

**LUDC
2013**

GARFIELD COUNTY, COLORADO

Article 2: Land Use Change Permit

ARTICLE 2
LAND USE CHANGE PERMIT

TABLE OF CONTENTS

| | |
|---|----------|
| DIVISION 1. LAND USE CHANGE PERMIT..... | 1 |
| 2-101. APPLICABILITY. | 1 |
| 2-102. PERMIT REQUIRED FOR LAND USE CHANGES. | 1 |
| A. Land Use Changes other than Division of Land. | 1 |
| B. Division of Land. | 1 |
| C. Signs. | 1 |
| 2-103. LAND USE CHANGE WITHOUT A PERMIT IS PROHIBITED. | 1 |
| 2-104. LEVELS OF PERMIT REVIEW FOR LAND USE CHANGE PERMITS. | 1 |
| A. Land Use Changes Other Than Division of Land. | 1 |
| B. Exemption. | 2 |
| C. Subdivisions. | 2 |
| D. Signs. | 2 |
| 2-105. AMENDMENTS TO APPROVALS OF LAND USE PERMITS GRANTED UNDER REGULATIONS ADOPTED PRIOR TO OCTOBER 13, 2008. | 2 |
| 2-106. PERMIT RUNS WITH THE LAND..... | 2 |
| DIVISION 2. VESTED PROPERTY RIGHTS. | 2 |
| 2-201. PURPOSE..... | 2 |
| 2-202. ESTABLISHMENT OF VESTED PROPERTY RIGHTS. | 2 |
| A. General..... | 2 |
| B. Site Specific Development Plan. | 2 |
| C. Development Agreements. | 2 |
| D. Approval and Effective Date. | 2 |
| E. Subsequent Review and Approval. | 3 |
| F. Exceptions. | 3 |
| G. Applicability of General Ordinances and Regulations..... | 3 |

(This has been left blank intentionally)

DIVISION 1. LAND USE CHANGE PERMIT.

2-101. APPLICABILITY.

The requirement for a Land Use Change Permit and the permit provisions set forth in this Article apply to any proposed change in land use, including divisions of land, for property located in unincorporated Garfield County.

2-102. PERMIT REQUIRED FOR LAND USE CHANGES.

Any person seeking a change in land use shall obtain a Land Use Change Permit before commencing the development or activity associated with the land use change, unless the use is identified in Table 3-403, Use Table, as a “By Right” use and is, therefore, exempt from County review and permitting.

A. Land Use Changes other than Division of Land.

For land use changes that do not involve division of land, approval of the proposed land use change in compliance with this Code constitutes a Land Use Change Permit.

B. Division of Land.

For land divisions, final plat, or exemption plat, approval will constitute a Land Use Change Permit.

C. Signs.

A sign permit constitutes a Land Use Change Permit.

2-103. LAND USE CHANGE WITHOUT A PERMIT IS PROHIBITED.

A Land Use Change Permit must be obtained in compliance with this Code prior to beginning any development or activity associated with a change in land use. Failure to obtain a Land Use Change Permit shall be a violation of this Code and subject to the enforcement provisions in Article 12.

2-104. LEVELS OF PERMIT REVIEW FOR LAND USE CHANGE PERMITS.

Land Use Change Permits will be subject to 1 of the following levels of review.

A. Land Use Changes Other Than Division of Land.

A change in land use that does not involve division of land is subject to 1 of the following 3 levels of review. The level of review for specific land uses is described in the Use Tables in Article 3, Division 5, Zoning.

1. Administrative Review Process. A change in land use that will have insignificant impact is subject to the Administrative Review process set forth in section 4-103, Administrative Review.
2. Limited Impact Review Process. A change in land use that will have limited or minimum impact is subject to the Limited Impact Review process set forth in section 4-104, Limited Impact Review.
3. Major Impact Review Process. A change in land use that will have significant impact is subject to the Major Impact Review process set forth in section 4-105, Major Impact Review.
4. Rezoning and Code Text Amendments. A rezoning of property is subject to the process set forth in section 4-113 and a text amendment to this Code is subject to the process set forth in section 4-114.

B. Exemption.

A request for exemption from the definition of Subdivision shall be subject to the review set forth in Article 5, Division 2.

C. Subdivisions.

Unless otherwise provided by this Code, division of land shall be subject to Subdivision Review as set forth in Article 5, Division 3.

D. Signs.

Signs are subject to a specific review and approval process set forth in Article 11.

2-105. AMENDMENTS TO APPROVALS OF LAND USE PERMITS GRANTED UNDER REGULATIONS ADOPTED PRIOR TO OCTOBER 13, 2008.

Amendments may be made to Conditional Use Permits and Special Use Permits approved by the BOCC under the Zoning Resolution of 1978. An amendment request shall be processed pursuant to section 4-106, Amendments to an Approved Land Use Change Permit.

2-106. PERMIT RUNS WITH THE LAND

Any Land Use Change Permit for land use approved in compliance with this Code shall be binding upon and run with the land.

DIVISION 2. VESTED PROPERTY RIGHTS.

2-201. PURPOSE.

The purpose of this Division is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., and to effectuate local control over creation of vested property rights to the fullest extent permitted under the law.

2-202. ESTABLISHMENT OF VESTED PROPERTY RIGHTS.

A. General.

Pursuant to this Code, a vested property right shall be deemed established for a period of 3 years with the approval of a Site Specific Development Plan as defined in section 2-202(B). When a Site Specific Development Plan is approved, the vested right shall confer upon the landowner to undertake and complete the development and use of the property under the terms and conditions of the Site Specific Development Plan. If the Applicant requests a vesting period longer than 3 years, a development agreement will be required.

B. Site Specific Development Plan.

For the purposes of this section, Site Specific Development Plan shall mean a Land Use Change Permit, a Final Plat and 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, after the signing and recording of the PUD Plan.

C. Development Agreements.

The BOCC may enter into a development agreement with the landowner for a vesting period for longer than 3 years when, in the discretion of the BOCC, 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.

D. Approval and Effective Date.

1. A vested property right shall be deemed established upon the BOCC's approval of a Site Specific Development Plan. The 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.

2. In order to trigger vesting of a property right, the Site Specific Development Plan must include the following language: "Approval of this [Permit/Plan/Plat] shall create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to include the foregoing statement on the Site Specific Development Plan or in a request for approval shall invalidate the creation of the vested property right.
3. The approval is subject to all rights of referendum and judicial review. The time period for the exercise of such rights will begin upon the date of publication, in a newspaper of general circulation in the County, of 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. The Applicant is responsible for such publication within 14 days after approval of the Site Specific Development Plan.

E. 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.

F. Exceptions.

Once established pursuant to this Code, 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. With the consent of the affected landowner.
2. 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. The affected landowner receives just compensation as forth in C.R.S. § 24-68-105(1)(c), for all costs, expenses, and liabilities incurred by the landowner after approval by the BOCC.

G. Applicability of General Ordinances and Regulations.

The establishment of a vested property right shall not preclude the application of ordinances, resolutions, or regulations that 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.