

ARTICLE I
GENERAL ADMINISTRATION

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ARTICLE I GENERAL ADMINISTRATION

DIVISION 1 GENERAL PROVISIONS

Section 1-101 Title and Short Title. These regulations, and all future amendments, shall be known as the Garfield County Land Use Resolution, and are also referred to herein as “Land Use Code,” “Code” or “Regulations.”

Section 1-102 Authority. It is the intention of the Board of County Commissioners in adopting the Garfield County Land Use Resolution to fully exercise all relevant powers conferred by the laws of the State of Colorado, including but not limited to:

- A. Colorado Constitution.** All of the powers reserved to the County by the Colorado Constitution.

- B. State Enabling Legislation.** All of the powers granted to the County by:
 - 1. **Title 16, Article 13, Part 3, C.R.S.,** *Restraint and Abatement of Nuisances;*

 - 2. **Title 24, Article 65.1, C.R.S.,** *Areas and Activities of State Interest (1041 regulations);*

 - 3. **Title 24, Article 67, C.R.S.,** *Planned Unit Development Act;*

 - 4. **Title 24, Article 68, C.R.S.,** *Vested Property Rights Act;*

 - 5. **Title 29, Article 20, C.R.S.,** *Local Government Land Use Control Enabling Act;*

 - 6. **Title 30, Article 11, C.R.S.,** *County Powers and Functions;*

 - 7. **Title 30, Article 15, C.R.S.,** *County Regulations Under Police Powers;*

 - 8. **Title 30, Article 28, C.R.S.,** *County Planning Act;*

 - 9. **Title 34, Article 1 Part 3, C.R.S.,** *Preservation of Commercial Mineral Deposits;*

 - 10. **Title 38, Article 30.5, C.R.S.,** *Conservation Easements; and*

11. Title 43, Article 2, C.R.S., State, County and Municipal and Public Roads.

Section 1-103 Jurisdiction. This Land Use Code shall apply to all land within the unincorporated areas of Garfield County.

Section 1-104 Building Permits. No building permit will be issued unless in compliance with this Land Use Code.

Section 1-105 Repealer, Enactment and Effective Date

A. Repeal of County's Prior Land Use Regulations. The Garfield County Zoning Resolution of 1978 and Subdivision Regulations of Garfield County, Colorado of 1984, and amendments thereto, are hereby repealed on the effective date of the County's adoption of this Land Use Code, except as set forth in Section 1-106(C).

B. Enactment. This Land Use Code shall be enacted upon its approval by the Board of County Commissioners, after review and recommendation by the Garfield County Planning Commission, following public hearings.

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

Section 1-106 Saving Provisions

A. The enactment or amendment of this Land Use Code shall not be construed as discontinuing, abating, modifying, or altering any pending land use applications and that said applications may continue to be processed as defined in the previous land use codes, provided all timelines required by said regulations are met.

B. The enactment or amendment of this Land Use Code shall not be construed as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue.

C. The enactment or amendment of this Land Use Code shall not be construed as waiving any right of the County under any provision existing prior to the adoption of this Land Use Code.

D. The enactment or amendment of this Land Use Code shall not be construed as vacating or annulling any rights obtained by any person by lawful action of the County.

Section 1-107 Implementation of Comprehensive Plan, Intergovernmental Agreements, and Other Master Plans for Land Use

A. Implementation of Comprehensive Plan. Enactment, amendment and administration of this Land Use Code shall be in accordance with and shall serve to implement the goals and policies of the Garfield County Comprehensive Plan.

B. Implementation of Intergovernmental Agreements and Other Master Plans for Land Use. Enactment, amendment and administration of this Land Use Code shall be in accordance with, and shall serve to implement, the goals and policies of any jointly adopted intergovernmental agreement, memorandum of understanding, or master plan governing the use and development of land of mutual concern to the County and another governmental entity or special district.

Section 1-108 Interpretation, Rules of Construction of Language and Computation of Time

A. Interpretation of the Provisions of this Land Use Code.

1. **Minimum Required.** The provisions of this Land Use Code shall be regarded as the minimum requirements for the protection of the public health, safety, and general welfare.
2. **Liberal Construction.** This Land Use Code shall be liberally construed to further its underlying purposes.
3. **Conflict.** If a conflict occurs between provisions of this Land Use Code, or between provisions of this Land Use Code and a state statute or other applicable codes and regulations, the more restrictive provision controls unless otherwise specified in these Regulations.
4. **Requirements Presumed to Apply.** The requirements of this Land Use Code are presumed to apply to actions unless otherwise provided.

B. Rules of Construction of Language

1. Words and phrases shall be read in context and construed according to common usage. Words and phrases that have acquired a technical or particular meaning, by legislative definition or otherwise, shall be construed accordingly.

2. The particular controls the general.
3. The word “shall” is always mandatory. The words “may” and “should” are permissive.
4. Unless the context clearly indicates otherwise, words used in the singular number include the plural and words used in the plural number include the singular.
5. If there is a conflict between figures and words expressing a number, the words govern.
6. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”

C. Computation of Time. Days are computed as calendar days unless otherwise specified in this Code. When working days are specified, it means calendar days excluding weekends and County legal holidays.

Section 1-109 Incorporation and Interpretation of Maps

A. Official Zone District Maps. The location and boundaries of the zone districts established by this Land Use Code are shown on the Zone District Maps of Garfield County and incorporated into this Land Use Code. The Zone District Maps shall be maintained by the Director and shall be located in the County Building and Planning Department. It is the expressed intent of the Board of County Commissioners that all unincorporated areas within Garfield be located within a zone district.

B. Overlay District Maps. The location and boundaries of each Overlay District established by this Land Use Code shall be shown on an Overlay District Map and incorporated into this Land Use Code. The Overlay District Maps shall be maintained by the Director and shall be located in the County Building and Planning Department.

1. The Floodplain Overlay District Maps shall include the following.
 - a. Flood Insurance Study, Garfield County, Colorado, Unincorporated Areas, revised August 2, 2006.
 - b. Accompanying flood maps entitled Floodway Area Boundary Maps, Flood Fringe Area Boundary Maps, and the Flood Insurance Rate Maps (FIRM), Garfield County, Colorado, Unincorporated Areas, revised August 2, 2006.

C. Interpretation of Zone District Boundaries. If for any reason the location of a zone district boundary line is not readily determinable from the Zone District Maps, the location of the zone district boundary line shall be determined by the Director in accordance with the following provisions. Where more than one of the following provisions is applicable in any given situation, the first stated and applicable provision shall prevail over all other provisions:

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

Section 1-110 Amendment to Text of This Land Use Code. The process for amendments to text of this Land Use Code is set forth in Section 4-202, *Land Use Code Text Amendment*.

Section 1-111 Severability

A. Provision Declared Invalid. If any provision of this Land Use Code is declared invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that provision which is expressly declared invalid and shall not affect any other provision of this Land Use Code.

B. Application to Tract of Land Invalid. If the application of this Land Use Code to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, then the effect of such decision shall be limited to the tract of land involved. Such decision shall not affect this Land Use Code or the application of any provision thereof to any other tract of land.

DIVISION 2 VESTED PROPERTY RIGHTS

Section 1-201 Purpose. The purpose of this Section is to establish a system of vested property rights for this Land Use Code as authorized by Title 24, Article 68, C.R.S, as amended.

Section 1-202 Establishment of Vested Property Rights.

A. General. Pursuant to this Land Use Code, a vested property right shall be deemed established for a period of three (3) years with the approval of a Site Specific Development Plan as defined in Section 1-202(B) of this Article. When a Site Specific Development Plan is approved, the vested right shall confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the Site Specific Development Plan. If the term of approval for the Site Specific Development Plan is approved for more than three (3) years pursuant to these Regulations, the term of vested property rights may be extended to conform with the extended approval term pursuant to a Development Agreement as provided in Section 1-202(C). (2009-53)

B. Site Specific Development Plan. For the purposes of this Section, Site Specific Development Plan shall only mean:

1. A Final Plat for Subdivision, Rural Land Development Exemption Plat, Subdivision Exemption Plat, the filing of a PUD after the signing and recording of the first Final Plat required pursuant to the PUD approval or in the case of the PUD subject to no further subdivision requirements, physical installation of all required improvements consistent with the approved PUD plan. (2009-53)

C. Development Agreements. The Board of County Commissioners may enter into a development agreement with the landowner for a vesting period for longer than three years where, in the discretion of the Board, an extension is warranted due to all relevant circumstances including but not limited to project size and/or phasing of the development, economic cycles and/or market conditions. (2009-53)

D. Approval and Effective Date. A vested property right shall be deemed approved upon the effective date of the Board of County Commissioners' approval action, following notice and public hearing conducted in accordance with CRS 24-68-101, et seq. The Board's approval of a Site Specific Development Plan may include such terms and conditions as may be reasonably necessary to protect the public health, safety and general welfare. Failure to abide by such terms and conditions will result in forfeiture of the vested property right. (2009-53)

E. Notice of Approval. Each site specific development plan shall contain the following language: "Approval of this plan shall create a vested property right pursuant to article 68 of title 24, C.R.S., as amended." Failure to include the foregoing statement in a request for approval shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than 14 days after approval of the site specific development plan, in a newspaper of general circulation within the County. (2009-53)

F. Subsequent Review and Approval. Following approval or conditional approval of a Site Specific Development Plan, the Site Specific Development Plan shall be subject to subsequent reviews by the County to ensure compliance with the terms and conditions of the original approval. Any such review and subsequent approval(s) must be consistent with the terms and conditions of the original approval.

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

1. **Landowner's Consent.** With the consent of the affected landowner.
2. **Hazards.** Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of the approval of the Site Specific Development Plan, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare.

- 3. Just Compensation Paid to Landowner.** The affected landowner receives just compensation for all costs, expenses, and liabilities incurred by the landowner, including but not limited to all fees paid in consideration for financing and all architectural, planning, marketing, legal and other consultants' fees incurred after approval by the County, together with interest at the current market rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.

H. Applicability of General Ordinances and Regulations. The establishment of a vested property right shall not preclude the application of ordinances, resolutions or regulations which are general in nature and are applicable to all property subject to land use regulations by the County, including but not limited to building, fire, plumbing, electrical and mechanical codes.

DIVISION 3 DUTIES AND RESPONSIBILITIES OF REVIEW AND DECISION-MAKING BODIES

The decision-making and advisory bodies set forth herein shall have the following duties and responsibilities in the administration of this Land Use Code.

Section 1-301 Board of County Commissioners

A. Membership and Term.

1. Each of the three (3) members of the Board of County Commissioners is elected by the registered voters of Garfield County in a general election.
2. The term of each Commissioner is four years.

B. Powers and Duties

1. **Powers and Duties Authorized by State Statute.** The authority granted to the Board of County Commissioners under state statute include, but are not limited to:
 - a. Authority to adopt and amend zoning and subdivision regulations, including regulations for planned unit developments and areas and activities of state interest.
 - b. Authority to enact ordinances compelling the removal of weeds and rubbish.

- c. Authority to adopt a building code.
 - d. Authority to review service plans for proposed special districts.
 - e. Authority to enter into intergovernmental agreements to plan for and control land uses and development.
2. **Powers and Duties under Provisions of This Land Use Code.** In addition to authority granted to the Board of County Commissioners by general or special law, the Board has authority to take such other action not delegated to the Planning Commission, the Board of Adjustment or the Director, as the Board of County Commissioners may deem desirable and necessary to implement the provisions of the Comprehensive Plan and this Land Use Code.
3. **Public Meetings/Hearings.** The Board of County Commissioners shall hold regularly scheduled public meetings/hearings to take official action on these issues and any other matter which requires official Board action. Two members of the Board of County Commissioners shall constitute a quorum necessary for official action.

Section 1-302 Planning Commission

A. Membership and Term

- 1. The Board of County Commissioners appoints seven (7) regular Planning Commission members, and three (3) associate members.
- 2. All members must be residents of the County. No member of the Board of County Commissioners shall serve on the Garfield County Planning Commission.
- 3. The term of members is three (3) years.

B. Powers and Duties.

- 1. The Planning Commission is responsible for the development and adoption of the Comprehensive Plan and any amendments to that Plan.

2. The Planning Commission is an advisory body on matters including rezoning requests and certain land use change permit applications.
3. The Planning Commission shall hold regularly scheduled public meetings/hearings to take official action on the matters before the Commission. The meetings/hearings shall be noticed in compliance with the requirements for public notice set forth in this Code. Four (4) members of the Planning Commission shall constitute a quorum necessary for official action.
4. The procedures followed by the Planning Commission shall be set forth in the official bylaws adopted by the Planning Commission, and pursuant to Title 30, Article 28, C.R.S., as amended

Section 1-303 Board of Adjustment

A. Membership and Term

1. The Board of County Commissioners shall appoint five (5) regular Board of Adjustment members, in accordance with § 30-28-117,C.R.S. The Board of Adjustment membership shall consist of one member of the Planning Commission. The Board of County Commissioners may appoint five (5) associate members for the purpose of filling a vacancy on the Board of Adjustment in the event that any regular member is temporarily unable to fulfill his or her responsibilities as a member of the Board of Adjustment.
2. All members must be residents of the County.
3. The term of regular members is three (3) years.

B. Powers and Duties.

1. The Board of Adjustment shall be the decision-making body for requests for variance from certain zoning dimensional requirements of this Land Use Code.
 - a. The Board of Adjustment shall consider a request for variance based on the procedure set forth in Section 4-301 of this Code. In order for the Board of Adjustment to grant a variance, at least four (4) members of the Board of Adjustment must vote in favor of the applicant.

- b. The Board of Adjustment does *not* have the authority to grant the following.
 - (1) Variance from uses permitted in a zone district.
 - (2) Variance from any definition.
 - (3) Variance from the minimum or maximum density allowed in a zone district.
- 2. The Board of Adjustment shall consider an appeal of an administrative interpretation of these regulations based on the procedure set forth in Section 4-301 of this Code. In order for the Board of Adjustment to grant an appeal which overturns an administrative interpretation, at least four (4) members of the Board of Adjustment must vote in favor of the appellant.
- 5. The Board of Adjustment shall meet as called by the Chairman to take official action on the matters before the Board of Adjustment. The meetings/hearings shall be open to the public, noticed in compliance with the requirements for public notice set forth in this Code
- 6. The procedures followed by the Board of Adjustment shall be set forth in the official bylaws adopted by the Board of Adjustment, and pursuant to Title 30, Article 28, C.R.S., as amended.

DIVISION 4 RIGHT TO FARM

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

Section 1-401 Agricultural Activities and Operations Within the County Shall Not Be Considered To Be Nuisances. Colorado is a "Right to Farm State" pursuant to C.R.S. 35-3.5-101, et seq. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and a healthy agricultural sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells as inconveniences, eyesores, noises and odors. However, state law and

County policy provides that ranching, farming or other agricultural activities and operations within the County shall not be considered to be nuisances so long as they are operated in conformance with the law and in a non-negligent manner. Therefore, all landowners, residents and visitors must be prepared to encounter noises, odors, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of legal and non-negligent agricultural operations.

Section 1-402 Rights and Responsibilities of All Landowners. All owners of land, regardless of use, have obligations under state law and County regulations with regard to maintenance of fences. Irrigators have the right to maintain irrigation ditches through established easements that transport water for their use, and said irrigation ditches are not to be used for the dumping of refuse. Landowners are responsible for controlling weeds, keeping pets under control, and other aspects of using and maintaining property in accordance with County regulations. Residents and landowners are encouraged to learn about these rights and responsibilities and to act as good neighbors and citizens of the county.