

All material, automobiles, parts, etc. shall be located inside fenced or screened areas.

**(4) Storage of Automobiles**

**(a) Storage within Easements**

Storage of automobiles, parts, or materials shall not occur in any easement without the approval of the beneficiary of the easement.

**(b) Storage within Drainage Areas**

Storage of automobiles, parts, or materials shall not occur in drainage facilities or within the identified 100-year floodplain.

**(c) Stacking of Materials**

Automobiles or vehicles for parts removal or waiting to be crushed shall not be stacked more than 2 automobiles high.

**(d) Automotive Recycling Facility Limited to 250 Automobiles**

Storage shall not exceed 250 automobiles waiting to be crushed or to have parts removed in an automotive recycling facility.

**(5) Removal and Storage of Parts**

**(a) Location of Dismantling**

All dismantling of automobiles or other vehicles shall be conducted within an entirely enclosed structure and on an impervious pad, except where the parts are to be removed by the customer.

**(b) Storage of Part Inside or in Parts Racks**

All parts shall either be stored within an entirely enclosed building, or stored in parts racks which do not exceed 8 feet in height or the height of the screening fence whichever is greater.

**(c) Condition of Parts in Outdoor Storage**

Outside storage of disassembled parts is prohibited unless empty and stored with the fluid cavities open for inspection and in a manner which prevents direct contact with rainwater

**(d) Hazardous Substance Outdoors**

Outdoor use of hazardous substances including disassembly of any machinery, equipment or vehicles is not allowed unless drip pans, secondary containment, or other steps are taken to prevent any release.

**(6) Vector and Mosquito Control**

**(a) Approved Vector Control Plan Required**

The facility shall provide and implement a vector control plan approved by the EPCDHE.

**(b) Approved Mosquito Control Plan Required**

The facility shall provide and implement a mosquito control plan approved by the EPCDHE.

**(7) Environmental Controls**

**(a) Automotive Waste Controlled**

All automotive waste generated during the recycling processes shall be removed, collected, stored, transported and recycled according to all federal, State and local regulations.

**(b) Seeps or Leaks of Automotive Waste**

Automotive waste shall not be allowed to seep or leak on soil.

**(c) Hazardous Substance Containers Product Tight and Labeled**

All primary containment and individual storage containers of hazardous substance or hazardous waste shall be product tight,

maintained, and labeled in compliance with federal, State and local regulations

**(d) Hazardous Substance Areas Secure**

Any area where hazardous substances are stored shall be fenced in, and measures shall be taken to prevent anyone but facility personnel or other authorized persons from entering these areas.

**(e) Onsite Wastewater System Designed by Professional Engineer**

An OWS serving a facility shall be designed by a professional engineer.

**(f) Floor Drains Not Connected to Drainfield**

Any floor drains in a parts removal area or hazardous substances handling, usage or storage area shall not be connected to a drainfield, septic tank, or stormwater system.

**(g) Hazardous Substances and Secondary Containment**

All drums containing hazardous substances and hazardous wastes shall only be stored within a secondary containment area or in a structure or other secure area which meets the requirements of secondary containment. The secondary containment area shall be protected from weather and maintained in accordance with all applicable fire codes.

**(h) Flammable Liquids**

Flammable liquids shall be stored in accordance with applicable fire department regulations.

**(i) Hazardous Substance Disposal**

Any disposal of hazardous substances shall be in accordance with federal, State, and local regulations.

**(8) Stormwater Permitting**

All facilities are subject to the requirements of the CDPHE and the ECM regarding stormwater quality and erosion control permits.

**(9) Noise Ordinance**

Facilities shall comply with the provisions of Ordinance 02-1 Concerning Noise Levels in Unincorporated El Paso County. For purposes of the noise ordinance, a legally existing salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use is considered an industrial area.

**(10) Noxious Weed Plan**

A development application to establish or expand a salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use shall be accompanied by an approved noxious weed management plan when noxious weeds are identified by either the Noxious Weed Map or the Forestry and Noxious Weed Manager as being located on the subject property.

**(11) Fire Control Plan**

A development application to establish or expand a salvage yard, automobile recycling center, scrap and waste recycling facility, junk yard or other similarly classified use shall be accompanied by a fire control plan, which shall be reviewed and approved by the fire department having authority, or in the event there is no applicable fire department, by the El Paso County Fire Marshall.

**(12) Drainage Report**

A development application to establish a salvage yard, automobile recycling center, scrap and waste recycling facility, junkyard or other similarly classified use shall be accompanied by a drainage report in conformance with this Code and the ECM.

**(13) Signage**

All signage shall conform to the requirements of Chapter 6.

**(D) Recordkeeping**

**(1) Hazardous Substances Records**

An up-to-date inventory list of hazardous substances and hazardous wastes generated, used, stored, handled, processed, or disposed shall be maintained on site in accordance with federal, State, and local regulations including hazardous waste manifests, bills of lading, or other equivalent manifesting for all hazardous substance disposal.

**(2) Vehicle Records**

An up-to-date inventory list of vehicles on site and salvaged during the year shall be maintained on site.

**(E) Annual Reporting**

All facilities shall provide the DSD an annual report by April 15 of each year that includes, at a minimum, the following information:

- Owner, including address and phone number;
- Operator, including address and phone number;
- Sales tax number and collection amount;
- Inventory of vehicles at the start of the year and at the end of the year;
- Total number of vehicles that came in and went;



date of resolution of the problems generated by the emergency.

**(h) Additional Findings for a Waste Tire Recycling Facility**

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a waste tire recycling facility:

- The facility will comply with the special use standards of Chapter 5.
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility.
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the recycled tires will adequately serve the needs of El Paso County.
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

**(i) Closure Plan**

At the termination of a recycling activity, a facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the recycling facility.

All solid waste and all other materials shall be removed from the facility prior to closure and potential nuisance conditions shall be addressed. All wastes shall be taken to an appropriate solid waste site and facility for proper management or disposal.

**(6) Inert Material Disposal Sites**

These requirements are applicable to all facilities that are considered an inert material disposal site.

**(a) Special Use Permit Required**

Any person desiring to operate an inert material solid wastes disposal site shall make application for special use approval to DSD.

**(b) Minor Inert Material Disposal Site Exception**

- Information to determine whether a yard remains active;
- Business and sales tax license;
- Fire, release, and emergency events, include date and time, and resulting action and report reference number;
- Quantity of automobiles in storage waiting to be crushed;
- Verification of stormwater validity and ID numbers;
- Name and contact information of contractor for hazardous waste removal; and
- Any required LEPC reporting.

**(F) Inspections**

All facilities governed by the requirements of this Section shall be open to inspection by County staff. Annual inspections programs may be implemented to ensure compliance with the standards.

**(G) Closure**

**(1) Notification of Closure**

Any facility governed by this Section shall notify the DSD if they cease to operate for more than a 60-day period.

**(2) Operation Nonconforming Operations**

Any facility that operates as a nonconforming use and ceases to operate is subject to the nonconforming use discontinuance of use provisions of this Code.

**(3) Evaluation of Vacated or Closed Areas**

If any operational area is vacated, the owner shall provide an evaluation of potential environmental impacts for the vacated or closed area. Environmental mitigation may be required by State and federal regulations.

**5.2.44. Seasonal Produce Sales**

Seasonal produce sales shall comply with all requirements of the EPCDHE.

**5.2.45. Sexually-Oriented Businesses**

**(A) Separation Between Sexually-Oriented Businesses**

No structure may be used for a sexually-oriented business if the structure is located within 1,000 feet of any other structure which is used for a sexually-oriented business as defined by the jurisdiction where it exists. The measurement is a linear measurement from the nearest wall of the structure proposed for the sexually-oriented business, to the nearest wall of the structure used for any existing sexually-oriented business. Measurements are not affected by municipal boundaries.

**(B) Separation Between Sexually-Oriented Business and Other Uses**

No structure may be used for a sexually-oriented business if the structure is located within 1,000 feet of any property: (1) where residential uses are identified as a principally allowed use; (2) a public or private K-12 school; (3) a public park; or (4) a religious institution. All minimum distances shall be measured as linear measurements from the zoning district boundaries or from the property line of any residential use, public or private K-12 school, public park, or religious institution to the nearest wall of the structure in which the sexually-oriented business is to be located. Measurements are not affected by municipal boundaries.

**5.2.46. Solar Energy System**

**(A) Property Served**

The solar energy system shall be designed to only provide energy for the ownership on which it is located; however, excess energy may be sold as allowed by State and federal law.

**(B) Maximum Height of Attached Panels**

Solar panels attached to a roof shall not exceed the maximum height allowed in the zoning district for the structure type by more than 5 feet.

**(C) Maximum Height of Detached Solar Panels**

The maximum height of a detached solar panel is 15 feet.

**(D) Location of Detached Panels**

Detached solar panels are prohibited within any setback area or between the front or side corner lot, parcel or tract boundary line and the front structure line of the principal structure.

**5.2.47. Stables and Corrals, Private**

Stables and corrals shall meet the following standards:

**(A) Not Located Over Onsite Wastewater System**

A horse corral and stable shall not be located over any portion of an OWS.

**(B) Maintained in a Clean Condition**

Horse corrals and stables shall be kept in a clean and orderly manner. Horse manure shall be picked up on a regular basis and disposed of in a manner acceptable to the EPCDHE.

**(C) Limit on Number of Horses in RR-0.5 Zoning District**

No more than 2 horses over the age of one year are allowed per ½ acre in RR-0.5 Zoning District. In the RR-0.5 Zoning District, one acre is required for a private stable. No specific restriction on the number of horses shall apply in other zoning districts allowing private stables and corrals.

**(D) Location of Stables and Corrals**

Stables and Corrals shall meet the following minimum setbacks:

**(1) Corrals**

All corrals shall be located at least 50 feet from the front, 10 feet from the side, and 10 feet from the rear lot, parcel, or tract boundary line. All corrals shall be situated at least 35 feet from a residential structure on adjoining lots, measured in a straight line from nearest point to nearest point.

**(2) Stables (Barns) on Corner Lots**

All stables located on corner lots shall be located at least 50 feet from the front, 25 feet from the side and 25 feet from the rear lot, parcel or tract boundary line.

**(3) Stables (Barns)**

All stables shall be located at least 50 feet from the front, 25 feet from the side and 10 feet from the rear lot, parcel or tract boundary line.

**(E) Stables Open to Interior of Lot**

Open-ended or open-sided stables shall be oriented to the interior of the lot, parcel or ownership unless located more than 100 feet from the nearest property line.

**(F) Drainage and Erosion Control**

Drainage facilities and erosion control measures shall be established on the site to protect adjacent properties from runoff.

**(G) Boundaries of Corral**

On lots or parcels less than 2½ acres in size without an identified stable or corral area, the outer boundaries of any fenced area shall be considered the corral.

**5.2.48. Temporary Housing**

Manufactured homes, post-1976 mobile homes, pre-1976 mobile homes where the zoning allows or recreational vehicles may be used to provide temporary housing for the owner of a lot or parcel during the construction of a permanent dwelling on the lot or parcel, subject to temporary use permit requirements. The duration of the temporary housing shall not exceed 12 months unless a renewal is granted. The temporary housing shall be removed from the site at the end of the 12 month period or following completion of the construction, whichever comes first. An extension of time may be granted by the DSD Director following a finding that significant progress has been made in the construction of the permanent dwelling or there have been circumstances beyond the control of the property owner that have delayed construction. A recreational vehicle shall only be used as temporary housing under a temporary use permit if a building permit has been issued and remains active for a permanent dwelling.

**5.2.49. Tower, Commercial (Non-Commercial Mobile Radio Service Facility)**

**(A) General**

**(1) Purpose**

The purposes of this Section are to establish standards for the location of commercial towers in the County.

**(2) Applicability**

The standards in this Section apply to all commercial towers after the effective date of this Code.

**(3) Relationship to Other Provisions**

A commercial tower shall comply with all applicable provisions of this Code. Where a conflict exists between the requirements of this Section and another applicable standard in this Code, the most restrictive standard shall control.

**(B) Design Standards for a Commercial Tower**

A commercial tower shall adhere to the following design standards to minimize impacts:

**(1) Compatible with Surroundings**

The facility shall be designed to be compatible with surrounding buildings and structures and existing or planned uses in the area, subject to any applicable FAA regulations.

**(2) Existing Vegetation and Landforms**

Existing land forms, vegetation and structures shall be used to screen the facility from view and blend in the facility with the surrounding environment, to the extent practicable.

**(3) Landscaping**

The facility shall be landscaped in accordance with the requirements of Chapter 6.

**(4) Location on Property**

The tower shall be located on the property to contain onsite all ice-fall or debris from tower failure.

**(5) Height Limitations**

A commercial tower shall be exempted from the structural height restrictions of the zoning district in which the facility is located.

**(6) No Lighting**

The facility antennae shall not be lighted unless required by the FAA and identified in the special use approval.

**(7) Attractive Nuisance**

The attractive nuisance potential shall be minimized through fencing and methods to discourage unauthorized climbing.

**(8) Accessory Uses Restricted**

Accessory uses to a commercial tower may not include offices, broadcast studios, or long-term vehicle storage.

**5.2.50. Tower, Private (Non-CMRS)**

**(A) Attached Private Towers**

**(1) Maximum Height of Facility Attached to Principal Structure**

Private towers constructed on or attached to a principal structure are considered to be accessory structures and shall satisfy all location and bulk restrictions of the zoning district. The height of the devices shall be limited to 1½ times the maximum height allowed in the zoning district, unless otherwise provided. To be considered attached, the facility shall not only be attached to the principal structure, but shall be located within 5 feet of the principal structure.

**(2) Exceeding Height Allowance**

Private towers in excess of the maximum height allowed for the facility are considered to be a special use.

**(3) Number of Private Towers Allowed**

One private tower is allowed per lot or parcel, unless additional towers are approved through a special use approval.

**(B) Detached Private Towers**

**(1) Height Limited**

Unless otherwise approved as part of the special use, no private tower, including the main structure and any retractable, non-retractable extension, or antenna, may extend higher than the following:

- F-5, A-5, and Residential Zoning Districts: The maximum height of a detached private tower shall be 2 times the maximum height allowed in the zoning district.
- A-35 (Agricultural) District: The maximum height of a detached private tower shall be 100 feet.
- Commercial or Industrial Zoning Districts, and the MHP, MHS, and RVP Zoning Districts: The maximum height of a detached private tower shall be 1½ times the maximum height allowed in the zoning district.

**(2) One Private Tower Per Lot**

Unless otherwise approved as part of the special use, only one private tower may be constructed on a lot or parcel. One private tower may include up to two supporting structures in the event that it is necessary to support one antenna.

**(3) Not Located in Setback Area**

A private tower shall not be located within the setbacks prescribed for principal structures by the zoning district.

**(4) Supporting Devices in Setback Area**

Supporting devices such as guy wires and support poles shall be located on the same lot or parcel as the tower and may not be located in the front setback area. A zero foot setback for guy wires from the side and rear property lines is permissible. In no event, however, may the supporting devices be located within any utility or drainage easement.

**(5) Setback from Electrical Transmission Lines**

A private tower shall not be located closer than a distance of one horizontal foot for every vertical foot of tower and antenna height, plus 10 feet, from any electrical transmission line. This does not include the service line for the lot or parcel where the private tower is to be located.

**(6) Setback from Property Lines**

The private tower shall maintain a setback from all property lines based upon a ratio of one horizontal foot for every vertical foot of tower and antenna height, for protection from free fall or ice fall. The setback may be modified if the applicant provides a certified engineer's or qualified expert's report substantiating that any free fall of the tower or ice fall from the private tower can be contained totally upon the applicant's lot or parcel and the modified location is certified by the applicant's engineer or expert as safe.

**(7) Anti-Climb Apparatus**

Adequate measures, such as anti-climb apparatus or removal of climbing ladder, are required in order to discourage unauthorized climbing.

**(8) Compliance with Federal Laws**

No private tower may be constructed in violation of FAA or FCC laws or regulations.

**(C) Special Use for Private Tower Exceeding Allowances**

**(1) Special Use Approval Required**

Special use approval is required in the event that:

- Any private tower, facility, or any extensions thereto exceed the height limit; or

- More than one private tower is proposed on the lot or parcel.

**(2) Review Standards**

In addition to the special use standards, the Planning Commission and BoCC shall consider and apply the following standards and criteria in reviewing a proposed private tower:

- Compliance with the general standards of this Code and mitigation of any other legitimate health, safety and welfare matters raised by federal, State and local authorities and the neighboring public;
- The visual impact and other aesthetic factors of the proposed private tower considered in light of: (1) The availability of landscaping and other adequate screening; (2) The environmental uniqueness of the property site or the general vicinity; (3) The visual block that would be caused by the addition of the proposed private tower in an area already subject to multiple private towers or commercial towers, whether in existence or approved but not constructed; (4) The documented need for a particular height or location for the private tower in order to achieve effective reception or transmission; and (5) In the case of an amateur radio facility, the general public service provided by amateur radio activity; and
- The need to accommodate, as much as practicably possible, the rights of the licensed amateur radio operator, as expressed by the FCC's regulations and ruling, 47 C.F.R. Part 97 and PRB 1, 50 F.R. 38,813, and to balance the legitimate zoning goals, requirements and restrictions of this Code with the federal interest in amateur radio operations.

**5.2.51. Vehicle Repair Garage**

Repairing or dismantling of vehicles and storing of parts and accessories shall be conducted within an entirely enclosed structure. Any vehicles awaiting repair stored outside shall be stored in accordance with the outdoor storage standards in this Chapter.

**5.2.52. Waste Disposal and Recycling Facilities**

**(A) General**

**(1) Authority**

This section is adopted pursuant to the following authorities:

- The Solid Wastes Disposal Sites & Facilities Act, C.R.S. §§30-20-101, et seq.
- C.R.S. §§25-15-401, et seq., "Infectious Waste"



- CDPHE "Regulations Pertaining to Solid Waste Disposal Sites & Facilities", 6 C.C.R. 1007-2 (hereinafter referred to as "State Solid Waste Regulations").
- The Local Government Land Use Control Enabling Act of 1974, C.R.S. §§29-20-101, et seq.
- Sections 1008, 4004, and 4010 of the Resource Conservation and Recovery Act (RCRA) of 1976 as modified by the Hazardous and Solid Waste Amendments of 1984 (commonly referred to as "Subtitle D of RCRA").
- 40 C.F.R. Part 257 "Criteria for Classification of Solid Waste Disposal Facilities and Practices" and 40 C.F.R. Part 258 "Criteria for Municipal Solid Waste Landfills" (hereinafter referred to as "RCRA Subtitle D Regulations").
- 40 C.F.R. Parts 260-270, 273, and 279, known as RCRA Subtitle C.

**(2) Applicability**

This Section shall apply to waste disposal and recycling facilities as each is defined by this Code and State Statute or regulation, including:

**(a) Recycling or Transfer Station Facilities**

- Trash transfer facility
- Intermediate processing facility
- Infectious waste transfer station
- Recycling facility (material recovery facility)
- Composting facility (not requiring Certificate of Designation (CD))
- Yard waste recycling facility (material recovery facility)
- Waste tire recycling facility
- Inert material disposal site

**(b) Certificate of Designation Facilities**

- Solid waste disposal site and facility
- Waste tire disposal (monofill) facility
- Infectious waste disposal facility
- Composting facilities requiring a CD
- Hazardous waste facility

**(c) Other Facilities or Operations Involved with Solid Wastes**

Other types of facilities or operations involving the collection, storage, treatment, utilization, processing or final disposal of solid wastes, which is not expressly exempted from regulation by State statute and which is not expressly covered by this Section

shall not be sited until additional regulations specific to the type of facility or operation proposed have been enacted by the BoCC. This shall not include garbage hauling trucks or businesses that are subject to regulation under C.R.S. §30-15-401(1)(a).

**(d) Recycling or Transfer Station Facilities**

Those recycling or transfer station facilities which exceed the allowances or do not comply with the general requirements, conditions and standards for the facility type are required to secure a Certificate of Designation. If a facility with a recycling activity fails to comply with Section 8 of the State Solid Waste Regulations, that activity shall be subject to all other applicable provisions of the State regulations (6 CCR 1007.2), which may require additional County approvals.

**(3) Exceptions**

**(a) General Exceptions**

A person may dispose of their own solid waste on their own property, as long as the solid waste disposal site and facility complies with the rules and regulations of the State Board of Health and does not constitute a public nuisance. The determination of compliance with the State regulations rests with the CDPHE after input from El Paso County. The minimum standards of the State regulations require, in this instance:

- Taking reasonable measures to collect, contain and dispose of litter;
- Ensuring that noise, dust and odors do not pose a health threat;
- Managing the site so that birds, insects, rodents, and other vectors do not pose a health hazard;
- Providing adequate cover so that water does not pond on the site, and that wind erosion and water pollution does not become a problem;
- Submittal of a design and operations report;
- Submittal of closure plans; and
- Notice of disclosure to prospective purchasers in the form of a recorded document of the site that solid waste has been disposed of on the property.

**(b) Disposal Subject to Construction Permit**

A site plan identifying the location of the waste disposal shall be provided. The requirements for obtaining a Construction Permit and special requirements of the EPCDHE may be applicable.

**(c) Site Restrictions or Conditions Applicable**

Conditions may be placed on any approval or acknowledgement of the site in order to restrict access from unauthorized individuals and to prevent nuisance conditions from occurring.

**(4) Interrelationship with CDPHE**

**(a) No Application Reviewed Until CD Approved**

No application for a Certificate of Designation shall be considered complete until it has received a recommendation of approval from the CDPHE. The BoCC may not review any request that has been disapproved by the CDPHE. When reviewing an application recommended for approval by the CDPHE, the BoCC retains the right to impose more stringent technical standards and requirements on any approval, or to deny any application found geologically problematic or technically deficient by the BoCC after further scientific or engineering study.

**(b) Referral of Special Use or Site Development Plan to CDPHE**

Any special use or site development plan application for a waste disposal or recycling facility may be referred in writing to the CDPHE for review and comment, or for the determination as to whether the Certificate of Designation requirements of the State Solid Waste Regulations are applicable, and for technical review of the site, facility and operation plan documents. The applicant is responsible for payment of any review fees established by the CDPHE.

**(c) CDPHE Notified of County Approval**

The CDPHE shall be notified by the County when a development permit approving a facility is issued.

**(5) Interrelationship with the EPCDHE**

Applications for approval of waste disposal and recycling facilities and amendments thereto will be referred to the EPCDHE for review and comment.

**(B) General Development and Operation Standards**

**(1) Requirement for Special Use or Site Development Plan**

Approval of a site development plan is required for all waste disposal and recycling facilities, unless otherwise provided. Approval of a special use

may be required in specific zoning districts. Waste disposal sites subject to a CD are not allowed to use the administrative special use process.

**(2) Compliance with Standards of this Code**

The development standards of this Code shall apply to all waste disposal and recycling facilities.

**(3) Conditions of Approval**

In the review of a special use for a facility governed by this Section, the BoCC retains the right to impose any technical requirements it considers appropriate in order to reasonably protect the environment and the public health and safety.

**(4) Concurrent Submittals and Time Limits**

A facility requiring a Certificate of Designation requires special use approval. The applications should be processed concurrently, however since CDPHE review is required, and involves time frames not within the control of the County, concurrently submitted applications are not subject to any mandatory processing time frames or time limitations to proceed to a hearing.

**(5) Requirement to Pay Tipping Fees**

**(a) Tipping Fees to be Paid by CD Facilities**

Certificate of Designation facilities are considered solid waste disposal sites and facilities and shall participate in the collection of a solid waste tipping fee to fund solid waste planning and other solid-waste-related activities in the County as provided in the El Paso County Solid Waste Disposal Site and Facility Fund ("Tipping Fee") Resolution.

**(b) State Fees Not Required to be Paid for Recycled Materials**

Those facilities classified as recycling facilities or facilities where a Certificate of Designation is not required are not required to collect the fees in C.R.S. §25-16-104.5 for those wastes that are recycled.

**(c) Local Tipping Fees Not Required to be Paid for Recycled Materials**

Those facilities classified as recycling facilities or facilities where a Certificate of Designation is not required are not required to collect or remit to the County the fees identified in the El Paso County Solid Waste Disposal Site and Facility Fund ("Tipping Fee") Resolution for those wastes that are recycled.

**(6) Construction and Stormwater Requirements**

A facility approved under this Section shall comply with the requirements of the ECM and applicable federal, State, and local requirements.

**(7) Outdoor Processing and Storage of Untreated or Unprocessed Waste Prohibited**

Solid waste processing facilities or recycling facilities operations shall take place completely enclosed within a structure unless otherwise specifically provided for in the approved plan. Storage of untreated or unprocessed waste shall not exceed the time limits described in the approved plans, conditions of approval, or as otherwise required by the CDPHE.

**(8) Odor, Animal and Vector Control**

At no time shall a waste disposal site or waste processing facility create malodorous conditions or allow the harborage of animals or provide conditions allowing vectors, including the breeding of mosquitoes and flies.

**(C) Operations Plan**

**(1) Requirement to Prepare an Operations Plan**

The operational plans for facilities shall address or provide, at a minimum, the following, to the extent applicable. Additional requirements may be applicable by the State to specific types of facilities.

- Name, address, and work telephone number of the onsite operator and a brief description of his or her qualifications and responsibilities for the management and safe operation of the facility;
- Days and hours of operation;
- Tipping fee schedule, to be updated as needed;
- List of all equipment on site along with number and job descriptions of personnel on site;
- Any provision for a small (non-commercial) vehicle tipping area or recycling center;
- Depiction of the proposed sign at the facility entrance identifying the wastes the facility can and cannot accept, the hours of operation, business and emergency telephone numbers, the posted location of the Certificate of Designation, the operational plan and the site development plan, and any other pertinent information;
- Record-keeping and reporting practices, acceptable to the CDPHE and El Paso County;

- Safety and access control, including fencing, road and driveway maintenance, vehicular inspections, control of public activity, locked gates, etc., acceptable to El Paso County;
- Drinking water and sanitary provisions, acceptable to the EPCDHE;
- Any provision for showers and dressing room and similar facilities for employees;
- Control of nuisance situations, including regular policing of litter in and around the facility, including adjacent roadways, and controls in relation to high winds, unsecured loads, vectors (insects, rodents, etc.), odor, dust, noise, lights, illegal dumping and minor fire, acceptable to El Paso County;
- Contingency plan to be followed in the event of essential equipment (compactor, bailer, tire shredder, etc.) breakdown, including prospect of temporary closure;
- Waste screening, including procedures and practices, recognized by the industry and federal government, for hazardous, radioactive and explosive wastes identification or detection and for isolation and removal along with requirements for a certified or EPCDHE approved instructional program for employees for handling hazardous, radioactive and explosive wastes situations and establishment of proper notification and reporting procedures to appropriate federal, State and local agencies;
- Contingency plan for short-term and long-term closure in the event of a hazardous, radioactive, explosive wastes or other emergency;
- Storage standards and spill response procedures for fluids such as oil, gasoline, and solvents used at or received by the facility, acceptable to the Sheriff's Office, local fire department, and the CDPHE and EPCDHE;
- Fire control and emergency response procedures and training, including the handling of hot loads delivered to the site, fires originating within a structure, any tire piles or landfill area, fires caused by on site equipment, etc. Said procedure is to indicate specific provisions to control fires acceptable to the County Fire Marshal and the fire department;
- Medical response capabilities, including onsite first aid and availability of ambulance service, for employees, trash haulers, and customers;

- Methods of monitoring and abating potentially explosive gases and subsequent recording and reporting, acceptable to the CDPHE and El Paso County;
- Methods and procedures for monitoring groundwater quality and subsequent recording and reporting, acceptable to the CDPHE and El Paso County;
- Methods by which liquids, including leachate, associated with the facility will be monitored, captured and properly disposed along with subsequent recording and reporting, acceptable to the CDPHE and El Paso County;
- Procedures for conducting and reporting any studies, tests and inspections, including the quality assurance and quality control program, required by the CDPHE and El Paso County;
- Inclusion of any other provisions in compliance with the conditions and requirements applicable to the specific type of facility;
- Inclusion of any other provisions in compliance with any operational requirements mandated by federal or State law or regulation or local requirements; and
- Other elements, components and procedures which may be unique to the type of facility proposed.

**(2) Operations Plan to Conform to CDPHE Requirements**

The operations plan or design and operations plan shall comply with the applicable CDPHE requirements.

**(3) Requirement to Maintain an Approved Operations Plan**

A copy of the approved operations plan shall be maintained at the facility. Copies of the approved operations plan shall be placed on file at the DSD and with the local fire department.

**(D) Closure Plan**

**(1) Requirement to Prepare and Implement a Closure Plan**

Facilities shall prepare and implement a closure plan in accordance with applicable CDPHE regulation and the requirements of this Section.

**(E) General Requirements Waste Disposal and Recycling Facilities Not Requiring a Certificate of Designation**

**(1) Trash Transfer Facility or Intermediate Processing Facilities**

**(a) Receive Only Household, Commercial and Industrial Wastes**

Unless otherwise specifically considered and approved, a trash transfer facility or intermediate processing facility shall receive only household, commercial and industrial solid wastes (as these

terms are defined by Part 258, RCRA Subtitle D Regulations and State regulations) including construction and demolition materials (containing no asbestos). Acceptance of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, friable asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other "special wastes" that are not classified as hazardous, toxic or highly flammable by federal or State regulation, shall not be allowed unless acceptance is allowed by State regulations, deemed appropriate by the BoCC and expressly approved, and the facility is specifically designed and approved for these wastes. All composting, co-composting, recycling, soil stripping, and incineration programs on site or associated with the facility shall likewise require specific consideration and approval.

**(b) No Radioactive Materials**

No radioactive materials or materials contaminated by radioactive substance shall be disposed of at any trash transfer facility or intermediate processing facility. Detection devices and procedures shall be required to assure compliance.

**(c) Transfer Standards**

Refuse may be transferred from one type of containerized collection receptacle, processed by shredding, baling, or compaction to another receptacle. All solid waste received at a transfer station shall be transferred as soon as practicable. All solid wastes arriving at the transfer station that are not transferred within 24 hours of receipt shall be placed in closed containers or in totally enclosed structures, structures, or other means of cover acceptable to the CDPHE, that deter water, birds, insects, rodents and other vectors from reaching wastes. All structures where solid wastes are dumped or stored shall be equipped with doors that close or roll down.

**(d) Transfer Stations Comply with Regulations**

Transfer stations shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.

**(e) Comply with State Design Criteria and Operations**



The facility shall comply with the design criteria and operations standards of the State.

**(f) Issues to be Addressed by Operational Plan**

The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of all solid wastes awaiting transport to a solid wastes disposal site and facility and all materials to be recycled;
- Information regarding the proposed acquisition, location, and operation of any heavy equipment or machinery to be used in the operation;
- The parking location of any temporarily parked trash trucks or trash transfer vehicles;
- All methods of cleaning the facility and equipment;
- A detailed building plan showing the operational design of the facility;
- Information relating the primary means of selling or disposing of recycled materials and the proposed site for final disposal of the residual solid wastes; and
- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed.

**(g) Solid Waste Structure Location**

All structures where solid wastes are dumped or stored or areas where containerized solid wastes are stored shall be setback at least 100 feet from all property lines, and the facility site shall be fenced, landscaped, or otherwise buffered so as to minimize impacts on neighboring property. Where deemed appropriate, setback requirements may be varied.

**(h) No Dumping or Storage of Waste in Open Areas**

Non-containerized solid wastes shall not be dumped or stored in open areas.

**(i) Additional Findings**

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a trash transfer facility or intermediate processing facility:

- The facility will comply with the special use standards;
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility;

- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the landfill which will be receiving its solid wastes, will adequately serve the needs of El Paso County; and
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

**(j) Closure Plan**

A closure plan for a transfer station shall include a plan for the removal of all stored solid wastes and wash down liquids. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the transfer station.

**(2) Infectious Waste Transfer Facilities**

**(a) Receipt, Storage and Transfer of Contained Infectious Waste Only**

Infectious waste transfer facilities shall be limited to the receipt, storage and transfer of contained infectious waste only. No treatment or processing of infectious waste shall be sited. Non-incident solid waste functions which are not related to infectious waste transfer shall require approval by the BoCC.

Onsite, occasional and household generators are exempted from these requirements as provided by Section 13.2 of the State Solid Waste Regulations and C.R.S. §25-115-404.

**(b) Applicants Required to Comply with this Section**

Any applicant for an infectious waste transfer facility shall comply with the procedures, requirements, conditions and standards of this Section with the following modifications:

- The application shall specifically be processed in accordance with and maintain compliance with applicable portions of Section 13, "Infectious Wastes Disposal" of the State Solid Waste Regulations;
- All applications shall specify what general types of infectious wastes shall be accepted at the facility. This list is subject to review and approval by the BoCC;
- All applications and operational plans shall specifically identify the proposed treatment or final disposal facility to which the wastes will be transferred; and
- Operational data requirements shall be limited to those necessary to minimize any land use concerns, to assure that adequate services exist on site, to adequately address all

health, safety and security concerns, and to make certain that the disposal site accepts no other materials than those authorized.

**(c) Operational and Location Standards**

- (i) **200 Foot Setback from Residential Use**  
The facility shall be located a minimum of 200 feet from the boundary of the nearest zoning district which allows residential uses.
- (ii) **Security**  
Fencing, signage, lighting and other security measures shall be sufficient to preclude unauthorized access and disposal. Access to the facility shall be controlled at all times to preclude unauthorized access or disposal.
- (iii) **Customers Limited**  
The facility shall not be open to the general public, and an updated list of all customers using the facility shall be maintained by the operator.
- (iv) **Transport and Handling of Infectious Waste**  
Transport, storage, handling and manifesting of infectious wastes shall be in accordance with Sections 13.7.5 and 13.8 of the State Solid Wastes Regulations except as more stringent requirements may be provided for in these local regulations.
- (v) **Back-Up Power Supply Required**  
A back-up power supply shall be provided for refrigeration and a contingency plan shall be prepared to address refrigeration or other failures.
- (vi) **Daily Inspection Records**  
Daily inspection records shall be maintained and made available pursuant to Section 13.7.7 of the State Solid Waste Regulations.
- (vii) **Spill Incident Reports**  
Spill incident reports required in Section 13.8.5 of the State solid waste regulations shall also be provided to the EPCDHE.
- (viii) **Truck Washing and Disinfection**  
Trucks or other storage facilities shall not be washed prior to adequate disinfection. All wastewater from the

washing operation shall be collected and treated in an approved and adequate central sewer system.

- (ix) **No Temporary Storage on Non-Designated Sites**  
Mobile storage units which contain transferred infectious waste shall not be temporarily stored at non-designated sites within El Paso County except under emergency conditions as defined in the facility's operational plan.
- (x) **Refrigeration of Wastes Stored for 48 Hours**  
Infectious waste to be stored longer than 48 hours shall be stored inside an enclosed structure maintained at 45°F or less which provides a minimum of 3 days storage, considering both volume (cubic yards) and weight (tons). Untreated waste may not be stored longer than 2 weeks without written permission of the CDPHE.

**(d) Additional Findings**

In addition to the applicable standards of review and findings, the following additional findings shall apply to an infectious waste transfer facility:

- The facility will comply with the special use standards;
- Primary and back-up power supplies are adequate;
- Refrigeration failure and other incident response plans are adequate;
- Adequate and properly trained personnel will be available;
- Access to the facility will be sufficiently controlled to preclude unauthorized access and disposal at all times;
- Facility capacity and contingency plans are adequate to address weather-related and other ordinarily anticipated disruptions in transportation to final treatment or disposal sites; and
- Radiological and hazardous waste detection and screening procedures are adequate.

**(e) Closure Plan**

Closure plans for final closure of the infectious waste transfer station shall include a plan for the removal of all stored wastes and wash down liquids. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the transfer station.

The facility shall be closed in accordance with regulations in effect at the time of closure and with the closure plan, which if

amended, shall be submitted for review and approval by the CDPHE 60 days prior to closure.

**(3) Recycling Facilities Including Material Recovery Facilities**

These requirements are applicable to a facility which qualifies as a recycling facility under Section 8 of the CDPHE regulations pertaining to solid waste disposal sites.

**(a) Exemptions**

The following activities and facilities are not subject to regulation by this Section:

- Drop-off or buy-back centers for recyclable materials, including household hazardous waste facilities;
- Recycling facilities that are located on the same site where the waste is generated, and that recycle or store only waste from that site (examples are: an office building that stores materials for routine pick-up by a recycler or a construction project that is processing materials derived from the project);
- Businesses that recycle materials only as a sideline or by-product of their normal business activities (examples are: a gravel operation that brings in concrete or asphalt rubble for eventual grinding into recycled aggregate or highway construction projects that process concrete and asphalt as part of the overall project);
- Composting facilities that are separately regulated under Section 14 of the State Solid Waste Regulations; and
- Facilities that collect and process automobiles, appliances or scrap metal components.

**(b) Receive Only Household, Commercial and Industrial Solid Wastes**

Unless otherwise specifically considered and approved, Recycling Facilities including Material Recovery Facilities shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations) including construction and demolition materials (containing no asbestos). Acceptance of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, friable and non-friable asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other special wastes that are not classified as hazardous, toxic or highly flammable by federal or State regulation, shall not be allowed.

**(c) No Radioactive Materials**

No radioactive materials or materials contaminated by radioactive substance shall be accepted, transferred, or processed at any recycling facility including material recovery facilities station. Detection devices and procedures shall be required to assure compliance.

**(d) Materials Recovery Facilities to Comply with Regulations**

Material recover and recycling facilities shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.

**(e) Comply with State Design Criteria and Operations**

The facility shall comply with the design criteria and operations standards of the State.

**(f) Issues to be Addressed by Operational Plan**

The operational plan shall, among other things, satisfactorily address or provide:

- Interim storage of all solid wastes awaiting transport to a Solid Wastes Disposal Site and Facility and all materials to be recycled;
- Information regarding the proposed acquisition, location, and operation of any heavy equipment or machinery to be used in the operation;
- The parking location of any temporarily parked material trucks or material transfer vehicles;
- All methods of cleaning the facility and equipment;
- A detailed building plan showing the operational design of the facility;
- Information relating the primary means of selling or disposing of recycled materials and the proposed site for final disposal of the residual solid wastes; and
- An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed.

**(g) Solid Waste Structure Location**

All buildings where solid wastes are dumped or stored or areas where containerized solid wastes are stored shall be located at least 100 feet from all property lines, and the facility site shall be fenced, landscaped or otherwise buffered so as to minimize

impacts on neighboring property. Where determined to be appropriate, location requirements may be varied in the approval of a facility.

**(h) Fencing Required**

The facility shall be adequately fenced with a minimum of 6 feet chain link fence or equivalent, so as to prevent all loose waste material and debris from escaping and to provide security from unauthorized access to the facility. Loose materials and debris shall not be allowed to accumulate along the fence line.

**(i) Minimum Site and Facility Standards**

**(i) Minimize Dust**

Recycling facilities shall be operated and managed to minimize the potential for release of contaminants to groundwater and to minimize the creation of dust and odors or other nuisance conditions.

**(ii) Operations Subject to Blowing Operated Indoors**

Where a recycling facility processes paper waste, all unloading, processing, baling, or otherwise consolidating of paper waste that is subject to blowing shall be located completely indoors. Outdoor storage of bales is allowed.

**(j) Recycling Plan**

The recycling plan shall include, but not be limited to:

- Items to be recycled may include but not be limited to: glass, plastic, paper, cardboard, aluminum and other metals, tires, oil and batteries;
- Detail of recycling process, beginning with initial disposition at the facility to final recovery point;
- Conceptual floor plan outlining process;
- Methods of recycling (mechanical vs. non-mechanical). If mechanical, list number and type of equipment;
- Number of employees and work stations of employees;
- Storage and disposition of recycled products; and
- Estimate of quantities/volumes of recycled products.

**(k) Reporting**

The County shall be included in any reporting required by CDPHE regulations.

**(l) Additional Findings for a Recycling Facility**

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a recycling facility:

- The facility will comply with the special use standards;
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the materials will adequately serve the needs of El Paso County; and
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

**(m) Closure**

At the termination of a recycling activity, a facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal. The CDPHE and the County shall be notified, in writing, of temporary or permanent closure of the recycling facility.

All solid waste and all other materials shall be removed from the facility prior to closure and potential nuisance conditions shall be addressed. All wastes shall be taken to an appropriate solid waste site and facility for proper management or disposal.

**(4) Composting Facilities, Yard Waste Recycling Facilities**

These requirements are applicable to all facilities that compost, incorporate into compost, or utilize in a composting process any organic solid waste that can be biologically decomposed, including, but not limited to, food and green waste, manure, animal products, sawdust, and paper.

**(a) Exceptions**

The regulations of this Section do not apply to:

- Backyard composting, processing yard or landscaping waste into mulch, or a business that accepts finished compost for bagging or handling;
- Agricultural composting if: (1) compost materials are derived from onsite agricultural activities by the generator only; and (2) the facility only imports other compatible materials in quantities necessary for effective composting as part of a standard agriculture practice; and (3) composting activities that occur at the site of generation or contiguous property owned or leased by the generator; and



- The composting of biosolids with other materials under regulations promulgated pursuant to C.R.S. §25-8- 205 (1)(e).

**(b) Regulatory Applicability**

All composting facilities shall comply with the minimum standards as defined herein, and shall be in compliance with all applicable federal, State or local statutes, regulations, requirements or ordinances.

**(c) Minimum Standards of Operation for Composting Facilities**

All composting facilities shall operate in a manner to:

- Control surface water flowing onto the site and prevent surface water from leaving the site;
- Control onsite and prevent off-site nuisance conditions such as noise, dust, odors, vectors and windblown debris;
- Prevent water pollution at or beyond the site boundaries; and
- Control access to prevent illegal dumping.

**(d) Additional Findings for a Composting Facility**

In addition to the applicable standards of review and findings, the following additional findings shall apply to approval of a composting facility:

- The facility will comply with the special use standards of Chapter 5.
- The facility is designed to make it as efficient and effective as possible and to assure that any recycling or other component programs are properly integrated into the facility.
- The proposed location of the facility, in relationship to the community areas to be served by it and the location of the end user which will be receiving the materials, will adequately serve the needs of El Paso County.
- The prospects of air, soil and water contamination, along with other potential health and environmental impacts, both onsite and off-site, have been satisfactorily addressed and minimized.

**(e) Closure Plan**

If at any time a composting facility ceases operation, including the discontinued receipt, processing and sale of materials, for more than 180 days or otherwise approved by the DSD and the BoCC, the owner or operator shall begin implementation of its closure plan. Closure activities shall not exceed 90 days in length. Extension of the closure period may be granted by the

BoCC if the owner or operator demonstrates that closure will of necessity take longer than 90 days and all measures necessary to prevent threats to human health and the environment will be taken. On implementation of the closure plan, the facility shall provide written notification to the CDPHE and the BoCC.

**(f) Post-Closure Care and Maintenance**

Following closure of the facility, a notation shall be placed on the deed notifying any potential purchaser that the property has been used as a composting facility.

The post-closure care and maintenance period shall be for a minimum of 5 years and shall consist of:

- Continued monitoring and sampling of groundwater or surface water and
- Inspection and maintenance of any cover material or vegetation.

**(5) Waste Tire Recycling Facilities**

These requirements are applicable to all facilities that accept waste tires for recycling, including shredding, splitting, baling, or whole tire storage where the tires are not being landfilled.

**(a) Exceptions**

The use of a portable shredder, splitter, or baler at the site of a retail or wholesale tire store is not subject to these requirements unless the recycled tire materials are to be stored on site for a period longer than one week. Waste tire recycling at a sited solid waste disposal site requires no special approvals provided the recycling activity is identified in the approved operations plan.

**(b) Regulatory Applicability**

Waste tire recycling facilities shall comply with the minimum standards as defined herein, and shall be in compliance with all applicable federal, State or local statutes, regulations, requirements or ordinances.

**(c) General Requirements and Limitations**

- (i) Accept Whole, Split, Baled, or Shredded Waste Tires  
These facilities may only accept whole, split, baled, or shredded waste tires, including reusable whole tires, unless specifically approved by the BoCC to accept other materials.
- (ii) No Retail Sales

No retail sales shall be allowed from these facilities unless sited by zoning and specifically allowed by the BoCC.

- (iii) Comply with Regulations  
Waste tire recycling facilities shall comply with the health laws, standards, rules, and regulations of the CDPHE, the stormwater rules of the Water Quality Control Commission and the Air Quality Control Commission, and all other applicable local laws, ordinances and regulations.
  - (iv) Comply with State Design Criteria  
The facility shall comply with the design criteria and operations standards of the State.
  - (v) No Storage of Excess Tires  
The quantity of tires stored above-ground on site will not exceed that amount necessary for the effective conduct of business.
  - (vi) No Tipping Fees for Recycled Material  
A waste tire recycling facility is not required to pay tipping fees to El Paso County because the waste is recycled.
- (d) **Operating Plan**  
The operational plan shall, among other things, satisfactorily address or provide:
- Interim storage of waste tires to be recycled, including provisions limiting sizes of individual tire piles to a height and width that allows for sufficient fire lanes and proper control and management as specified by the County Fire Marshal and the pertinent fire department;
  - Information regarding the proposed acquisition, location, and operation of any tire shredding machine or other heavy machinery to be used in the tire recycling operation;
  - Information regarding the sale or disposition of tires or tire products;
  - An alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed; and
  - All of the operational requirements contained in or imposed through Section 8 of the State Solid Waste Regulations.

**(e) Site Conditions and Operating Standards**

- (i) **Stockpiling of Tires Limited**

The stockpiling of reusable tires at either of these facilities shall not exceed that minimally necessary for the conduct of the applicant's tire resale business, and in no case more than 10,000 tires unless justified by the applicant and specifically approved by the BoCC. All stockpiles shall be stacked no more than 6 feet high.
- (ii) **Control of Drainage**

Any surface drainage entering into or originating in the facility shall be controlled so that it does not flow into the storage areas, and any surface flows leaving these areas shall be minimized and controlled so as to create no significant degradation as to water quality. Surface flows in any area where tire shredding activity or shredded tire storage is occurring shall be fully retained, and all tire-pollutants shall be removed to the maximum extent practicable or as otherwise prescribed by federal or State Statutes. No tires shall be placed within any drainageway or in any storage area below groundwater level.
- (iii) **Disturbed Soils**

The design and operation of the facility shall be such as to minimize the quantity of disturbed surface area on the site. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.
- (iv) **No Storage of Tires in Floodplain**

No storage of waste tires shall occur within any regulated floodplain or within any drainageway or wetland without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of the drainageway or wetland.
- (v) **Fencing and Landscaping**

Fencing, landscaping and berming shall be installed as necessary for appropriate buffering to visually screen the operation from surrounding properties and nearby roads.
- (vi) **Cell Size of Stockpiles**

In no case shall storage piles of whole tires, tire bales, or tire shreds that are stored on open ground or in cells be larger than 50 feet in width, 250 feet in length. If stored in below grade cells, tires shall not exceed 30 feet in depth. If stored above grade, tire height shall not exceed 10 feet. Any required berming between cells or piles shall equal the depth or height of the adjoining cells or piles. An approved field measurement system shall be employed to facilitate estimates of pile dimensions.

- (vii) Separation of Stockpiles  
A minimum of 40 feet shall be maintained between piles of whole, shredded, or baled tires to allow access for fire fighting equipment.
- (viii) Clear Area Between Stockpiles and Buildings  
A minimum distance of 50 feet of clear area is to be maintained from all buildings and property lines when surface level tire piles are utilized.
- (ix) Location of Excavated Storage Areas  
Any excavated areas for storing waste tires shall be at least 100 feet from all buildings and property lines.
- (x) Location of Processing  
Any tire shredding, splitting, baling, or processing equipment shall be situated at least 200 feet from all property lines or onsite hydrants or cisterns used for fire control, and at least 500 feet from any whole tire storage cells.
- (xi) Variation in Setback Requirements  
Setback requirements may be varied in the approval of the site development plan and operating plan after recommendation by the fire department, where deemed appropriate.
- (xii) All Weather Access Roads  
The facility shall maintain all-weather access roads to those areas of active operation and as necessary to meet the obligations of the fire control plan.
- (xiii) Litter and Vegetation Control  
The facility shall collect litter in order to avoid a fire hazard or a nuisance and control the growth of vegetation to minimize potential fuel sources.

- (xiv) Security  
Adequate fencing, natural barriers or other security measures to preclude public entry shall extend around the entire perimeter of the facility and shall include a lockable gate or gates.
  - (xv) Facility to be Signed  
Prominent signs shall be posted in public view at the entrance to the facility with the name of the facility, the hours which the facility is open for public use, a listing of the wastes accepted at the facility, and a phone number for a 24-hour emergency contact.
  - (xvi) Telephone Required  
The operator shall maintain a working telephone at the facility.
  - (xvii) Vector Control Plan  
The operator of a waste tire facility shall have a written vector control plan that shall be submitted to the BoCC. If pesticides are used in vector control efforts, they shall be used in accordance with the Pesticide Applicator's Act, C.R.S. § 35-10-101, et seq.
  - (xviii) Attendant  
During all stages of operation the facility shall have an attendant who is responsible for site activities
- (f) Fire Protection**
- (i) Fire Control Plan  
The operator shall submit a fire control plan specifying the facility's fire lane locations and widths, the means that are assumed to be used to extinguish fires, and designation of a facility emergency coordinator.
  - (ii) Plan to Conform to Fire Department  
The fire control plan shall be in accordance with local fire codes and the plan shall be written by a qualified professional and submitted to and approved by the Fire Marshall and the applicable fire department prior to beginning operations. A copy of the local fire control authority approval shall be forwarded to the CDPHE.
  - (iii) Equipment to Suppress Fire Available  
Adequate heavy equipment for the purposes of suppressing a tire fire shall be kept available within the

vicinity of these facilities. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-tire fires shall be maintained at the facilities, and with any operating equipment such as shredders, balers, etc. The applicant shall make other arrangements for the fighting and prevention of fires at the facilities as are satisfactory to the Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

(iv) Design to Reduce Spread of Fire

Measures will be incorporated into the design of the request to adequately reduce the spreading of any potential tire fires.

**(g) Reporting Requirements**

(i) Annual Report Submitted by May 1

An annual report shall be submitted by the facility by May 1 of each year. The report shall state the amounts of waste tires received at the facility, processed, disposed of onsite, and shipped off-site for the preceding calendar year.

(ii) Inventory

Inventory of waste tires shall be tracked by the operator of the facility in and out of the facility, with the inventory including a precise correlation of quantities of the tires with their identified source and final destination. Copies of these reports shall be submitted to the DSD and EPCDHE on at least an annual basis or more frequently if so directed by the BoCC.

(iii) Notification of Emergency

The facility shall immediately notify the EPCDHE and the CDPHE in the event of a fire or other emergency. Within 2 weeks of this notification, the facility shall submit a report on the emergency to the Department and the BoCC. This report shall describe the origins of the emergency, the actions that have been taken, actions that are currently being taken or are planned, results or anticipated results of these actions, and an approximate

- (i) **Applicability and Exemption**  
A minor inert material disposal site that satisfies the requirements of this Section is not required to secure a special use permit or comply with the general waste disposal and recycling facility requirement.
- (ii) **Compliance with Other Applicable Laws**  
A minor inert material disposal site shall satisfy all other federal, State, and local regulations and requirements, including those pertaining to floodplains, wetlands preservation, water quality protection, and dust and erosion control.
- (iii) **Limits on Type of Inert Material**  
The only inert material being disposed of is earth, sand, gravel, rock, hardened concrete, or masonry.
- (iv) **Filled with Landowner Consent**  
The disposal site is being filled, with the knowledge and consent of the landowner, for the primary purpose of leveling, raising, or otherwise preparing land for road or building construction or other allowed land use that requires a leveled, raised, or prepared surface.
- (v) **Limit on Amount of Material**  
The total amount of inert material to be placed on the site is less than 100,000 cubic yards and covers 10 acres or less of land, and the disposal site is not adjacent to another property which was filled pursuant to this exception during the past 18 months.
- (vi) **Covered and Revegetated**  
The filling operation, including compacting and leveling of all disposed material, is covered with at least 6 inches of soil and revegetated in accordance with the ESQCP, or road or building construction is commenced and will be completed within 12 months of initial disposal activity.
- (vii) **Filling Activity Complies with ECM**  
The filling operation shall be in compliance with the ECM and any applicable permit.
- (viii) **Filling Activity Complies with Noxious Weed Plan**  
The filling operation shall be in compliance with the noxious weed management plan requirements of this Code.



- (ix) **Failure to Comply with Standards**  
Failure to comply with any of these requirements, as determined by the DSD Director, either before or after starting the activity, requires compliance with the special use permit provisions of this Code and any applicable general waste disposal and recycling facility requirements.
  
- (c) **Disposal Limited**  
Disposal of inert material at any approved site shall be limited to earth, sand, gravel, rock, hardened concrete, masonry, asphalt paving fragments, scrap lumber and plywood, waste or diseased trees, drywall, shingles, and other demolition or construction wastes approved through this review process. It does not include, among other things, asbestos or anything containing hazardous or toxic wastes or materials, yard clippings or other organic wastes, waste tires, junked vehicles, sludge or industrial wastes or by-products, or petroleum or other contaminated soil.
  
- (d) **Conditions and Standards**  
Any applicant for an inert material disposal site shall be required to comply with the procedures, requirements, conditions and standards of this Code, with the following modifications:
  - (i) **Applications to Specify Materials to be Disposed**  
All applications shall specify what types of inert materials are proposed to be disposed at the proposed site. This list is subject to review and approval by the BoCC.
  
  - (ii) **Reports Required**  
The following reports are required in addition to any special use requirements: operational plan, visual impact analysis, traffic impact analysis, noxious weed management plan, ultimate land use analysis, and drainage and erosion control plan. Appropriate geological, hydrological, and engineering information also may be required by the DSD Director, when considered necessary. Operational data requirements will be limited to those necessary to minimize any land use compatibility concerns, to assure that adequate services exist on site, and to make certain that the disposal site accepts no other materials than those authorized. A satisfactory reclamation plan, including sufficient evidence of ability and intent to complete said plan on closure, shall be submitted with the application.

(iii) Not Located in Floodplain

No inert material solid wastes disposal site shall be located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and Section 404 (Federal Clean Water Act) permits have been obtained. Any proposed inert material disposal that will likely have a significant negative impact on water quality or drainage flow patterns will be regarded unfavorably.

(iv) Limited Excavation and Mounding

An inert material solid wastes disposal site shall be designed such that no significant excavation is needed to create room for the disposed materials and such that there is not a "mound" of disposed material that creates a significant grade and height difference with the surrounding terrain, unless the ultimate, use of the property (as allowed by zoning) would establish a need for a mound. A site development plan detailing the size, configuration, and final reclamation and use of the disposal site shall be submitted to the DSD with the application.

(v) Notation on Property Title

The existence and extent of the inert material disposal site shall be duly noted on the title of the property where it is located and recorded with the Clerk and Recorder prior to the commencement of dumping activity.

**(e) Closure Plan**

At the termination of acceptance of inert material the facility shall either close in accordance with CDPHE regulations or obtain a Certificate of Designation for solid waste disposal.

**(F) Certificate of Designation Facilities**

**(1) Applicability**

These requirements are applicable to all facilities that are considered a solid waste disposal site and facility, including:

- Solid Waste Landfill
- Waste Tire Disposal (Monofill) Facilities
- Infectious Waste Disposal Facilities
- Composting Facilities requiring a CD

**(2) Minimum Standards for Certificate of Designation Facilities**

**(a) General Requirements and Conditions**

- (i) Allowed by Zoning  
A Certificate of Designation shall only be considered and approved in those zoning districts where the specific is allowed by use subject to special review.
- (ii) Comments from CDPHE Required  
A request for Certificate of Designation will be forwarded to the CDPHE for review based on the standards and criteria as outlined in the "Regulations Pertaining to Solid Wastes Disposal Sites and Facilities". A submittal will be not be deemed complete and scheduled for hearings before the Planning Commission when a final set of review comments have been received from the CDPHE, provided the applicant has complied with all previous information requests and submittal requirements of the DSD, EPCDHE and CDPHE.
- (iii) CDPHE Recommendations Binding  
The conditions and binding recommendations of the CDPHE review shall be adopted as minimal conditions of approval. Other conditions may be imposed by the BoCC in addition to conditions and binding recommendations of the CDPHE. A petition shall not be scheduled for the BoCC hearing until all State recommendations have been satisfied that are a condition precedent to the approval of the Certificate of Designation.
- (iv) Comply with All Other Regulations  
The operator or owner of the facility shall comply with the laws, standards, rules, regulations and orders of the EPA, the CDPHE, the Colorado Water Quality Control Commission, and all applicable zoning and other laws and regulations of El Paso County.
- (v) Right of Entry  
Personnel from the EPCDHE , DSD, and other involved County departments shall have a right to enter this property during regular business hours, without notice, for the purpose of inspecting for compliance with the terms and conditions of the Certificate of Designation. During the inspections, the EPCDHE and County

employees may take samples of the waste, soil, air or water and analyze said samples in order to detect the nature and concentration of any contaminants and may test or otherwise check any environmental monitoring equipment on site. Inspections will be performed by the EPCDHE and by County employees in conformance with recognized health and safety procedures. The County will allow the facility owner or operator the opportunity to be present during any sampling activity. On request by the owner or operator at the time of inspection, the County employees will provide split or duplicate samples of materials they collect. The collection and analysis of any waste, soil, air, or water samples will be performed following standard operating procedures and quality control and quality assurance standards.

(vi) Owned and Operated by Applicant

The facility and the facility site shall be solely owned and operated by the applicant. If the applicant is a corporation or partnership, all stockholders and interest holders owning or controlling rights in 20% or more of the total interests in the corporation or partnership, along with managing partners and corporate officers, shall be identified. Any parent corporations or other controlling entities shall likewise be identified. The holder of any Certificate of Designation has an ongoing duty to comply with this requirement and to notify the BoCC as to any changes in this regard.

(vii) No Transfer of CD

A Certificate of Designation is personal to the specified owner and operator of the approved facility and may not be transferred or assigned without the consent of the CDPHE and the BoCC, which action may include a review and modification of the terms and conditions of approval for the facility in accordance with then existing laws and regulations.

(viii) Proof of Adequate Financial Resources

Proof may be required that the applicant has adequate financial resources or is sufficiently capitalized and has adequate material resources and experience (including a past record of quality performance in solid wastes operations) to properly operate the facility and comply with all conditions and requirements. In the event the

BoCC determines based on evidence in the record that an applicant does not have the resources or abilities in this regard, additional guaranties or sureties from a parent or other closely related corporation, individual stockholder or interest holder, or other source may be required.

- (ix) Obtain All Permits Before Operation  
Prior to commencement of operation of the facility, all required construction, air and water quality permits shall be obtained and copies provided to the DSD. A final determination by the appropriate enforcement agency as to noncompliance with any air or water quality permit by the owner or operator may be considered as cause by the BoCC for revocation or suspension of a Certificate of Designation. A determination to suspend or revoke a Certificate of Designation shall be made by the BoCC based on the evidence in the record following appropriate notice and during a public hearing conducted in the same manner as an original approval.
- (x) Compliance with All Criteria and Restrictions  
The facility shall be subject to and comply with all criteria, specifications, procedures, and restrictions contained in the Certificate of Designation application as submitted or amended by the applicant unless said criteria, specifications, procedures, and restrictions are inconsistent with or have been modified by the conditions and requirements imposed by the CDPHE or the BoCC. As a condition of approval, the BoCC may require that the applicant revise its application documents and plans to be consistent with all conditions and requirements imposed and to serve as a legally controlling document for the operation of the facility
- (xi) Most Restrictive Provisions Apply  
Any federal or State statute, regulation or other authority which is more restrictive or specific than those requirements and conditions imposed under this Section shall be applicable.
- (xii) CD Only Valid in Accordance with Financial Assurances  
The Certificate of Designation shall only be valid as long as any financial assurances as required by statute or the CDPHE are valid.

(xiii) Only Household, Commercial and Industrial Solid Wastes

Unless otherwise specifically considered and approved, a solid wastes disposal site and facility shall receive only household, commercial and industrial solid wastes (as these terms are defined by Part 258, RCRA Subtitle D Regulations) including construction and demolition materials (containing no asbestos). Disposal of wastes involving bulk or containerized liquids, sewage or water treatment sludge, septic tank pumpings, asbestos (containerized or otherwise), small quantity generator hazardous waste (as defined by federal regulation), infectious medical wastes, and any other "special wastes" that are not classified as hazardous, toxic, or highly flammable by federal or State regulation, shall not be allowed unless disposal is allowed by State regulation and expressly approved after conformance with all applicable federal, State and local laws and regulations. All composting, co-composting, recycling, soil stripping and incineration programs and leachate impoundments on site or associated with the facility shall likewise require specific consideration and approval.

(xiv) Application to Provide Sufficient Evidence

The application for the Certificate of Designation shall include all information required by, along with sufficient evidence that the facility can and will comply with all standards, criteria, procedures, and restrictions of, Sections 2, 4 and 6 (as applicable) of the State solid waste regulations and the provisions of Part 258 of the RCRA Subtitle D Regulations, including design criteria and groundwater and other monitoring and analysis.

**(b) Operating Plan Requirements**

All criteria, specifications, standards, procedures and restrictions included into the application documents and plans shall be reasonably sufficient to substantially alleviate or mitigate all health, safety, environmental and land use risks and impacts that will be or will likely be related to or caused by the operation of the proposed facility. Any risks or impacts unique to the proposed facility or site or that were not otherwise reasonably anticipated may be subject to additional conditions and requirements, not specified herein, that the CDPHE or the BoCC determine, based on the evidence in the record, will effectively

work to substantially alleviate or mitigate these risks or impacts. The BoCC has the authority, in its own discretion, to determine what level of evaluation of risks and impacts shall be undertaken.

**(c) Site Conditions and Operating Standards**

- (i) **Public Display of CD**  
Prior to commencement of operation, the Certificate of Designation shall be publicly displayed in a prominent place at the facility, and placed on file with the DSD and the fire department. The Certificate shall include the approved operational plan and any approved site development plan of the facility.
- (ii) **Fenced**  
The facility shall be adequately fenced so as to prevent all loose waste material and debris from escaping the property and to provide security from unauthorized access to the facility. Loose materials and debris shall not be allowed to accumulate along the fence line.
- (iii) **Only on Property Included in CD and Special Use**  
All activities approved for the facility shall be conducted exclusively within the legally described boundaries of the area for which the Certificate of Designation was issued and for which the special use approval was granted. All structures, operations, activities, and equipment situated or conducted on the facility site shall be limited to those indicated in the approved application and site development plan or approved amendment.
- (iv) **Double Fee for Unsecured Loads**  
The facility operator shall collect double the normal fee from all vehicles entering the facility with unsecured loads. A load may be secured by adequate enclosure, containerization, roping, or tarping. A log of unsecured loads shall be maintained by the operator, including date of the incident, identity of the vehicle and its driver, and type of waste. Said log shall be available for inspection by EPCDHE and County staff at any time during regular business hours of the facility.
- (v) **Access Adequate**  
All roads providing access to and from and driveways into and throughout the facility shall be of sufficient size, structure, and design to handle the type and level of

traffic typically associated with such a facility. The facility shall be served by all-weather roads, driveways and parking areas, all of which shall be treated or surfaced so as to prevent dust nuisances to neighbors and any violations of fugitive dust regulations. To the extent applicable, the ECM and any adopted access standards shall control. If any transportation improvements are indicated, the applicant shall prepare and execute a transportation improvements agreement, in consultation with the appropriate federal, State and local highway authorities. At a minimum, the agreement shall specify the type and timing of the needed improvements, the standards and criteria to which the improvements shall be constructed, any maintenance or future upgrade responsibilities, and the method of financing the improvements.

(vi) Maintenance Area for Equipment

Any facility maintenance area for the repair or upkeep of vehicles or heavy equipment shall be indicated on the site development plan. Adequate safety and environmental protection procedures shall be established in the operational plan for the storage of any liquids other than water and for a response in the event of a spill or leak of fuels, oils, solvents, and other hazardous or flammable liquids. Berming, impervious surfaces and liquid collection systems may be required. Unless otherwise approved by the BoCC, all heavy duty repairs or maintenance of vehicles and heavy equipment on site involving significant disassembling of engines or machinery shall be conducted inside of an enclosed structure with a concrete floor.

(vii) Water Needs

The applicant shall identify all potable and non-potable water needs at the facility along with the likely source of the water supplies. In particular, the applicant shall demonstrate that it can obtain regular and adequate water supplies for specified fire needs, dust control, cleaning, and the construction and maintenance of liners for solid wastes disposal sites and facilities.



- (viii) Area Markers  
Prior to commencement of operation of the facility, permanent visible markers shall be placed delineating the area for the approved Certificate of Designation site.
- (ix) Ceasing and Resuming Operations  
In the event that the operator ceases operations at the facility for in excess of 180 days, the BoCC may demand, in writing, that the operator resume operations by a specified date or, if this is not possible, initiate final closure activity. Failure by the operator to comply with this demand shall enable the BoCC, after notice to the operator and the holding of a public meeting on this matter, to undertake all necessary and prudent actions for the closure of the facility.
- (x) No Landfilling in Drainageways  
No landfilling shall occur within any regulated floodplain under any circumstances nor within any drainageway, wetland, or geologic hazard areas without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of drainageways, wetlands, or geologic hazard areas.
- (xi) No Radioactive Materials  
No radioactive materials or materials contaminated by radioactive substances shall be disposed of at any Solid Waste Disposal Site or facility not specifically approved for that purpose. Detection devices or procedures shall be required to assure compliance.
- (xii) Drainage Controlled  
Any surface drainage entering into or originating in the facility shall be controlled so that it does not flow into active or completed landfilling areas, unless otherwise approved by the BoCC as part of a facility's drainage and erosion control plan. Surface flows, coming in contact with refuse, at the working face or otherwise, shall be fully retained, with all waste-related pollutants being removed to the maximum extent practicable or as otherwise prescribed by federal or State law. Any proposed or recommended diversion structures shall be designed in accordance with the ECM. All detention facilities and diversion structures shall be regularly

tested for hazardous or toxic contamination, as established in the approved operational plan, and shall be subject to any necessary corrective action as specified by the CDPHE and the EPCDHE.

(xiii) Minimize Disturbance

Surface area disturbances within the Certificate of Designation site shall be no more than is absolutely necessary for the effective and efficient operation of the facility. The applicant shall document and justify the maximum surface area to be disturbed at any one time. Adequate erosion control measures shall be designed and implemented to minimize soil loss from the site. All disturbed areas that can be reclaimed shall be subject to a diligent program of stabilization and revegetation to blend with the surrounding terrain. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.

(xiv) Drainage and Erosion Control Plan Review

The drainage and erosion control plan shall be subject to review and comment by the DOT, CGS, and NRCS.

(xv) Operational Plan

The Operational Plan for the facility shall require, among other things, that: (1) a minimum of 6 inches of cover soil or other approved cover shall be placed over all exposed refuse at the end of each working day; (2) the working face (area where refuse is exposed) of the active landfilling area shall be limited, at any given moment, to a total area of 22,500 square feet unless a larger working face is justified by the applicant and approved by the BoCC; (3) any landfilling and onsite borrowing activity shall not be conducted outside the areas specified within the approved site development plan; (4) any landfilling cells shall be constructed and filled in the manner and sequence prescribed by the approved application and site development plan; (5) the operator shall further restrict the size of the working face, install movable fencing downwind of the face, and implement other effective blowing trash controls during windy periods and shall totally cease landfilling operations during "high wind warnings", as defined by State solid waste regulations; (6) the operator shall remove all

blown litter on site and within a mile downwind of the facility within 48 hours following a high wind warning, as defined by State solid waste regulations, or other defined period of sustained wind, as approved by the BoCC in the Operational Plan; and (7) an adequate waste screening process and training program will be implemented for the detection and prevention of disposal of regulated hazardous and toxic wastes.

(xvi) **Equipment for Suppressing Fires**

Adequate heavy equipment for the purposes of suppressing a landfill fire shall be maintained at the facility. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-landfill fires shall be maintained at the facility. The applicants shall undertake to make such other arrangements for the fighting and prevention of fires at the facility, as are satisfactory to the County Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

(xvii) **Setbacks from Landfilling Cells**

Any excavated cells for landfilling shall be at least 100 feet from all buildings and property lines. Where appropriate, setback requirements may be varied. Fencing, landscaping and berming shall be installed as necessary for appropriate buffering.

**(d) Reporting Requirements**

The operator or owner shall prepare and submit all reports and other information designated by the BoCC as necessary to monitor the activities of the facility. All operating records shall be made available, on request, to the County and the CDPHE.

**(e) Additional Requirements for Waste Tire Disposal Facilities**

(i) **Tire Storage Limited**

The above-ground storage, sorting or recycling (including shredding, baling, or splitting) of tires may be allowed at a waste tire only disposal facility if these activities are outlined in the approved operational plan and are clearly incidental to the primary purpose of the operation.

- (ii) **Tire Acceptance**  
These facilities may only accept whole, split, baled, or shredded Waste Tires, including reusable whole tires, unless specifically approved by the BoCC to accept other materials.
- (iii) **General Operational Plan Inclusions**  
For a waste tire disposal facility which has a recycling component, the operational plan shall, among other things, satisfactorily address or provide: (1) interim storage of waste tires to be recycled in accordance with the requirements for waste tire recycling facilities, including provisions limiting sizes of individual tire piles to a height and width that allows for sufficient fire lanes and proper control and management as specified by the County Fire Marshal or the pertinent fire department; (2) information regarding the proposed acquisition, location, and operation of any tire shredding machine or other heavy machinery to be used in the tire recycling operation; (3) information regarding the sale or disposition of tires or tire products; (4) an alternative ultimate disposal plan to be carried out in the event that the operation is not or cannot be conducted as proposed; and (5) all of the operational requirements contained in or imposed through Section 9 of the State solid waste regulations.
- (iv) **Inventory**  
For a waste tire disposal facility which has a recycling component, the inventory of waste tires shall be tracked by the operator of the facility in and out of the facility, with said inventory including a precise correlation of quantities of the tires with their identified source and final destination. Copies of these reports shall be submitted to the DSD and EPCDHE on at least an annual basis or more frequently if so directed by the BoCC.
- (v) **No Retail Sales**  
No retail sales shall be allowed from these facilities unless allowed by zoning and specifically designated by the BoCC.
- (vi) **Maximum Stockpile**  
The stockpiling of reusable tires at either of these facilities shall not exceed that minimally necessary for

the conduct of the applicant's tire resale business, and in no case more than 10,000 tires unless justified by the applicant and specifically approved by the BoCC. All stockpiles shall be stacked no more than 6 feet high.

(vii) Operational Plan to Address Tire Storage and Processing

The operational plan shall, among other things, satisfactorily address or provide: (1) all waste tires to be landfilled shall be split, halved, quartered, baled, chipped, crumbed, or shredded and placed into individual landfilling cells not to exceed 50 feet in width and 250 feet in length with a tire depth of no more than 30 feet; one million tires each; (2) no more than 2 cells shall be operational or under construction at any one time; (3) no more than 12,500 square feet of landfilled tires shall be exposed to view at any one time (one cell); (4) all landfilled tires shall be regularly covered with soil to a depth of at least 2 feet; (5) each cell shall be separated by a minimum of 40 feet for fire department access; and (6) all applicable operational requirements contained in or imposed through Section 9 of the State solid waste regulations.

(viii) Drainage Control

Any surface drainage entering into or originating in either of these facilities shall be controlled so that it does not flow into tire disposal or storage areas, and any surface flows leaving these areas shall be minimized and controlled so as to create no significant degradation as to water quality. Any proposed or recommended diversion structures shall be designed in accordance with the ECM. Surface flows in any area where tire shredding activity or shredded tire storage is occurring shall be fully retained, and all tire-pollutants shall be removed to the maximum extent practicable or as otherwise prescribed by federal or State law. No tires shall be placed within any drainageway or in any cell below groundwater level.

(ix) Minimize Disturbed Area

The design and operation of these facilities shall be such as to minimize the quantity of disturbed surface area on the site. All areas disturbed in the initiation of the operation of these facilities which can be reclaimed and

all berms, soil piles, or completed landfill cells shall be diligently stabilized and revegetated to blend in with the surrounding terrain. All grading or soil disturbance activity on site shall be conducted in a manner consistent with all federal, State and local requirements, including those applicable to air quality.

(x) No Landfilling in Floodplain

No landfilling or storage of waste tires shall occur within any regulated floodplain under any circumstances nor within any drainageway or wetland without the approval or other authorizing action by the CDPHE, the BoCC, and any other federal, State, or local agency with authority over the use or protection of the drainageway or wetland.

(xi) Equipment for Suppressing Fire

Adequate heavy equipment for the purposes of suppressing a tire fire shall be kept available within the vicinity of these facilities. An adequate quantity of fire extinguishers and other equipment appropriate for fighting non-tire fires shall be maintained at the facilities, and with any operating equipment such as shredders, balers, etc. The applicants shall undertake to make such other arrangements for the fighting and prevention of fires at the facilities, as are satisfactory to the County Fire Marshal and the pertinent fire department. A secondary access to the site for emergency purposes shall be provided and designated on the site development plan for the facility. Compliance with these requirements shall be fully and consistently reflected in the operational plan.

(xii) Setbacks of Tire Storage

All surface-level tire piles shall be set back at least 50 feet from all buildings and property lines. Any excavated cells for landfilling or storing waste tires shall be at least 100 feet from all buildings and property lines. Any tire processing, shredding, splitting, or baling equipment shall be situated at least 200 feet from all property lines, and the location of the equipment and any associated fuel storage or energy supply is subject to approval by the County Fire Marshal. Setback requirements may be varied in the approval of the site development plan or operational plan where deemed appropriate. Fencing,

landscaping and berming shall be installed as necessary for appropriate buffering.

**(G) Submittal Requirements**

**(1) Application Required**

An application shall be completed on the appropriate form. The application shall include signatures of the operator and owners of all equitable and legal interest in the property site where the facility is proposed to be located (hereinafter referred to as "facility site") and the proposed facility.

**(2) Modification of Submittal Requirements**

Where appropriate the DSD Director may waive or modify the submittal requirements for the additional reports identified in the submittal list.

**(a) Waiver Request Required**

Prior to any complete application being submitted, a waiver request is to be initiated by the applicant submitting a detailed letter to the DSD Director listing and justifying what report requirements should be waived and stipulating what other information would be provided instead. After notification to and receipt of comments and recommendations from all State and local agencies which would ordinarily review said reports the Director may grant the request, modify the report requirements, or deny the request, as he deems appropriate.

**(b) Approval of Waiver**

Approval of any waiver request shall not constitute a relinquishment of the right of the CDPHE, DSD or BoCC, on determining there is a reasonable need, to later request specific information that might ordinarily be included in a report that was waived.

**(3) Application Filing Fees**

**(a) Application Fees Paid**

Application fees in accordance with the fee schedule are to be paid to El Paso County on final submittal of the application to the DSD, after any modifications to the plans are made to the satisfaction of the CDPHE.

**(b) Reduction in Fees**

In cases where the proposed operation is of a limited scale and complexity or duration, the applicant may request that the BoCC reduce the submittal fee to that for a Minor Certificate of Designation.

**(c) Amendments Subject to Adopted Fees**

Amendments to approved Certificate of Designations shall be subject to a fee as identified in the fee schedule.

**(d) Applicant Required to Pay Outside Agency Review Fees**

In the event that agencies designated by the DSD to review applications submitted under this Section charge for the reviews, the applicant shall pay charges prior to any hearing. The applicant may also be required to pay, prior to any hearing, the costs incurred by the County in retaining any contracted consultant or expert to review and analyze the application and associated technical information. The extent and nature of the costs should be established between the applicant and the County prior to contracting for the services.

**(4) Notice Requirements**

In addition to those notice requirements contained in the Procedures Manual, the following statutory requirements shall be observed: Public hearing on the petition shall not be heard until public notice has been published in a newspaper of general circulation in the County at least 10 days but no more than 30 days prior to the date of the hearing. Public notice shall contain the time and place of the hearing, state the matter to be considered the applicant's proposal for a Certificate of Designation, provide a description of the facility and the facility site, and provide a description of the geographic area which is within 3 miles of the proposed facility site. In addition, notice of the public hearing shall be posted at a conspicuous point in at least one location within the County Office Building and in at least one location at the proposed facility site. The notice shall be posted for a period beginning at least 30 days before the public hearing and continuing through the date of the hearing.

**(5) Standards of Review and Findings**

In addition to the special use review standards found in Chapter 5, the applicant for a facility under this Section shall demonstrate the following to the satisfaction of the BoCC. It is the applicant's responsibility to provide information necessary to evaluate the standards. The BoCC shall make its decision to approve or disapprove the proposed facility, and shall make specific findings, based on the following standards.

The following standards shall apply to all requests for a Certificate of Designation:



**(a) Adverse Impacts**

Adverse impacts to surrounding properties from blowing trash, odors, vectors, noise, lights, and surface water flows caused by the operation of the facility will be minimized by adequate operational controls or by the existence or acquisition of an adequate buffer.

**(b) Operational Plan**

The submitted operational plan identifies procedures and provisions which adequately assure that the facility will be operated in a safe and environmentally acceptable manner and will cause minimal negative impacts, including:

- Hours and methods of operation will be compatible with the neighboring land uses.
- Adequate waste screening measures recognized by the industry and federal government will be implemented to assure proper identification, isolation and removal of unauthorized wastes or materials and prevent unauthorized activity.
- Adequate methods will be available to contain and dispose of all liquids associated with the operation in an acceptable manner.
- Fire protection and emergency response plans will be adequate for the type of facility proposed.
- Fencing and other site security and trash retention will be adequate for the type of facility proposed.
- Other requirements and conditions for operational plans have been fully addressed and will be complied with by the applicant.

**(c) Recycling Goals**

The owner or operator incorporates recycling goals, either onsite or off-site, which will result in a notable reduction in the waste stream.

**(d) Minimize Traffic and Other Problems**

The facility is so designed that it can be operated in a manner which will minimize traffic, storage, fire fighting, safety and other site-related problems.

**(e) Natural Hazards**

The facility will not be located where natural or man-made hazard or conditions will cause undue conflicts or environmental problems.

**(f) Water Supplies**

Adequate water supplies will be available for drinking, fire protection, showers, sanitary and cleaning purposes, landscaping, dust suppression, reclamation, and general operation.

**(g) Closure**

Adequate provisions have been made to address either anticipated or unanticipated closure or abandonment of the facility.

**(h) Drainage and Erosion Control Measures**

Drainage and erosion control measures will be adequate.

**(i) Convenience and Accessibility**

The facility will be reasonably convenient and accessible to the using public.

**(j) Environmental and Health Standards**

The applicant can demonstrate the ability and willingness to comply with the environmental and health standards and operating procedures provided under the "Solid Wastes Disposal Sites and Facilities Act," C.R.S. §§30-20-100.5 et seq., and the State solid waste regulations.

**(k) Financial Resources**

The applicant can demonstrate the ability to provide the financial and material resources and experience (including a past record of quality performance in solid wastes operations) necessary to properly operate the facility, and comply with all imposed conditions and requirements

**(l) Facility Need**

The facility is presently or will, within a reasonably foreseeable future period of time, be needed to accommodate the waste management needs of the area it is intended to serve or to provide healthy competition in the regional solid waste management market.

**(m) Compatibility**

The facility is proposed to be located where, based on existing and projected urban growth patterns and the type of facility proposed, it will have a reasonably compatible or harmonious relationship with surrounding property development, including:

- All aspects of the operation and the interim and final grading plans are visually compatible with surrounding land uses and topography.
- The operation will not substantially disturb uniquely sensitive environmental features including wetlands, riparian habitats, other wildlife habitats, threatened and endangered species habitat, and rare or unusual natural features.
- The operation will not substantially disturb identified historical, archaeological and paleontological sites.
- The geology of the facility site and design of the facility is such that the prospects of contamination of area surface water or groundwater supplies by leachate and other pollutants migrating from the facility are reasonably remote. The BoCC has the authority to evaluate the risks of contamination, in part, based on a comparison with existing or proposed sites for facilities and other available sites in or near El Paso County.
- The geology of the facility site and design of the facility is such that the prospects for interference with surface water or groundwater flow patterns which may impair vested water rights are reasonably remote. The BoCC has the authority to evaluate the risks of this disruption, in part, based on a comparison with existing or proposed sites for facilities and other available sites in or near El Paso County.
- The applicant can demonstrate the ability and willingness to comply with the environmental and health standards and operating procedures provided under RCRA Subtitle D Regulations and State regulations.

**(H) Denial, Modifications, Suspension or Revocation of a Certificate of Designation**

This Section shall be applicable to any type of facility, existing or that is proposed in the future, subject to Certificate of Designation approval or Minor Certificate of Designation approval.

**(1) General Basis for Action**

**(a) Failure to Comply**

Failure to comply with any terms or conditions of approval or with the applicable requirements and conditions of this Section or the State solid waste regulations may result in reconsideration of a Certificate of Designation by the BoCC. Reconsideration, following appropriate notice and during public hearing as prescribed by the Procedures manual and this Code, may result

in the modification, suspension, or revocation of the Certificate. El Paso County reserves the right to pursue any other remedies and enforcement means provided in this Code or by law.

**(b) Misrepresentation and Other Issues**

Above and beyond any other bases or grounds provided in this Section for denying, suspending or revoking a Certificate of Designation, an application for a Certificate of Designation may be denied, or an issued Certificate of Designation may be suspended or revoked, if the BoCC reasonably determines that it has significant and convincing evidence that an applicant or Certificate holder or any entity associated with the applicant required to be identified by this Section has:

- intentionally misrepresented or knowingly failed to disclose any material fact in the application for or amendment of, or in a public hearing regarding, a Certificate or in any reporting documents submitted as part of the operational requirements; or
- intentionally misrepresented or concealed any material fact pertaining to its financial or material resources, its experience and record in solid wastes operations, or other pertinent information regarding its corporate or partnership structure; or
- exhibited a repeated history of willful disregard and violation of federal, State or local laws or regulations pertaining to solid wastes operations, hazardous or toxic materials or wastes operations, or related environmental or health laws; or
- been convicted of a felony by final judgment within the five years immediately preceding the date of submission of the Certificate application or at any time following issuance of the Certificate, in any court for any crime defined by State or federal statutes as involving restraint of trade, price-fixing, antitrust, bribery, fraud or business-related racketeering; or
- had any Certificate of Designation or similar permit revoked or permanently suspended by any federal, State or local authority for cause related to environmental or health noncompliance or criminal acts.

**(2) Decision to Deny, Suspend, or Revoke a Certificate**

In deciding whether to deny, suspend, or revoke a certificate under this Section, the BoCC shall consider the relevant facts and mitigating circumstances surrounding the foregoing including:

- the relevance of the offense to the nature of the business for which the Certificate of Designation has been or will be issued;
- the nature and seriousness of the offense, including the number and frequency of complaints;
- the circumstances under which the offense occurred;
- the date of the offense; and
- the ownership and management in place at the time of the offense and any subsequent changes thereto.

Prior to the BoCC taking any action, the applicant or Certificate Holder shall have a right to present and address any mitigating circumstances and to submit evidence of rehabilitation and measures taken to prevent recurrence of the unlawful activity. The BoCC's action shall only be taken following appropriate notice and during a public hearing as prescribed by the Procedures Manual and this Code.

**(I) BoCC Right to Review and Modify CD**

The BoCC retains the right to review and modify any Certificate of Designation as to its consistency with all applicable local, State, and federal laws and regulations pertaining to the protection of the environment and public health and safety. This would include the Resource Conservation and Recovery Act's Subtitle D Regulations for municipal solid waste landfills.

**(J) Administrative Modifications to Operational and Drainage and Erosion Control Plans for a Waste Disposal or Recycling Facility**

**(1) Purpose**

To allow for modifications to be administratively approved by the DSD Director for operational documents governing any facilities included under this Section in cases where the modifications are clearly of a minor nature and do not contravene the intent of the Certificate of Designation or special use as approved by the BoCC.

**(2) Limitations**

This process shall be applied only to proposed modifications to the design and operations plan, and drainage and erosion control plans prepared in conformance with this Section.

**(3) Exclusions**

Modifications specifically excluded from this process include the following:

- Modifications which could be considered to modify or conflict with any conditions or notations specifically imposed by the BoCC on the approved Certificate of Designation, special use or any agreement entered with the BoCC.

- Any large combination or comprehensive set of modifications, even in cases where the changes would be considered minor when considered separately.
- Modifications that affect the location of waste placement and landfill elevations which result in negative visual impacts to surrounding properties.
- Major or categorical changes to waste acceptance allowances and procedures.
- Any other modifications, which in the discretion of the DSD Director, should be considered by the BoCC.

**(4) Examples of Modifications**

Modifications which might be allowable under this procedure include but are not limited to the following:

- Substitutions of personnel, equipment, plans or procedures
- Minor changes to operating hours or rates.
- Minor non-categorical changes to waste acceptance allowances and procedures.
- Certain non-mandated, preventive procedures and features designed to mitigate impacts of the operation, rather than enlarge its scope.
- Modifications to facility engineering design and monitoring systems, which are non-mandated and preventive in nature, and which add clarity and specificity to the design plan, or which reflect a more current design standard approved by the State for use in Colorado.
- Modifications to the phasing plan, or the time of completion of specific improvements or actions.

**(5) Procedures**

**(a) Application**

The applicant shall submit the proposed modification in writing, with specific references to current text, to the DSD. Justification for, and applicability of, the proposed modification should be clearly stated. Posting and notification may be undertaken if deemed appropriate.

**(b) Referral**

The DSD will refer the proposed modification to all appropriate agencies, organizations and individuals to include the following at a minimum:

- CDPHE
- EPCDHE

- OCA
- DSD Engineering Division (for proposed changes to the Drainage and Erosion Control Plan).
- ESD

Agencies will be requested to respond within 14 days.

**(6) Action**

Within 30 days of receipt of the original application, in the absence of adverse technical comments from the CDPHE, the DSD Director shall either approve or disapprove the application with reasons stated in writing. In granting any approval the DSD Director may impose any condition or requirement deemed necessary to protect the health, safety and welfare of the public. Final action is taken by the issuance of the Notice of Decision in accordance with the Procedures Manual and this Code.

**(7) Modification of Plans**

Within 14 days of administrative approval of any modification to operational or drainage and erosion control plans, the applicant shall provide an appropriate number of updated copies or inserts for the operational document to the DSD. Failure to provide these materials may be considered cause for nullification of the approval.

**(8) Appeal**

Any interested party may appeal the final action of the DSD Director to the BoCC in accordance with the Procedures Manual and this Code.

**(K) Amendment to the Certificate of Designation**

Instead of an appeal, or following an unsuccessful appeal on the proposed administrative modification, an applicant may apply for an amendment to the Certificate of Designation or special use, which may be processed as prescribed in this Section.

**(1) Submittal Requirement List for a Certificate of Designation**

**(a) Map**

30 copies of a map of the proposed facility site including a certified legal description of the proposed facility site and any buffer area that the operator or owner owns or will own or can legally restrict land use activity on. The map shall be drawn to a scale suitable to show the required information and shall include:

- Date of preparation, north arrow, and scale.
- Name and address of the proposed operator, preparer of the map, and property owner.
- Contour intervals of not less than 5 feet.

- Significant features, to include, but not limited to: (1) Lakes, streams, drainage ways, and other topographic features; (2) Vegetation and significant wildlife habitats; (3) Existing and proposed land use, easements, roads or rights-of-way, structures, disposal sites, access points, and related facilities; (4) Existing land uses, roads, and other major features within 1,500 feet of the proposed site.

**(b) General Reports**

30 copies each of reports required by the CDPHE under the State solid waste regulations including but not limited to:

- Geology
- Hydrology
- Engineering plan
- Design and operations plan
- Closure plan

**(c) Additional Reports**

15 copies each of reports required including the following:

- Recycling plan
- Visual Impact Analysis
- Transportation Impact Analysis
- Analysis of Impacts to Sensitive or Significant Features
- Analysis of Other Potential Impacts
- Ultimate Land Use Analysis
- Drainage and Erosion Control Plan (to be prepared in accordance with the applicable specifications of the ECM. This plan shall satisfactorily address all aspects of interim and final facility design, as applicable. At a minimum, full detailed plans are required for the first phase of any multi-phased project.)
- Noxious Weed Management Plan

**5.2.53. Wholesaling, Accessory Use**

Wholesaling as an accessory use shall be conducted in conjunction with a retail use and shall not exceed a maximum of 600 square feet in gross floor area.

**5.2.54. Wind Energy Generation Facilities**

**(A) Applicability**

This Section is applicable to any wind energy generation facility established after the date of adoption of this Section. Individual private wind-powered generators are subject to the accessory use and wind-power generator provisions in this Chapter.



**(B) Development Standards for Wind Energy Generation Facilities**

**(1) Height**

Wind energy generation facilities are not subject to height restriction of the zoning district, but instead are subject to the height as established by the special use process. The height of the tower is measured from the top surface of the wind energy generation facility tower foundation to the rotor blade at its highest point..

**(2) Setbacks**

Wind energy generation facilities shall be located a distance of 1½ times the height of the facility from any house, road, property line, third party transmission lines, or freestanding communication tower.

**(3) Climb Prevention**

Wind energy generation facilities shall be unclimbable by design or protected by anti-climbing devices such as:

- Fences with locking portals at least 6feet high; or
- Anti-climbing devices 12 feet vertically from the base of the wind energy generation tower.

**(4) Controls and Brake**

Wind energy generation facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

**(5) Color**

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

**(6) Noise Levels**

Noise levels from each wind energy generation facility shall be in compliance with the noise ordinance adopted by El Paso County.

**(7) Compliance with the Federal Aviation Administration**

The wind energy generation facility shall comply with all applicable FAA requirements.

**(8) Compliance with Additional Regulations**

Nothing in this Section is intended to preempt other applicable State and federal laws and regulations

**(C) Required Avian Habitat Study for Wind Energy Generation Facilities**

As part of the special use process, a qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study to determine if the installation of the wind energy generation facility will have a substantially adverse impact on birds.

**(D) Additional Requirements Pertaining to Roads**

Due to the large size and excess weight of wind energy generation facility equipment, the applicant for a wind energy generation facility may be required to conduct studies on existing road conditions and ensure repair of any damage to public roads caused by constructing, operating, or maintaining the wind energy generation facility.

**(E) Decommissioning Plan**

A wind energy generation facility approved pursuant to this Section shall provide a decommissioning plan to ensure that the wind energy generation facility is properly decommissioned. The decommissioning plan shall include:

- Provisions describing the triggering events for decommissioning the wind energy generation facility;
- Provisions for the removal of structures, debris and cabling, including those below the soil surface;
- Provisions for the restoration of the soil and vegetation;
- An estimate of the decommissioning costs certified by a professional engineer;
- Financial assurance, secured by the owner, for the purpose of adequately performing decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning costs;
- Identification of and procedures for County access to financial assurances;
- A provision that the terms of the decommissioning plan shall be binding on the owner and any of their successors, assigns, or heirs; and
- A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

**5.2.55. Wind-Powered Generators**

**(A) Minimum Lot Size**

**(1) Freestanding Generator**

One private wind-powered generator is allowed as an accessory use where the parcel size is 2½ acres or larger irrespective of nonconforming status.

**(2) Roof-Mounted or Attached Generator**

One private roof-mounted or attached wind-powered generator is allowed per lot, tract or parcel as an accessory use provided it does not exceed the maximum height allowance within the applicable zoning district.

**(B) Maximum Height of Generator**

The height of the generator, including blades, shall not exceed 75% of the distance from the base of the generator to any property line, or overhead electrical line, or 80 feet, whichever is less, unless otherwise approved as part of a special use. The maximum height of the generator may be further restricted if located within an airport overlay zoning district.

**(C) Minimum Height of Blades Above Ground**

The minimum height of the blades above the ground shall be 20 feet.

**(D) Number of Generators Allowed**

Only one generator per lot or parcel is allowed unless otherwise approved as part of a special use.

**(E) Location**

The generator serving the structure shall be located on the same lot or parcel as the structure that it serves; however, excess energy may be sold as allowed by State and federal law.

**(F) High Wind Mitigation**

The DSD shall be provided with assurance from the manufacturer that safety features to mitigate the effects of high wind conditions have been designed for the particular generator prior to issuance of a building permit for construction of a wind-powered generator.

**(G) Noise Levels**

Allowed noise levels shall meet the requirements of this Code.

**(H) Electromagnetic and Electrical Interference**

No equipment shall adversely effect the operation of any off-premises electrical, radio or television equipment including electrical interference with navigational signals for radio communications between an aviation facility and aircraft.

**(I) Manual Shut-Off Required**

Any individual wind-powered generator shall include a manual shut-off, which may be utilized by utility company personnel.

**5.2.56. Wind/Meteorological Measuring Facility**

**(A) Applicability**

This Section is applicable to any wind/meteorological measuring facility established after the date of adoption of this Section which exceeds the height limits allowed by the zoning district.

**(B) Development Standards for Meteorological Towers**

**(1) Height**

Wind/meteorological measuring facilities are not subject to height restriction of the zoning district, but instead are subject to the height as established through the special use process. The height of the tower or pole is measured from the top surface of the wind/meteorological measuring facility foundation (or to the adjoining ground level if no foundation exists) to the highest point of the tower or pole.

**(2) Setbacks**

Wind/meteorological measuring facilities shall be located a distance of 1½ times the height of the facility from any house, road, property line, third party transmission lines, or freestanding communication tower.

**(3) Climb Prevention**

Wind/meteorological measuring facilities shall be unclimbable by design or protected by anti-climbing devices such as:

- Fences with locking portals at least 6 feet high; or
- Anti-climbing devices 12 feet vertically from the base of the wind/meteorological measuring facility.

**(4) Color**

Towers or poles shall be painted white or gray or another non-reflective, unobtrusive color.

**(5) Compliance with the Federal Aviation Administration**

The wind/meteorological measuring facility shall comply with all applicable FAA requirements.

**(6) Compliance with Additional Regulations**

Nothing in this Section is intended to preempt other applicable State and federal laws and regulations.

**(C) Decommissioning Plan**

A wind/meteorological measuring facility approved pursuant to this Section shall provide a decommissioning plan to ensure that the wind/meteorological measuring facility is properly decommissioned. The decommissioning plan shall include:

- Provisions describing the triggering events for decommissioning the wind/meteorological measuring facility;
- Provisions for the removal of structures, debris and cabling, including those below the soil surface;
- Provisions for the restoration of the soil and vegetation;
- An estimate of the decommissioning costs certified by a professional engineer;
- Financial assurance, secured by the owner, for the purpose of adequately performing decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning costs;
- Identification of and procedures for County access to financial assurances;
- A provision that the terms of the decommissioning plan shall be binding on the owner and any of their successors, assigns, or heirs; and
- A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

#### **5.2.57. Yard Sales**

Yard and garage sales are limited to no more than 3 occurrences on a lot or parcel during the year, with each occurrence limited to no more than 5 days. A yard sale may only be held on a property where a dwelling exists as the principal use.

### **5.3. STANDARDS FOR REVIEW, APPROVAL, AND ADMINISTRATION OF USES**

#### **5.3.1. Temporary Use Permits**

##### **(A) Purpose**

The temporary use permit is a mechanism by which the County may allow a use to locate on a short term basis and by which it may allow seasonal, short term or transient uses not otherwise allowed. A temporary use permit may be issued to allow for installation of temporary emergency or critical facilities related to a utility or communication site, after any required approval has been granted to establish the permanent facility.

##### **(B) Temporary Use Permit Required**

All temporary uses shall require a temporary use permit prior to beginning operation. All temporary uses shall comply with the standards established by this Code for the temporary use.

##### **(C) Temporary Use Standards**

###### **(1) Zoning District Standards and Requirements Apply**

Setbacks and all other standards and requirements of the zoning district in which the temporary use is located shall apply to all structures or uses connected with the temporary use, unless otherwise identified herein.

**(2) Failure to Meet Criteria**

Any variance from the requirements of this Code for a temporary use shall be considered a Variance of Use and not subject to the temporary use provisions of this Code.

**(3) Duration of Temporary Use**

Temporary uses shall be limited to the specific dates/time period identified on the temporary use permit. No temporary use shall be allowed for a period exceeding one year, unless otherwise noted. Renewals of temporary uses may be granted in one year increments, following the same procedures as the original temporary permit issuance. Any renewal or reapplication shall be treated as a new application.

**(4) Compliance with Building Code and Health Code**

Compliance with the Building Code and the Health Code is required for all temporary uses.

**(5) Parking and Requirement for Driveway Permit**

Safe access and adequate parking shall be provided for the temporary use. Any temporary use that requires a building permit, lasts more than 31 days, or results in a driveway intersecting a County road is required to secure a driveway permit.

**(6) Compliance with Engineering Criteria Manual**

Any temporary use is required to comply with the ECM.

**(7) Suspension/Revocation**

If, upon review, the conditions or restrictions imposed by this Code or by the temporary use permit have not been complied with, the DSD Director may take any action deemed necessary to remedy the noncompliance, including but not limited to revocation of the temporary use permit or pursuing the noncompliance as a zoning violation.

**(8) Permit Transferability**

A temporary use permit is valid only for the lot or parcel identified on the temporary use permit, and is not personal.

**5.3.2. Special Use**

**(A) Purpose**

The purpose of the special use process is to address potential impacts of certain land uses on existing and allowed uses in the same neighborhood. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.

**(B) Standards**

**(1) Special Use Allowed**

No special use application shall be considered unless the underlying land is located within a particular zoning district which allows the proposed special use.

**(2) Review Standards**

In approving a special use, the following findings shall be made:

- The special use is consistent with the applicable Master Plan;
- The special use is consistent with the intent and purposes of the zoning district where the use is proposed to be located or conforms to the approved development plan;
- The special use will be in harmony with the character of the neighborhood, and compatible with the existing and allowable land uses in the surrounding area;
- The special use will not result in an over-intensive use of land;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create undue traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
- The special use will not cause significant air, water, light, or noise pollution;
- The special use will not be otherwise detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

**(C) Limits of Approval**

Issuance of a special use permit shall authorize only the particular use and activity for which it is issued, for the time period, if specified, and in accordance with the permit conditions imposed. The special use permit runs with the land. The special use is based upon the parcel size stated in the application. A reduction or increase in parcel size is considered a substantial modification of the special use unless specifically provided for in the approval. The special use permit does not relieve the owner from compliance with any other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the special use permit is approved.

**(D) Performance Guarantees and Surety**

Sufficient performance guarantees and surety may be required to ensure implementation of and compliance with the conditions imposed. The terms or any required guarantees and surety shall be made part of a development agreement.

**(E) Public Facilities and Services**

Special use permits shall be subject to the terms and requirements of the applicable development standards and regulations relating to the provision and financing of necessary public facilities and services. Determinations concerning the adequacy and efficiency of the provision of necessary public facilities and services, and the financing of the same, shall be based on standards and criteria adopted by the BoCC and may include a requirement that the applicant for a special use permit agrees to contribute a fair and equitable share of the costs of the public facilities and services through the payment of development impact fees, special assessments, participation in a local improvement district or special district, or other similar mechanism for the provision and financing of adequate public facilities and services.

Sufficient surety may be required to ensure the timely completion of any public improvements needed to address potential impacts of the proposed use. The terms and conditions regarding the provision of public facilities and services shall be made part of the development agreement.

**(F) Limited to Approved Special Uses**

Any land on which a special use permit is approved shall be limited to those uses and structures enumerated within the special use permit and no more than one principal allowed use.

**(G) Administrative Approval Authorized**

Any special use may be acted upon by the DSD Director, except those related to a CD request or mineral and natural resources extraction which includes processing. The DSD Director, in his sole discretion, is authorized to elevate a special use application to a public hearing. Any special use acted upon by the DSD Director shall be limited to a 5 year time period, subject to renewal.

**(H) Post Approval Requirements**

**(1) Site Development Plan or Site Plan Review Required**

Site development plan review or site plan review is required before an application for a building permit can be authorized by the DSD. Site development plan or site plan review may be concurrent with the special use permit process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.



**(2) Conditions Included in Development Agreement and Filed for Recording**

Conditions may be included in the development agreement signed by the applicant and the County. The development agreement shall be filed for recording by the applicant with the Clerk and Recorder.

**(I) Periodic Review of Special Use Permit**

**(1) Special Use Permit Subject to Periodic Review**

Approved special uses shall be subject to a periodic review by the DSD to determine compliance with all applicable requirements and standards of this Code, and the conditions. The initial review shall be not more than one year from the date of issuance of the special use permit unless otherwise provided. Upon completion of each periodic review, the DSD shall document its findings and any recommendations or requirements to the holder of the special use permit.

**(2) Hearing Concerning Findings of Periodic Review**

The BoCC shall have the power to conduct, after notice, public hearings concerning a special use permit and compliance of the owner with the applicable requirements and standards of this Code, and the conditions imposed by the County.

**(J) Abandonment**

**(1) Determination of Abandonment of Use**

Unless otherwise provided, a special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of approval of the special use; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, a special use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved special use site.

**(2) Determination of Abandonment of Mineral Extraction**

A mineral extraction special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if the mineral extraction activity has been discontinued for a period of 3 years.

**(3) Extension of Special Use Permit**

Prior to the expiration of the special use permit due to a determination of abandonment, a one year extension may be granted by the DSD Director for good cause shown after receiving a written request for extension.

**(K) Suspension or Revocation**

**(1) Violation of Permit Grounds for Suspension or Revocation**

The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the special use permit or development agreement shall constitute sufficient grounds for suspension or revocation of the special use permit by the BoCC, after a public hearing at which the holder of the special use permit shall be afforded the opportunity to be heard.

**(2) Notice of Revocation Hearing**

Notice of the public hearing on the suspension or revocation of a special use permit shall be in accordance the Procedures Manual, and given by conspicuously posting the subject property for a period of at least 10 days prior to the public hearing, and mailing a copy of the written notice to the holder of the special use permit and any complaining party at least 10 days prior to the public hearing.

**(3) Determination of Suspension or Revocation**

In determining whether suspension or revocation is warranted, the BoCC shall consider, among other factors, the nature and magnitude of the violations found to exist; the impact of the violations on the health, safety and welfare of adjacent property owners and surrounding communities; and any other evidence presented in aggravation or mitigation of the violations committed.

**(4) Suspension or Revocation in Addition to Other Penalties**

Suspension or revocation is in addition to any other remedies and enforcement provisions provided by this Code or by law.

**(L) Permit Transferability**

The special use permit is valid only for the lot or parcel identified on the special use permit and may be transferred to a new property owner..

**5.3.3. Approval of Location**

**(A) Purpose**

The purpose of this Section is to determine if a public use, structure or utility proposed for location in unincorporated El Paso County conforms to the adopted Master Plan, and to provide procedures for the timely review of the Approval of Location of public facilities or uses as provided by C.R.S. §§30-28-110, et seq..

**(B) Determination of Public Use**

A public use is considered to be any activity primarily funded by taxes, or of an entity which has the capability to levy taxes, or is of benefit to the public such as airports, schools, parks, utilities, and other similar public areas or structures.

**(C) Applicability**

The Planning Commission is required to review and approve construction of or plans for the construction of any road, park, or other public way, ground, or space, public building or structure, or public utility, whether publicly or privately owned prior to the construction of any facility. Routine extensions of public utility lines and minor modifications to existing uses or facilities shall not be subject to this procedure.

The following projects require Approval of Location review:

- Public schools (including Charter Schools);
- Public roads, public parks, trails and trail heads, public ways, grounds and spaces, public buildings and structures and utilities, whether public or privately owned;
- Public building where the building, facility or use provides or fulfills a governmental function the governmental unit is legally authorized to provide including publicly-owned jail or prison facilities;
- Utility substation including any electric transmission lines, substations for electrical utilities which control electricity in amounts of 115,000 volts or more, major gas regulator station, transmission and gathering pipelines and storage areas of utilities providing natural gas or petroleum derivatives and their appurtenant facilities;
- Electrical transmission line and upgrade which are 115,000 volts or greater;
- Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives utilizing 12 inch or larger distribution or transmission lines including extensions to those facilities;
- Treatment plant for the treatment of sanitary sewage that complies with the minimum standards specified in the Design Criteria Considered in the Review of Wastewater Treatment Facilities, Colorado Department of Public Health and Environment, Water Quality Control Commission (Site Approval) or a facility for the treatment of raw water to meet the water quality requirements contained in the Colorado Primary Drinking Water Regulations;
- New wastewater treatment plants, extensions or expansions to existing plants (excluding line extensions which are separately covered below), or individual sewage disposal systems that have an average flow of more than 2,000 gallons a day;
- Waste water lift stations that pumps wastewater from areas too low to drain into available sewers receiving an average flow of more than 2,000 gallons per day;
- Waste water interceptor sewer with an internal pipe diameter of equal to or greater than 24 inches intercepting wastewater from a final point in a

collection system and conveying the waste to directly to a treatment plant, or meeting other requirement of the CDPHE to be classified as an interceptor;

- Water storage facility including a pond, lake, tank or basin, natural or man-made, used for the storage, regulation or control of water;
- Water reservoir including construction of any new reservoir or expansion of any existing reservoir for a municipal or industrial or domestic treated water use;
- Major extensions of existing domestic water and sewage treatment systems which use 12 inch or larger distribution or transmission lines and which are not located entirely within an approved service area;
- New water supply systems, new water treatment plants, or extensions of those systems or plants that serve more than 25 year-round residents or provide the equivalent amount of water service and are not located entirely within an approved service area or installed in conjunction with approval of a development project;
- Energy generation facility operated by a public utility or regulated by the Public Utilities Commission designed, constructed and operated to generate electric power by steam, wind, solar, water or other means, or which generate less than 50 megawatts of power;
- Central office buildings of telephone utilities;
- Fiber optic cable regeneration buildings; and
- Cable TV buildings, and satellite receiving areas.

**(D) Specific Facilities or Actions Exempted from the Approval of Location Permit**

The following facilities or actions are exempted from the approval of location permit, but shall comply with any other permit or development requirements:

- Operation, maintenance, repair and replacement of existing water and sewage collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility;
- Projects addressed by an intergovernmental agreement which the County has approved will be subject to this Code unless otherwise provided by the terms of the intergovernmental agreement;
- Any facility necessary to serve any subdivision or other use approved under this Code provided that the BoCC specifies in its approval of the subdivision or other use that separate review of the system, extension, or proposal is not necessary under this Code;

- Expansion of existing facilities does not require submittal of a new application if the expansion was identified and approved in the original application.

**(E) Federal or State Reviewed or Approved Facilities**

Review or approval of a project by a federal or state agency does not prevent, and will not substitute for, the need to obtain a permit for that project under this Code. Where in the opinion of the Planning Commission, federal or State review and approval processes adequately address the impacts that this Code is designed to address, the County may agree to rely on that review and approval.

**(F) Facilities Identified as a Special Use in the Zoning District**

Where the public facility is identified as a special use in the zoning district, the Approval of Location process shall control.

**(G) Public Schools and Charter Schools**

**(1) Prior to Acquisition of Land for School Site**

Prior to acquiring land or contracting for the purchase of land for a school site, the school district shall consult with and advise the Planning Commission in writing to ensure that the proposed site conforms to the adopted Master Plan as far as is feasible.

**(2) Prior to Construction of a Structure**

Prior to construction of any structure or building, the school district shall submit a site development plan for review and comment to the Planning Commission.

**(3) Request by Planning Commission for Public Hearing**

The Planning Commission may request a public hearing before the school district on the proposed site location or site development plan. If the Planning Commission requires a hearing, the school district shall promptly schedule the hearing, publish at least one notice in advance of the hearing and provide written notice of the hearing to the Planning Commission.

**(4) Information to be Considered and Recommendation**

The Planning Commission will consider all information presented at the hearing. If no hearing is requested, the Planning Commission will consider all information provided by the school district and provide to the school district its recommendations and conclusions.

**(5) School District Responsible for Facility Locations**

The authority to make final determinations as to the location of public schools and to erect buildings and structures is the school district's.

**(H) All Other Public Projects**

**(1) Site Development Plan Required**

A proposed site development plan shall be submitted to the Planning Commission for approval before construction or authorization of any public road, public park, trail or trail head, public way, ground or space, public building or structure or utility, whether public or privately owned.

**(2) Disapproval of County-Funded Project**

In case of disapproval of a County-funded project, the Planning Commission shall communicate its reasons to the BoCC. The BoCC is authorized to overrule the disapproval by a majority vote. Upon overruling, the BoCC may proceed with construction or authorization of the project.

**(3) Non-County Projects**

If the project is one that is not required to be authorized or financed by the County, the Planning Commission's disapproval may be overruled by the body or official having jurisdiction over the authorization and financing of the project by a majority vote. In the case of a utility owned by an entity other than a political subdivision, the Planning Commission's disapproval may be overruled by the public utilities commission by not less than a majority of its entire membership.

**(4) County Projects Subject to Review**

Applicable County-funded or County-authorized projects shall be approved pursuant to C.R.S. § 30-28-110, other applicable statutes and laws, and interpretation of the same by the DSD Director and the OCA.

**(5) Failure of the Planning Commission to Act**

Failure of the Planning Commission to act within 30 days after the date of official submission to it is deemed an approval, unless a longer period is granted by the submitting board, body or official.

**(I) Special Process for Recording Plats Involving Roads**

All plans of roads for public use, and all plans, plats, plots, and replats of land laid out in subdivision or building lots and the roads, alleys, or other portions intended to be dedicated to a public use or the use of purchasers or owners of lots, shall be submitted to the BoCC for review and subsequent approval, conditional approval, or disapproval. It is not lawful to record any such plan or plat in any public office unless the same bears, by endorsement or otherwise, the approval of the BoCC after review by the Planning Commission.

**(J) Review Standards**

The application for a public use, structure or utility is reviewed for conformity with the submittal and processing requirements included within this Code and Procedures Manual and for conformity with the adopted Master Plan.

**(K) Effect of Approval**

Issuance of an approval of location permit shall authorize only the particular use and activity for which it is issued, in accordance with the permit conditions imposed. The approval of location permit runs with the land. The applicant shall be subject to all other permits, standards and regulations of this Code, except to the extent expressly modified in the permit approval, in order to use the land in accordance with the approval of location permit and associated site plan. No building permit shall be authorized to implement the use until the approval of location permit is issued.

**(L) Conversion of Public Facility to Private Facility**

A conversion of a public facility with an approval of location to a private facility shall be completed in conformance with the applicable zoning district standards.

**(M) Post Approval Requirements**

**(1) Satisfaction of Conditions**

Prior to beginning any construction or the commencement of the approved use, the applicant shall satisfy any required conditions.

**(2) Site Development Plan Review or Site Plan Review**

Site development plan review or site plan review is required before an application for a building permit can be authorized by the DSD. Site development plan or site plan review may be concurrent with the approval of location process; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.

**(N) Abandonment**

**(1) Determination of Abandonment of Use**

Unless otherwise specified by the Planning Commission, an approval of location shall be deemed abandoned, and the approval of location permit shall be of no further force and effect, if: (1) the primary intended use or activity has not been substantially implemented within 2 years of the Planning Commission approval; or (2) the primary intended use or activity has been discontinued for a period of 2 consecutive years. For purposes of this provision, an approval of location shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.

**(2) Extension of Approval of Use Permit**

Prior to the expiration of approval of use permit, a one year time extension may be granted by the DSD Director for good cause shown after receiving a written request for extension.

**5.3.4. Variance of Use**

**(A) Purpose**

Occasionally, a use is proposed that is not allowed in the applicable zoning district. The BoCC may grant a variance of use to allow the proposed use if it determines that it meets the criteria contained in this Code.

**(B) Applicability**

**(1) Where Applicable**

Those uses that are not otherwise an allowed use or special use in a zoning district, except in a PUD Zoning District, may be considered for a variance of use. A variance of use may not be considered in a PUD Zoning District.

**(2) Power to Approve Permissive**

The power of the BoCC to vary the provisions of this Code is permissive, not mandatory, and shall not be exercised in such a way as to frustrate the scheme or intent of this Code. The power to grant variances shall be exercised sparingly and in exceptional situations where the strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship upon either the owner or the contract purchaser of the property.

**(3) Variance of Use to Comply with Review Criteria and Other Standards**

The BoCC evaluates each proposed variance of use for compliance with the review criteria in this Code and the development standards that apply to all development.

**(C) Criteria for Approval**

To approve a variance of use, the Planning Commission and BoCC shall find the following conditions exist:

- The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
- The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;



- The proposed use will not adversely affect property values in the immediate area;
- The proposed use will comply with all requirements of this Code and all County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping;
- Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed;
- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property.

**(D) Effect of Approval**

Issuance of a variance of use permit shall authorize only the particular use and activity for which it is issued, for the time specified, and in accordance with the permit conditions imposed. The variance of use runs with the land. The applicant shall be subject to all other permits, standards and regulations of this Code. No building permit shall be authorized to implement the use until the variance of use permit is issued.

**(E) Duration of Approval**

Unless specified otherwise in the variance of use permit, the variance of use permit shall be valid for 5 years from the date of BoCC approval.

**(F) Expiration/Renewal**

In the event of expiration of a variance of use permit, or at a time prior to expiration, the applicant may submit a new application conforming to the requirements in place at the time of submittal, to renew the variance of use permit. Continued operation of the use after expiration of the variance of use permit constitutes a violation, subject to the requirements of Chapter 11.

**(G) Suspension/Revocation**

The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the variance of use permit shall constitute sufficient grounds for suspension or revocation of the variance of use permit by the BoCC, subject to the requirements of Chapter 11.

**(H) Abandonment**

Unless otherwise specified by the BoCC, variance of use shall be deemed abandoned, and the variance of use permit shall be of no further force and effect,

if: (1) the primary intended use or activity has not been substantially implemented within a one year of the BoCC's approval; or (2) the primary intended use or activity has been discontinued for a period of one year. For purposes of this provision, a variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted.

### **5.3.5. Map Amendment (Rezoning)**

#### **(A) Purpose**

The purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern. In addition to categorizing land by uses such as residential, commercial, and industrial, the LDC also specifies such details as building setback lines, the height and bulk of buildings, the size and location of open spaces, and the intensity to which the land may be developed. The zoning of parcels of land generally conforms to and promotes the County's Master Plan. Zoning protects the rights of property owners while promoting the general welfare of the community. By dividing land into categories according to use, and setting regulations for these categories, zoning governs private land use and segregates incompatible uses.

Generally, rezoning is justifiable under one of the following circumstances:

- When the requested rezoning is in general conformance or consistency with the County's Master Plan;
- If inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning is demonstrated;
- When there was an error or oversight in the original zoning of the property; or
- The zone change is necessary for the general health, safety, or welfare of the community.

#### **(B) Criteria for Approval**

In approving a Map Amendment, the following findings shall be made:

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. §30-28-111 §30-28-113, and §30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

**(C) Conditions on Rezoning Authorized**

Conditions of approval may be included in the resolution approving a rezoning request. Where any approved condition would impact the permitted uses or density and dimensional standards of the rezoned property, the existence of the conditions shall be noted on the Zoning Map. Any amendment to the conditions placed upon a rezoning is considered a new zoning action. Conditional zoning shall not be used to circumvent the intent or requirements of this Code, and shall be exercised sparingly and in exceptional situations, and the burden of proof shall be upon the applicant to demonstrate the need.

**(D) Updates of Maps**

The DSD Director is responsible for producing all updates of the zoning map.

**(E) County Initiated Zoning**

The County may initiate the rezoning of any property within the unincorporated area of the County.

**5.3.6. Administrative Determinations on Uses**

**(A) Purpose**

The purpose of this Section is to provide for a mechanism to interpret uses of property which are not expressly identified as one of the land uses authorized in a zoning district or overlay zoning district, or defined by this Code. A request for an administrative determination shall relate to a specific site, zoning district, use or application. An administrative determination of this Code issued by the DSD Director shall have the same effect as any provision of this Code. An administrative determination of this Code remains in effect until rescinded in writing by the DSD Director, until such time as the administrative determination is overturned on appeal, or until such time as an amendment to the Code results in a change affecting the administrative determination. An administrative determination requires analysis and comparison of various code provisions to arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards.

**(B) Similar Uses**

**(1) Determination of Similar Uses**

No use not specifically identified as an allowed use, special use, temporary use, or accessory use shall be allowed unless the DSD Director determines the use is similar to an expressly allowed use, special use, temporary use, or accessory use. The uses allowed in each zoning district or overlay zoning district are identified in Chapter 5.

When a use is not specifically identified as allowed in a zoning district or overlay zoning district, it shall not be allowed in the zoning district or overlay zoning district unless it meets the following criteria in determining the use is a similar use:

- The function, performance characteristics, and location requirements of the unlisted use shall be consistent with the purpose and description of the zoning district where it is proposed;
- The unlisted use is compatible with the uses specifically allowed in the district, and similar in characteristics such as traffic and parking generation, noise, glare, vibration, and dust.

**(2) Exclusion of Uses**

The listing of any use as being allowed in any particular zoning district or overlay zoning district shall be deemed to be an exclusion of the use from any other zoning district, in which the use is not specifically listed.

**(3) Interpretations in Writing**

Similar use determinations shall be made in writing by the DSD Director, who shall also determine whether an amendment to this Code to include the similar use is appropriate. Interpretations that are not in writing shall have no force or effect. Written interpretations set no precedent and shall be limited to the property identified in the interpretation unless determined to apply to an entire category of land.

**(4) Record of Interpretations**

The DSD Director shall maintain an official record of all interpretations in the DSD. The official record shall be available for inspection.

**(5) Effect of Determination of Similar Use**

Any use determined to be substantially similar to an allowed use, special use, temporary use, or accessory use in a zoning district or overlay zoning district shall comply with all other development standards contained in this Code pertaining to the substantially similar use, including, but not limited to, dimensional requirements, landscaping requirements, parking requirements, and design requirements.

**(C) Request for Interpretation**

Before a text or use interpretation will be provided by the DSD Director, a request for interpretation shall be submitted to the DSD in a form established by the DSD Director, and processed in accordance with Chapter 2.

**(D) Limit of Interpretations**

No interpretation shall authorize any use in a zoning district or overlay zoning district unless the DSD Director determines the use is substantially similar to an allowed use, special use, temporary use, or accessory use in the zoning district or overlay zoning district. No interpretation shall allow the establishment of any use inconsistent with the statement of purpose for the zoning district or overlay zoning district, and no interpretation shall have the effect of amending,

abrogating, or waiving any other standard or requirement established by this Code.

#### **5.4. DENSITY AND DIMENSIONAL STANDARDS**

##### **5.4.1. General Density and Dimensional Standards**

Tables 5-4 and 5-5 list the density and dimensional standards that apply within each zoning district. Other regulations of this Code or site specific conditions may further limit development. A blank cell means there is no applicable standard.

##### **5.4.2. Application of Density and Dimensional Standards**

###### **(A) Measuring Minimum Lot Width**

Minimum lot width is the minimum lot width at the front building setback line.

###### **(B) Measuring Setbacks**

Setbacks are measured from the property line, unless noted otherwise.

###### **(C) Setbacks for Corner Residential Lots**

Corner residential lots may have a reduced setback.

###### **(D) Setbacks for Specific Uses**

Some uses have a modified setback or height allowance.

###### **(E) Accessory Structure Not Located in Easement**

An accessory structure shall not be located within an easement, unless express permission from the beneficiary of the easement is provided.

###### **(F) Overlay Zoning District Standards May Apply**

Special limitations or allowances may apply to land within an Overlay Zoning district.

**Table 5-4. Density and Dimensional Standards for Agricultural, Residential and Special Purpose Districts.**

Zoning District	Maximum Density (DU/ac)	Minimum Lot Size		Minimum Setbacks Principal(Accessory) <sup>19,5</sup>			Maximum Lot Coverage	Maximum Height
		Area	Width	Front	Rear	Side		
<b>Forestry and Agriculture</b>								
F-5		5 acres <sup>1,2</sup>	200 ft	25 ft <sup>6</sup>	25 ft <sup>6</sup>	25 ft <sup>6</sup>	25 %	30 ft
A-35		35 acres <sup>1</sup>	500 ft	25 ft <sup>6,8,10</sup>	25 ft <sup>6,8,10</sup>	25 ft <sup>6,8,10</sup>	None	30 ft <sup>11</sup>
A-5		5 acres <sup>1,2</sup>	200 ft	25 ft <sup>6,7,9</sup>	25 ft <sup>6,7,9</sup>	25 ft <sup>6,7,9</sup>	None	30 ft
<b>Rural Residential/Rural Suburban</b>								
RR-5		5 acres <sup>1,2</sup>	200 ft	25 ft <sup>7,9</sup>	25 ft <sup>7,9</sup>	25 ft <sup>7,9</sup>	25 %	30 ft
RR-2.5		2.5 acres <sup>1</sup>	200 ft	25 ft <sup>7</sup>	25 ft <sup>7</sup>	15 ft <sup>7</sup>	None	30 ft
RR-0.5		21,780 sq ft <sup>1,4</sup>	100 ft	25 ft <sup>16</sup>	25 (5) ft	10 ft <sup>16</sup>	None	30 ft
<b>Residential Suburban Zoning Districts</b>								
RS-20000		20,000 sq ft	100 ft	40 ft	40 (15) ft	15 ft	20 %	30 ft
RS-6000		6,000 sq ft <sup>18</sup>	50 ft	25 ft <sup>18</sup>	25 (5) ft <sup>18</sup>	5 ft <sup>18</sup>	35 %	30 ft
RS-5000		5,000 sq ft <sup>12,18</sup>	50 ft	25 ft <sup>18</sup>	25 (5) ft <sup>18</sup>	5 ft <sup>18</sup>	30 %	30 ft
<b>Residential Multifamily Zoning Districts</b>								
RM-12	12	3,500 sq ft <sup>13,18</sup>	35 ft	15 ft <sup>15,18</sup>	20 ft <sup>15,18</sup>	10 f <sup>15,18,t</sup>	70 %	40 ft
RM-30	30	5,000 sq ft <sup>14,18</sup>	75 ft	25 ft <sup>15,18</sup>	15 ft <sup>15,18</sup>	15 ft <sup>15,18</sup>	60 %	40 ft
<b>Special Purpose Zoning Districts</b>								
R-T		5 acres	200 ft	25 ft	25 (5) ft	25 ft <sup>17</sup>	30 %	30 ft
MHP	All standards are located in the zoning district standards.							
MHS	All standards are located in the zoning district standards.							
RVP	All standards are located in the zoning district standards.							
PUD	All development standards for principal and accessory uses are established by the Development Plan.							
<sup>1</sup> Specific uses may be subject to larger minimum lot area requirements. <sup>2</sup> In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft. <sup>4</sup> Parcels containing stables or corrals shall have a minimum lot area of one acre. <sup>5</sup> Stables and corrals where allowed by the zoning shall comply with the minimum setbacks established for stables and corrals as established in Chapter 5. <sup>6</sup> Agricultural stands shall be setback a minimum of 35 feet from all property lines.								

<sup>7</sup>Kennels, pens and fur farms shall be setback a minimum of 100 feet from all property lines.

<sup>8</sup>Kennels, pens and fur farms shall be setback a minimum of 200 feet from all property lines.

<sup>9</sup>Sawmills shall be setback a minimum of 300 feet from all property lines.

<sup>10</sup>Livestock feed and sales yards shall be setback a minimum of 200 feet from all property lines, except that loading facilities may be located adjacent to a road right-of-way where loading/unloading of animals takes place.

<sup>11</sup>One additional foot of height is allowed for each foot of additional setback provided above the required minimums up to a maximum of 100 feet. For example, a maximum height of 35 feet is allowed for structures setback a minimum of 30 feet from all property lines and a maximum height of 50 feet is allowed for structures setback a minimum of 45 feet from all property lines.

<sup>12</sup>Minimum lot area of 5,000 square feet applies to single-family dwellings. For two-family dwellings and all other uses a minimum lot area of 7,000 square feet is required.

<sup>13</sup>Minimum lot area of 3,500 square feet applies to single-family attached dwellings. The minimum lot area for single-family detached dwelling units is 5,000 square feet. The minimum lot area for two-family dwellings and all other allowed uses is 7,000 square feet.

<sup>14</sup>Minimum lot area of 5,000 square feet applies to single-family detached dwellings, two-family dwellings and the first 2 units of a multi-family development. An additional 1,000 square feet of lot area is required each additional dwelling unit within a multi-family development. The maximum multi-family density may not exceed 30 dwelling units per acre. All other uses are subject to a minimum lot area of 7,000 square feet.

<sup>15</sup>The minimum distance between buildings shall be 10 feet.

<sup>16</sup>The side yard setback for an accessory structure shall be 10 feet, unless the structure is at least 60 from the front property line or nearest road right of way, where a 5 feet setback is allowed. In no instance shall an accessory structure be closer to the front property line than the principal structure.

<sup>17</sup>The side yard setback is 25 feet when the lot is 5 acres or larger, or 5 feet if the lot is less than 5 acres.

<sup>18</sup>If the building is established as or converted to condominium or townhome units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks requirements, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements. A 25 foot perimeter boundary setback shall be maintained around the entire development, but a zero foot setback is allowed along any internal lot line within the development.

<sup>19</sup>If no separate setback is shown in parentheses for accessory structures, the principal structure setback applies to accessory structures.

**Table 5-5. Density and Dimensional Standards for Commercial, Industrial and Obsolete Districts.**

Zoning District	Zoning District Area		Minimum Lot Size	Minimum Setbacks			Maximum Lot Coverage	Maximum Height
	Minimum	Maximum		Front	Rear	Side		
<b>Commercial Zoning Districts</b>								
CN		2 acres <sup>1</sup>	5,000 sq ft	25 ft <sup>2,15</sup>	<sup>3</sup>	<sup>3</sup>		30 ft
CO	20,000 sq. ft. <sup>15</sup>			25 ft <sup>5,15</sup>	25 ft <sup>5,15</sup>	25 ft <sup>4,5,15</sup>	30%	30 ft
CC	1 acre <sup>15</sup>			25 ft <sup>2,5,15</sup>	25 ft <sup>5,15</sup>	25 ft <sup>5,15</sup>		40 ft
CR	5 acres <sup>15</sup>			50 ft <sup>5,6,7,15</sup>	25 ft <sup>5,6,7,15</sup>	25 ft <sup>5,6,7,15</sup>		45 ft
CS	2 acres <sup>15</sup>			25 ft <sup>2,5, 6,15</sup>	25 ft <sup>2,5,6,15</sup>	25 ft <sup>2,5, 6,15</sup>		45 ft
<b>Industrial Zoning Districts</b>								
I-1	120 acres <sup>11</sup>		5 acres <sup>11,15</sup>	50 ft <sup>8, 15</sup>	50 ft <sup>8, 15</sup>	30 ft <sup>8, 15</sup>		45 ft
I-2	20 acres		1 acre <sup>15</sup>	50 ft <sup>8,15</sup>	50 ft <sup>8,15</sup>	30 ft <sup>8,15</sup>	35%	45 ft
I-3	40 acres		1 acre <sup>15</sup>	30 ft <sup>9,15</sup>	30 ft <sup>9,15</sup>	30 ft <sup>9,15</sup>	25%	<sup>10</sup>
<b>Obsolete Zoning Districts</b>								
C-1				15 ft <sup>2,15</sup>	15 ft <sup>13, 14</sup>	<sup>12, 13</sup>		30 ft
C-2				15 ft <sup>2,15</sup>	20 ft <sup>13, 14</sup>	<sup>12, 13</sup>		50 ft
M				15 ft <sup>2,15</sup>	15 ft <sup>14</sup>			50 ft
R-4	All development standards for principal and accessory uses are established by the Development Plan.							

<sup>1</sup>Maximum zoning district area is 2 acres when located on the same side of the road.  
<sup>2</sup>Gasoline pumps and canopies shall be at least 15 feet from the front property line or public right-of-way, except where the landscaping regulations require a greater setback.  
<sup>3</sup>The setback applicable to the most restrictive adjacent zoning district applies.  
<sup>4</sup>The minimum side setback is 25 feet when abutting a Forestry, Agricultural or Residential zoning district; 10 feet when abutting any other zoning district. No side setback is required from any interior lot line within the CO district.  
<sup>5</sup>The minimum setback is 25 feet from the perimeter boundary of the district, but no minimum setback is required from any internal side or rear lot line within the same district.  
<sup>6</sup>Temporary uses shall be setback at least 25 feet from all property lines and 100 feet from Residential zoning districts.  
<sup>7</sup>Gasoline pumps and canopies shall be setback at least 25 feet from all property lines.  
<sup>8</sup>Minimum building setback distance from any adjoining residential zoning district boundary is 125 feet. The DSD Director may allow a reduction in the setback where appropriate actions are taken including landscaping, fencing, berms or building design, or where the use can be limited to mitigate potential impacts.  
<sup>9</sup>Minimum building setback distance from any adjoining residential zoning district boundary is 175 feet. The DSD Director may allow a reduction in the setback where appropriate actions are taken including landscaping, fencing, berms or building design,



or where the use can be limited to mitigate potential impacts.

<sup>10</sup>The maximum height of any structure is in accordance with the following formula: A plane with a pitch of 2 feet horizontal to one foot vertical beginning 25 feet above all property lines using the mean property line elevations as the datum.

<sup>11</sup>Child care facilities, proprietary schools and restaurants are subject to a minimum lot area requirement of one acre.

<sup>12</sup>The side yard setback is subject to the following restrictions: (1) Where adjacent to a residential zoning district, the setbacks of the residential zoning district shall apply; (2) If the side wall of the building is constructed of 4 hour fire rated material, a setback between buildings of 3 feet is required if the wall does not serve as a common wall where no setback is required; and (3) If the side wall is not constructed of 4 hour fire rated material, the side yard setback and building separation is 5 feet.

<sup>13</sup>Where adjacent to a residential zoning district, the rear yard setback of the residential zoning district shall apply.

<sup>14</sup>The setback for stables and corrals is 50 feet.

<sup>15</sup>If the building is established as or converted to condominium units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements.

### 5.4.3. Measurements and Exceptions

#### (A) Purpose

The purpose of these standards is to explain setback standards and allow exceptions for certain unique circumstances, while maintaining the basic purposes of use of setbacks, which include:

- Provide for adequate open spaces;
- Promote and protect the public health, safety and welfare;
- Establish uniform standards;
- Protect property values;
- Protect the public from damage or injury which may be attributable to distractions or obstructions caused by improperly situated buildings or structures; and
- Enhance the overall quality of development in any zoning district.

#### (B) Applicability

These standards apply to all buildings, structures, accessory structures, and uses which are subject to regulation by this Code.

#### (C) General Provisions

##### (1) Use Specific Standard Supersedes Zoning District Standard

Where a different density or dimensional requirement is established for a specific use in this Code, it shall supersede the density or dimensional requirement in Table 5-4 and 5-5.

##### (2) No Projection of Structure into Easement

No portion of a structure shall project into any utility or drainage easement except with the permission the agency or agencies having jurisdiction over the easement.

##### (3) Public or Quasi-Public Utility Buildings Not Subject to Standards

Utility buildings or facilities owned by a governmental, quasi-governmental or public entity are not subject to the development

standards of the respective zoning district, but are instead governed by the standards of the approval of location, site development plan, or site plan submitted with the development application.

**(D) Setback Measurement**

**(1) Setbacks for Structures**

All setbacks are for structures, unless otherwise provided. Setback requirements are applicable, even if a building permit is not required.

**(2) Setbacks Measured from Property Line**

All setbacks shall be measured from the property line of the lot or parcel unless otherwise provided. In the case of an easement or other right-of-way for public road, the setback shall be measured from the easement or right-of-way line. Where the lot or parcel includes vacated right-of-way, the setback is measured from the new property line resulting after the right-of-way vacation. In the event the right-of-way is bounded by a public improvement easement, the setback shall be measured for the edge of the right-of-way and not the public improvement easement.

**(3) Setback from Planned Roadways and Associated Rights-of-Way**

In accordance with BoCC policy and the right-of-way standards established by the ECM, all setbacks shall be measured from the proposed right-of-way line of roadways as depicted within the MTCP.

**(4) Separation Requirements Between Land Uses**

Some zoning districts and land uses have specific separation distance requirements which are indicated in the use standards and in the density and dimensional standards.

**(5) Corner Lot Setbacks Modification in Residential Zoning Districts**

The required front yard setback for corner lots, located in residential zoning districts (including a residential PUD) with a minimum required lot size of ½ acre or less, on the side of the dwelling where the driveway access is not located may be ½ the required front yard setback of zoning district, or 15 feet, whichever is greater, provided further, no part of any structure shall project into the sight distance triangle as defined in the ECM.

**(6) Flag Lot Setbacks**

The required front, side and rear yard setbacks shall be established by determining the front, side and rear lot lines based on the following criteria.

**(a) Front Lot Line**

The property line most parallel and nearest to the road from which access from the road is gained is the front lot line.

**(b) Rear Lot Line**

The property line that is most opposite or parallel to the front lot line is the rear lot line.

**(c) Side Lot Line**

Property lines that are not considered front or rear property lines are side lot lines.

**(7) Irregularly Shaped Lots Setbacks**

The DSD Director shall determine how lot lines shall be designated and the resulting setbacks where the provisions of this Code do not clearly establish the lot lines or setbacks requirements.

**(8) Deck Setbacks**

Attached decks over 18 inches in height from finished grade to finished floor are considered a part of the principal structure and shall meet the same setbacks as the principal structure. Detached decks over 18 inches in height from finished grade to finished floor are considered accessory structures and shall meet the principal structure setbacks unless separate accessory structure setbacks are provided for in the applicable zoning district. Decks, slabs, or patios, whether attached or detached less than 18 inches in height from finished grade to finished floor are not considered structures.

**(9) Mobile Home Setbacks**

If the tongue is to be removed, the setback measurement shall be from the outer walls of the mobile home. The tongue (if not removed) may extend into the required front yard setback, but not other yard setbacks, provided the provision of the required parking can still be maintained.

**(10) Merger and Setbacks**

In the instance where the lot or parcel is merged, the setback is measured from the lot or parcel line resulting after the merger.

**(E) Projection into Setbacks**

**(1) Projections in Residential Zoning Districts**

For property located in residential zoning districts (including a residential PUD), containing a minimum required lot size of ½ acre or less:

- An enclosed porch, 4 feet by 4 feet or less, may project into a required front or rear yard setback.
- Open and unenclosed patios, decks, platforms, landings or ramps may extend into required front, side or rear yard setbacks provided the patio, deck, platform, landing or ramp does not exceed 18 inches in height measured from the finished floor to any adjacent point of the finished grade.

- Awnings, chimneys and flues, sills, belt courses, cornices, eaves and other similar architectural features may project not more than 2 feet into required front, side or rear yard setbacks.
- Cantilevered bay windows, no greater than 12 feet in width, may project not more than 3 feet into a required front or rear yard setback. The window shall include no supports that extend into the required front or rear yard setback.

**(2) Projections in All Zoning Districts**

For property located in all zoning districts:

- Wall signs may project into required front, side or rear yards not more than 18 inches.
- Fire escapes may extend 6 feet into a required rear yard.
- Utility distribution lines and related equipment commonly located along property lines may be located within a required setback (except utility or telephone boxes taller than 18 inches cannot be located within a sight distance triangle). A neighborhood substation, or gas regulator/meter station shall meet the required setbacks.
- Mailboxes, or mailbox complexes, established and approved in accordance with requirements of the ECM may be located within the front or side setback.
- Signs or entryway features may be located within the setback area in accordance with this Code and the ECM.
- Non-permanent handicap access ramps may project into a required setback.

**(F) Lot Requirements**

**(1) Measuring Lot Width and Lot Depth**

Lot width is measured parallel to the front lot line. Lot depth is measured at an angle of 90 degrees to the front lot line.

**(2) Minimum Lot Area**

**(a) Specific Use Require More Lot Area**

Some land uses require a minimum lot size which is greater than the minimum size established by the zoning district.

**(b) Public Right-of-Way Not Included in Lot Area**

Lot area shall not include any portion of an adjacent public right-of-way, but may include the land within a private road easement.

**(c) Flag Stem Not Included in Lot Area**

Lot area shall not include the area within a flag stem.

**(d) Lot Area for Nonconforming Lots**

The lot area requirements for nonconforming lots are established by Chapter 6. Lots conforming to the minimum lot area requirements of the zoning district that are subsequently reduced in land area due to land acquisition by a governmental entity shall be considered conforming to the minimum lot area requirements.

**(e) Minimum Lot Area Not Required for Utility Facilities**

A minimum lot area shall not be required for utility facilities or telecommunication facilities. The required lot area shall be established through the appropriate review and hearing process.

**(G) Maximum Structure Height**

The maximum height of structures is listed in Table 5-4 and 5-5. The method of measurement is detailed within the definition in Chapter 1.

**(1) Exceptions to Height Limits.**

**(a) Height Limits Not Applicable to Architectural Features**

The maximum height limitations of this Code do not apply to church spires, belfries, cupolas, chimneys and other similar design or architectural features or other appurtenances that are usually installed above roof level.

**(b) Height Limits Superseded by Specific Use Standards**

The maximum height limitations of this Code do not apply or are superseded by the specific use or development standards of this Code, or land use approval actions that apply to water tanks, public buildings antennas, utility poles, utility facilities, wind generators, amateur radio towers, and commercial towers and similar facilities.

**5.5. PROVISIONS FOR RELIEF FROM DENSITY AND DIMENSIONAL STANDARDS**

**5.5.1. Administrative Relief**

**(A) Purpose**

The purpose of this Section is to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal or a minor problem arises with the strict application of development standards.

**(B) DSD Authorized to Grant Administrative Relief**

The DSD Director may approve administrative relief to the requirements for lot area, front, side and rear setbacks, and height limitation. Administrative relief shall be for the purpose of relieving difficulties or hardships due to narrowness, shallowness, shape or topographic condition of a specific piece of property, or to

provide limited flexibility to lot standards when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of this Code will be caused by the administrative relief granted.

The DSD Director may only grant relief in accordance with the following standards:

**(1) Reduction in Lot Area, Setbacks, and Lot Width**

A maximum of a 20% reduction in lot area, setbacks and lot width from the amount required in the zoning district in which the subject property is located may be approved.

**(2) Increase in Lot Coverage and Building Heights**

A maximum of a 20% increase in the lot coverage and building heights from the amount required in the zoning district in which the subject property is located may be approved.

**(3) Decrease in Parking Requirements**

A maximum of a 20% decrease in the parking requirements in the zoning district in which the subject property is located may be approved.

**(4) Reduction in Distance Separation**

A maximum reduction of 50% in distance separation requirements for day care homes, group homes, and other similar human service establishments may be approved.

**(5) Increase in On-Premise Sign Area**

A maximum increase of 20% in the area of any on-premise sign may be approved.

**(C) Limitations on Administrative Relief**

The following limitations shall apply to the granting of administrative relief:

**(1) Sight Distance Triangle**

Administrative Relief to setbacks on corner lots shall not be granted by the DSD Director in a sight distance triangle at corners and railroad crossings unless it is specifically found by the County that no potential traffic problem is created because of diminished sight distances.

**(2) Setback and Height Relief on Same Lot**

Administrative Relief shall not be granted for both setback and height requirements on the same lot or parcel.

**(3) Plat Notes or Restrictions**

Administrative relief cannot be granted from a standard that is set by plat note or restriction.

**(D) Findings Necessary to Grant Administrative Relief:**

**(1) Criteria to be Met**

To grant administrative relief, all of the following criteria shall be met, in addition to the compliance with the other applicable development standards:

- The strict application of the standard in question is unreasonable or unnecessary given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;
- The intent of this Code and the specific regulation in question is preserved;
- The granting of the administrative relief will not result in an adverse impact on surrounding properties; and
- The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel.

**(2) Additional Factors Considered**

In addition to the criteria required to be met for approval of administrative relief, consideration may also be given to the following factors:

- The granting of administrative relief would help minimize grading and reduce vegetation removal;
- The granting of administrative relief would avoid unnecessary site disturbance or minimize grading;
- The granting of administrative relief would allow the proposed building location and existing vegetation on the site to restrict visibility of the additional height from a distance, from the road or from downhill properties; and
- The granting of administrative relief would allow for building design such as split pads, stepped footings, below grade rooms and roof forms pitched to follow the slope.

**(E) Responsibility of Applicant to Comply**

Prior to occupancy for the building allowed by an administrative relief, it shall be the responsibility of the applicant to furnish the DSD Director with a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected by the administrative relief.

**(F) Revoke Administrative Relief**

The DSD Director may revoke any administrative relief by issuing a zoning violation notice if, in the DSD Director's opinion, the use is not in compliance with the intent and purpose for which the administrative relief was granted.

**(G) Minor Variations During Platting**

Minor variations from strict application of the provisions of a development plan or conventional zoning district may be allowed at the discretion of the DSD Director in order to facilitate the reasonable and expeditious platting of the property.

Variations shall be allowed only after a finding by the DSD Director that:

- The variation does not constitute a substantial change to the allowed land use; and that
- No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.

The variation shall not by themselves constitute grounds for disapproval by the BoCC of any final plat unless the BoCC specifically finds that the variation constitutes a substantial change in the allowed land use or causes a substantial detriment to the public good or harm to the general purpose and intent of this Code.

**5.5.2. Dimensional Variances and Appeals to the Board of Adjustment**

**(A) Applicability**

Any person aggrieved by the inability to obtain a building permit or by any order, requirement or decision made by an administrative officer or agency in the administration, interpretation or enforcement of the following provisions of this Code can appeal to the Board of Adjustment.

**(B) Authorities of the Board of Adjustment**

**(1) Appeal of Administrative Decisions or Determinations**

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the DSD pertaining to the application or enforcement, under this Code, of:

- A zoning district's development requirements or a use standard relating to physical dimension, structural location, or bulk limitation;
- Nonconforming building provisions;
- Nonconforming lot or parcel or merger by contiguity provisions;
- Parking and development requirements;
- Landscape requirements;
- On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;
- Distance separation requirements required for daycare applications;
- Appeal of an action regarding administrative relief;
- Determination of wildfire hazard or zoning district boundary;



- Any other matter appealable to the Board of Adjustment under the provisions of this Code.

**(2) Grant of Variance of Specific Development Standards**

**(a) Variances to Physical Requirements**

The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to (1) the exceptional narrowness, shallowness or shape of the specific piece of property, or (2) the exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- The variance provides only reasonably brief, temporary relief; or
- The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or
- Some other unique or equitable consideration compels that strict compliance not be required.

**(b) Variances to Standards Subject to Appeal**

The Board of Adjustment is authorized to grant variances to those standards subject to appeal to the Board of Adjustment where strict compliance with this Code would result in peculiar or exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.

**(c) Other Variance Matters**

To hear any other variance matters expressly delegated to the Board of Adjustment by this Code.

**(3) Prohibited Actions by the Board of Adjustment**

The Board of Adjustment shall not take any action which would result in any of the following:

- Permitting a use other than those allowed in the property's zoning district;
- Authorizing an existing zoning violation for a building or use that is subject to prosecution pursuant to C.R.S. §30-28-124(1), without the express written consent of the OCA;
- Alteration of any definition contained in this Code;
- Substantial modification to any PUD or Special Use allowed or approved by the BoCC; or
- Variation of any subdivision standard.

**(C) Action by the Board**

The affirmative vote of 4 members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the DSD Director; to approve any variance; to resolve boundary line disputes; or to take any other action regarding an appeal or application.

**(D) Limitations on Approval and Expiration**

**(1) Approval Limited to Proposal Presented**

A physical variance is limited to the property configuration and existing or proposed structures actually presented to the Board of Adjustment as part of the variance application.

**(2) Expiration of Approval if Action Not Initiated**

A physical variance for a proposed structure, except for lot area variances where a plat has been filed for recording, is valid only if construction of the structure is initiated within one year of the date of the Board of Adjustment's approval of the variance.

**(3) Expiration of Approval if Structure Removed**

A physical variance for an existing or subsequently constructed structure, except for lot area variances where a plat has been filed for recording, is valid only so long as the structure is not removed or demolished.

**(4) Run with the Land**

Variance requests approved by the Board of Adjustment shall run with the land for which the variance has been approved.

**(E) Revocation of Approval or Permit**

Failure to abide by or comply with any requirements, conditions or restrictions of this Code may result in the DSD Director scheduling a hearing regarding revocation of the Board of Adjustment's approval following the appropriate enforcement procedures.

## **5.6. LEGAL NONCONFORMITIES**

### **5.6.1. Purpose**

This Section governs uses, structures and lots that were legally established prior to the adoption of this Code and do not comply with one or more requirements of the Code. The County seeks to allow nonconforming uses, structures, and lots to continue to exist and be maintained and put to productive use and to encourage as many aspects of the uses, structures, and lots to be brought into conformance with this Code as is reasonably practical. This Section is intended to recognize the interests of the property owner in continuing the nonconformity but also to preclude the extension, expansion, or change in character of the nonconformity or the reestablishment of the nonconformity after it has been abandoned.

### **5.6.2. General Provisions**

#### **(A) Continuation of Use**

A nonconforming use may be continued and a nonconforming building may continue to be occupied, except as otherwise provided for in this Section. A pre-existing, nonconforming use which would require the approval of a special use shall be presumed to have the required special use permit.

#### **(B) Change of Building or Use**

A nonconforming building or use may be changed to any conforming building or use, but may not be later changed back to any nonconforming building or use. A legal nonconforming use shall not be changed to a different nonconforming use. Any change of a nonconforming use to another use shall immediately terminate the right to continue the nonconforming use.

#### **(C) Interruption of Nonconforming Use**

If a nonconforming use is abandoned for a period of one year, the structure and land where the nonconforming use previously existed shall be occupied and used only by a conforming use. Intent to resume active operation of the nonconforming use shall not affect the foregoing. The burden of proof that a nonconforming use has been continuously maintained rests with the property owner or operator of the use. The evidence that an operation has been continuous shall be clear and conclusive. Any nonconforming use may be deemed abandoned after a period of less than one year if the property owner expressly states intent to abandon the use, or engages in action which unambiguously expresses intent to abandon.

#### **(D) Default of Title**

If the title to any property changes by reason of tax delinquency, and the property is not redeemed as provided by law, the future use of the property shall be in conformity with this Code.

### 5.6.3. Restoration

#### (A) Damage to Structure or Use

A nonconforming structure damaged or partially destroyed by fire, explosion or natural occurrence may be restored to the condition in which it was immediately prior to the occurrence of the damage or destruction, provided:

- The value of the damage is less than 50% of the County Assessor's assessed value of the improvements damaged;
- The restoration or reconstruction does not extend beyond the original limits of the structure in setback, lot area coverage, height, floor area, and number of bedrooms or bathrooms; and
- All restoration or reconstruction is started within one year from date of the damage and is completed within two years.

#### (B) Intentional Damage by Property Owner or Agent

The right to continue a nonconforming use terminates immediately when the structure containing a nonconforming use is destroyed by an intentional act of the property owner or their agent.

#### (C) Restorations Exempt for Site Development Plan Review

Restorations meeting the requirements of this provision are not required to undergo a site development plan review.

### 5.6.4. Enlargement of a Nonconforming Use

#### (A) Within an Existing Building

A nonconforming use when located within a structure may be extended throughout the existing structure devoted to the use at the time of the adoption of the provisions of this Code causing the use to become nonconforming, provided that any structural alteration conforms to the requirements of this Code.

#### (B) Expansion of Use as Variance of Use or Special Use

A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a Variance of Use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.

### 5.6.5. Alteration of a Nonconforming Structure

#### (A) Structural Alterations Limited

A nonconforming structure may be structurally altered, repaired, or enlarged in any way allowed by this Code; however, no alterations, repairs, or enlargements shall be made in a nonconforming building which would increase the degree of nonconformity with the density and dimensional standards of this Code. Additions or extensions may be made to a structure that is legally nonconforming as to height, area or setbacks provided the addition and the use of the addition conforms to all the requirements for the zoning district in which it is located.

**(B) Maintenance**

Normal repairs and maintenance of a nonconforming structure are allowed. A nonconforming structure, however, cannot be repaired or altered in a manner that increases its nonconformity with this Code.

**(C) Unsafe Buildings**

Any structure containing a nonconforming use or any nonconforming building declared unsafe by the Building Department may be strengthened or restored to a safe condition.

**(D) Movement of Nonconforming Structure**

Should a nonconforming structure be moved, it shall conform to the provisions of the zoning district in which it is located after the move.

**(E) Replacement of a Mobile Home in a Nonconforming Mobile Home Park**

Within a nonconforming mobile home park, a mobile home may be replaced with a post-1976 mobile home meeting the requirements of the Building Code on a unit by unit basis provided the setbacks as identified in the MHP District are met.

**5.6.6. Lots and Specific Facilities and Uses**

**(A) Nonconforming Signs**

**(1) Termination of Right to Maintain Nonconforming Sign**

The right to maintain a nonconforming sign shall be terminated by one or more of the following events or activities:

- Abandonment of the nonconforming sign for a continuous period of one year;
- Increase of any sign dimension;
- Damage to or destruction of the nonconforming sign from any cause whatsoever, where the cost of repairing the damage or destruction exceeds 50% of the replacement cost of the sign on the date of the damage or destruction. In determining the replacement cost of a nonconforming sign, the cost of the land, the cost of renting land, or any factor other than the cost of the sign itself shall not be considered; or
- Failure of the nonconforming sign to comply with this Code at time of construction.

**(2) Change of Copy, Orientation or Trim**

The copy, orientation or trim on the sign and supporting structure may be changed on a nonconforming sign.

**(3) Maintenance**

Nonconforming signs shall be maintained in good repair and any damaged sign, however caused, shall be repaired, except as otherwise limited by this Section.

**(4) Replacement of Nonconforming Signs**

Where the number of signs on a lot or parcel exceeds the number of signs allowed by this Code, 2 nonconforming signs shall be removed for every new or replacement sign to be erected. The maximum size of the new sign shall not exceed the maximum size allowed by this Code.

**(B) Nonconforming Telecommunications Towers**

For nonconforming telecommunications towers there shall be no increase in the number of antennas located on a tower, or an increase in the height or weight bearing capacity of the tower beyond that necessary to conform to safety regulations adopted by the County, State or federal government, except that the following shall be allowed:

**(1) Replacement of Antennas**

Antennas may be maintained, or replaced, with another antenna intended to provide the same service.

**(2) New Antennas Added to Tower**

New antennas may be added to a tower where the tower and antennas do not exceed 200 feet in height above the base of the tower, and the new antenna does not exceed 25 feet in length and 8 inches in diameter, and does not extend above the height of the existing tower.

**(3) Maintenance and Repairs**

Maintenance, repairs or alterations to legal nonconforming telecommunication towers may be performed that are necessary to maintain the tower in good condition and repair. The weight bearing capacity and wind loading capacity of a tower may only be increased to the extent necessary to maintain the tower in conformance with State or national standards for weight bearing capacity and wind loading capacity for the number of antennas otherwise allowed on the tower as set forth in this Section.

**(4) Removal of Unused Nonconforming Tower**

If there are no antennas on a nonconforming telecommunications tower or if a nonconforming telecommunications tower has been abandoned for a period of one year, the tower and any accessory structures, structures or equipment shall be removed within one year from the expiration of the one year period or it shall be brought into conformity with this Code.

**(C) Nonconforming Sexually-Oriented Businesses**

**(1) Subsequent Location of Use or Change in Zoning District Boundary**

A sexually-oriented business lawfully operating at the time of adoption of this Code is not in violation of this Code by the subsequent location of a religious institution, school, park, residence, or residential district, within 1000 feet of the sexually-oriented business.

**(2) Nonconforming as a Result of Change to this Code**

A sexually-oriented business lawfully operating at the time of adoption of this Code and rendered nonconforming by any modification of this Code shall comply with all requirements included in this Code, but shall not be subject to the distance separation requirements.

**(D) Nonconforming Mineral Resource Extraction**

Mineral and natural resource extraction operations that are sought to be conducted on property owned by or under lease or contract by the operator of a nonconforming mineral extraction operation and that is located on land contiguous to the nonconforming mineral extraction operation may be undertaken as an extension of the nonconforming mineral extraction operation.

**(E) Nonconforming Pre-1976 Mobile Homes**

Existing pre-1976 mobile homes are considered nonconforming uses and may only be replaced with a dwelling conforming to the requirements of the Building Code or a pre-1976 mobile home which has been certified in accordance with the building code. Within the A-35 zoning district only, existing pre-1976 mobile homes may be converted to accessory structures for use as storage and other non-habitable uses with the removal of the kitchen and any related appliances.

**(F) Nonconforming Landscaping and Parking**

**(1) Continuation**

Landscaping or parking areas legally existing at the time this Code became effective which have become nonconforming because they no longer meet current requirements, may be continued until either of the following changes occur:

- Any new construction or addition of building floor area consisting of 50% or more of the existing gross building floor area of the development project; or
- Any change from a residential use to a non-residential use (or vice versa) consisting of 50% or more of the existing gross building floor area of the development project.

All required landscaping shall be provided in conjunction with either of the changes described above.

**(2) Extension**

Nonconforming landscaping or parking spaces shall not be enlarged, expanded, extended or increased, except as provided in this Code. Additional parking may be required whenever the DSD Director determines that it is necessary to avoid congestion on public roads and to provide for the general safety and convenience of County residents.

**5.6.7. Nonconforming Lot or Parcel**

**(A) General Nonconformity**

**(1) Request for Conformity**

Upon request, any lot or parcel shall be recognized as nonconforming provided:

- The creation of the lot or parcel was in conformance with all applicable regulations at the time of its creation;
- The lot or parcel is currently in compliance with all use regulations and conditions and restrictions of any applicable special use or variance of use; and
- The lot or parcel complies with the requirements and criteria of the merger by contiguity provisions of this Code.

**(2) Compliance with Development Standards**

Nonconforming lots or parcels shall comply with development standards of the applicable zoning district, except the lot frontage requirements, unless otherwise indicated in this Code. Lots or parcels subject to the merger by contiguity provisions of this Code shall have setbacks applied only along the exterior boundaries of the merged properties.

**(3) Recognition Not Basis for Subdivision**

Recognition of nonconforming lots shall not be a basis or justification for new subdivision development. New subdivisions shall comply with the applicable zoning requirements.

**(B) Nonconforming Lot or Parcel Due to Lot Size**

A lot or parcel that is nonconforming due to lot size shall be subject to the following provisions when a building permit for a dwelling or habitable addition is requested. A non-habitable addition or accessory improvement (e.g., a garage, deck, or tool shed) on a lot or parcel where a dwelling already exists is not subject to the requirements of this Section. An existing dwelling, located on a lot or parcel that is nonconforming due to lot size that is destroyed or partially destroyed by fire shall be subject to the restoration provisions of this Code.



**(1) Nonconforming Lots Considered Conforming**

A legal lot or zoning lot that is nonconforming as a result of the minimum lot size requirement within the applicable zoning district shall be considered to be exempt from the minimum lot size requirement where:

- Central water and sewer are both provided and the area of the legal lot is at least 60% of the minimum lot area required by the applicable zoning district; or
- Central water is provided and the area of the legal lot is at least 20,000 square feet; or
- No central water or central sewer is provided and the area of the legal lot or zoning lot is at least 2.5 acres.

**(2) Nonconforming Lots Made Conforming**

Where a legal lot does not meet the above requirements to be exempted from the minimum lot size requirements, contiguous legal lots under the same ownership shall be combined through a merger by contiguity process to create a zoning lot and the resulting parcel shall be considered conforming with respect to the minimum lot size requirement where:

- Central water is provided, but not central sewer, and the resulting zoning lot after any required merger is at least 10,000 square feet; or
- No central water or central sewer is provided and the resulting parcel after any required merger is one acre or more in area.

A remainder nonconforming lot or parcel not required to meet the minimum lot size requirement for the subject property to be considered a conforming zoning lot shall be considered conforming provided the owner requests and receives a zoning lot determination from the DSD Director, and files the determination for recording with the Clerk and Recorder within 30 days of the date of the determination.

**(3) Nonconforming Lots Subject to Board of Adjustment Review**

**(a) Requirement to Use Merger by Contiguity as Alternative to Variance**

When applying for a building permit or seeking any land use approvals, or when requesting a determination of nonconformity under this Code, the nonconforming lots or parcels due to lot size are subject to a merger by contiguity and shall submit to the DSD a signed and completed merger agreement, provided by the DSD, acknowledging consent to the legal combination of the nonconforming contiguous lots or parcels. No nonconforming lot or parcel due to lot size shall be determined to be eligible for a lot size variance if a contiguous lot or parcel under the same

ownership is available to be merged to the nonconforming lot or parcel.

**(b) Requirement for Variance**

A nonconforming lot or parcel or zoning lot resulting from a merger by contiguity that fails to comply with the minimum lot size requirements to be considered conforming shall be required to obtain a lot size variance from the Board of Adjustment. In reviewing the variance request the BOA may also consider the density of the surrounding area, compliance with the Master Plan, the suitability of the parcels for the proposed construction, and the size and location of the proposed structures on the property in making their decision.

**(4) Common Ownership**

For the purposes of a merger by contiguity, contiguous lots or parcels owned by a husband and wife, individually or by joint or common ownership shall be considered common ownership. Any property owner disputing whether this common ownership provision should be applied to the property may appeal to the Board of Adjustment.

**(5) Appeal of Merger Determination**

Where merger is required by this Section in order to receive authorization of a building permit the applicant may request a Merger Hearing with the BoCC in accordance with the requirements of C.R.S. §30-28-139. The result of a merger hearing shall not obviate the requirement to comply with the nonconforming lot standards of this Code.

**(6) Zoning Lot Determination Required Prior to Building Permit Authorization**

A zoning lot determination shall be required prior to authorization of a building permit for a dwelling or habitable addition for any property subject to merger by contiguity. Upon request, the DSD Director shall provide a zoning lot determination after confirmation of the following:

- Merger has been accomplished in accordance with the merger by contiguity requirements;
- For existing dwellings, verification provided by the EPCDHE that there is no evidence of sewage problems or that any sewage problems are being remedied;
- For a new dwelling that the OWS permit has been issued by the EPCDHE all isolation distances have been met, including a 100 foot radius for the well providing water on the property being located entirely on the property;

- For a new dwelling confirmation of water availability in the form of a well permit, water tap, or water commitment; and
- At least 30% of the zoning lot is considered buildable after exclusion of land identified as containing 100 year floodplain and 30% slopes.

#### **5.6.8. Decisions and Appeals**

**(A) Authority with DSD Director**

All decisions concerning nonconformities will be made by the DSD Director.

**(B) Appeals of DSD Director Decision**

All decisions of the DSD Director concerning nonconformities in this Code may be appealed to the Board of Adjustment, except that appeals regarding non-conforming use determinations are heard by the BoCC.

**(C) Property Owner Responsible for Evidence**

The property owner is responsible for providing evidence regarding the establishment and continuation of a nonconforming use.