

**RESOLUTION NO. 06-365****BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO****A RESOLUTION TO ADOPT THE REVISED LAND DEVELOPMENT CODE AND ESTABLISH AN EFFECTIVE DATE FOR ITS IMPLEMENTATION.**

WHEREAS, Colorado Revised Statutes, Article 28 of Title 30, authorize the State of Colorado and its political subdivisions to enact zoning and subdivision regulations in the unincorporated areas of the County through planning and building codes, and other regulatory documents or references as necessary; and

WHEREAS, pursuant to Section 30-28-116, C.R.S., the Board of County Commissioners may amend any provision of the zoning resolution after the Planning Commission considers the amendment; and

WHEREAS, El Paso County is revising its Land Development Code ("LDC") applicable to all development and land use in El Paso County; and

WHEREAS, the current LDC is to be replaced by the revised Land Development Code identified as the BOCC Hearing Draft version, and shall apply to all subdividers, developers, landowners, owners of facilities located in El Paso County including rights-of-way, tracts or easements, and to El Paso County, and its employees, agents, or contractors designing, constructing, and maintaining facilities or conducting activities subject to review and approval under the provisions of the LDC in unincorporated El Paso County; and

WHEREAS, El Paso County has revised its LDC and Engineering Criteria Manual for the purpose of setting and revising standards for all development and the Board finds that these standards are necessary to protect and promote public health, safety, and general welfare of the public, to ensure that development meets generally accepted planning standards, and to provide for consistency and fairness in development review; and

WHEREAS, previously the LDC had been separated into Four Modules which were to be developed and acted upon individually, and then presented as an integrated LDC at the end of the process, with the opportunity to amend previously approved sections; and

WHEREAS, the module approach was rescinded by resolution of the Board on March 24, 2005, and this resolution will supersede any resolution applicable to the module approach; and

WHEREAS, the responsible authority for application of these standards regarding all development-related applications is the Director, Development Services Department, or equivalent position, or delegated staff; and

WHEREAS, the Engineering Criteria Manual was adopted by the Board on December 23, 2004. The LDC is intended to work in concert with the Engineering Criteria Manual, and has been modified to be consistent with the Engineering Criteria Manual; and

WHEREAS, following adoption of the LDC, regular updates to the LDC will be proposed in the future, as the new LDC is utilized, and adoption of the LDC enables the full application of criteria for review, permitting, enforcement, and other requirements found therein in total for all applicable projects, except for those developments which have submitted a completed final plat or equivalent final development application prior to the effective date of January 1, 2007 and which shall be processed under the current LDC; and

WHEREAS, the Director, El Paso County Development Services Department, or equivalent position, may delegate authority for development permit review; and

WHEREAS, a full public participatory effort was undertaken to involve the public, including press releases, citizen committee involvement, and 10 worksessions with the Board of County Commissioners; and

WHEREAS, on February 28, 2006, the El Paso County Planning Commission unanimously recommended adoption of the Land Development Code as revised incorporating all the prior approvals, disapprovals, revisions, and directions of the Planning Commission on January 31, February 14, February 21, and February 28, 2006, to include the interlinear revisions to the text of the Code made by staff and the County Attorney's Office, and any other additional revisions determined by staff and the County Attorney's Office that were required in order to comply with applicable laws and regulations or that were in the nature of form and style edits; and

WHEREAS, pursuant to Sections 30-28-116 and 30-28-133(1), C.R.S., before amending the zoning resolution or finally adopting subdivision regulations, the Board of County Commissioners shall hold a public hearing thereon, and at least fourteen (14) days' notice of the time and place of such hearing shall be given by at least one publication in a newspaper of general circulation in the County; and

WHEREAS, on September 20, 2006 and September 27, 2006, the El Paso County Development Services Department caused to be published in the El Paso County News, a newspaper of general circulation in El Paso County, notice of the time and place of the Board of County Commissioners October 12, 2006 hearing regarding these proposed changes to the Land Development Code; and

WHEREAS, the Board finds that it has complied with all approval and notice requirements related hereto; and

WHEREAS, the Board's action to approve this revised LDC is a legislative action.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of El Paso County, Colorado, that the Land Development Code BOCC Hearing Draft is hereby accepted, authorized, and adopted for implementation with further modifications indicated herein.

BE IT FURTHER RESOLVED that approval includes any interlinear revisions to the text of the Code made by staff, the County Attorney's Office, or the Board and any other revisions determined by staff and the County Attorney's Office that may be required in order to comply with applicable laws and regulations or that are in the nature of form and style edits.

BE IT FURTHER RESOLVED this revised LDC shall become effective April 2, 2007, or at such later date as determined by the Board of County Commissioners to be appropriate in order to implement the procedures, applications forms, revised application fee's and implementation tools necessary to fully utilize the Land Development Code ("effective date").

BE IT FURTHER RESOLVED that the provisions of CAD-O Commercial Airport Overlay District in the revised adopted Land Development Code shall not become effective and the zoning overlay provisions of the current Land Development Code (OA-CGM) shall remain in effect until the later of the April 2, 2007 effective date or until the Board approves the Airport Overlay rezoning that will implement the Airport Master Plan.

BE IT FURTHER RESOLVED that to the extent that the provisions of this Resolution conflict with any prior Board Resolutions regarding similar programs, the provisions of this Resolution shall control.

BE IT FURTHER RESOLVED the Director, El Paso County Development Services Department, or equivalent position, is hereby authorized to create for development permit review and department administration the procedures, applications forms, revised application fee's, department policies, and implementation tools necessary to fully utilize the Land Development Code.

BE IT FURTHER RESOLVED that if an Applicant desires to submit a land use application prior to the effective date in order to utilize provisions of this adopted revised Land Development Code, they may do so; however, the application shall not be heard by either the Planning Commission or the Board of County Commissioners until after the effective date.

BE IT FURTHER RESOLVED, any existing subdivision related credit or fee calculations for park and school dedications or fee's in lieu of land, or any drainage and bridge fee's, shall remain in effect and shall be carried forward, but they will be subject to both the standards contained in the revised LDC upon the effective date and any subsequent applicable fee resolution.

BE IT FURTHER RESOLVED, the following modifications to the BoCC Hearing Draft version of the Land Development Code are accepted, authorized, and adopted for implementation:

1. Definitions: Delete the crossed through language

County Hydrogeologist

A person designated by the BoCC to advise the County on matters pertaining to compliance with the County's water regulations, and other water matters. ~~If El Paso County fails to employ or contract a County Hydrogeologist, the OCA shall serve as the County Hydrogeologist.~~

2. Definitions: Add "grading" to the definition of Development. Add "grading permit" to the definition of Development Permit.

3. Add the following underscored language to Section 6.2.2(G)2(i) on Page 6-16

Approval of Certificate of Occupancy

All required landscaping on the approved landscape plan shall be completed, and then inspected and approved by the Development Services Department prior to the issuance of a Certificate of Occupancy by the Building Department, or establishment of the use, except when surety acceptable to the Development Services Department Director guaranteeing the completion of the landscaping is provided.

4. Add the following underscored language to Section 6.3.3(D)4 on Page 6-81, first bullet

The fire protection district responsible for providing fire protection services to the project has adopted a fire code that is a more stringent design standard different from that contained herein; or

5. Add the following underscored language to Section 11.1.5 on Page 11-4

11.1.5. Previous Violations

Nothing in these standards and regulations shall prohibit the continuation of *pending* enforcement actions undertaken by the County pursuant to previous regulations *provided that the violation also exists under the current Land Development Code.*

6. Add the following to Section 5.2.3, **Agricultural Accessory Structures and Uses**
The following structures and uses are considered accessory to any agricultural use *based upon the definition of agriculture in this code (and is an exception to Section 1.19.6):*

7. Delete the following language in Section 6.2.10 (A)3(k)

~~(k) Flagpoles~~

~~Flagpoles with the flag, pennant, or insignia of the nation, state, country, city, any religious, civic, or fraternal organization, or any educational institution are exempt from the requirements of this Section.~~

Add the following section:

(c) Flagpoles and Flags

Flags are considered signs and shall meet all standards for signs except as otherwise provided for by this Section.

(i) Area of Flag Limited

The area of the flag shall not exceed 40 square feet or 2 square feet of sign for each linear foot of building wall area the flag is adjacent or closest to, whichever is less. The allowable area of freestanding signage shall be reduced by the size of the flag.

(ii) Intrusion into Setback Area

A flagpole may be located within the setback area provided it is located within 10 feet of a building.

(iii) Height of Flagpole

No flagpole shall exceed 20 feet in height if located within a setback area or the maximum height for the zoning district if located outside the setback area.

8. Change Section 6.2.10(A)3(h) **Political Signs** by deleting crossed through language:

Political signs, posters, or bills not exceeding 6 square feet in area in any residential zoning district or ~~a single sign~~ 32 square feet in area when located in any non-residential zoning district or on a lot or parcel 5 acres or more in area are exempt from the requirements of this

Section provided the political signs are located on private property with the consent of the property owner or the lawful occupant, the signs do not exceed 8 feet in height, and the signs are removed within 10 days following an election, except that the successful candidates of a primary election may keep their signs on display until 10 days after the general election, at which time they shall be promptly removed.

9. Make the following change by adding the underscored language and deleting the crossed through language to Section 8.4.7 (B)4(b) **Conditional Finding of Sufficiency**:
Conditional findings of sufficiency can be made by the Planning Commission and the BoCC specifying conditions that must be are met prior to recording the final plat.
10. Make the following change by adding the underscored language and deleting the crossed through language to Section 8.4.7 (B)4(e)(iv) Final Plat

(iv) Final Plat

 No final plat shall be approved by the Planning Commission or the BoCC without a finding that the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision.

 For subdivisions with 4 lots or more whose water supply consists of wells, and particularly where there are water augmentation or replacement obligations, the applicant shall establish a HOA or other entity approved by the OCA that shall be responsible to carry out the obligations under the water court decree, Colorado Groundwater Determination, and any related augmentation or replacement plans. For subdivisions with 3 lots or less, while creation of an HOA is preferred, responsibility for the obligations may be placed on the individual lot owners in the covenants or in a Joint Use Well-Sharing Agreement. Unless the water court or Colorado Groundwater Commission authorizes differently, no more than ~~3~~⁶ lots shall share a well in a joint-use well sharing arrangement. Plat notes concerning the responsibility for the obligations and for conveyances of water rights shall be included on the face of the final plat.....

11. Make changes to Section 5.2.30 (B) **Rural Home Occupations** to add the following language:

(C) Rural Home Occupations as a Special Use

(1) Intent

The intent of allowing a rural home occupation as a special use is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential or agricultural property in manner that protects neighboring properties from extreme or unreasonable impacts.

(2) Where Allowed

An expanded residential home occupation is allowed as a special use on any parcel or lot that is 5 acres or more in area and is located in a residential or agricultural zoning district.

(3) General Requirements

A rural home occupation by special use shall conform to all standards for locating and operating a rural home occupation except as otherwise modified by these standards and the special use approval.

(4) Special Provisions and Allowances

(a) Special Use Approval Required

Where a special use approval is required to locate and conduct a rural home occupation, the special use may be approved administratively except where an adjacent property owner objects. In the case where a written objection is filed, the special use shall be referred to the Board of County Commissioners for consideration.

(b) Limit of Administrative Approval

A rural home occupation which receives administrative special use approval shall expire 5 years from the date of approval. The special use may be renewed following the same procedure as the original application.

(c) Special Use Fee

A rural home occupation by special use shall be subject to an application fee of 20% of the standard application fee for a special use.

(d) Employees and Traffic

A rural home occupation approved by special use may be approved to employ a maximum of 10 employees and generate a maximum of 50 daily trips.

BE IT FURTHER RESOLVED, that Dennis Hisey duly elected, qualified member and Chair of the Board of County Commissioners, or Jim Bensberg, duly elected, qualified member and Vice-Chair of the Board of County Commissioners be and is hereby authorized on behalf of the Board to execute this Resolution and any and all documents necessary to carry out the intent of the Board as described herein.

DONE THIS 25th day of April 2007, at Colorado Springs, Colorado, nunc pro tunc October 12, 2006.



ATTEST:

By: Went C. Bahd
Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

By: Dennis Hisey
Dennis Hisey, Chair