

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

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Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Planning & Community Development
DATE: June 6, 2023
RE: LDC-23-001, Proposed Amendment to the Land Development Code, Personal Greenhouses

Project Description

A request by the El Paso County Planning and Community Development Department to amend Chapter 5 of the El Paso County Land Development Code (2022) pertaining to personal greenhouses. The proposed amendment will allow for personal greenhouses greater than 200 square feet to obtain an agricultural structure exemption from the Building Code, establish specific use standards for personal greenhouses, and allow for agricultural structure exemptions from the Building Code in additional residential suburban zoning districts.

Notation

Please see the Planning Commission minutes for a complete discussion of the topic and the Planning Commission staff report for staff analysis.

Planning Commission Recommendation and Vote

Mr. Trowbridge moved / Mr. Whitney seconded for approval, proposed amendment to Chapter 5 of the Land Development Code pertaining to personal greenhouses, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (7-0)**. The item was heard as a regular agenda item.

Discussion

Mr. Carlson questioned listing marijuana as a prohibited use inside of personal greenhouses. After general discussion on the Code requirements for personal cultivation of marijuana between Assistant County Attorney Mrs. Seago and the Planning Commission members, Mrs. Seago read the existing language from the Code for Agricultural Structure Exemptions from the Building Code which also prohibits marijuana-related uses. Clarification was provided that marijuana related uses would only be prohibited in personal greenhouses that apply for and obtain an agricultural exemption from the Building Code.

Attachments

1. Draft Planning Commission Minutes from May 18, 2023.
2. Draft Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Draft BOCC Resolution.

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, May 18th, 2023
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: TOM BAILEY, JAY CARLSON (EXCUSED AFTER ITEM 4B), TIM TROWBRIDGE, BECKY FULLER, ERIC MORAES, KARA OFFNER, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: SARAH BRITTAIN JACK, JOSHUA PATTERSON, BRYCE SCHUETTPELZ, AND BRANDY MERRIAM.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, MINDY MADDEN, RYAN HOWSER, CRISTEL MADDEN, ED SCHOENHEIT, CHARLENE DURHAM, JEFF RICE, KYLIE BAGLEY, KELLY HILLS, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING:

1. REPORT ITEMS

A. Planning Department. The next PC Hearing is Thursday, June 1st, 2023, at 9:00 A.M.

B. Designation of Officers.

PC ACTION: TROWBRIDGE MOVED / MORAES SECONDED TO NOMINATE BAILEY AS CHAIR AND CARLSON AS VICE-CHAIR OF THE PLANNING COMMISSION. THE MOTION WAS APPROVED (7-0)

C. Call for public comment for items not on hearing agenda. NONE.

2. CONSENT ITEMS

3. CALLED-UP CONSENT ITEMS

4. REGULAR ITEMS

B. LDC231

MADDEN

EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT PERSONAL GREENHOUSES

A request by the El Paso County Planning and Community Development Department to amend Chapter 5 of the El Paso County Land Development Code (2022) as it pertains to personal greenhouses. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts).

STAFF PRESENTATION & DISCUSSION

Mr. Carlson asked for clarification regarding the exclusion of marijuana. He asked if people could grow their own personal marijuana in the greenhouse.

Mr. Trowbridge asked when a building permit is currently required to build a greenhouse.

Ms. Madden answered Mr. Trowbridge. Any structure over 200 sq. ft. requires a building permit. The Agricultural (Ag) Exemption would bypass that requirement unless someone included electrical or plumbing. Ag Exemption already exists in the Land Development Code (LDC) but doesn't currently apply to greenhouses.

Ms. Seago answered Mr. Carlson. There is a use defined in the LDC, "personal cultivation of marijuana". She read the use-specific standards found in the LDC under 5.2.33(B) and (C). *"(B) Located in Primary Residence. Personal cultivation of marijuana may only occur in the primary residence of the patient, caregiver or person over 21 years old, or in an accessory structure on the same property. (C) Location within Primary Residence. All personal cultivation of marijuana must occur in a separate, enclosed, locked space, not to exceed 150 square feet for a single-family dwelling or 100 square feet for all other dwelling units, within the dwelling unit or accessory structure."* Marijuana could be grown in a personal greenhouse if it meets those criteria.

Mr. Bailey asked why the Ag Exemption would then exclude marijuana.

Mr. Trowbridge thinks the Ag Exemption should be revised to say marijuana is prohibited *except* as specified under LDC 5.2.33.

Ms. Seago clarified that the reason they decided to exclude the intended use of growing marijuana from the Ag Exemption from the Building Code was because they wanted to ensure buildings used for the cultivation of marijuana, which often require electrical and plumbing, met Building Code standards.

Mr. Carlson stated he thinks the mention of marijuana should be removed altogether. If it remains a requirement to get a building permit for structures including electrical or plumbing, then that takes care of the concern.

Mr. Trowbridge clarified that the prohibiting of marijuana only falls under the Ag Exemption from the Building Code. The proposed change isn't talking about all greenhouses, just ones that are larger than 200 sq. ft. and are seeking an exemption from the Building Code. The proposed amendment says that you can't get the Ag Exemption if you're going to grow marijuana. He understood from Ms. Seago's comment that someone wouldn't be able to grow marijuana in an Ag Exempt structure anyway because it's either not in the principal residence or it's not in its own dedicated grow structure. But someone could build a small, 50 sq. ft. greenhouse to grow personal marijuana in addition to the larger structure they seek an Ag Exemption for.

Ms. Seago stated that is correct and continued by saying the marijuana provisions of the LDC do allow the cultivation in a portion of the accessory structure so long as that portion is no larger than 100 sq. ft. Under the proposed amendment, an accessory structure that includes a portion dedicated to marijuana (no greater than 100 sq. ft.) and is overall greater than 200 sq. ft. would require a building permit.

Mr. Bailey stated he thinks that discussion clarifies why growing marijuana is not allowed when seeking an Ag Exemption.

Mr. Carlson wonders why the proposed amendment wants to prohibit the cultivation of marijuana in an 800 sq. ft. greenhouse that would otherwise be eligible for the Ag Exemption if that person is willing to haul water to it, etc.

Ms. Madden referenced an email correspondence between herself and Ms. Seago where Ms. Seago did not consider the personal cultivation of marijuana as meeting the definition of agricultural use. She reiterated that people do not have to pursue the Ag Exemption, it is just an option. They can build a greenhouse as large as their zoning district allows. There are standards to build a greenhouse and then there are further requirements if someone wants to seek the exemption.

Ms. Herington was excused from the meeting at this time.

Mr. Carlson reiterated that he thinks the exclusion of marijuana should be removed.

Ms. Offner mentioned that it does say later in the LDC that it's allowed if it meets the criteria listed in 5.2.33.

Mr. Bailey stated the prohibition would only apply to structures seeking an exemption from the Building Code, not all greenhouses. He asked for the opinion of a Regional Building employee.

Mr. Jay Eenhuis, with Regional Building, stated his department wouldn't care if the subject language was included or not. If someone wants to grow marijuana in an accessory structure less than 200 sq. ft., it's already exempt from needing a building permit. Regional Building is currently seeing greenhouses that exceed 200 sq. ft. constructed with bent PVC and plastic sheeting laid over it, which is not considered conventional construction. At that point an engineer needs to sign off on the plans. What someone does within the greenhouse is not up

to their department, they leave that up to the County. He personally thought greenhouses were already included under the Ag Exemption.

Mr. Bailey stated he's starting to think the exclusion of marijuana cultivation isn't needed.

Mr. Moraes stated his understanding that anything under 200 sq. ft. is not a problem. Between 200 and 1,000 sq. ft. is where the potential of an Ag Exemption becomes relevant. The current proposal states that a greenhouse under 1,000 sq. ft. can be exempt from the Building Code, until you decide to put marijuana in it.

Mr. Whitney clarified that it can be done, they're just not eligible for the Ag Exemption.

Ms. Offner asked when the 100 sq. ft. specification mentioned by Ms. Seago becomes relevant.

Mr. Trowbridge thinks that you can build an accessory greenhouse for marijuana of 100 sq. ft., but it needs to meet the Building Code. Is that correct?

Ms. Madden stated that was not accurate. Structures under 200 sq. ft. would not need a building permit or an Ag Exemption, even if they want to grow marijuana.

Mr. Trowbridge clarified that is what is already allowed. What is being considered with this LDC amendment is an exemption from the Building Code for personal greenhouses. To be eligible for that exemption, the County is excluding buildings you intend to use for marijuana. By approving this amendment, the Planning Commission is agreeing that someone shouldn't be allowed to grow marijuana in a building greater than 200 sq. ft. that was exempted from the Building Code.

Mr. Bailey further clarified that the Ag Exemption was more restrictive than regular standards. Even if they designate a separate 100 sq. ft. section that could be locked, and even if it says that's allowed in other places of the LDC, this proposal says that to be eligible for an Ag Exemption, you cannot grow marijuana in the structure.

Mr. Carlson thought he heard Ms. Seago say earlier that it would be allowed to grow marijuana in up to a 1,000 sq. ft. greenhouse with the Ag Exemption regardless of designating a separate 100 sq. ft. or not. He doesn't understand why the County is putting the restriction on marijuana. He thinks it should meet the criteria of agricultural use because it is a plant like any other.

Ms. Fuller clarified that this proposal would allow greenhouses up to 1,000 sq. ft. to be built without building permits and would exclude the cultivation of marijuana. If a residence that includes one of these accessory structures is sold, and the next owner puts marijuana in it, does the new owner need to seek a retro-active building permit? How would this be enforced?

Ms. Madden explained that an affidavit that permits inspection would be completed and recorded with the Clerk & Recorder. There is an exemption process in place for other Ag structures. Code Enforcement is complaint based. If there is a complaint, Code Enforcement would initiate a case and reach out to the owner to conduct an inspection to confirm compliance.

Ms. Fuller asked if the next owner would find the recorded affidavit through a title search.

Ms. Madden stated she wasn't sure but stated the seller should provide the new owner with that information.

Ms. Seago stated she read through the current use-specific standards in the LDC relating to the existing Ag Exemption from the Building Code, regardless of personal greenhouse or not, and there are already use-specific standards in section 5.2.5. Those provisions already state in paragraph D, subsection 3, that marijuana related uses are prohibited in an Ag structure that was exempted from the Building Code. It's already part of the LDC under the broader definition of the Ag Exemption. By prohibiting it in the subcategory of greenhouses, it is consistent with the rest of the LDC.

Mr. Whitney said he is more comfortable leaving the language restricting marijuana in the proposed amendment to greenhouses now that it is clear the Planning Commission is not making the arbitrary decision to restrict it where it would be allowed otherwise. This language does not add or restrict anything, it is just consistent.

Mr. Trowbridge read the proposed LDC amendment changes for clarity.

Mr. Bailey added that this will go to the BOCC who will ultimately approve the amendment, and they can further discuss the policy of excluding marijuana from the Ag Exemption if they so choose.

Mr. Carlson stated he felt comfortable leaving the language as presented after the discussion.

Ms. Madden added that a driving force behind the Ag Exemption section of the LDC that Ms. Seago referenced, adopted in 2019, was an overwhelming number of illegal marijuana growing sites in the County. People were able to come into PCD, sign one paper, and get an Ag Exemption. There was an increase in illegal marijuana growing sites. This resulted in the BOCC adopting the language in the LDC as it is now.

NO PUBLIC COMMENT

PC ACTION: TROWBRIDGE MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 4B, LDC-23-001, FOR A LAND DEVELOPMENT CODE AMENDMENT, PERSONAL GREENHOUSES, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH NO ADDED CONDITIONS OR NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).

5. NON-ACTION ITEMS

MEETING ADJOURNED at 12:18.

Minutes Prepared By: Miranda Benson

AMENDMENT TO THE LAND DEVELOPMENT CODE (Recommend Approval)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. LDC-23-001
PERSONAL GREENHOUSES

WHEREAS, the Planning and Community Development Department of El Paso County requests approval of Amendment(s) as described below:

- Amending Table 5-1 and Table 5-2 to rename Agricultural Structure to Agricultural Structure Exemption from the Building Code;
- Amending Table 5-2 to subject personal greenhouses to specific use standards;
- Amending Table 5-2 to add Footnote No. 8 to personal greenhouses to clarify that a site plan is only required for accessory structures greater than 200 square feet in area, however setback compliance is required for all structures;
- Amending Table 5-2 to allow agricultural structure exemptions from the Building Code in Residential Suburban zoning districts RS-20000, RS-6000, and RS-5000;
- Amending Chapter 5 to include specific use standards for personal greenhouses; and
- Amending Chapter 5, Section 5.2.45 Residential Accessory Structures and Uses to rename Private Greenhouse to Personal Greenhouse.

WHEREAS, a public hearing was held by this Commission on Thursday, May 18, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the Planning Commission members during the hearing, this Commission finds as follows:

1. The proposed amendment(s) to the El Paso County Land Development Code were properly submitted for consideration by the Planning Commission.
2. Proper publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons were heard at that hearing.

LDC-23-001

4. All data, surveys, analyses, and studies, as are required by the State of Colorado and El Paso County have been submitted, reviewed, and were received into evidence and found to meet the intent of the Introductory Provisions of the Land Development Code.
5. For the above-stated and other reasons, the proposed Amendment(s) are in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the El Paso County Planning Commission recommends approval of the proposed amendment(s) as described above of the El Paso County Land Development Code, including other conforming amendments throughout the Code as presented at the public hearing held by this Commission on Thursday, May 18, 2023.

AND BE IT FURTHER RESOLVED that, in the case of any inconsistency with these amendment(s) and any previous Zoning Regulations, these revision(s) shall prevail.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

_____ seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows (circle one)

Thomas Bailey	aye / no / abstain / absent
Sarah Brittain Jack	aye / no / abstain / absent
Jay Carlson	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Kara Offner	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent
Bryce Schuettpelz	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent
Christopher Whitney	aye / no / abstain / absent

The Resolution was adopted by a vote of ___to___ by the El Paso County Planning Commission, State of Colorado.

DONE THIS 18th day of May 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
 _____, Chair

DATED: May 18, 2023

LDC-23-001

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission

FROM: Mindy Madden, Strategic Services Manager
Meggan Herington, AICP, Executive Director

RE: LDC-23-001 Land Development Code Amendment -
Personal Greenhouse Amendments to Chapter 5 of the
El Paso County Land Development Code (2022)

Commissioner District: All

Planning Commission Hearing Date	05/18/2023
Board of County Commissioners Hearing Date	06/06/2023

EXECUTIVE SUMMARY

A request by the El Paso County Planning and Community Development Department to amend Chapter 5, Use and Dimensional Standards, of the El Paso County Land Development Code (2022) to add regulations extending the allowance for agricultural structure exemptions from the Building Code to personal greenhouses.

A. BACKGROUND

The El Paso County Land Development Code is routinely amended to respond to current land use trends, recurring issues, changes in legislation, and/or errors/oversights. The Planning and Community Development Department maintains a running list of necessary and recommended revisions to the Code as issues arise. El Paso County is a statutory County, which requires the County regulations to align with those rules and regulations included within the Colorado Revised Statutes (C.R.S.). The C.R.S., in most instances, is flexible enough to allow each jurisdiction the ability to customize their rules and regulations in ways that best suit the needs of the local community as well as those challenges present in each community.

In December 2018, the Board approved amendments to the Code to define what constitutes an agricultural structure and the criteria, such as use, size, and design of the structure, that must be

met to obtain an agricultural structure exemption from the Building Code. Due to the design requirements placed on agricultural structures, personal greenhouses are not eligible to obtain an agricultural structure exemption and building permits are currently required for greenhouses exceeding 200 square feet.

The proposed amendments will allow for personal greenhouses greater than 200 square feet to obtain an agricultural structure exemption from the Building Code, establish specific use standards for personal greenhouses, and allow for agricultural structure exemption from the Building Code in residential suburban zoning districts.

B. REQUEST

A request by the El Paso County Planning and Community Development Department to amend the El Paso County Land Development Code (2022) to include:

- o Amending Table 5-1 and Table 5-2 to rename Agricultural Structure to Agricultural Structure Exemption from the Building Code;
- o Amending Table 5-2 to subject personal greenhouses to specific use standards;
- o Amending Table 5-2 to add Footnote No. 8 to personal greenhouses clarifying that a site plan is only required for accessory structures greater than 200 square feet in area, however, setback compliance is required for all structures;
- o Amending Table 5-2 to allow agricultural structure exemptions from the Building Code in Residential Suburban zoning districts RS-20000, RS-6000, and RS-5000;
- o Amending Chapter 5 to include specific use standards for personal greenhouses;
- o Amending Chapter 5, Section 5.2.45 Residential Accessory Structures and Uses, to rename Private Greenhouse to Personal Greenhouse.

Staff is also requesting authority to make all other conforming amendments necessary to carry out the intent of the Board of County Commissioners.

C. MASTER PLAN ANALYSIS

The County's Land Development Code governs the use and development of property and provides a legal framework for implementing the Master Plan's recommendations. The purpose of the County's Land Development Code is to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County, and to:

- o Implement the Master Plan and related elements.
- o Promote predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests.



- o Ensure appropriate opportunities for participation and involvement in the development process by all affected parties.
- o Be fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.
- o Guide the future growth and development of the County in accordance with the Master Plan.

More specifically the Master Plan identifies the need for periodic amendments to El Paso County's Land Development Code as stated below:

Code Amendments and Updates

Your El Paso Master Plan establishes the overall vision for the character and intensity of land use and development throughout the County, as well as the policies and goals related to infrastructure, transportation, facilities and services, the natural environment, and much more. To ensure the Land Development Code remains an effective tool for Master Plan implementation it should be reviewed and amended as necessary, particularly the zoning and development standards, to ensure consistency and alignment with the principles, goals, and recommendations of the Master Plan.

D. APPLICABLE RESOLUTIONS

See Attached Resolution.

E. STATUS OF MAJOR ISSUES

There are no major issues.

F. RECOMMENDED CONDITIONS AND NOTATIONS

No conditions or notations.

G. PUBLIC COMMENT AND NOTICE

A summary of the proposed Code amendments and the date of the Board of County Commissioner hearing will be published in *The Gazette* pursuant to Colorado Revised Statute 30-28-116. A copy of this publication will be included in the backup materials for the Board of County Commissioners hearing.

H. ATTACHMENTS

- Proposed Changes to the Land Development Code (2022) (redline version)
- Proposed Changes to the Land Development Code (2022) (clean version)
- Draft PC Resolution



Chapter 5 Use and Dimensional Standards

TABLE 5-1 PRINCIPAL USE TABLES

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	CC	CR	CS	I-2	I-3	C-1	C-2	M			
Agricultural Structure <i>Exemption From Building Code</i>	A	A	A	A																						YES	YES

- Rename Agricultural Structure to Agricultural Structure Exemption from Building Code

TABLE 5-2 ACCESSORY USE TABLES

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	CC	CR	CS	I-2	I-3	C-1	C-2	M			
Agricultural Structure <i>Exemption From Building Code</i>	A	A	A	A	A	A	A	A			A													A		YES	YES
Green House, Personal Use	A	A	A	A	A	A	A	A			A	A	A	A												YES ⁸	YES

- Rename Agricultural Structure to Agricultural Structure Exemption from Building Code
- Allow for Agricultural Structure Exemption from the Building Code in Residential Suburban zoning districts RS-20000, RS-6000, and RS-5000
- Add Subject to Specific Use Standards for Green House, Personal Use
- Add Footnote No. 8 to Green House, Personal Use- a site plan is only required for structures over 200 square feet however setback compliance is required for all structures.

5.2.28 Greenhouse, Personal.

(A) Permit Required. Personal greenhouses greater than 200 square feet shall obtain a building permit and comply with the Building Code unless an agricultural structure exemption from the Building Code is granted or when located within the A-35 zoning district.

(1) Building Permit Required. Compliance with the Building Code is required for all electrical, plumbing, and/or mechanical work installed within a personal greenhouse.

(B) Greenhouse Maintained. Greenhouses shall be maintained in good structural condition. The owner is responsible for the repair or removal of any greenhouse due to inadequate maintenance, or if the greenhouse is in a state of dilapidation, obsolescence or abandonment, or which constitutes a zoning violation.

(C) Agricultural Exemption from the Building Code. Personal greenhouses greater than 200 square feet may receive an agricultural structure exemption from the Building Code provided the requirements for personal greenhouse are met, including the modified and additional requirements below.

(1) Use Limited.

(a) Personal greenhouses must be used solely for horticultural purposes.

(b) The following uses are prohibited:

- Marijuana related uses.
- Commercial and/or non-commercially related uses allowing public access.
- Non-horticultural related uses

(c) The PCD Director may prohibit additional uses if it is determined that it does not meet the intent of this Section.

(2) **Size Limited.** The size of any one personal greenhouse shall not exceed 1000 square feet. Any personal greenhouse exceeding the above allowance shall require special use approval.

(3) **Application Required.** An approved Agricultural Structure Exemption from the Building Code application is required. An affidavit signed by the property owner(s) shall be filed with the Clerk and Recorder acknowledging the limited use of the greenhouse.

(4) **Revocation Process.** For the purposes of revoking an exemption from the Building Code, the standards in this Code for revocation of an agricultural structure exemption from the Building Code apply.

5.2.45. Residential Accessory Structures and Uses

The following structures and uses are considered accessory to a residential use, as further detailed in Table 5-2:

- ~~Private~~Personal greenhouse;

Chapter 5: Use and Dimensional Standards

TABLE 5-1 PRINCIPAL USE TABLES

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	CC	CR	CS	I-2	I-3	C-1	C-2				M	R-4
Agricultural Structure Exemption From Building Code	A	A	A	A																							YES	YES

TABLE 5-2 ACCESSORY USE TABLES

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 Initiating 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	CC	CR	CS	I-2	I-3	C-1	C-2				M	R-4
Agricultural Structure Exemption From Building Code	A	A	A	A	A	A	A	A																	A		YES	YES

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 Initiating 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	CC	CR	CS	I-2	I-3	C-1	C-2				M	R-4
Green House, Personal Use	A	A	A	A	A	A	A	A	A																		YES	YES

5.2.28 Greenhouse, Personal.

(A) Building Permit Required. Personal greenhouses greater than 200 square feet shall obtain a building permit and comply with the Building Code unless an Agricultural Structure Exemption from the Building Code is granted or when located within the A-35 zoning district.

(1) Other Permit Required. Compliance with the Building Code is required for all electrical, plumbing, and/or mechanical work installed within a personal greenhouse.

(B) Greenhouse Maintained. Greenhouses shall be maintained in good structural condition. The owner is responsible for the repair or removal of any greenhouse due to inadequate maintenance, or if the greenhouse is in a state of dilapidation, obsolescence or abandonment, or which constitutes a zoning violation.

(C) Agricultural Exemption from the Building Code. Personal greenhouses greater than 200 square feet may receive an Agricultural Structure Exemption from the Building

Code provided the requirements for personal greenhouse are met, including the modified and additional requirements below.

(1) Use Limited.

- (a) Personal greenhouses must be used solely for horticultural purposes.
- (b) The following uses are prohibited:
 - Marijuana related uses.
 - Commercial and/or non-commercially related uses allowing public access.
 - Non-horticultural related uses
- (c) The PCD Director may prohibit additional uses if it is determined that it does not meet the intent of this Section.

(2) **Size Limited.** The size of any one personal greenhouse shall not exceed 1000 square feet. Any personal greenhouse exceeding the above allowance, shall require special use approval.

(3) **Application Required.** An approved Agricultural Structure Exemption from the Building Code application is required. An affidavit signed by the property owner(s) shall be filed with the Clerk and Recorder acknowledging the limited use of the greenhouse.

(4) **Revocation Process.** For the purposes of revoking an Agricultural Structure Exemption from the Building Code, the standards in this Code for revocation of an Agricultural Structure Exemption from the Building Code apply.

5.2.45. Residential Accessory Structures and Uses

The following structures and uses are considered accessory to a residential use, as further detailed in Table 5-2:

- Personal greenhouse;

RESOLUTION NO. 23-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

APPROVAL OF AMENDMENT TO THE LAND DEVELOPMENT CODE
LDC-23-001 PERSONAL GREENHOUSES

WHEREAS, the Planning and Community Development Department of El Paso County requests approval of Amendments to Chapter 5 of the Land Development Code as herein described, including other conforming amendments throughout the Code;

WHEREAS, a public hearing was held by the El Paso County Planning Commission on May 18, 2023, upon which date the Planning Commission did by formal resolution recommend approval of the proposed amendments, and

WHEREAS, a public hearing was held by this Board on June 6, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The proposed amendment(s) to the El Paso County Land Development Code were properly submitted for consideration by the Planning Commission.
2. Proper publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons were heard at that hearing.
4. All data, surveys, analyses, and studies, as are required by the State of Colorado and El Paso County have been submitted, reviewed, and were received into evidence and found to meet the intent of the Introductory Provisions of the Land Development Code.

5. For the above-stated and other reasons, the proposed Amendments are in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the amendments to Chapter 5 of the El Paso County Land Development Code, including other conforming amendments throughout the Code, as represented on the attached Exhibit "A" by underlining (additions) and strike-through (deletions):

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 6th day of June 2023, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A