

**LUDC
2013**

GARFIELD COUNTY, COLORADO

Article 1: General Administration

ARTICLE 1

GENERAL ADMINISTRATION

TABLE OF CONTENTS

DIVISION 1. GENERAL PROVISIONS.....	1
1-101. TITLE AND SHORT TITLE.....	1
1-102. AUTHORITY.....	1
A. Colorado Constitution.....	1
B. State Enabling Legislation.....	1
1-103. JURISDICTION.....	1
1-104. BUILDING PERMITS.....	1
1-105. REPEALER, ENACTMENT, AND EFFECTIVE DATE.....	1
A. Repeal of County’s Prior Land Use Regulations.....	1
B. Enactment.....	1
C. Effective Date.....	2
1-106. SAVING PROVISIONS.....	2
A. Pending Land Use Applications.....	2
B. Penalty Accruing.....	2
C. Waiving any Right.....	2
D. Vacating or Annulling.....	2
1-107. IMPLEMENTATION OF COMPREHENSIVE PLAN, INTERGOVERNMENTAL AGREEMENTS, AND OTHER MASTER PLANS FOR LAND USE.....	2
A. Implementation of Comprehensive Plan.....	2
B. Implementation of Intergovernmental Agreements and Other Master Plans for Land Use.....	2
1-108. INTERPRETATION, RULES OF CONSTRUCTION OF LANGUAGE, AND COMPUTATION OF TIME.....	2
A. Interpretation of the Provisions of this Code.....	2
B. Rules of Construction of Language.....	3
C. Colorado Revised Statutes.....	3
D. Computation of Time.....	3
1-109. INCORPORATION AND INTERPRETATION OF MAPS.....	3
A. Official Zone District Map.....	3
B. Official Zone District Overlay Map.....	3
C. Interpretation of Zone District and Zone District Overlay Boundaries.....	3
1-110. AMENDMENT TO TEXT OF THIS CODE.....	4
1-111. SEVERABILITY.....	4
A. Provision Declared Invalid.....	4
B. Application to Tract of Land Invalid.....	4
DIVISION 2. REVIEW AND DECISION-MAKING BODIES.....	4
1-201. BOARD OF COUNTY COMMISSIONERS.....	4
A. Membership and Term.....	4
B. Powers and Duties.....	4
1-202. PLANNING COMMISSION.....	5
A. Membership and Term.....	5
B. Powers and Duties.....	5
1-203. BOARD OF ADJUSTMENT.....	5
A. Membership and Term.....	5
B. Powers and Duties.....	5
1-204. DIRECTOR.....	6
A. Administrative Review.....	6

B.	Written Interpretations.....	6
C.	Other Matters.....	6
1-205.	BUILDING OFFICIAL.....	7
1-206.	FLOODPLAIN ADMINISTRATOR.....	7
A.	Maintain and Hold Open Records.....	7
B.	Floodplain Development Permits.....	7
C.	Inspection.....	7
D.	Interpretation of Boundaries and Base Flood Elevations.....	7
E.	Notify Adjacent Communities and State.....	8
F.	Flood Carrying Capacity.....	8
1-207.	ENFORCEMENT OFFICIALS.....	8
DIVISION 3.	RIGHT TO FARM.....	8
1-301.	RIGHT TO FARM COUNTY.....	8
A.	Not a Nuisances.....	8
B.	Be Prepared.....	8
C.	Land Owner Obligations.....	9
D.	Right to Maintain Ditches.....	9
E.	Weed Control and Pets.....	9
F.	Good Neighbors.....	9

DIVISION 1. GENERAL PROVISIONS.

1-101. TITLE AND SHORT TITLE.

This Code, and all future amendments, shall be known as the Garfield County Land Use and Development Code and is also referred to herein as the “Code.”

1-102. AUTHORITY.

It is the intention of the BOCC in adopting the Garfield County Land Use and Development Code 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;
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 35, Article 5.5, C.R.S. Colorado Noxious Weed Act;
11. Title 38, Article 30.5, C.R.S., Conservation Easements; and
12. Title 43, Article 2, C.R.S., State, County and Municipal and Public Roads.

1-103. JURISDICTION.

This Code shall apply to all land within the unincorporated areas of Garfield County.

1-104. BUILDING PERMITS.

No Building Permit will be issued unless the use associated with the Building Permit is in compliance with this Code.

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, and the Unified Land Use Resolution of 2008, as amended, are hereby repealed on the effective date of the County’s adoption of this Code, except as set forth in section 1-106(C).

B. Enactment.

This Code shall be enacted upon its approval by the BOCC, after review and recommendation by the County Planning Commission, following Public Hearings.

C. Effective Date.

This Code, including any future amendments, shall take effect upon adoption by the BOCC, unless otherwise set forth in the BOCC's motion of approval.

1-106. SAVING PROVISIONS.

A. Pending Land Use Applications.

The enactment or amendment of this 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. Penalty Accruing.

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

C. Waiving any Right.

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

D. Vacating or Annuling.

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

1-107. IMPLEMENTATION OF COMPREHENSIVE PLAN, INTERGOVERNMENTAL AGREEMENTS, AND OTHER MASTER PLANS FOR LAND USE.

A. Implementation of Comprehensive Plan.

Except as otherwise provided by law, the Comprehensive Plan serves as a guide and is advisory regarding land use in Garfield County.

B. Implementation of Intergovernmental Agreements and Other Master Plans for Land Use.

Enactment, amendment, and administration of this 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 other governmental entities or special districts.

1-108. INTERPRETATION, RULES OF CONSTRUCTION OF LANGUAGE, AND COMPUTATION OF TIME.

A. Interpretation of the Provisions of this Code.

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

All references to the Colorado Revised Statutes (C.R.S.) shall include the referenced section, including any amendments thereto, and any additional sections necessary for proper interpretation of the law.

D. Computation of Time.

Days are computed as business days which means calendar days excluding weekends and County holidays, unless otherwise specified in this Code.

1-109. INCORPORATION AND INTERPRETATION OF MAPS.

A. Official Zone District Map.

The location and boundaries of the zone districts established by this Code are shown on the “Official Zone District Map” of Garfield County and incorporated into this Code. The zone district map shall be maintained by the Director and shall be located in the Community Development Department. It is the express intent of the BOCC that all unincorporated areas within the County be located within a zone district.

B. Official Zone District Overlay Map.

The location and boundaries of each “Zone District Overlay” established by this Code shall be shown on the “Official Zone District Overlay Map” and hereby incorporated into this Code. The zone district overlay map shall be maintained by the Director and shall be located in the Community Development Department.

C. Interpretation of Zone District and Zone District Overlay Boundaries.

If for any reason the location of a zone district and zone district overlay boundary line is not readily determinable from the incorporated maps, the location of the zone or overlay district boundary line shall be determined by the Director in accordance with the following provisions. Where more than 1 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 boundary line is given a position within or abutting a highway, road, street, or Alley right-of-way that does not appear to be located within any district, the district boundary line shall be deemed to be in the center of such right-of-way.
2. Where a district boundary line is shown as closely and approximately following Subdivision Plat Lot Lines, municipal boundary, or County

boundary lines, the district boundary line shall be deemed to coincide with such known boundaries.

3. Where a parcel within a district has a boundary line shown by a specific dimension, that dimension shall control.
4. Where a 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.
5. The location of a district boundary line located with reference to a natural feature shall be at the outer edge or boundary of the natural feature.
6. In all other circumstances, the location of the district boundary line shall be determined by scaling from the district maps.

1-110. AMENDMENT TO TEXT OF THIS CODE.

Section 4-114 outlines the process for amendments to the text of this Code.

1-111. SEVERABILITY.

A. Provision Declared Invalid.

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

B. Application to Tract of Land Invalid.

If the application of this 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 Code or the application of any provision thereof to any other tract of land.

DIVISION 2. REVIEW AND DECISION-MAKING BODIES.

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

1-201. BOARD OF COUNTY COMMISSIONERS.

A. Membership and Term.

1. Each of the 3 members of the BOCC is elected by the registered voters of Garfield County in a general election.
2. The term of each Commissioner is 4 years.

B. Powers and Duties.

1. Powers and Duties Authorized by State Statute. The authority granted to the BOCC under State statutes include, but is 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 Code. In addition to authority granted to the BOCC by general or special law, the BOCC has authority to take such other action not delegated to the Planning Commission, the Board of Adjustment, or the Director, as the BOCC may deem desirable and necessary to implement the provisions of the Comprehensive Plan and this Code.
3. Public Meetings/Hearings. The BOCC shall hold regularly-scheduled Public Meetings/Hearings to take official action on these issues and any other matter that requires official BOCC action. Two members of the BOCC shall constitute a quorum necessary for official action.

1-202. PLANNING COMMISSION.

A. Membership and Term.

1. The BOCC appoints 7 regular Planning Commission members and 3 associate members.
2. All members must be residents of the County. No member of the BOCC shall serve on the Planning Commission.
3. The term of members is 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 responsible for reviewing the location and extent of public or quasi-public utilities, structures, or uses proposed to be located in the unincorporated area of the County to determine whether they are in conformance with the Comprehensive Plan.
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 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.

1-203. BOARD OF ADJUSTMENT.

A. Membership and Term.

1. The BOCC shall appoint 5 regular Board of Adjustment members, in accordance with C.R.S. § 30-28-117. The Board of Adjustment membership shall consist of 1 member of the Planning Commission. The BOCC may appoint 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 members is 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 Code.

- a. The Board of Adjustment shall consider a request for variance based on the procedure set forth in section 4-115 of this Code. In order for the Board of Adjustment to grant a variance, at least 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; and
 - (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 this Code based on the procedure set forth in section 4-117 of this Code. In order for the Board of Adjustment to grant an appeal that overturns an administrative interpretation, at least 4 members of the Board of Adjustment must vote in favor of the appellant.
 3. 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 and noticed in compliance with the requirements for public notice set forth in this Code.
 4. 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.
 5. An appeal of any decision made by the Board of Adjustment is not reviewed by the BOCC and instead is subject to judicial review by the District Court.

1-204. DIRECTOR.

The Director of the Community Development Department or authorized representative's powers and duties under this Code are set out in this subsection as follows:

A. Administrative Review.

The Director shall be responsible for reviewing Administrative Review applications, and for acting to approve, approve with conditions, or deny such applications.

B. Written Interpretations.

The Director shall be responsible for issuing written interpretations of the provisions of this Code.

C. Other Matters.

The Director shall also have those powers and duties designated by the BOCC, including the following:

1. Serve as the Floodplain Administrator unless otherwise delegated;
2. Shall be responsible for all other Director powers and duties identified in the Code;
3. Shall maintain the Official Zone District Map and the Official Overlay Zone District Map; and
4. Shall keep copies of each application filed, each plat submitted, and each Land Use Change Permit issued.

1-205. BUILDING OFFICIAL.

The Building Official or authorized representative's power and duties are to administer and enforce the Building Code as set forth in C.R.S. § 30-28-114.

1-206. FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator duties and responsibilities shall include, but not be limited to, the following:

A. Maintain and Hold Open Records.

Maintain and hold open for public inspection all records pertaining to the provisions of this Code as it pertains to the 100-year Floodplain, including the actual elevation (in relation to mean sea level) of the Lowest Floor (including Basement) of all new or substantially improved structures and any flood-proofing certificate required in section 3-102, Floodplain Overlay.

B. Floodplain Development Permits.

1. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance;
2. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding; and
3. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

C. Inspection.

Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.

D. Interpretation of Boundaries and Base Flood Elevations.

1. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
2. When Base Flood Elevation data has not been provided, the Floodplain Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of this Code.
3. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Maps (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the Base Flood more than 1/2 foot at any point within the community.

4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM that increases the water surface elevation of the Base Flood by more than 1/2 foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12, and receives FEMA approval.

E. Notify Adjacent Communities and State.

In riverine situations, notify adjacent communities and the State coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

F. Flood Carrying Capacity.

Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

1-207. ENFORCEMENT OFFICIALS.

The Community Development Director, the Building Official, the Floodplain Administrator, and the Code Enforcement Officer are "Enforcement Officials." An Enforcement Official has the power to enforce all provisions of this Code, the Building Code, the regulations of areas and activities of State interest, including without limitation, any condition imposed on an approval, and may utilize any remedies authorized under Colorado Law or the provision of Article 12.

DIVISION 3. RIGHT TO FARM

1-301. RIGHT TO FARM COUNTY.

Colorado is a right-to-farm state pursuant to C.R.S. § 35-3.5-101, *et seq.* Consistent with this statute, it is the policy of the BOCC that ranching, farming, and all manner of agricultural activities and operations throughout the 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. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds, and smells of the 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 provide that:

A. Not a Nuisances.

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 nonnegligent manner.

B. Be Prepared.

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 1 or more of which may naturally occur as a part of legal and nonnegligent agricultural operations.

C. Land Owner Obligations.

All owners of land, regardless of use, have obligations under State law and County regulations with regard to maintenance of fences.

D. Right to Maintain Ditches.

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.

E. Weed Management.

Landowners are responsible for managing all Garfield County Listed noxious weeds and State of Colorado listed noxious weeds on their property that are targeted for statewide eradication in accordance with the Colorado Noxious Weed Act and the Garfield County Noxious Weed Management Plan.

F. Control of Pets and Responsibilities of Maintaining Property.

Landowners are responsible for keeping pets under control and other aspects of using and maintaining property in accordance with County regulations.

G. Good Neighbors.

Residents and landowners are encouraged to learn about these rights and responsibilities and to act as good neighbors and citizens of the County.