

**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 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			
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	YES <sup>8</sup>

- 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?		
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Agricultural Structure Exemption From Building Code	A	A	A	A																							YES	YES

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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?		
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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?		
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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;

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.



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

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

EL PASO COUNTY PLANNING COMMISSION

By: \_\_\_\_\_  
 \_\_\_\_\_, Chair

DATED: May 18, 2023