EL PASO COUNTY
COLORADO

COMMISSIONERS:
MARK WALLER (CHAIR)
LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: **El Paso County Planning Commission**
Brian Risley, Chair

FROM: **Kari Parsons, Planner III**
Craig Dossey, Executive Director

RE: **LDC-19-007 Land Development Code Amendment**
Amendments to Chapters 1, 2, 7, and 8 of the El Paso County Land Development Code (2019)

Commissioner District: All

Planning Commission Hearing Date	8/20/2019
Board of County Commissioners Hearing Date	8/27/2019

EXECUTIVE SUMMARY

A request by El Paso County Planning and Community Development to amend the El Paso County Land Development Code (2019) to modify, add, and delete definitions and acronyms in Chapter 1 of the Code; to add administrative approval authority to the Rules Governing Divisions of Land to the Planning and Community Development Director pursuant to recently enacted amendments to Colorado Revised Statutes in Chapter 2 and Chapter 7 of the Code; to amend Chapter 8, Section 8.4.7, Water Supply Standards, Section 8.4.8, Wastewater Disposal, and Section 8.4.9, Geology and Soils Standards Reports, including to address inconsistencies in the Code with other regulatory requirements; to clean up punctuation and grammar, and provide clarification in Chapters 1, 2, 7, and 8 which will eliminate discrepancies and address reoccurring issues. A summary of the proposed amendments is as follows:

- Adding language to specify types of Aquifers in the Code in Chapter 1;
- Adding a definition for Base Flood Elevation;
- Adding a definition for Floodway;
- Revising the definition of Floodplain and Floodplain Administrator;
- Adding a definition for a Geologic Constraint and a Geologic Hazard;
- Revising the definition for an On-site Wastewater Treatment System;
- Removing the definition of Prudent Line and Prudent Line Approaches;
- Adding a definition for a Soil Profile Test Excavation;
- Adding and revising acronyms;

- Adding language to administrative approvals by the Planning and Community Development Executive Director in Chapter 2;
- To add language to Chapter 7 requiring water sufficiency to be made at the time of preliminary plan approval, if administrative approval of a final plat is sought;
- To clarify language in the Code regarding waivers in Chapter 7;
- To add the word "constraints" with respect to hazards throughout portions of Chapter 8 excluding Flood Plain Hazards;
- To modify the Flood Plain Hazard language and delete Prudent Line Setback language in Chapter 8 to be consistent with recently approved changes to the Engineering Criteria Manual (2019);
- To remove Block Standards from Chapter 8;
- To modify the Water Resource Report requirements of Section 8.4.7, to be consistent with El Paso County Board of Health (2018) regulations;
- To modify the Wastewater Disposal Report requirements of Section 8.4.8, to be consistent with El Paso County Board of Health (2018) regulations;
- To modify the Geology and Soils Report requirements of Section 8.4.9, pursuant to recommendations of the Colorado Geological Survey (CGS), State Statute, and in response to comments provided by the local industry professionals; and
- To remove the language requiring traffic or transportation fees to be paid prior to plat recordation.

A. PLANNING COMMISSION SUMMARY

Request Heard:
Recommendation:
Waiver Recommendation:
Vote:
Vote Rationale:
Summary of Hearing:
Legal Notice:

B. APPLICABLE RESOLUTIONS:

Approval 7
Disapproval 8

C. REQUEST

A request by the El Paso County Planning and Community Development Department to amend *Introductory Provisions*, Chapter 1, *Administration*, Chapter 2, *Rules Governing Divisions of Land*, Chapter 7, and *Subdivision Design, Improvements, and Dedications*, and Chapter 8 of the El Paso County Land Development Code (2019) pursuant to revisions in the State Statute, Regulations of the El Paso County Board of Health, Chapter 8 (2018), and the El Paso County Engineering Criteria Manual (2019), and Colorado Department of Public Health and Environment State of Colorado Drinking Water Standards. The request also includes amendments that are intended to clarify discrepancies, and to address

reoccurring issues in Chapters 1, 2, 7, and 8. The proposed amendments, in their entirety, are included as attachments.

D. BACKGROUND

House Bill 19-1274 was signed into law on May 31, 2019, as an amendment to Colorado Revised Statute Section *30-28-133.5*, titled *"*Review of plats and other plans" and is enabling in nature. Specifically, the language allows the Board of County Commissioners to delegate their authority to administrative officials to approve or deny final plats, amendments to final plats, and correction plats and other agreements associated with a final plat. The proposed amendments to the Land Development Code are intended to implement this allowance under State Statute by authorizing the Executive Director of the Planning and Community Development Department to approval final plats if the Board of County Commissioners has made a finding of water sufficiency in conjunction with the previously approved preliminary plan and if the Board makes a finding at the time of approving the preliminary plan that "the location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development."

The delegation of authority to administratively approve final plats and other platting actions as stated in the Statute, also requires the County to adopt procedures for public notice and allow for submission of written comments prior to the administrative approval of denial of a final plat or amendment to a final plat and to include procedures for appeals to the Board of County Commissioner of the County of such administrative approval or denial. Staff is proposing to provide a minimum of a 14 calendar day mailed notice to all adjoining property owners of record (based on County Assessor ownership records) prior to taking final action on a final plat. Staff is also proposing a process for appealing an administrative approval or denial to a hearing before the Board of County Commissioners. See attached for a full draft of the proposed amendments.

El Paso County Engineering Criteria Manual (2019) (ECM) was amended by the Board of County Commissioners on July 9, 2019. The amendment to the ECM included changes to help ensure the County has the appropriate regulatory mechanisms and control measures in place to address stormwater discharges as required pursuant to El Paso County's Municipal Separate Storm Sewer System (MS4) permit.

The recommended changes to the report requirements in Chapter 8, Section 8.4.7 of the El Paso County Land Development Code (2019), are intended to expressly identify the report requirements for a water resource report based on Colorado Department of Public Health and Environment, State of Colorado Drinking Water Standards, and El Paso County Public Health.
The recommended changes to the report requirements in Chapter 8, Section 8.4.8 of the El Paso County Land Development Code (2019), are intended to expressly identify the report requirements for a wastewater disposal report based on the

Regulations of the El Paso County Board of Health, (2018), which guide and enable the reviewing staff of the El Paso County Public Health to make a recommendation regarding the treatment of wastewater at the time of subdivision.

State Statute requires a Geology and Soils Standards and Report to be prepared by a qualified professional, submitted to the Colorado Geological Survey (CGS) for their review at the time of a preliminary plan application. The recommended changes to the report requirements in Chapter 8, Section 8.4.9 of the El Paso County Land Development Code (2019), are intended to expressly identify the report requirements for a Geology and Soils Standards and Report as required by State Statute and based upon the technical recommended changes provided by industry professionals and CGS.

E. RECOMMENDED AMENDMENTS

Please see the attached redlines and Amendment Overview attached which further identify and explain the recommended amendments.

F. APPROVAL CRITERIA

The statutory role of the Planning Commission and Board of County Commissioners is identified below:

30-28-116. Regulations may be amended.

From time to time the board of county commissioners may amend the number, shape, boundaries, or area of any district, or any regulation of or within such district, or any other provisions of the zoning resolution. Any such amendment shall not be made or become effective unless the same has been proposed by or is first submitted for the approval, disapproval, or suggestions of the county planning commission. If disapproved by such commission within thirty days after such submission, such amendment to become effective, shall receive the favorable vote of not less than a majority of the entire membership of the board of county commissioners. Before finally adopting any such amendment, the board of county commissioners shall hold a public hearing thereon, and at least fourteen 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.

30-28-133. Subdivision regulations.

Every county in the state that does not have a county planning commission on July 1, 1971, shall create a county planning commission in accordance with the provisions of section 30-28-103. Every county planning commission in the state shall develop propose, and recommend subdivision regulations, and the board of county commissioners shall adopt and enforce subdivision regulations for all land within the unincorporated areas of the county in accordance with this section not later than September 1, 1972. Before finally adopting any subdivision regulations, the board of county commissioners shall hold a public hearing thereon, and at least fourteen 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. Before

adopting any such subdivision regulations, the board of county commissioners may revise, alter, or amend any such subdivision regulations developed, proposed, or recommended by the county planning commission. Such subdivision regulations shall be in full force and effect and enforced by the board of county commissioners.

G. PUBLIC COMMENT AND NOTICE

The Board of County Commissioner hearing date will be published in the newspaper pursuant to Colorado Revised Statute 30-28-116. A copy of this publication will be included in the backup material for the Board of County Commissioners Hearing.

H. ATTACHMENTS

Draft amendments to the El Paso County Land Development Code (2019) (redline version)
House Bill 19-1274

1.15. - DEFINITIONS OF SPECIFIC TERMS AND PHRASES

The following represent the definitions of the terms and phrases used in this Code. The terms are in alphabetical order.

Abandon — To terminate the use of a structure or land by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through no activity or action. Except for agricultural activities, there shall be a presumption that a use has been abandoned if it is not undertaken, utilized, implemented or performed for a period of one year.

Abutting — Adjoining with a common lot, parcel or tract line or sharing any portion of a lot, parcel or tract boundary line.

Access — The place means, or way by which vehicles are provided with a safe, adequate and usable ingress and egress to a property, use or parking space.

Access Control Management Plan — A roadway design plan which designates preferred access locations and their designs for the purpose of bringing those portions of roadway included in the access control plan into conformance with their functional classification to the extent feasible (See C.R.S. §43-2-147).

Acceptance, Final — The acknowledgement by the County that the defects warranty period has expired and there are no outstanding items to be corrected under the provisions of the defect warranty.

Acceptance, Preliminary — An acknowledgement by the County that, to the best of the County's knowledge, all work on common development and subdivision improvements and required public improvements has been completed in accordance with the plans and specifications and the defect warranty period should begin.

Accident Potential Zone I (APZ -1) [Class A Runway Accident] — An area 3,000 feet wide extending 1500 feet either side of the centerline of the airport runway and 5000 feet long located beyond the Clear Zones at each end of the runway.

Accident Potential Zone II (APZ-2) [Class A Runway] — An area 3,000 feet wide extending 1500 feet either side of the centerline of the airport runway and extending 7000 feet beyond APZ I.

Adjacent — Nearby, meeting or touching at some point, or separated from a lot or parcel by one of the following: a road, alley, right-of-way, lake, stream or open space.

Administrative Determination — The process used by the PCD Director to decide a written request to interpret the provisions of this Code or in issuing any other written interpretation of this Code. The interpretation of the provisions of any conditions of approval will be treated as an interpretation of this Code. An administrative determination of the provisions of this Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this Code.

Adult Arcade — Any establishment in which the public is permitted or invited where, for any form of consideration, one or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by 5 or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult Cabaret — A nightclub, bar, restaurant or similar establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult Motion Picture Theater — An establishment which is characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, compact discs, digital video discs

(DVDs), digital images or other visual representations that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult Store — An establishment in which 10% or more of the total floor space available for access by the public is utilized for display, sale or rent for any form of consideration, one or more of the following: (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (b) Instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

Adult Theatre — A theater, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis on exposure of specified anatomical areas or specified sexual activities.

Affidavit of Correction — A recorded document correcting minor errors in a recorded final plat such as addresses, road names, boundaries, directions or distances.

Agricultural Business — A commercial activity directly related to or resulting from the cultivation of the soil, production of crops or the raising of livestock which are not necessarily produced on the premises, which may also include feed and seed sales and hay sales which would otherwise be classified as retail sales.

Agricultural Building — See Structure, Agricultural.

Agricultural Stand — A structure, booth or counter for the display and sale of consumable goods, including, but not limited to fruits, vegetables and grains, which have been raised, grown, or made on the same lot or parcel.

Agriculture — The science, art, and business of producing crops or raising livestock. This includes but is not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; emus and ostriches; livestock, including beef cattle, sheep, swine, horses, ponies, mules, donkeys, llamas, alpacas or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all these animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Agritainment — Ongoing or seasonal events and/or activities, whether for remuneration or not, of an agricultural nature that are offered to the public for the purpose of recreation, entertainment, and/or education.

Air Pollutant — Any fume, smoke, particulate matter, vapor, gas or combination thereof which otherwise enters the atmosphere including but not limited to any physical, chemical, biological, radioactive (including source material, special nuclear material, and by-product materials) substance or material. This does not include water vapor or steam condensate.

Air Quality Management Plan — A plan identifying potential sources of air pollution along with strategies for minimizing emissions.

Aircraft Navigation Sub-Zone (ANAV) — An area indicated at and above the ground as drawn on the Commercial Airport District Map.

Airport Advisory Commission — An organized body of volunteers from the Pikes Peak Region appointed by the Colorado Springs City Council. The Commission serves in an advisory capacity to the City Manager, the City Council, and the City Planning Commission; and may act in an advisory capacity to the El Paso County Planning Commission and the BoCC for matters relating to the Colorado Springs Municipal Airport.

Airport Noise Sub-Zone (ADNL) — The area indicated by lines of increasing projected annual average noise exposure (DNL) from 65DNL to 70DNL, 70DNL to 75DNL, and 75DNL to 80DNL. The boundary of the ADNL reflects the 65 DNL line.

Airport, General Aviation — A runway or landing area or other facility designed or used by public carriers or private aircraft for the landing and taking off of aircraft, which may include the following associated facilities: taxiways; aircraft storage and tie-down areas; hangars; servicing; and passenger and air freight terminals. Airport includes heliports.

Airstrip, Personal — A runway or landing area without general aviation airport functions maintained for the private use of the owner of the property on which it is located. Includes personal heliport.

Amusement Center, Indoor — An establishment totally contained within a structure designed or intended to provide entertainment or recreation for the general public, but not including bars, nightclubs or sexually-oriented businesses. The term includes, among other things, arcades (pinball, video, etc.), theaters, dinner theaters, bowling alleys, skating rinks, billiard parlors, pool halls, teen clubs, indoor shooting ranges, laser tag, privately-owned recreational facilities, health clubs, and organizational clubs. Accessory uses may include the preparation and serving of food or sale of equipment related to the identified uses.

Amusement Center, Outdoor — An establishment, which can be contained in part by a structure, but is largely exposed to the weather, designed or intended to provide entertainment or recreation for the general public characterized by being open for specific hours, receiving remuneration, advertising activities or use of the property, using sanctioned leagues, or holding organized events. The term includes, among other things, drive-in theaters, amusement parks, carousels, miniature golf courses, golf courses and driving ranges, go-cart tracks, skateboard parks, water parks, and privately-owned outdoor recreational facilities, but does not include bars, nightclubs, or sexually-oriented businesses. Accessory uses may include the preparation and serving of food or sale of equipment related to the identified uses.

Animal Day Care Facility — A commercial establishment for the care of dogs or other household pets, predominantly for periods of less than 24 consecutive hours.

Animal Keeping — The activity of having, owning, and caring for domesticated animals, including animals not commonly regarded as household pets.

Animal Refuge — A facility, other than a veterinary hospital, for the care and keeping of abandoned, injured, or confiscated animals, including domesticated or exotic species. Also includes what is commonly considered animal rescue or similar type facilities.

Annexation — The action by a city or town to bring a lot, parcel or tract into its boundaries and jurisdiction.

Annexation Impact Report — A written report prepared by a municipality concerning the proposed annexation of any lot, parcel or tract.

Apiary — A place where one or more beehives are kept.

Appeal — A request by an applicant or citizen that a decision made pursuant to this Code is reviewed for its correctness and legality by another person, agency, approving authority, or court of law having jurisdiction to hear the appeal.

Applicant — The individual, firm, business entity, trust, association, syndicate, partnership, or corporation of record or any person designated by the property owner who has applied for or is requesting a development permit under this Code including subdivider's.

Applicant Subdivider — A subdivider that may be required by an approved cost recovery statement issued under this Code to reimburse a requestor subdivider for a fair share of the cost of certain

improvements that the County required to have installed. An applicant subdivider is also referred to as a benefited property owner.

Approval Authority — The PCD Director, the BoCC, Planning Commission, Board of Adjustment, El Paso County Engineering Criteria Manual (ECM) Administrator, Building Official, or other person or agency, depending on the type of development permit or decision specified by State Statute or this Code, sanctioned to make a final decision approving, denying or conditionally approving the development permit or other requested action.

Approval of Location — The process authorized by CRS §30-28-1 10(1) whereby the Planning Commission reviews and approves the location and extent of any road, park, public way, ground or space, public building or structure, or public utility (whether publicly or privately owned and constructed).

Arterial — A road that connects major activity centers, carries high volumes of traffic longer distances, and has access to abutting land as a small part of its function. The concept of service to abutting land is secondary to the provision of mobility. Arterials are designated on the Major Transportation Corridor Plan (MTCP).

Aquifer, Alluvial--- An aquifer comprising unconsolidated material deposited by water, typically occurring adjacent to rivers and in buried paleo channels (surface water).

Aquifer, Confined---An aquifer below the land surface that is saturated with water. Layers of impermeable material are both above and below the aquifer, causing it to be under pressure so that when the aquifer is penetrated by a well, the water will rise above the top of the aquifer.

Aquifer , Unconfined--- An aquifer whose upper water surface (water table) is at atmospheric pressure, and thus is able to rise and fall. Water-table aquifers are usually closer to the Earth's surface than confined aquifers are, and as such are impacted by drought conditions sooner than confined aquifers.

Auction — A public sale in which real or personal property is sold to the highest bidder.

Auditorium — A large building for public meetings or artistic performances, which usually includes a stage and seating.

Augmentation Plan — A detailed program, which may be either temporary or perpetual in duration, to increase the supply of water available for beneficial use in a subdivision or portion thereof by the development of new or alternate means or points of diversion, by a pooling of water resources, by water exchange projects, by providing substitute supplies of water by development of new sources of water, or by any other appropriate means. "Plan for augmentation" does not include the salvage of tributary waters by the eradication of phreatophytes, nor does it include the use of tributary water collected from land surfaces that have been made impermeable, thereby increasing the runoff but not adding to the existing supply of tributary water. Refer to C.R.S §37-92-103. "Plan for augmentation" refers to the plans approved by a water court. "Replacement Plan" refers to similar plans approved by the Colorado Groundwater Commission. See, Replacement Plan.

Automobile — Any powered vehicle, including cars, trucks, buses, motorcycles or motor homes, or any vehicle requiring licensing under State law, such as campers, travel trailers or fifth wheels.

Automobile and Boat Storage Yard — A lot, parcel, or structure used for temporary storage of operable automobiles, trucks under 5 tons rated capacity, campers, recreational vehicles, trailers, or boats, not owned by the property owner, where typically the storage occurs when they are not in use and for a fee. The term shall not include scrap metal processing yards, vehicle dismantling yards, or salvage yards.

Automobile and Trailer Sales Area — An open area used for the display, sale, or rental of automobiles, trailers, boats, recreational vehicles, mobile homes and manufactured homes, and where no repair work

is done except minor incidental repair and preparation work on automobiles, mobile homes and manufactured homes to be displayed, sold or rented on the premises.

Automobile Recycling Center — An establishment primarily engaged in the wholesale or retail distribution of used automobile parts, including establishments dismantling automobiles for the purpose of selling parts.

Automobile Sales — The use of any structure, lot or parcel for a business involving the sale of automobiles. These establishments may include office space, parking lots for the display and storage of automobiles available for sale, parking areas for customers and employees, automobile repair facilities, facilities for bodywork, painting, or restoration, and sale of parts.

Average Daily Traffic — The total two-directional volume of traffic during a given time period (in whole days), greater than one day and less than one year, divided by the number of days in that time period.

Avigation Easement — A document granting rights pertaining to the passage of aircraft over a grantors' property, along with other statements, requirements, and criteria accompanying that grant, which is generally recorded against the grantors property as a condition of development approval.

Bar — An establishment serving alcoholic beverages as prescribed in C.R.S. § 12-47-409 (beer and wine license) or C.R.S. § 12-47-412 (tavern license) of the Colorado Liquor Code and having an occupant load as defined in the Building Code of less than 100.

Base Flood (see Floodplain, 100-year)

Base Flood Elevation- The computed elevation to which floodwater is anticipated to rise during the base flood.

Batch Plant — Processing plant, together with its accessory facilities, for the manufacturing of concrete or asphalt and related materials and products.

Batch Plant, Temporary — A batch plant placed on a lot or parcel on a temporary basis, usually in association with a federal, State, or local government public improvement project.

Bed and Breakfast Home — A residence which provides temporary overnight lodging for remuneration with a maximum of 2 guest rooms. A bed and breakfast home is a home occupation as further defined and regulated by this Code.

Bed and Breakfast Inn — A residence which provides temporary overnight lodging for remuneration with a minimum of 3 and a maximum of 10 guest rooms.

Bee Keeping, Commercial — The cultivation of bees on a commercial scale for the production of honey and pollination of crops.

Bee Keeping, Residential — The cultivation of bees for the production of honey and pollination of crops for personal use only and not for monetary gain.

Beneficial Use Agreement — An agreement between a landowner and the County establishing the limitations and conditions whereby waste tires may be utilized in the construction of a fence.

Benefited Property — A property identified in a pending or approved cost recovery statement as being potentially benefited by adjacent or off-site improvements constructed by a requestor subdivider.

Berm — A mound of soil, either natural or manmade, used to obstruct views, attenuate noise, or direct the flow of stormwater

Best Management Practice — Systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment.

Billboard — An off-premise sign erected to direct attention to a business, commodity, service, activity or product sold, conducted, or offered off the lot or parcel where the sign is located.

Billiard Parlor — An establishment for the games of or relating to billiards or pool. In the event liquor is served, the establishment is classified as a bar.

Block — An area of land within a subdivision entirely bounded by roads or the exterior boundary or boundaries of the subdivision designated as a block on a recorded subdivision plat.

Board of Adjustment — The Board of Adjustment of El Paso County.

Board of County Commissioners — The El Paso County governing body authorized to exercise the powers of the County.

Board of Directors — A board of directors of a special district having the ability to directly influence the major financial decisions of the special district or a combination of related districts.

Boarding and Rooming House — A building, other than a hotel or motel, where lodging for 5 or more persons, not including members of the operator's immediate family, is provided for compensation; meals may be provided for the lodgers where the owner or manager lives on the same ownership. This term shall not include child care center or family care home. The word compensation shall include compensation in money, services or other things of value.

Buffering — The installation of plant materials, fencing, or landforms (or a combination of these measures), between 2 or more lots or parcels which inhibits visibility or mitigates the transmission of noise, dust, smoke, lights, and other nuisances from one lot or parcel to another, or which provides for future public improvements or additional open space.

Buildable Area — The portion of the lot that can be occupied by the principal and accessory uses, excluding the front, side and rear yards and other areas constrained by setbacks, easements, floodplain, and other restrictions so noted on the plat or by this Code.

Building — A structure having a roof, supported by columns or walls.

Building Code — The Pikes Peak Regional Building Code, as adopted by the BoCC.

Building Department — The Pikes Peak Regional Building Department.

Building Height — The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the roof surface, if a flat roof; to the deck line of mansard roofs; and to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

Building Official — The administrator of the Building Department or his designee.

Building Permit — A permit issued by the Building Department for construction of a structure following a determination by the PCD and Building Department that the construction plans comply with the provisions of this Code and the Building Code.

Business Event Center — A for-profit business whose purpose is to provide a place for people to assemble for events in the nature of, but not limited to, recreational, social, cultural, political, or educational purposes.

Caliper — The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at 6 inches above the ground for trees up to and including 4-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

Car Wash — A facility for the cleaning of automobiles. The term includes, among other things, truck or recreational vehicle wash.

Caretaker's Quarters — A dwelling, mobile home, manufactured home, or apartment unit within the principal building occupied only by a caretaker and immediate family, which is accessory to the principal commercial or industrial use.

Carport, Temporary— A detached covered structure without walls that is not subject to the building code and is used to offer limited protection to vehicles from rain and snow.

Cemetery — A place operated and designated for the burial or keeping of the remains of the dead, whether human or animal, including crematories, mausoleums, and columbaria operated within the boundaries of the cemetery.

Cemetery, Personal — A cemetery that is limited to the personal use of the property owner for themselves, immediate family members or other relatives.

Central Sewer System — A system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than 2,000 gallons of sewage per day from one or more lots or parcels, but not including an onsite wastewater system (OWTS). The term central sewer system includes appurtenances such as interceptors, collection lines, outfall and the outlet sewers, pumping stations, and related equipment.

Central Water System — A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, and which provides at least 15 service connections used by year-round residents of the area served by the system; or that regularly serves at least 25 year-round residents.

Certificate of Designation — A document issued by the BoCC, upon favorable recommendation from the Colorado Department of Public Health and Environment (CDPHE), authorizing the operation of a solid waste disposal site and facility pursuant to the Solid Wastes Disposal Sites and Facilities Act (C.R.S. §§ 30-20-101, et. seq.).

Certificate of Occupancy — A certificate issued by the Building Department after final inspection and a finding that the building, structure, or development complies with all provisions of the applicable County codes, permits, requirements and approved plans.

Change of Use — Any use that substantially differs from the previous use of a structure, lot, or parcel, including a change from a public use to a private use, in which the new use requires review of parking, landscaping, screening, buffering, drainage facilities, water supplies, wastewater facilities, or other changes to the site to determine compliance with this Code.

Child Care Center — A facility with the capacity to care for more than 5 children who are under the age of 16 years and are not related to the owner, operator, or manager, whether the facility is operated with or without compensation for the care, and with or without stated educational purposes. The term includes facilities commonly known as day care centers, day nurseries, nursery schools, montessori school, kindergartens, preschools, day camps, summer camps, centers for developmentally disabled children and those facilities which give 24 hour care for dependent and neglected children; and includes those facilities for children under the age of 6 years with stated educational purposes operated in conjunction with a public, private, or parochial college or private or parochial school; except that the term shall not apply to a kindergarten maintained in connection with a public, private, or parochial elementary school system of at least 6 grades, which is defined as an educational institution under this Code. Kindergarten means any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether the facility is called a kindergarten, nursery school, preschool, or by any other name. The term child care center shall not include any facility licensed as a family care home.

Child Care Facilities — A licensed child care center, family care home, or residential child care facility, as provided for under the Child Care Act, C.R.S. §§ 26-6-101 et. seq. and its implementing regulations, 12 C.C.R. 2509-8, except as otherwise defined or restricted by this Code.

Christmas Tree Lot — An area for the temporary retail sale of Christmas trees usually set up in the parking lot of a large commercial business.

Clear Zone — An area defined by Federal Aviation Administration (FAA) regulations that extends 3,000 feet beyond the end of the runway, where the potential for aircraft accidents is considered measurable enough to warrant additional land use restrictions.

Clerk and Recorder — El Paso County Clerk and Recorder.

Clerk to the Board — The custodian of records and documents of the BoCC.

Clubs — Organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, including country clubs and lodges but excluding clubs operated for profit and places of worship or assembly.

Club, Marijuana — Any organization of persons, however otherwise defined or described, formed or operated with a primary or secondary purpose of using or consuming marijuana at a common location and characterized by membership qualifications, dues or regular meetings.

Cluster Development — A design technique which concentrates buildings or lots in specific areas of a site in order to reduce the overall need for infrastructure or to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive or visually significant features.

CMRS (Commercial Mobile Radio Service) Facility — An unmanned facility consisting of antennae, accessory equipment, and equipment storage shelters used for the reception, switching, transmission or receiving of wireless telecommunications operating at 1,000 watts or less effective radiated power and using frequencies authorized by the Federal Communications Commission, including, but not limited to, paging, enhanced specialized mobile radio, personal communication systems, personal wireless service, cellular telephone, point-to-point microwave signals, and similar technologies. Also known as a wireless telecommunications service facility.

CMRS Facility, Accessory Equipment for a — Equipment, including buildings and structures, used to protect and enable radio switching equipment, back-up power, support structures, and other devices incidental to a CMRS facility, but not including antennae.

CMRS Facility, Building Roof-Mounted — A CMRS facility with antennae that are mounted and supported entirely on the roof of a legally existing building or structure.

CMRS Facility, Building Wall-Mounted — A CMRS facility with antennae that are mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, chimneys, and similar appurtenances.

CMRS Facility, Freestanding — A CMRS facility that consists of a stand-alone support structure, such as a tower or monopole, and antennae and accessory equipment.

CMRS Facility, Pole-Mounted — A CMRS facility with antennae that is mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, co-located freestanding CMRS facility, electric or transmission line support tower, or other similar structure.

CMRS Facility, Stealth — A CMRS facility with an alternative design which camouflages or conceals the presence of antennae or towers, such as, but not limited to, artificial trees, clock and bell towers, and steeples.

Code— The El Paso County Land Development Code, including any companion documents referenced in the code and otherwise adopted. The Code comprises the zoning resolution and the subdivision regulations of the County.

Co-Location — Placement of two or more transmitters, antennas, or other forms of telecommunication device on a common support structure.

Colorado Springs Municipal Airport — The general aviation airport now known as City of Colorado Springs Municipal Airport, or any future name or common reference that may be promulgated adopted or referred to.

Colony — Worker bees, drones, queen, and developing brood living together in one hive.

Combination Agreement — A voluntary acknowledgement by property owner filed for recording with the Clerk and Recorder whereby a property line is removed between two or more contiguous lots or parcels for the purpose of modifying the exterior boundaries of the resulting parcels. The execution and filing of a combination agreement eliminates the lot or parcel line between two or more parcels for the purpose of meeting the requirements of this Code.

Combustible — Any material that, in the form in which it is used and under the conditions anticipated will ignite and burn or will add appreciable heat to an ambient fire.

Commercial Airport District Map — The series of maps developed for the Colorado Springs Municipal Airport which together defines the geographic extent of the boundaries of the OA-CAD District and the associated noise and accident potential based upon the Federal Aviation Regulations (FAR) Part 77 and Part 150 Studies.

Commercial Airport Overlay District (CAD-O) — An overlay zone district applicable to airports which may include associated sub-zones noted herein that are together superimposed on existing base zones.

Commercial Center — The area of land contained within the same zoning or rezoning approval resolution, which may include multiple owners, lots, or parcels; which utilizes common access; and which functions as a unified commercial development.

Commitment to Serve — A written commitment by the public water or sewer provider that constitutes a binding agreement to provide service to the subject property, which may include conditions necessary to provide service and quantifiable amounts of service.

Common Open Space — An area of land, water, or a combination of land and water designed and designated for the use or enjoyment of residents, occupants, and owners within the subdivision or development.

Community Building — A facility used for the assembling of people for recreational, social, cultural, political or educational purposes operated by a not-for-profit, special district, or governmental entity, a homeowners' association, or a mobile home or recreational vehicle park owner generally designed to serve a neighborhood or development. A community building may include outdoor recreation facilities including tennis courts, basketball courts, playgrounds, bike trails, picnic areas, or other facilities approved as part of the site development plan or special use.

Compatibility — The characteristics of different uses, activities or designs which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of the proposed use, activity or design in maintaining the character of existing development within the vicinity.

Complete Application — All submittals required for processing a specific type of development application.

Composting Facility — A site where compost is produced, except at a residential location.

Condominium — A legal form of ownership whereby an owner gains title to an interior air space of individual units in a multi-unit project together with interest in the common areas and facilities appurtenant to the units where the land within the project is owned in common.

Conservation Area — The land set aside in a RLUP Exemption Plat and permanently preserved, through a conservation easement or other County-approved mechanism, for conservation, agricultural, or other low-impact uses as provided by this Code.

Conservation Easement — A recorded deed restriction under which a property owner retains title to real property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance, but gives up some or all of the development rights associated with it, the terms and restrictions of which are specified in a conservation easement document for the property. For a conservation easement to be recognized under federal law, the easement document shall transfer the rights to enforce property restrictions to a qualified conservation organization or government agency.

Construction Equipment Storage and Field Office, Temporary — A heavy equipment and materials storage area for an establishment engaged in the business of constructing or demolishing buildings or infrastructure. The term also includes, but is not limited to, businesses engaged in the installation of air conditioners, electrical equipment, flooring, heating, painting, plumbing, roofing, tiling, ventilation, pools, and service facilities of utilities. The term also includes field offices that support the construction activities including field offices located in construction trailers. The term does not include salvage yards, junkyards, vehicle dismantling yards, or scrap metal processing yards.

Construction Permit — A permit issued by the ECM Administrator for: (1) the construction, alteration or reconstruction of public improvements within any County right-of-way or easement; (2) the construction, alteration or reconstruction of common development improvements covered by the ECM, LDC, development agreement, or subdivision improvement agreement; or (3) site preparation activities including grading, stripping of soil or vegetation, depositing fill material, and trenching or excavating.

Construction Plans — Project drawings that show the location, character and dimensions of the proposed work.

Contiguous — Sharing an edge or a lot, parcel or tract boundary line. The contiguity of land areas shall not be affected by the existence between them of a private road, road easement, driveway or alley; a private right-of-way; a public or private transportation or utility right-of-way; a river, creek, stream, or other natural or artificial waterway; or an intersecting mining claim. The contiguity of land areas shall be assumed to be disrupted by the existence of established public roads and by lands contained within the legal boundaries of any municipality unless otherwise provided by this Code.

Contractor's Equipment Yard — A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.

Convenience Store — An establishment for the purpose of offering for sale to the neighborhood in which it is located such items as groceries, ready to eat food, over the counter drugs, and sundries. A convenience store may include retail sale of gasoline and other petroleum products.

Copy Shop — A retail and service store for the purpose of small scale publishing, copying, fax receipt, and shipping serving the needs of the general public.

Correction Plat — A re-recording of a previously approved final plat which is intended to correct a technical error in the plat.

County Assessor — The El Paso County Assessor.

County Engineer — The County Engineer for El Paso County with authority and duties as designated in Colorado Revised Statute, or authorized designee.

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.

Covenants — Covenants, conditions and restrictions ("CC&R's") by which the declarant or other executing party or parties impose contractual obligations on the present and future owners and assignees of real property. CC&Rs are connected with land or other real property and run with the land, so that the grantee of the land is invested with and bound by the CC&Rs. CC&Rs include but are not limited to declarations for condominiums. CC&Rs are not enforced by the County.

CSFS (Colorado State Forest Service) Guidelines — Guidelines, publications, and design manuals as published by the CSFS relating to forest management and wildfire protection.

Cut-Off Angle — The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.

Date of Completion of an Improvement — The earlier of the date that the County accepts dedication of the relevant improvement that is the subject of the cost recovery statement or, in the case of improvements to which the County does not require dedication, the earlier of the date of the County's release of the collateral for the construction of the relevant improvement or the date that any building permit is issued within the subdivision.

Datum Plane — A horizontal plane or surface which includes the surface point of the airport elevation at mean sea level.

Day Care Center — A non-residential facility for the care and supervision of more than 8 children for periods of less than 24 hours per day. Day care centers include preschools and nursery schools.

Day Care Home, Adult — A private residence used for the care of 8 or fewer adults, other than the operator or operator's family, for a period of less than 24 hours per day. A license from the Colorado Department of Social Services is not required.

Day Care Home — A private residence used for the care of up to 12 children other than the operator's own children for a period of less than 24 hours per day for which the operator possesses a license from the Colorado Department of Social Services.

Day-Night Average Sound Level — The 24-hour average frequency-weighted sound level, in decibels, that recognizes the added impact of nighttime noise. It is a 24 hour average noise level based on A-weighting with 10 dBA (decibels) added between the hours of 10:00 p.m. to 7:00 a.m. DNL is expressed visually via contour lines in 5 DNL increments.

Day-Night Equivalent Sound Level — The average sound level over a 24-hour period with noise events occurring between the hours of 10:00 p.m., and 7:00 a.m., subject to a penalty of 10 decibels.

Dedication — A right to use land for the public that involves a transfer of property rights by plat, title, deed or other legal method and acceptance of the dedicated property by the appropriate public agency.

Deed Restriction — Clauses in a deed limiting the future use of a property.

Defensible Space — An area as defined by the Fire Marshal (typically a width of 30 feet or more) between an improved property and a potential wildland fire where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and create an area for fire suppression operations.

Density, Gross Residential — The total number of residential dwelling units divided by the total land area of the subject property including publicly dedicated roads, open space or other public facilities.

Density, Net Residential — The number of residential dwelling units divided by the land area within the subject property excluding publicly dedicated roads, open space or other public facilities.

Design Standards — All requirements and regulations relating to design and layout of subdivisions as contained in this Code and the ECM.

Detention — The temporary storage of stormwater runoff to control peak discharge rates and allow settling of stormwater sediment.

Detention Facility — An above or below ground drainage facility, such as a pond or tank, that temporarily stores stormwater runoff and releases it at a slower rate than it is collected by the drainage facility. The facility includes the flow control structure, the inlet and outlet.

Development — The act of carrying out any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into 2 or more parcels. When appropriate in context, development shall also mean the act of developing or the result of development. Development shall also include: (a) Any construction, placement, reconstruction, alteration of the size, of a structure on land; (b) Any increase in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development; (c) Any change in use of land or a structure; (d) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland; (e) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land; (f) The demolition of a structure; (g) The clearing or grading of land as an adjunct of construction; (h) The deposit of refuse, solid or liquid waste, or fill on a parcel of land; (i) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and (j) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area. Development shall not include: (a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way; (b) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing in established rights-of-way any mains, pipes, cables, utility tunnels, power lines, towers, poles, or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity; (c) The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure; (d) The use of any land for an agricultural activity; (e) A change in the ownership or form of ownership of any parcel or structure; or (f) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

Development Agreement — An agreement with the County, including a subdivision improvements agreement, which clearly establishes the terms and conditions of the development approval, including the applicant's responsibility regarding project phasing, the provision of public and private facilities and improvements, and any other mutually agreed to terms and requirements. The agreement may also serve to implement the site specific development plan which establishes vested rights under C.R.S §§ 24-68-1 01, et seq.

Development Application — Any application required by this Code or companion documents for a change in land use, for approval of plans, or for the issuance of a permit, including, but not limited to, the following: rezoning; use variances; special uses; variances; temporary use; approval of location; administrative approval or permit pursuant to Appendix B Guidelines and Regulations For Areas and Activities of State Interest of El Paso County ("Appendix B Guidelines and Regulations"); site plans; site development plans; preliminary plan; final plat; maintenance plans; landscape and parking plans; building permit review; certificate of designation; vacation; exemption plat; construction permit; builder's erosion and sediment control permit (BESQCP); erosion and sediment control permit (ESQCP); grading permit; development agreement; and subdivision improvement agreement (SIA).

Development Guide — The written and graphical documents that detail the provisions for development of a PUD or R-4 development. These provisions may include, and need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrians, areas, and parking facilities; common open space, and other public facilities.

Development Permit — An approval of a development application and associated documents including, but not limited to, the following: rezoning; variance in use; special use permit; approval of location; administrative approval or permit pursuant to Appendix B Guidelines and Regulations; variance; temporary use permit; site plan; site development plan; preliminary plan; final plat; maintenance plan; landscape and parking plan; building permit; certificate of designation; vacation, exemption plat, construction permit; builder's erosion and sediment control permit (BESQCP); erosion and sediment control permit (ESQCP); grading permit; development agreement; and subdivision improvements agreement (SIA).

Development Plan — A document prepared pursuant to submittal of a PUD application (or in the R4 zoning district) that is intended to establish the overall land use and density parameters for a large development precedent to submittal and approval of one or a series of more detailed site specific development plans that are fully compliant with the requirements and standards of the PUD or R4 zoning district regulations.

Development Review Process — The process of reviewing development applications for consistency with the requirements of this Code and other applicable laws, rules, and regulations.

Planning and Community Development Department (PCD) — The office, department, branch or division of the El Paso County government designated by resolution of the Board of County Commissioners to administer the Land Development Code.

Planning and Community Development Director — The person designated by resolution of the Board of County Commissioners to manage the Planning and Community Development Department or the person's equivalent position or delegated representative.

Development Standards — Standards and regulations pertaining to the physical development of a site including requirements pertaining to yards, heights, lot area, fences, walls, landscaping area, access, parking, signs, setbacks, and other physical requirements.

Deviation — A modification of the ECM standards approved by the ECM Administrator.

Disconnection — The action which removes property from the legal boundaries of a city or town, rendering the property unincorporated.

Drainage Plan — A plan depicting the overall approach for managing stormwater drainage associated with the subject property prepared in accordance with the ECM.

Driveway — A facility for the passage of vehicles that provides access from a public or private road to no more than 3 lots.

Driveway Permit — A permit issued pursuant to the requirements of the ECM to allow access to a lot, parcel or tract from a public or private road. Temporary access may be allowed through the issuance of a Work in the Right-of-Way Permit.

Dry Cleaning Plant — An industrial establishment or area for the purpose of cleaning garments and fabrics with any of a variety of non-aqueous agents.

Dry Hydrant — An arrangement of pipe permanently connected to a water source other than a piped, pressurized water supply system that provides a ready means of water supply for fire-fighting purposes and that utilizes the drafting (suction) capability of fire department pumpers.

Dwelling, Additional — A dwelling unit, allowed in the A-35 District only, either within or added to an existing single-family detached dwelling or located as a separate accessory structure on the same lot or parcel as the principal single-family dwelling, for use as a complete, independent living facility with provisions within the dwelling unit for cooking, eating, sanitation, and sleeping. The additional dwelling shall be considered an accessory use to the principal dwelling.

Dwelling, Multifamily — A structure containing 3 or more dwelling units designed for or used exclusively as a residence by 3 or more families, living independently of one another with accessory uses, limited to an office, laundry and recreational facilities, used in common by the occupants.

Dwelling, Single-Family — A structure containing one dwelling unit designed for or used exclusively as a residence by one family.

Dwelling, Single-Family Attached — A structure containing more than one dwelling unit, each of which has primary ground floor access to the outside and are attached to each other by party walls without openings, where each dwelling unit is generally located on its own lot. The common or abutting wall shall be shared for at least 50% of the length of the side of the dwelling units. A single-family attached dwelling does not share common floor/ceilings with other dwelling units. A single-family attached dwelling is also sometimes called a townhouse or row house.

Dwelling, Two-Family — A structure containing 2 dwelling units that are structurally attached and designed for or used exclusively as a residence by 2 families, living independently of one another.

Dwelling Unit — One or more rooms or structures designed for occupancy by an individual or family for living and sleeping purposes, containing rooms with internal accessibility and no more than one kitchen, for use solely by the dwelling unit's occupants. The word "dwelling unit" shall not include tents, recreational vehicles, trailer coaches, hotels, motels, guest house, mother in law apartment, or other structures designed or used primarily for transient residents.

Easement — An area which is reserved, conveyed or dedicated for a specialized or limited purpose without the transfer of fee title.

ECM Administrator — The County Engineer or his/her authorized designee.

Educational Institution — Educational institution shall mean public schools, non-public schools, and schools administered and operated by the State. The following definitions shall apply to the various types of educational institutions: (a) "Public schools" shall mean those schools administered by legally organized school districts; (b) "Non-public schools" shall mean all private, parochial and independent schools which provide education of compulsory school age pupils comparable to that provided in the public schools of the State.

Electric Substation — An assemblage of equipment and appurtenant facilities designed for voltage transformation or voltage control of electricity in amounts of 115,000 volts or more, and any addition increasing the existing design capacity.

Electric Transmission Lines — Non-private electric transmission lines and appurtenant facilities which transmit electricity at 115 kilovolts or more, and any addition thereto increasing the existing design capacity.

Elevation — The external vertical plane of a building. Elevations are considered different if they have different roof lines, building materials, details, or overall stylistic expression.

Eligible Cost — Any monetary expense incurred and paid for the installation of an improvement that the County required to have installed under the subdivision approval process and that is directly related to the construction, inclusive of design and planning, of an improvement eligible for a fair share reimbursement. The eligible cost may be incurred by the requestor subdivider or by any metropolitan district, local improvement district, transportation authority, or similar type of governmental entity. These expenses may

include but are not limited to land acquisition, materials, labor, engineering, survey, title, management, supervision, consulting, legal, and other professional matters. Eligible costs do not include the expenses incurred in preparing or processing a cost recovery statement.

Emergency Medical Facility — A facility at which medical care is provided for situations or occurrences that would require immediate action and providing primarily outpatient emergency care for the diagnosis and treatment of individuals. This term does not include, among other things, hospitals, medical clinics, fire stations, or ambulance headquarters.

Emission — The discharge or release into the atmosphere (ambient air) of one or more air pollutants.

Emission Permit — The instrument issued by the CDPHE allowing construction, demolition, sandblasting, and open burning activities.

Energy Generation Facilities — An electrical energy generating facility with generating capacity of less than 50 megawatts for commercial delivery and any appurtenant facilities.

Equipment Storage Shelter — Buildings, storage shelters and cabinets used to house CMRS facility equipment.

Equivalent Sound Level — The level of a constant sound which, in a given situation and time period, has the same energy as does a time varying sound. For noise sources which are not in continuous operation, the equivalent sound level may be obtained by summing individual sound exposure level (SEL) values and normalizing over the appropriate time period.

Establishment — A place of business together with its employees, merchandise, and equipment.

Exemption from Platting — A release from the requirements of platting by resolution of the BoCC in accordance with the terms set forth in this Code.

Exotic Animal — Any vertebrate animal except fishes and amphibians that is not defined as a pet or livestock.

Expansion of Capacity, Road — Expansion of the capacity of a road includes widening, intersection improvement, signalization or other capital improvements designed to increase the existing road's capacity to carry vehicles.

Extended Family Dwelling — See Guest House.

Expressway — A public way designed to handle heavy volumes of vehicular traffic with limited access. An expressway is a divided highway for through traffic with full or partial control of access.

Fair Share Reimbursement — A reimbursement to the requestor subdivider not to exceed the costs of the improvement, plus interest, for that share of the costs related to excess capacity not needed to meet the demands of the requestor subdivider.

Family — An individual, or 2 or more persons related by blood, marriage, adoption, or as guardian and ward, or a group of not more than 5 persons, excluding servants, who are not so related, living together in a dwelling unit. A family shall not include more than one person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., as amended, unless related by blood, marriage or adoption, or in foster care.

Family Care Home — A facility for child care in a place of residence of a family or person, for the purpose of providing family care and training for a child under the age of 16 who is not related to the head of the home and, under Family Foster Home provisions, to include children from 16 to 18 years of age and those persons to 21 years of age who are placed by court order prior to their 18th birthday. The term includes any family care home receiving a child for regular 24 hour care and any home receiving a child from any State-operated institution for child care or from any child placement agency as defined in C.R.S.

§ 26-6-102(2), or any day care home receiving a child for less than 24 hour care. The term "Family Care Home" shall not include any facility licensed as a "Child Care Center".

Farm — Any parcel of land containing at least 35 acres used primarily for the commercial, soil-dependent cultivation of an agricultural crop; the raising of aquatic plants or animals; or the raising of livestock. This does not include livestock feed yard or exotic animal facilities.

Farm/Ranch Residence — A farm/ranch residence is a dwelling unit occupied by persons principally employed at or engaged in the operation of the farm or ranch.

Farming — The commercial, soil-dependent cultivation of an agricultural crop; the raising of aquatic plants or animals; or the raising of livestock. Farming includes traditional farming, sod farming, tree farming, and animal farming in unconfined operations.

Fee Schedule — The schedule of development application and permit fees adopted by the BoCC.

Feepayer — A person commencing traffic-generating land development activity who is obligated to pay a regional traffic impact fee in accordance with the terms of this Code.

Field Office — A manufactured structure or commercial vehicle used for a temporary time period for office use or the storage of construction-related plans, supplies, equipment and related items to be accessed exclusively by construction personnel.

Financial Assurance — A financial guarantee, naming El Paso County as beneficiary, that public infrastructure and subdivision improvements required for a project will be constructed and certified according to the plans and specifications and all applicable Standards.

Financial Assurance Estimate — An estimation of the cost of the construction of the public and common subdivision improvements associated with a subdivision or development.

Fire Department — An organization equipped for the prevention or extinguishment of fires including municipal fire departments, fire districts, and fire companies.

Fire District — A special district created according to State Statutes to provide fire protection and prevention services.

Fire Hazard — Any situation, process, material, or condition that, on the basis of applicable data, can cause a fire or an explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and that poses a threat to life or the property of others.

Fire Marshal — El Paso County Fire Marshal.

Firewood Sales — A freestanding facility for the storage, display and sale of cut wood that is used for fuel. A firewood sales facility may also include wood splitting.

Fireworks Stand — A temporary stand or location for the sale of fireworks.

Flea Market — An occasional or periodic market held in an open area or structure where groups or individual sellers offer goods that are homemade, homegrown, handcrafted, old, obsolete or antique for sale to the public. This may include the selling of goods at retail by businesses or individuals generally engaged in retail trade.

Flood Insurance Rate Map (FIRM) — An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). The following FIRM zones are the most prevalent in unincorporated El Paso County:

Zone A Floodplain — Area of special flood hazard where detailed ratemaking has not been completed, mapped by approximate methods without base flood elevations.

Zone AE Floodplain — Area of special flood hazard where base flood elevations are provided.

Zone D — Area of undetermined but possible flood hazards.

Zone X (shaded) — Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods.

Zone X (unshaded) — Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.

~~**Floodplain, 100-Year —** The relatively flat area or lowlands adjoining the channel of a stream or water course and subject to floodwater overflow resulting from a 100-year flood which is defined as that flood equivalent of a 1% or greater chance of flooding in any given year. The floodplain includes unstudied areas outside of FEMA-regulated floodplains (SFHAs).~~

Floodplain, 100-Year (Base Flood)— The relatively flat area or lowlands adjoining the channel of a stream or water course and subject to floodwater overflow resulting from a 100-year flood which is defined as that flood equivalent of a one percent (1%) or greater chance of flooding in any given year. The floodplain includes unstudied areas outside of FEMA-regulated floodplains (SFHAs).

Floodplain Administrator — ~~The person designated by the Building Code to administer the provisions of the Floodplain Regulations~~. The person designated by the Building Code to administer the provisions of the Regional Building Code Floodplain Regulations.

Floodplain Regulations — The Floodplain Code as included in the Building Code, as supported or clarified by any additional requirements as included in the LDC.

Floodway – The channel of a river or other watercourse and adjacent land areas that must be reserved and kept free from obstructions in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-half foot (six inches).

Floor Area, Gross — Total area of all floors within a structure, exclusive of vents, shafts, and courts. The floor area of a structure or portion of a structure without walls shall be the area under the horizontal projection of the roof or floor above.

Floor Area Ratio — Ratio of total floor area of the structure or structures to the total area of the lot.

Food Processing — Preparing, treating, converting, or packaging food which has not been produced on the premises.

Forest Health — A summary of vegetative conditions determined by an inventory by a qualified professional of a forest for insect and disease presence or potential, exotic plant species and stand structure.

Forestry and Noxious Weed Manager — The manager of the Forestry and Noxious Weed Division of the El Paso County Environmental Services Department.

Forestry Management Plan — A written report with implementation recommendations to aid owners in increasing the health, vigor, productivity and beauty of their forest land through use of forest management practices.

Frontage — The boundary line of a lot, parcel, tract, or proposed subdivision that abuts an existing or proposed public road or right-of-way, as the context of the applicable provision of this Code specifically limits or modifies the term.

Fuel Modification — Any manipulation or removal of fuels to reduce the likelihood of ignition or the resistance to fire control.

Fuel Sales and Storage — Facilities for the storage and wholesale sales of large quantities of fuel or petroleum, including liquefied gases.

Full-Cutoff Light Fixture — A luminary device which cuts off all upward transmission of light.

Full-Time Care — Care for a person on a full day and night, 24 hour basis. Several hours' absence for temporary purposes such as school shall not cause the care to be less than full-time.

Funeral Home — A building used for the preparation of the deceased for burial or cremation, for the display of the deceased or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies. Shall also include funeral parlor, mortuary, and crematory.

Garbage Service Facility — Buildings and yards where vehicles and containers used for the transport of garbage are stored, maintained, or cleaned and which may include maintenance facilities for the company.

Gas Regulator Station — An assemblage of equipment which reduces regulates and meters natural gas pressure in the transmission line, holder, main, pressure vessel or the compressor station piping. This may include auxiliary equipment such as valves, control instruments, or control lines as well as piping.

Gas Station — A property where the retail sale of gasoline, diesel fuel, oil, or other fuel for vehicles and which may include, as an incidental use, the retail sale and installation of vehicle accessories, the making of minor repairs, and facilities for washing and servicing of not more than 3 vehicles completely enclosed in a structure.

Gas Transmission Pipeline — Pipelines and appurtenant facilities installed for the purpose of transmitting gas from a source to a distributing center, to a large volume customer, or to interconnect sources of supply.

General Aviation District Map — The map developed for the Meadowlake Airport which defines the geographic extent of the boundaries of the OA-GAD zoning district.

Geologic and Soils Report — A report prepared by a professional geologist that identifies the geologic and soil conditions related to a specific development application site and the relationship of those conditions to the intended land use.

Geologic Constraint — A geologic condition, including but not limited to potentially unstable slopes, expansive soils/bedrock, high groundwater levels, soils creep, hydrocompaction, shallow bedrock, erosion, corrosive soils, radon, or drainage way, which may be mitigated or avoided to allow for development.

Geologic Hazard — A geologic condition, including but not limited to avalanches, debris flows-fans/mudslides, earthquakes, floodway, floodplain, ground subsidence, landslides, rockfall, ponded water, undermining, faulting, or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development, which may pose a significant threat to persons or property.

Formatted: Normal

Glare — Discomfort experienced by an observer with a direct line of sight to a light source which often results in visual impairment.

Golf Course — An area of land laid out for the game of golf with a series of 9 or 18 holes each including tee, fairway, and putting green and often one or more natural or artificial hazards. It may also include a clubhouse and other accessory structures.

Golf Course, Miniature — A game played with a putter and golf ball in which each hole constitutes an obstacle course consisting of alleys, tunnels, bridges and the like through which the ball must be driven.

Grade, Finished — The final elevation of the ground surface adjoining all walls of a structure after development.

Grade, Natural — The elevation of the ground surface in its natural state, before man-made alterations.

Grading — Stripping, cutting, filling, or stock-piling earth including land in its cut or filled condition to create new grade.

Greenhouse — A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the propagation, cultivation, or growing of nursery stock such as flowers, bulbs, plants, trees, shrubs or vines.

Greenhouse, Personal Use — A greenhouse for the personal use or enjoyment of the property owner.

Groundwater — Any water not visible on the surface of the ground as defined by C.R.S. § 37-90-103(19). Used interchangeably with "underground water."

Groundwater, Alluvial — Groundwater found in unconsolidated clay, silt, sand, and gravel of relatively young geologic age. Alluvial groundwater includes, but is not limited to, groundwater found in the Holocene and Pleistocene Piney Creek Alluvium, Broadway Alluvium, Slocum and Vedros Alluvium and Nussbaum Alluvium.

Groundwater, Bedrock — Groundwater found in consolidated or semi-consolidated sedimentary rocks or in igneous or metamorphic rocks. Includes groundwater found in the Denver Basin aquifers known as the Dawson, Denver, Arapahoe and Laramie-Fox Hills.

Groundwater, Nontributary — Groundwater as defined in C.R.S. § 37-90-103(10.5). Groundwater is considered nontributary solely on the basis of determinations made by the State Engineer's Office or water decrees issued by a State court of competent jurisdiction.

Groundwater, Not Nontributary — Groundwater in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers located outside the boundaries of any designated groundwater basin withdrawal of which will, within 100 years, deplete the flow of a natural stream at an annual rate of greater than one-tenth of one percent of the annual rate of withdrawal, C.R.S. § 37-90-103(10.7).

Groundwater, Tributary — Any groundwater tributary to a natural stream as defined by the Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 et. seq.

Group Home — A home intended to provide a normal residential family setting for certain unrelated groups of people and limited to group homes for persons with mental illness, group homes for developmentally disabled persons, group homes for the aged, and group homes for handicapped or disabled persons.

Group Home for the Aged (including Assisted Living Residences) — A group home for persons who are 60 years of age or older, who do not need nursing facilities or skilled and intermediate care facilities, and who desire to live in normal residential surroundings. The criteria, requirements, and restrictions for

group homes for the aged shall be those prescribed by C.R.S. § 30-28-115(2) (b) (except for distance separations) and in this Code. Group homes for the aged include assisted living residences as defined in C.R.S. § 25-27-102 (1.3). "Assisted living residence" means a residential facility that makes available to three (3) or more adults not related to the owner of such facility, either directly or indirectly through an agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a twenty-four-hour basis, but not to the extent that regular twenty-four-hour medical or nursing care is required. The term "assisted living residence" does not include any facility licensed in this state as a residential care facility for individuals with developmental disabilities, or any individual residential support services that are excluded from licensure requirements pursuant to rules adopted by the Department of Public Health and Environment.

Group Home for Developmentally Disabled Persons (including Intellectually and Developmentally Disabled Persons) — A State-licensed group home for persons with developmental disabilities or intellectual and developmental disabilities, as those terms are defined in C.R.S. §§ 27-10.5-102(11)(a) and 25.5-1 0-202(26)(a). "Developmental disability" has the same meaning as " intellectual and developmental disability." The criteria, requirements, and restrictions for group homes for developmentally disabled persons shall be those prescribed by C.R.S. §§ 30-28-1 15(2)(a), § 27-10.5-109, and 25.5-10-21 4, and any regulations implemented by the Department of Public Health and Environment, the Department of Health Care Policy and Financing, and the Department of Human Services in support of this statutory provision, and elsewhere in this Code. This includes a community residential home as defined in C.R.S. § 25.5-10-202(5).

Group Home for Handicapped or Disabled Persons — A group home for persons with mental or physical impairments which substantially limit one or more major life activities and including such additional necessary persons required for the care and supervision of the permitted number of handicapped or disabled persons. "Handicap" and "disability" have the same legal meaning. A person with a disability is any person who has a physical or mental impairment that substantially limits one of more major life activities; has a record of such impairment; or is regarded as having such an impairment. A physical or mental impairment includes, but is not limited to, hearing, visual, and mobility impairments, alcoholism, drug addiction, mental illness, mental retardation, learning disability, head injury, chronic fatigue, HIV infection, AIDS, and AIDS Related Complex. The term "major life activity" may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Group homes for handicapped or disabled persons, particularly as they relate to recovering (not currently using) alcoholics and persons with drug addictions, may also be known as sober living arrangements.

Group Home for Persons with Mental Illness — A State-licensed group home for persons with mental illness, as that term is defined in C.R.S. § 27-65-102(14). The criteria, requirements, and restrictions for group homes for persons with mental illness shall be those prescribed by C.R.S. § 30-28-115(2)(b.5) (except for separation requirements) and elsewhere in this Code. The term group home for persons with mental illness shall not include any facility licensed as a residential child care facility.

Guest House — Lodging attached to the principal dwelling or located within a garage or accessory structure which may be occupied only by occasional, non-paying guest of, the family residing in the principal dwelling. A guest house is not considered a dwelling unit. Extended family housing is a form of guest house utilized on a non-permanent basis to house immediate family members that require housing due to age, disability, or family need. A family member shall be related blood, half blood or at law, and which term "at law" also includes in-law relationships arising from a deceased or former spouse.

Gunsmith — A person who repairs, modifies, designs, or builds firearms to factory or customer specifications, using hand tools and machine shop tools (such as lathes, milling machines, and grinders).

Habitable Space — That area located inside a dwelling consisting of bathrooms, bedrooms, living rooms, dining rooms, kitchens, dens, lofts or similar space.

Half-Way House — Group care facilities for adults who have been placed on probation or parole.

Hard-Surfaced — A concrete or asphalt surface meeting the pavement and concrete design specifications of the ECM including the required base and subbase.

Hazard to Air Navigation — Any improvement or use of land which obstructs or otherwise has a significant adverse impact on the airspace required for the flight of aircraft, as determined by the FAA under 14 CFR Part 77 and related FAA Orders and Regulations as may be changed or amended.

Hazardous Substance — Any material which is defined as a Hazardous Substance by the United States Code or the United States Environmental Protection Agency.

Hazardous Waste — Any material which is defined as a Hazardous Waste by the United States Code or C.R.S. § 25-15-302, as amended.

Hazardous Waste Storage and Disposal Facility — A facility used for the storage and treatment of hazardous waste.

Health Club — A structure or a portion thereof, including associated grounds and facilities, providing areas and equipment for the enhancement of a person's physical conditioning, the use of which is typically limited to individuals holding membership and their guests.

Heavy Equipment Rental, Sales or Storage — An establishment where large machinery and tools used for construction and building purposes are rented, sold or stored, which may include maintenance and parts sales. Heavy equipment shall include but not be limited to bulldozer, tractor, grader, caterpillar tractor, crane, backhoe, trencher, and earthmover.

Heavy Equipment Storage Yard — A storage yard for heavy equipment.

Hive — A box or receptacle with movable frames, used for housing one colony of bees, not exceeding twelve cubic feet in size, including attached honey supers.

Hobby Farm — A parcel of land where livestock, animals, or birds are raised or garden crops grown in a manner either incidental to the principal residential use of the property or where the production of livestock or garden crops on the property does not constitute a principal income for the property owner. This would include 4H and similar types of programs.

Home Improvement Center — A business that offers for sale hardware, tools, lumber, electrical, plumbing, home, lawn, and garden supplies; landscaping materials; plants; brick; lumber; and other similar materials. This use may include the outside storage of materials.

Home Occupation — An accessory commercial activity or business service conducted on the site of a dwelling unit, only by residents of the dwelling unit, in a manner clearly incidental to the residential character of the site and surrounding neighborhood, and in compliance with the provisions of this Code.

Home Occupation, Residential — An accessory use of a dwelling or detached accessory structure on a residentially-zoned lot or parcel and is for gainful employment or work of the resident of the dwelling.

Home Occupation, Rural — A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

Homeowners' Association — An incorporated nonprofit organization operating under recorded land agreements, including but not limited to CC&Rs, through which: (1) each real property owner is automatically a member; (2) each real property is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property; and (3) a charge, if unpaid, becomes a lien against the real property. Also commonly referred to as a property owners' association.

Hospital — A facility providing health services primarily for inpatients and medical and surgical care of the sick and injured. This includes, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, emergency departments and staff offices

Hospital, Convalescent — An institution other than a hospital for the treatment and care of human illness or infirmary, and in which ongoing care, rather than diagnosis or treatment, constitutes the principal function. The term convalescent hospital shall include sanitarium, nursing home, and long-term care facility, but not rehabilitation facility.

Hospital, Veterinary — A facility where animals requiring medical care are treated, or temporarily housed. The facilities may include veterinarian offices, administrative offices, space for examination, surgery, recovery, and may include boarding of animals while under treatment, but does not include animal boarding generally.

Hotel — A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals in which, generally, the rooms are occupied singly for hire. This term shall include motel but not child care center, family care home, or human service shelter.

Household Use Only Well Permit — A well permit which restricts water use to in house purposes, and does not allow outside watering of animals and plants.

Human Service Shelter — An establishment which is a residential operation which provides lodging and supportive services to individuals and families in need due to family medical circumstances, economic circumstances, or social difficulties.

Immediate Family — Those family members who are by blood or marriage recognized as parent, sibling or child.

Improvement Location Certificate — A representation of the boundaries of a parcel of land and the improvements thereon, prepared pursuant to C.R.S. § 38-51-108.

Improvements — Road grading, road surfacing and paving, curb and gutters, street lights, road signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other installations designated by the BoCC.

Improvements, Eligible — Any road and any facilities related to roads, water distribution systems, sewage collection systems, storm drainage facilities, or any other type of structure of facility the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit one or more applicant subdivider. The improvement may be internal as well as adjacent to or outside of the legal description of the requester subdivider's subdivision.

Impulse Noise — Noise of short duration (typically less than one second), especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition. Impulse noise is characteristically associated with such sources as explosions, impacts, the discharge of firearms, the passage of supersonic aircraft (sonic boom) and many industrial processes.

Inclusion — The process by which a special district's boundaries are altered through the addition of real property.

Industrial Park — The area of land contained within the same industrial zoning or rezoning approval resolution, which may include multiple owners, lots or parcels and functions as a unified development.

Industry, Light — Any branch of trade, production or creative endeavor employing labor and capital in an industrial or manufacturing process which is not noxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibrations, whose waste products are not allowed to emerge or accumulate where they will cause discomfort or be unsightly to adjoining property owners or the public

generally, and which operates independent of railroad sidings, extensive loading docks and steam generation as prime power.

Inert Material Disposal Site — A site and facility that accepts for disposal exclusively those materials defined as inert material.

Inert Materials — Non-water soluble and nonputrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids according to the rules and regulations of the Board of Health. The term includes but is not limited to, earth, sand, gravel rock, concrete which has been in a hardened state for at least 60 days, masonry, asphalt paving fragments, and other inert solids that the CDPHE or the Board of Health may identify by regulation. Road sweepings from road cleaning machines are not considered inert material and are instead considered solid waste.

Infectious Waste — Non-hazardous waste containing pathogens or biologically active material which, because of its type, concentration or quantity, could present a potential hazard to human health when improperly handled, stored, processed, transported or disposed.

Infectious Waste Transfer Station — A facility at which infectious wastes are collected and temporarily stored pending removal to facilities or sites where the wastes will be rendered non-infectious or permanently disposed. The facility may consist of a mobile storage units into which wastes are transferred from collection vehicles.

Infrastructure — Those man-made structures which serve the common needs of the population, such as potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

Institution, Philanthropic — A not-for-profit establishment whose purpose is to increase the well-being of mankind, as by charitable aid or donations.

Institutional Uses — A general term meant to encompass a variety of public and quasi-public uses such as educational facilities, religious institutions, hospitals, libraries, cemeteries and various governmental facilities.

Interceptor Sewer — A sewer line with an internal pipe diameter of equal to or greater than 24 inches intercepting wastewater from a final point in a collection system and conveying waste directly to a treatment plant, or meeting other requirement of the CDPHE to be classified as an interceptor sewer.

Interests — Any and all rights, claims, or shares in the surface of land but excluding any and all subsurface rights, claims, or shares.

Intermediate Processing Facility — A solid waste processing facility designed to remove recyclables from unprocessed municipal solid waste.

Joint Use Well — A well which is permitted for use by more than one dwelling, property, or ownership.

Kennels — Any place or premises used in whole or in part for the purpose of keeping, training, boarding, breeding or sale of domesticated dogs or cats in which 5 or more domestic animals exist, and all of which exceed 4 months in age, to include animal pounds and shelters. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

Kitchen — A room, or part of a room, used for the preparation of food inside a dwelling consisting of a refrigerator, a sink with one or more basins and one or more cooking devices (i.e., stove, range, oven). Multiple kitchen devices located in the same room does not result in consideration as separate kitchens.

Laboratory — A room, rooms, or building equipped for scientific experimentation, research or testing.

Landfill — The location and facility at which the deposit and final treatment of solid, liquid or hazardous wastes occurs or a discrete area of land or an excavation where solid wastes are placed for final disposal, which is not a land application unit, waste impoundment, or waste pile. Landfills include, but are not limited to, ash monofills, construction and demolition landfills, industrial landfills, sanitary landfills, tire monofills and similar facilities where final disposal occurs.

Landscape Area — The part of a property exclusively set aside for living plant materials and associated nonliving ornamental materials such as mulch, fencing, walls or decorative pavers. These areas may include pedestrian spaces and certain other low impact uses but cannot include any artificial plant materials, areas behind opaque fences or areas that can be accessed by vehicles.

Landscaping — Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences or benches. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection and replacement of existing trees.

Landscaping Area, Roadway — A minimum required landscaping area on a private property which is located along the lot, parcel or tract frontage between or within the road right-of-way, easement, or tract boundary lines and any building or use. Driveways and sidewalks to afford limited access may be allowed to interrupt this required area; however, structures, buildings and parking are not allowed within the roadway landscape area.

Light Trespass — A light projected onto a property from a fixture not located on that property.

Lighting Inventory — A list of lamps indicating the bulb type, bulb wattage, and manufacturer through which the rated lumens can be determined.

Livestock — Cattle, sheep, llamas, goats, swine, mules, poultry, horses, alternative livestock as defined by Colorado statutes (e.g., elk), and such domesticated animals as fox, mink, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit, except dogs and cats, that are used for working purposes on a farm or ranch and any other animal designated by the State Agricultural Commissioner, which animal is raised for food or fiber production.

Livestock Feed Yard — A place of confinement (whether by structure, fence, pens, or corrals) for cattle, sheep, goats, swine, or other livestock for the purposes of concentrated feeding operations for meat or milk production where crop or forage growth or production is not sustained in the area of confinement. This definition specifically excludes educational agricultural projects (hobby farm) and horses as defined under Stable.

Livestock Sales Yard — A confined enclosure used for the purpose of selling livestock.

Loading Area — A portion of a lot for the temporary parking of a commercial vehicle while loading or unloading materials for use or sale on the lot.

Long-Term Care Facility — Any of the following: (a) Convalescent center means a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital; (b) Nursing care facility means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients who require regular medical care and 24 hour per day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide 24 hour per day nursing services under the direction of a registered professional nurse employed full time; (c) Intermediate health care facility means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a

physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and 24 hour per day nursing services are required.

Lot — An area of land in which is typically platted for development as part of a subdivision, the plat of which has been legally approved by the BoCC and recorded in the office of the Clerk and Recorder. (see Lot, Legal and Lot of Record)

Lot, Adjoining — The lots, parcels, or tracts sharing a common boundary line.

Lot, Buildable — A lot, parcel or tract of sufficient size and location to: (a) comply with all the standards and requirements of this Code, with the exception of the density provisions contained herein; and (b) support an OWTS or connected to a central sewer system and support an individual water system (i.e., well) or connect to a central water system that is consistent with the policies, standards and requirements of El Paso County Public Health (EPCPH) and CDPHE as they now exist or may hereafter be amended, and any other applicable policies, standards or regulations of the CDPHE. This definition is intended to apply only to lots of record as defined herein. With the exception of the density provisions of this Code, nothing in this definition shall be construed to excuse compliance with any other provisions of this Code or any provision of local, State or federal law or any other applicable regulations governing the provision of infrastructure.

Lot, Corner — A lot, parcel, or tract which has roads on two or more abutting sides.

Lot, Double Frontage — A lot, parcel, or tract that fronts 2 parallel roads, or a lot that fronts 2 roads that do not intersect at the boundaries of the lot, parcel, or tract. A double frontage lot is often referred to as a Through Lot.

Lot, Flag — A lot, parcel, or tract with the appearance of a flag and flagpole where the main use or building area does not front or abut a public roadway and where the narrow "flagpole" part of the lot, parcel, or tract is used to provide access to the public roadway. Typically, the widest part of a flag lot is located at the rear of another lot, parcel, or tract and the flagpole part of the lot, parcel, or tract is comprised entirely of a private right-of-way or driveway.

Lot, Irregularly Shaped — A lot, parcel, or tract which may exhibit one or more of the following characteristics: (a) triangular, wedge, or pie-shaped configuration; (b) More than four boundary lines; or (c) varies significantly from a rectangular shape.

Lot, Legal — A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972; a parcel exempted from subdivision by the BoCC, or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity.

Lot, Nonconforming — A nonconforming lot is a legally created lot or parcel of land which due to subsequent amendments of this Code, right-of-way acquisition by a government entity, or to the zoning or rezoning of the lot or parcel, does not conform with the minimum lot area requirement of this Code.

Lot, Reverse Frontage — A double frontage lot that is not accessible from one of the parallel or non-intersecting roads on which it fronts.

Lot, Zoning — A single lot or parcel of land which, at the time of application for a building or use permit, is designated by the owner as a lot or parcel to be used, developed or built on as a unit, under single ownership and control. A zoning lot shall coincide with a lot of record except where an owner merges or combines one or more lots or parcels using a merger by contiguity or combination agreement in conformance with Chapters 5 and 7 where the merged or combined lots or parcels shall be considered a zoning lot.

Lot Area — The total area within the boundary lines of a lot, parcel or tract.

Lot Coverage, Maximum — The percentage of the lot, parcel, or tract area that may be covered by structures. The calculation shall not include any areas covered by parking areas, platforms, landings, or ramps if such improvements do not exceed 18 inches in height as measured from the top-most finished surface of the improvements to any adjacent point of the finished grade. The calculation shall also not include open and unenclosed patios if such patios do not exceed 18 inches in height as measured from the top-most finished surface of the patio to any adjacent point of the finished grade. Patios, including patios that are less than 18 inches in height, which have a roof or other overhead cover and/or patios which incorporate a wall or walls as a method of partially or fully enclosing the patio shall be included in the calculation of maximum lot coverage.

Lot Depth — The shortest horizontal distance between the front and rear boundary lines of a lot, parcel or tract.

Lot of Record — A lot or tract of land shown on an officially recorded plat and described by platted lot or tract number or a parcel of land officially recorded or registered as a unit of property and described or by metes and bounds and lawfully established for conveyance on the date of recording of the instrument first referencing the lot, parcel, or tract. The term "lot of record" does not imply that the lot, parcel, or tract was created in conformity with the legal regulatory requirements for subdivision of property in accordance with this Code.

Lot Line, Front — The boundary line dividing a lot, parcel, or tract from a road. On a corner lot, parcel, or tract both boundary lines dividing the lot, parcel, or tract from the roads shall be considered the front lot line, unless otherwise provided in this Code.

Lot Line, Rear — The boundary line opposite and most distant from the front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all boundary lines that are most nearly opposite the front lot line.

Lot Line, Side — Any lot line other than the front or rear lot line.

Lot Width — The mean horizontal distance between side lot lines of the lot measured at right angles to the depth.

Machine Repair, Personal — Repair of small engine machines. This term may include, but is not limited to, lawn mowers, snow blowers, and customarily incidental to the maintenance or upkeep of a residential property.

Maintenance Plan — A plan for private maintenance of roads, common areas, recreational areas, open space, bikeways, parking areas, or water and sanitation facilities where County maintenance is not proposed.

Manufactured Home — A single-family dwelling which is partially or entirely manufactured in a factory, is not less than 24 feet in width and 36 feet in length, is installed on an engineered permanent foundation, has brick, wood or cosmetically equivalent exterior siding and a pitched roof, and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., as amended, and is built for the Colorado climate and snow loads according to the Department of Housing and Urban Development standards established under the provisions of 42 USC 5401, et seq.

(See C.R.S.§ 30-28-115). A manufactured home not placed on a permanent foundation is considered a post-1976 mobile home.

Manufacturing, Light — Manufacturing and processing in which no operations are carried on which will be likely to create smoke, fumes, noise, odor, vibration, or dust, or which will be detrimental to the health, safety, or general welfare of the community. The following are examples of light manufacturing or processing: beverage manufacturing; book binding; canvas products manufacturing; clothing or cloth manufacturing; computer manufacturing; dry cleaning plant; electronics manufacturing; fish hatchery; furnace installation, repair, and cleaning; hosiery manufacturing; machine shops; machine tool manufacturing; machinery sales; public utility storage, yards, and service installments; sheet metal shops; shoe manufacturing; sign manufacturing, repair, and maintenance.

Map Amendment — A revision to the Zoning Map which modifies the zoning district which is applicable to a lot, parcel, or tract.

Marijuana Club — Any organization of persons, however otherwise defined or described, formed or operated with a primary or secondary purpose of using or consuming marijuana at a common location and characterized by membership qualifications, dues or regular meetings.

Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, Retail Marijuana Stores — These uses, as defined in Article XVIII, Section 16 of the Colorado Constitution, are prohibited in unincorporated El Paso County in accordance with Ordinance 13-01.

Marijuana Land Use, Medical — Medical Marijuana Land Use shall mean and include only the following land uses which are defined in and subject to licensing pursuant to § CRS 12-43-101 et. seq.

—Medical Marijuana Center

—Medical Marijuana Infused Products Manufacturer

—Optional Premises Cultivation Center

Marijuana, Personal Cultivation of — The growing or processing of marijuana plants, including the extraction of THC or other cannabinoids, as a patient or caregiver pursuant to Article XVIII, Section 14 of the Colorado Constitution or for personal use pursuant to Article XVIII, Section 16 of the Colorado Constitution.

Massage Business — An establishment providing massage, but does not include training rooms of public and private schools accredited by the State Board of Education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is a massage business.

Massage Therapist — A person who has graduated from a massage therapy school accredited by the State Board of Education or division charged with the responsibility of approving private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least 500 hours of training in massage therapy. A massage therapy school may include an equivalency program approved by the State Board of Education or division charged with the responsibility of approving private occupational schools.

Master Plan — A plan and any functional element to the plan as adopted and amended, for the physical development of the unincorporated territory of the County. Also known as the El Paso County Comprehensive Plan, El Paso County Master Plan, the Master Plan for El Paso County, and the El Paso County Land Use Plan.

Material Modification — A basic or essential change to the method of providing services including the exclusion or addition of services to a special district service plan.

Material Recovery Facility — A solid waste facility designed to receive and process recyclable materials.

Materially Diminish — A measurable change that has significance for existing or proposed development or for the existing environment.

Maximum Extent Feasible — When no prudent or feasible alternative exists and all possible efforts to comply with regulations and minimize potential harm or adverse impacts have been undertaken.

Maximum Extent Practicable — When, under the circumstances, reasonable efforts have been taken to comply with the regulation or requirement, the costs of full compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project and reasonable steps have been taken to minimize any potential harm or adverse impacts resulting from non-compliance with this Code.

Meat Processing, Custom — The slaughter or processing for a fee or other remuneration of an animal delivered to the processor by the owner of the animal.

Medical Clinic — A facility used for the provision of medical, dental, surgical, health or mental health care of the sick or injured, operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination or treatment.

Merger Agreement — An agreement executed by the owner and filed for recording with the Clerk and Recorder, whereby two or more contiguous nonconforming lots are combined into a zoning lot for the purposes of meeting the requirements of this Code with respect to minimum lot size, or in changing the conformity of the lots or parcels pursuant to the nonconforming lot provisions of this Code.

Microwave Antenna — A disk-type antenna used to link communication sites together by wireless voice or data transmission.

Mineral — An inanimate constituent of the earth, in either solid, liquid, or gaseous state which, when extracted from the earth, is usable in its natural form or is capable of conversion into usable form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing or construction material. This definition includes, but is not limited to, sand, gravel, aggregate, coal, gold, clay and limestone. This definition does not include surface or groundwater useable for domestic, agricultural, or industrial purposes, nor does it include geothermal resources subject to regulation under C.R.S. § 37-90.5-101 et seq. or oil and gas resources subject to regulation under C.R.S. § 34-60-101, et seq.

Mineral and Natural Resource Extraction — An operation involved in the act of removing naturally occurring minerals from the earth for an economic use. Mineral extraction includes material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership provided such activities are approved as part of the special use.

Mineral Deposit, Commercial — A natural mineral deposit of limestone used for construction purposes, coal, sand, gravel, and quarry aggregate, for which extraction by an extractor is or will be commercially feasible and regarding which it can be demonstrated by geologic, mineralogical, or other scientific data that the deposit has significant economic or strategic value to the area, State, or nation.

Mineral Estate Owner — The owner or lessee of minerals located under a surface estate that are subject to an application for development.

Mineral Processing Plant — An operation involved in material washing, sorting, crushing or more intensive modification or alteration through mechanical or chemical means to a mineral resource which was extracted on a different lot, parcel or tract than the lot, parcel or tract on which the mineral processing

plant is located. This does not include asphalt or concrete batch plants or the incidental (less than 10% by volume) mixing of materials at a mineral and natural resources extraction site with materials from off site in order to meet road material specifications.

Mini-Warehouse — Buildings designed primarily for the storage of household items and inventory of small commercial businesses where storage units are individually leased or rented, where access to storage units is infrequent, and where no utilities are provided except for the service of a manager's apartment and for lighting and climate control of individual storage units.

Mixed Use Building — A building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses including, but not limited to, office, retail, public uses, personal service or entertainment uses.

Mixed Use Development — A combination of uses including residences of varying types and densities, employment, shopping and schools, located in proximity with one another, but which are designed to ensure compatibility and minimize transportation and environmental costs and impacts.

Mixed Use Residential — Residential dwelling units located above the ground floor in a mixed use building.

Mobile Home, Junk — A mobile home that is partially or totally damaged by fire, earthquake, wind or other natural causes, or is in a state of general dilapidation, dereliction, deterioration or decay resulting from improper lack of maintenance, vandalism or infestation with vermin or rodents.

Mobile Home, Post-1976 — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which has been certified under the "National Manufactured Housing Construction and Safety Standards Act" (42 U.S.C. 4501 et seq., as amended) in effect after June 15, 1976 or which has been certified according to the Building Code.

Mobile Home, Pre-1976 — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which has not been certified under the "National Manufactured Housing Construction and Safety Standards Act" (42 U.S.C. 4501 et seq., as amended).

Mobile Home Pad — Part of an individual lot which has been reserved for placement of the mobile home, appurtenant structures or additions, including an adequate foundation and anchoring facilities to secure the mobile home against any accidental movement.

Mobile Home Park — An area designated for the accommodation of mobile homes used as housing units and containing facilities for connection of mobile homes to utility systems.

Mobile Home Subdivision — A parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a mobile home and its facilities.

Model Home — A dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers by a realtor, building developer or contractor. The dwelling may be furnished but not occupied as a residence while being used as a model home.

Monuments — The actual points set on the ground to locate, delineate or describe lots, parcels or tracts of land or the points set to define a legal description of a lot, parcel or tract of land including the points or corners set by a Colorado Registered Land Surveyor in accordance with the C.R.S..

Monuments, United States Land Survey — The points or corners established by the survey of public lands for the United States Government, including the re-establishment or restoration of said corners.

Mother-in-Law Apartment — Supplemental living quarters, including a kitchen, that is attached to or part of the main dwelling unit, used exclusively by family members or an employee of a person residing in the main dwelling, and otherwise not rented or leased. A mother-in-law apartment is not considered a dwelling unit.

National Wetland Inventory — The official maps produced by a branch of the U.S. Fish & Wildlife Service that collects and distributes information on the characteristics, extent, and status of the nation's wetlands and deepwater habitats.

Natural Hazard — A geologic, wildfire, or flood condition which is adverse to past, current, or foreseeable construction or land use and constitutes a significant hazard to public health and safety or to property.

Neighborhoods — Primarily residential areas unified by shared characteristics, functional connections and spatial perceptions. Elements which define or reinforce a neighborhood orientation include common design themes, pedestrian and bicycle linkages, shared facilities and public spaces and identifiable boundaries, edges or gateways.

Nightclub — A food service establishment operating a bar in conjunction with providing patron dancing or live, non-adult entertainment or a bar having an occupant load, as defined in the Building Code of 100 or greater. This would not include a piano bar having an occupant load of less than 100.

Noise Analysis, Traffic — An analysis of the potential noise attributed to a development project, which includes the following: (a) identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from the highway; (b) prediction of traffic noise levels; (c) determination of existing noise levels; (d) determination of traffic noise impacts; and (e) examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.

Noise Barrier — Solid obstructions built between the highway, road, or railroad and the adjacent homes, which may include berms or walls made out of wood stucco, concrete, masonry, metal, or other materials.

Noise Disturbance — Any sound which is (a) harmful or injurious to the health, safety, or welfare of any individual; (b) of a volume, frequency, or intensity that it unreasonably interferes with the quiet enjoyment of life of an individual of ordinary sensitivity and habits; or (c) unreasonably interferes with the value of real property or any business conducted thereon.

Noise Easement — A document granting rights pertaining to noise affecting a grantor's property, along with other statements, requirements, and criteria accompanying that grant, which is generally recorded against the grantor's property as a condition of development approval.

Noise Level Reduction (NLR) — The difference, in decibels, between the A-weighted sound level outside a building and the A-weighted sound level inside a designated room in the building. The NLR is dependent upon the transmission loss characteristics of the building surfaces exposed to an exterior noise source, the particular noise characteristics of the exterior noise source and the acoustic properties of the designated room in the building.

Noise Reduction Certificate — A certificate issued by a qualified professional which quantifies the amount of noise level reduction in decibels achieved through incorporation of noise attenuation, between outdoor and indoor levels, in the design and construction of a structure.

Nondiscretionary Review — An administrative evaluation of a specific land use or application where compliance with the regulations can be determined based on objective standards. Decisions are made administratively and do not require a public hearing, notice or written interpretation. Examples of these reviews include: whether the proposed use is or is not allowed, whether the site area is or is not large enough for the proposed number of housing units, and whether a proposed building meets all setback, height, and parking requirements.

Notice of Violation — A written notice provided to the owner or tenant, in accordance with this Code, which declares that the property is in violation of this Code or County Ordinance, and describes remedies and penalties for the violation.

Notice to Proceed — A document issued by the ECM Administrator authorizing a permit holder to begin construction of common development, subdivision or public improvements in accordance with an approved set of plans.

Noxious Weed — An alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets one or more of the following criteria: (a) aggressively invades or is detrimental to economic crops or native plant communities; (b) is poisonous to livestock; (c) is a carrier of detrimental insects, diseases, or parasites; (d) the direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

Noxious Weed Management Plan — A written report to aid landowners in the control of noxious weeds on their property, by prescribing integrated management practices. Specifically the planning and implementation of a coordinated program utilizing a variety of methods for managing noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. These methods may include but are not limited to education, preventive measures, good stewardship, and the following techniques: biological management, chemical management, cultural management, and mechanical management.

Nursery, Retail — An establishment which may include a greenhouse for the retail sale of trees, shrubs, and plants to the general public. Commonly known as a garden center, products and services related to gardening, growing of plants, and outdoor landscaping may also be included.

Nursery, Wholesale — A wholesale (as defined by this Code) business, which may include a greenhouse(s), where trees, shrubs, or plants are grown or warehoused for transplanting or for use as stocks for budding and grafting.

Nursing Home — A facility, or a distinct part of a facility, which meets the State nursing home licensing standards, is maintained primarily for the care and treatment, under the direction of a physician, of inpatients who for reason of illness or physical infirmities are unable to care for themselves, and meets the requirements in federal regulations for certification as a qualified provider of nursing home services. "Nursing home" includes private, nonprofit, or proprietary intermediate nursing facilities for the mentally retarded or developmentally disabled.

Office, General — Use of a site for business, professional, or administrative offices excluding medical offices. General offices are characterized by a low proportion of vehicle trips attributable to visitors or clients in relation to employees. Typical uses include real estate, insurance, management, travel, or other similar business offices; organization and association offices; law, architectural, engineering, accounting, telemarketing or other professional offices.

Office, Accessory — A place within an industrial or warehouse building such as room, or suite, in which services, clerical work or professional duties are carried out which are directly related to the industrial or warehousing activities on the site.

Off-Site Improvements — Public or common development or subdivision improvements located beyond the boundaries of a development which are the responsibility of an applicant or permit holder as mitigation for off-site impacts of the project. These improvements are typically specified in a technical report, such as a Transportation Impact Study, and may be eligible for cost recovery.

Off-Site Road Study — An area-specific study and plan authorized, prepared, facilitated, or accepted by the County for the purposes of identifying road improvements necessary to serve developing, developable, and benefited properties, along with the planning and construction requirements or costs of these improvements allocated to those properties.

Off-Site Source — Groundwater in aquifers which naturally lie beneath a property which is not part of the subject property but from which groundwater will be extracted for the subject property, and surface water which naturally flows across a property which is not part of the subject project.

Oil and Gas Operation — Any structure, facility, or activity which is constructed on or disturbs land in association with oil or gas drilling, production, or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress, and pipelines.

Onsite Source — Groundwater in aquifers which naturally lie beneath a subject property, and surface water which naturally flows across the subject property.

Onsite Wastewater Treatment System (OWTS) — A system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or disposing of sewage that is not part of or connected to a central (community) sewer system. Includes, by way of example only, septic tanks and absorption areas.

Open Burning — Burning any material or substance in the ambient air or in a receptacle other than a properly designed furnace such as an incinerator or other equipment connected to a stack or chimney. Cutting and welding torches are exempted.

Open Space — Publicly or privately owned parcels of land which have been permanently set aside or otherwise preserved to retain land, water, historic and other aesthetic features in a primarily natural state. Open space includes trail corridors and may serve one or more of the following functions: (a) identify or separate communities and other developed areas, and to provide expansive visual relief; (b) buffer and provide transitions between different land uses; (c) preserve or protect scenic areas and vistas, prominent landforms, floodplains, riparian areas and critical ecosystems; (d) provide outdoor recreation opportunities such as hiking, biking and equestrian uses; or (e) assist with the preservation of ongoing ranching and agricultural uses.

Owner — Any individual, corporation, partnership or other legal entity holding or controlling title on property, including mineral interests, that is the subject of development covered by this Code, or that are intended to come under the ownership or control of the County including subdividers.

Ownership — One or more adjoining lots or parcels that are owned by the same person, partnership, association, or corporation. Ownership also includes lots or parcels that are in common ownership but are separated by a right-of-way.

On-Site Wastewater Treatment System~~-- or "OWTS"~~ and, where the context so indicates, the term ~~"system" means~~ A~~a~~n absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity, which system is not a part of or connected to a sewage treatment works. This term may be used interchangeably with the terms “OWTS” or “system” where the context as used within this Code or the EPCPH regulations so indicates.

OWTS Regulations — The regulations of the EPCPH regarding OWTS.

Panel Antennae — An array of antennae, rectangular in shape, used to transmit and receive telecommunication signals.

Parcel — A designated area of land which is not part of a subdivision plat that has been created by deed, survey map, or exemption and recorded in the office of the Clerk and Recorder. A parcel is described by metes and bounds.

Parent Parcel — The lot or parcel proposed for division or subdivision.

Park, Community — Parks of typically 24 to 199 acres which primarily serve the active and passive recreation needs of residents within specific communities or subareas of the County.

Park, Neighborhood — Parks of 3 to 23 acres which are generally within walking or easy bicycling distance of the neighborhoods or subcommunities they serve.

Park, Regional — Parks of more than 200 acres in area which are intended to serve the resource preservation and recreation needs of the entire County population, especially those residents within a radius of from approximately 5-10 miles.

Park Board — El Paso County Parks Advisory Board.

Park Fee Fund, Regional — A fund established for use in acquiring and developing regional parks, open space or regional trails in accordance with El Paso County Parks and Leisure Services Department (EPCPLSD) long-range plans. Fees collected in lieu of, or in combination with, the dedication of land for regional park purposes shall be deposited within the regional park fee fund and shall be used solely to acquire and develop regional parks, open space or regional trails which will reasonably serve and benefit the property owners within the proposed subdivision within the respective regional park district. Interest earned on regional park fees shall remain within the regional park fee fund and shall be used solely for the purposes set forth by this Code.

Park Fee Fund, Urban — A fund established for use in acquiring and developing urban park lands that will be transferred to or developed by some other governmental or quasi-governmental entity for ownership for urban park purposes, within the neighborhood or community planning unit from which the urban park fee was collected. Fees collected in lieu of, or in combination with, the dedication of land for urban park purposes shall be deposited within the urban park fee fund and shall be used solely to acquire and develop urban park lands which will reasonably serve the needs of the intended neighborhood or community planning unit. Interest earned on urban park fees shall remain within the urban park fee fund and shall be used solely for the purposes set forth in this Code; provided, however, that the earned interest may be used by the EPCPLSD to provide for necessary and required minimum levels of annual public health and safety maintenance of the "reserved lands" properties until transfer to another entity is affected.

Parking, Tandem — Parking 2 cars in a driveway or parking space so that one car is right in front of the other and the front car cannot move until the back car is moved.

Parking Area — Parking areas and spaces designed, used, required or intended to be used for the parking, storage, display or operation of vehicles, including driveways or access ways in and to these areas, but not including any outdoor storage area used principally as a recreational vehicle, boat or truck storage use, storage areas for landscaping and other bulk items or public roads and rights-of-way. The term parking area includes parking lots and parking structures.

Parking Lot — An area, structure, or building used for the sole purpose of parking vehicles in legal operating condition, excluding recreational vehicles, and which is generally paved and striped for parking spaces.

Parking, Storage, and Repair of Vehicles and Machines, Personal— Parking, storage, and repair of vehicles and/or machines owned by and for the sole use of persons residing on a lot, tract or parcel.

Peddler Sales — The temporary use of outdoor parking areas or lots for sale of merchandise or produce not produced on the premises, or food from a mobile food vendor.

Performance Standards — Regulations and criteria established to control the operation of a use, including noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, dust, radio-activity, electrical disturbance, heat, glare, or other factors generated by or inherent in uses of land or structure.

Person — A natural person, firm, partnership, association or corporation, but this definition does not include any governmental unit.

Personal Wireless Service — Commercial mobile services.

Pet — A domesticated animal kept for pleasure rather than utility, subject to the standards and limitations of this Code.

Pigeon Keeping — The raising, keeping, housing and breeding of pigeons as a hobby.

Planned Unit Development — An area of land to be developed under unified control or a unified plan of development which include any combination of dwelling units, commercial, educational, recreational, or industrial uses, pursuant to a plan which does not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restriction to the existing land use regulations.

Planning Commission — The Planning Commission of El Paso County.

Planting Strip — That portion of a right-of-way between the curb line and the sidewalk, or between the sidewalk and the right-of-way line, used for the planting of trees, shrubs, groundcover or grass, or the space between the edge of the pavement or the back of the curb and the sidewalk.

Plat — A map and supporting materials and documentation of certain described land prepared in accordance with this Code and C.R.S. § 38-51-106 as an instrument for recording of real estate interests with the Clerk and Recorder and providing a permanent and accurate record of the legal description, dedications, exact size, shape, and location of lots, blocks, roads, easements, and parcels of land. The plat, when recorded by the Clerk and Recorder, becomes the legal instrument whereby the location and boundaries of separate parcels of land within a subdivision or subdivision exemption are identified.

Plat, Amended — A plat which contains mapping modifications to an existing approved and recorded plat which do not significantly affect the land use of an area or are technical in nature and do not involve the construction of public improvements, or an increase in density in a subdivision.

Plat Restriction — A restriction placed upon a subdivision plat or separate recorded document that may prohibit issuance of building permits or sale, transfer or conveyance of lots while serving as the security to guarantee construction of public improvements or other facilities.

Premise — One or more contiguous lots or parcels of record (exclusive of any right-of-way), owned or managed by the same individual or entity.

Principally Employed — The main or primary place of employment.

Prison — A facility for the processing and confinement of individuals either awaiting trial or serving sentences. This term does not include halfway houses. A prison may be publicly or privately-owned and operated.

Procedures Manual — The manual of the PCD intended to help users of the LDC understand the review and decision making processes outlined in the LDC. The manual includes information on application submittal requirements and review procedures for applications and processes.

Professional Geologist — As defined in C.R.S. § 34-1-201, a person who is a graduate of an institution of higher education that is accredited by a regional or national accrediting agency with a minimum of 30 semester hours (45 quarter hours) of undergraduate or graduate work in a field of geology and whose post-baccalaureate training has been on the field of geology with a specific record of an additional 5 years of geological experience to include no more than 2 years of graduate work

Proof of Ownership — A current title insurance policy insuring the status of an applicant as the owner in fee title to real property unless otherwise provided by this Code.

Property Line Adjustment — The relocation of a property line which does not create additional lots, non-conforming lots or structures, and does not result in any non-buildable lots.

Proprietary School — A facility offering special instruction in such activities as art, business, driving, or construction. The term includes, among other things, karate schools, dance studios, handicraft and hobby instruction, trade schools, secretarial schools, and dance schools.

~~**Prudent Line —** The limit of a buffer zone adjacent to streams for erosion and flooding potential within which development would not be considered prudent if the channel is to remain in a minimally altered state.~~

~~**Prudent Line Approaches —** The use of minimum separations from regulatory floodplain limits to allow for the channel migration or bank failure which is reasonably anticipated over a 30 to 50 year period.~~

Public Improvement — Any drainageway, roadway, parkway, sidewalk, pedestrian way, tree, lawn, parking area, lot improvement, or other facility which benefits the public.

Public Park — A lot, tract or parcel of land devoted primarily to recreation, operated by a governmental or quasi-governmental entity.

Public Utility — Public utility as defined by C.R.S. § 40-1-103, 1973. "Public utility" is defined more specifically for applications under Appendix B Guidelines and Regulations For Areas and Activities of State Interest of El Paso County.

Public Utility Facility — Any physical structure or improvement necessary or desirable to deliver service to a public utility's customers.

Publishing Companies — Facilities for the preparation and issuance of printed material for public distribution or sale. This term shall include facilities where newspaper printing, lithography, offset printing, or blueprinting are a primary business component, but not include a copy shop as defined by this code.

Putrescible Waste — Those solid wastes that contain organic matter capable of being decomposed by microorganisms and of such character and proportion as to be capable of attracting or providing food for birds or disease vectors.

Qualified Conservation Organization — A non-profit organization, as defined under Section 501 .C-3 of the Internal Revenue Code, and usually a conservation organization or land trust, designated to enforce the recorded deed restrictions on the use of property, as typically defined through a conservation easement.

Qualified Professional — A professional acceptable to the County, and who is either licensed by the State of Colorado to perform the type of work involved, who is accredited by or registered with a professional group and who is operating within the scope of accreditation or registration, or who is specifically or specially qualified to perform the type of work involved.

Race Track — A course on which races are run and are characterized by organized events or by being open or available to the public, or for public use, which may result in remuneration. Includes accessory structures and uses such as concessions, grandstands, bleachers, horse barns, kennel structures, parking lots, etc. The definition includes animal races, autocross, motocross, and similar facilities, but specifically excludes school facilities or related indoor and outdoor running tracks and the recreational and unstructured use of motor vehicles on private property with the property owner's permission.

Ranch — A parcel of land containing at least 35 acres which is used primarily for the raising of livestock; breeding of horses; practice equestrian courses and arenas not used for scheduled, public or club events; and ancillary sales and previews of livestock and occasional weekend activities.

Recreation Camp — A place used as a destination point for visitors, for vacationing or other recreational purposes which may include permanent structures and temporary facilities such as tents or yurts for the use of guests which facilities may contain cooking facilities and are used for temporary occupancy(not to exceed 30 consecutive days or a total of 90 days in one calendar year). This term shall not be interpreted

to include hotels, motels, restaurants, and theaters but would include land uses commonly considered as campgrounds, dude ranches, resorts or retreats.

Recreational Vehicle — A vehicle used for temporary habitation and used for travel, vacation or recreation purposes. The term shall include travel trailers, campers, motor homes, truck campers and similar terms.

Recreational Vehicle Park — An area within the RVP zoning district planned exclusively for the parking or temporary storage of 2 or more recreational vehicles for temporary or long term occupancy as a housing unit.

Recreational Vehicle, Park Unit —*A vehicle within the RVP zoning district which may be used for temporary or long term habitation as well as for travel, vacation or recreation purposes.* The term shall include travel trailers, campers, motor homes, truck campers, and similar terms. This term shall not apply to temporary housing.

Recreational Vehicles Space — A piece of land in a recreational vehicle park for the placement of a single recreational vehicle and the exclusive use of its occupants.

Recyclable Materials — A type of material subject to reuse or recycling. Recyclable materials include metal, glass, cloth, paper, plastic, or any other material which presently has a commercial use or value as a commodity, raw material, or feedstock and is intentionally separated from a waste stream for reprocessing or remanufacture. Recyclable materials do not include any material meeting the definition of a hazardous waste under C.R.S. § 25- 15-101 (6), any material meeting the definition of an infectious waste under C.R.S. § 25-15-402(1), any material meeting the definition of a putrescible waste, or any other materials likely to contaminate groundwater, create off-site odors, or otherwise pose a threat to human health or the environment as a result of processing, reclaiming, recycling, storage prior to recycling, or use of the material.

Recycling Collection Center — A small establishment for the acceptance, recycling, and temporary storage of recyclable materials to be transferred to a processing facility.

Recycling Facility — A facility, which may be part of a solid waste disposal facility where used material is separated, processed by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning, and stored prior to shipment to others who use the materials to make new products.

Regional Facility — An improvement or a part of a network or system of improvements that serve a larger area than a single subdivision and have value to a subdivision based on the nature and use of the improvement for roads, drainage, utilities, bridges, trails and open space, or floodplain requirements that insure the fullest use and development of an individual subdivision.

Regional Road Capital Improvements — Road facilities and other improvements which are or will be dedicated to the County or another governmental or quasi-governmental entity for substantially public use, and which serve the needs of the region and the transportation planning consisting of preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting and construction of all necessary features for any regional road on the MTCP undertaken to accommodate additional traffic resulting from new traffic-generating development. This includes but is not limited to construction of new through lanes; construction of new bridges; construction of new drainage facilities in conjunction with new road construction; purchase and installation of traffic signals including new and upgraded signalization; construction of curbs, gutters, sidewalks, medians and shoulders; relocating utilities to accommodate new road construction; construction and reconstruction of intersections; widening of existing regional roads; bus turnouts; acceleration and deceleration lanes; interchanges; and traffic control devices.

Regional Trail — A bike, equestrian, or pedestrian facility designated by the County as a regional trail.

Rehabilitation Facility — An institutional use-type facility, and not a group home, whether public, quasi-public, not-for-profit, providing accommodation, treatment and medical care for patients suffering from alcohol or drug-related illness.

Relevant Improvement — A road or facility related to a road, water distribution system, sewage collection system, storm drainage facilities, or any other type of structure the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit one or more applicant subdivider. The improvement may be internal as well as adjacent to or outside of the legal description of the requester subdivider's subdivision.

Religious Housing — A residential dwelling for permanent or overnight occupation associated with a religious institution, including religious retreats, convents, monasteries, seminaries operating in conjunction with a religious institution on site, religious-sponsored orphanages, and similar religious dormitories and housing facilities. This term does not include major religious facilities that have significant recreation and outdoor activity components associated with them, such as religious camps.

Religious Institution — An establishment primarily for the conduct of religious activities, limited to sanctuary, educational classrooms, daycare, committee and office work, a single parsonage/rectory, or religious camp.

Remainder Parcel — A part of a larger parcel that is not platted during the subdivision of that larger parcel and which is described by metes and bounds

Renewable Water — Surface water and alluvial groundwater. Renewable groundwater is found in, but not limited to, the alluvium found in the drainage systems of Big Sandy Creek, Black Squirrel Creek, Cherry Creek, Fountain Creek, Jimmy Camp Creek, Kiowa Creek, Monument Creek, Sand Creek and Williams Creek.

Rental Services — An establishment where home owners equipment, lawn and garden equipment, party and wedding supplies, tent and events rental, and automotive tools are rented, which are generally utilized by homeowners, rather than contractors. Incidental sales of tools, materials, and services may occur in conjunction with the rental services. This may include outside storage of equipment utilized in the business.

Repair Shop — A business, the primary purpose of which is to engage in repair of household appliances, television, furniture, clocks and watches, stereos, or various types of small electronic equipment and computers.

Replacement Plan — A program defined in C.R.S. § 37-90-103(12.7) to increase the supply of water available for beneficial use in a designated groundwater basin or portion thereof for the purpose of preventing material injury to other water rights by the development of new points of diversion, by pooling of water resources, by water exchange projects, by providing substitute supplies of water, by the development of new sources of water, or by any other appropriate means, consistent with the rules adopted by the Colorado Groundwater Commission. "Replacement Plan" does not include the salvage of designated groundwater by the eradication of phreatophytes, nor does it include the use of precipitation water collect from land surfaces that have been impermeable, thereby increasing the runoff, but not abiding to the existing supply of water.

Replat — The changing of any existing lot or lots, rights-of-way, or easements of a subdivision plat previously recorded with the Clerk and Recorder.

Requestor Subdivider — A subdivider who requests a fair share reimbursement of the cost of certain improvements that the County requires to have installed under the subdivision approval process.

Reserved Land — Any property required by this Code to satisfy the urban park needs within an urban density subdivision or school needs within the County and acquired by the County for future transfer to

some other governmental or quasi-governmental entity within the County for ownership, development, operation and maintenance as an urban park area or school.

Residential Child Care Facility — A facility licensed by the Colorado Department of Social Services pursuant to C.R.S. § 26-6-101 et seq. to provide 24 hour group care and treatment for 5 or more children.

Resolution of Approval — A written declaration adopted by an approving authority as authorized by this Code or State Statute approving or conditionally approving the proposed development permit. The resolution is maintained in the records of the approving authority, and includes any specified conditions or modifications as reflected in the official record of the approving authority.

Restaurant — A food service establishment whose primary business is the sale of food in a ready-to-consume state. Any such establishment serving alcoholic beverages under C.R.S. § 12-47-119 (Hotel and Restaurant License) shall also be regarded as a restaurant.

Retail Sales — Establishments engaged in the sale of goods or merchandise to the general public and rendering services incidental to the sale of these goods. A retail sales establishment is usually a place of business and is engaged in activity to attract the general public to make purchases. Including but not limited to: antiques or art, clothing, department store items, drugs, dry goods, feed and seed, hay, flowers, furniture, gifts, groceries, hardware, hobby items, office supplies, package liquor, paint, pets, shoes, sporting goods, appliances and repairs, copies and toys.

Retention — The storage of storm water runoff in a basin without release except by means of evaporation or infiltration.

Retention Facility — An above or underground facility, such as a pond or tank, that stores storm water runoff without release, except by means of evaporation and infiltration.

Retirement Center — A specialized location and facility for the residence of retired people only. Individuals may be able to live entirely on their own or may require varying degrees of care. The residents may either own or rent their dwelling unit.

Rezoning — A zoning map amendment.

Riding Academy — An establishment which rents boards or leases riding horses or ponies or gives lessons to develop horsemanship.

Right-of-Way — Property in which the County has any form of ownership or title or that is intended to be used by the public for, or occupied by, a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another similar use.

RLUP Exemption Plat — A subdivision exemption plat to create the lots, parcels, or tracts identified in a RLUP overlay zoning district.

Road — A facility for the passage of vehicles that where appropriate may include pedestrian, equestrian, and bicycle facilities.

Road, Maintained — A road that has been accepted by El Paso County, a municipal government, or other government agency for maintenance.

Road, Non-Arterial — Those roads not designated as arterial roads or above by the MTCP.

Road, Private — Privately-owned and privately maintained road provided for by a tract, easement or other legal means, typically serving more than 3 lots, parcels, or tracts that do not have frontage on a public road right-of-way. Access to these facilities by the public is restricted. Like public roads, these facilities shall be built to public road standards, unless otherwise dictated by provisions within this Code.

Road, Public — A road located in a public right-of-way or easement and open to the public for travel and accepted for maintenance by El Paso County or another governmental jurisdiction.

Roadway Capital Improvement — The transportation planning of, preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting, and construction of necessary features for a road construction project on an arterial or higher classification of road on the County's major road system, undertaken to accommodate traffic resulting from new traffic-generating development. Road capital improvements may include but not be limited to: (a) construction of new through lanes; (b) construction of new bridges; (c) construction of new drainage facilities in conjunction with new road construction; (d) purchase and installation of traffic signals, including new and upgraded signalization; (e) construction of curbs, gutters, sidewalks, medians and shoulders; (f) relocating utilities to accommodate new road construction; (g) the construction and reconstruction of intersections; (h) the widening of existing roads; (i) bus turnouts; (j) acceleration and deceleration lanes; (k) interchanges; and (l) traffic control devices.

Rodeo — A public performance which includes bronco riding, calf roping, steer wrestling, bull riding, or other related events.

Rural — For purposes of this Code, the zoning, use and development of land in zoning districts or areas which allow lot sizes that are 2.5 acres in size or greater, characterized by dispersed residential development, agricultural uses and activities, or vacant land.

Rural Land Use Plan (Process) — A land use plan and overlay zoning district depicting residential lots, open space and roads, authorized pursuant to C.R.S. § 30-28-401, which provides an alternative to dispersed 35 acre residential development and traditional subdivision design, allowing the lots and open space to be sited creatively to maintain a rural open character.

Rural Residential Development — Land development and uses which are characterized by predominantly residential lots or parcels ranging from 2.5 to 10.0 acres in area. The areas are typically provided with a less-than-urban level of services (i.e. individual wells and septic systems, some unpaved roads) and allowing for only a limited amount of supporting commercial, office or industrial development. Designation in the rural residential category does not automatically imply the acceptability of lots as small as 2.5 acres.

Salvage Yard — A building, structure or yard open to the air, used for the display, sale, or storage of broken, used or discarded pieces of automobiles, metal, paper, glass, rope, rags, wood or other discarded material, whether of value or valueless, and which may or may not be partly or wholly assembled into vehicles, machinery or other useful objects of any kind. This definition includes junkyards, automobile wrecking yards and scrap processing or shredding, but not implements of husbandry, farm tractors, farm or ranch equipment or vehicles customarily operated in a farm or ranch operation.

Scrap Tire Only Disposal Facility — A location and facility at which the deposit, final treatment and disposal of whole, split, or shredded scrap tires occurs. A scrap tire only disposal facility is also commonly referred to as a monofill.

Scrap Tire Recycling Facility — A facility where scrap tires are processed for recycling or for the extraction of useful materials or energy from the tires through thermal, chemical, or physical processing.

Screening — A method of visually shielding or obscuring a structure or use from view by fencing, walls, trees, or densely planted vegetation. Screening provides a complete, opaque, year round visual separation between differing land uses.

Seasonal Produce Sales — A stand or locations where fruits and vegetables are sold only during certain months of the year.

Severe Change in Grade — A change in grade of more than 10%.

Service Plan — The documentation submitted to El Paso County by an applicant proposing the organization of a special district, including text, maps, charts, and tables, and containing all the information required in the C.R.S. and these standards and regulations.

Service Plan, Approved — The final service plan to be submitted to the Court which reflects any conditions or requirements imposed by the BoCC in their approval action.

Service Plan, Draft — A complete service plan submitted for review and recommendation of the SD/LID Committee.

Service Plan, Final — A final service plan submitted for consideration by the BoCC reflecting any recommendations or changes from the SID/LID Committee.

Service Plan, Model — The standard template(s) to be utilized for a Service Plan to be submitted to the County, as adopted by Resolution 07-273 and any amendment thereto.

Setback — The minimum distance between the lot, tract or parcel boundary line and the location of structures or buildings.

Setback Line — A line that is the required minimum distance from any lot, tract or parcel boundary line and that establishes the area within which the principal or accessory structure shall be erected or placed.

Sexually-Oriented Business — An adult arcade, adult store, adult cabaret, adult motion picture theater or adult theater, except an establishment where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State of Colorado engages in approved and recognized sexual therapy and except any college, junior college or university supported, in whole or in part, by tax revenue and offering educational programs which, for educational purposes, may include the depiction of specified sexual activities or specified anatomical areas.

Shall — The specified criteria are mandatory.

Shed — An accessory building, structure, or enclosure generally used for the storage of lawn and garden equipment and tools.

Shooting Range, Indoor (See Amusement Center, Indoor) Shooting Range, Outdoor — An outdoor facility for the firing of any gun or the shooting with bow and arrow. The term also includes rifle and pistol shooting and skeet and trap shooting. An indoor facility may be operated as an ancillary facility to an approved outdoor shooting range. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

Shopping Center — A group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

Should — The condition is advisory or recommended, but not mandatory.

Sign — Any object, device, vehicle, trailer, display or structure, or part thereof, situated outdoors or indoors, which is used to identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images having the capacity of being visible from any public road, except any display on a vehicle using the highway. A vehicle or trailer parked so as to be visible from a road for more than 24 hours and have the effect of directing attention to a business or profession, to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the vehicle or trailer is located or to another location within the County shall be considered a sign.

Sign, Announcement — A sign which directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold, or offered upon the premises where the sign is located or to which it is affixed.

Sign, Attached — A sign which is fastened to, connected to, or painted on and wholly or partially supported by a building.

Sign, Awning — A wall sign which is painted, stitched, sewn or stained onto the exterior of an awning.

Sign, Billboard or Board — An off premise large format advertising displays intended for viewing from extended distances, generally more than 50 feet. Billboard displays are include but are not limited to posters copies, junior posters, vinyl-wrapped posters, bulletins, wall murals and stadium signage, mechanical message displays, or electronic.

Sign, Canopy — A wall sign affixed to a permanently roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

Sign, Changeable Copy — A sign that is designed so that characters, letters, or illustrations can be replaced or rearranged non-electronically without otherwise altering the face or structure of the sign, and is considered as sign area for a business for which it advertises.

Sign, Changing Illumination — Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times.

Sign, Development — A temporary sign promoting the sale of a development, lots, or new homes within a development or subdivision.

Sign, Directional — Signs which guide instruct, or direct viewers to a place or event. These signs do not advertise, promote or identify a product, service or commercial development.

Sign, Display Face (panels) — The flat area normally rectangular in shape where the advertisement is displayed.

Sign, Double Face — A billboard structure that has two display panels, which are parallel to each other and facing in opposite directions.

Sign, Electronic Message Display (EMD) — A sign that is capable of displaying words, symbols, figures or images that can be electronically changed by the remote or automatic means.

Sign, Freestanding — A sign constructed and supported by uprights, or braces, placed upon the ground and not attached to any part of any building.

Sign, Hanging — A sign located under a permitted awning or canopy at the entrance to the premises. The sign shall identify only the name of the business or premises and shall be perpendicular to the entrance wall of the building.

Sign, Identification — A sign which states the name of such developments as subdivisions, shopping centers, business parks, industrial parks, and similar uses.

Sign, Illumination — Light fixtures attached to a sign so that the message is visible in hours of darkness.

Sign, Information — A sign which is erected to guide or direct the flow of traffic on the premises on which the device is located or which is non-commercial in nature. The sign may designate addresses, one-way, handicap parking, visitor parking, loading/unloading, and fire lanes.

Sign, Low-Profile — A freestanding sign not exceeding 6 feet in height measured from the finished grade to the top of the sign, however, bonus provisions may allow for heights greater than 6 feet.

Sign, Mechanical Message Display (MMD) — A sign that is capable of displaying words, symbols, figures or images that can be mechanically changed by remote or automatic means (also known as tri-fold, tri-vision).

Sign, Menu Board — A wall or free-standing sign which lists the foods or other products available at drive-through facilities.

Sign, Message — Any static, non-animated, communication, advertisement, or frame displayed within an on or off premise signs (A complete, static display message on an Electronic Message Display).

Sign, Message Hold Time — The time interval a static message or frame must remain on the display before transitioning to another message or frame.

Sign, Nameplate — A sign limited to identifying the street name, building or property number, and the name of the owner or occupant of the building or property.

Sign, Nonconforming — A legally existing sign which does not conform to the requirements of this Code either on the effective date of this Code or as a result of subsequent amendments to this Code.

Sign, Off-Premise — Any sign which is not on the same premises as the business or use with which it is identified, or which cannot be classified as an on-premise sign. Off-premise signs include billboards, bus bench and shelter signs (typically in ROW owned by public entity), direction signs (general signs that can potentially be in any zone district).

Sign, On-Premise — A sign which displays copy specifically related to a principal use of the lot, parcel or tract on which it is located.

Sign, Pennant — Strings of banners or flags or the placement of them in a sequential manner giving the appearance of being strung together.

Sign, Pole — A sign whose primary means of support is one or more poles set into a concrete footing, located at or below ground level. A pole sign is considered a freestanding sign.

Sign, Political — A sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

Sign, Portable — A sign which is not permanently affixed to a structure and is designed for or capable of movement, except those signs explicitly designed for people to carry on their persons or permanently affixed to vehicles operating in their normal course of business.

Sign, Poster Display — Message display which is static, non-mechanical, and non-electronic and is changed manually, or requires a manual changing of the message displayed.

Sign, Projecting — A sign projecting in excess of 18 inches from any part of a building.

Sign, Real Estate — A sign displayed for a limited time and offering the immediate premises for sale, rent or lease.

Sign, Real Estate Directional — An off-premise sign displayed only when the real estate company representative, agent or seller is in attendance at the property for sale, rent or lease. A real estate directional sign is regulated as an on-premise sign.

Sign, Single Face — Billboard structure that has single display panel facing in only one direction.

Sign, Temporary — A sign which is erected for a limited time and may be used to advertise business, community or civic projects, real estate for sale or lease, or other special events.

Sign, Time-Temperature-Date — A sign that displays the current time, outdoor temperature, date of the month, or any combination of that information.

Sign, Traffic — A sign used to direct traffic in accordance with the MUTCD.

Sign, Transition Duration — The time interval it takes the display to change from one complete static message or frame to another complete static message or frame.

Sign, Transition Method — A visual effect applied to a message to transition from one message to the next.

Sign, Wall — A sign attached to or painted on the wall of a building. Wall signs also include awning, fascia, and canopy signs.

Sign, Window — A sign that is painted on applied or attached to a window or that can be read through the window from the public right-of-way.

Sign Area — The total area of the face, plate, and frame, as well as the display surfaces but not including the structure or bracing of the sign. When the sign consists only of letters, logos, designs, or figures engraved, painted, or projected or fixed on a wall or freestanding, or when a sign is of an irregular shape, the total area of the sign shall be the smallest area enclosed by a single right angle figure surrounding all of the fixed lettering, designs and irregular shape. On double-faced signs where the sign faces are placed back to back, only one face is counted in computing the sign area; for signs with more than 2 faces, the area of all faces shall be counted.

Significant Wildlife Habitat and Migration Corridors — Areas designated by the Colorado Division of Wildlife or the Colorado Natural Diversity Information Source (www.ndis.nrel.colostate.edu) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

Site — The site is an ownership except as follows: (a) If a proposed development includes more than one ownership, then all the ownerships are included as the site; (b) If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development; and (c) If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Site Application — The State and local process for approving and permitting domestic waste treatment works, including waste water treatment plants, lift stations, and interceptor sewers.

Site Development Plan — The development plan for one or more lots showing the existing and proposed conditions of the lot and any improvements existing or to be constructed on the lot. This includes topography; vegetation; drainage; floodplains; wetlands and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers and screening devices; surrounding development; and other information that may be reasonably required for the PCD Director to determine compliance with the requirements of this Code, and subsequently authorize issuance of a building or development permit.

Site Plan — An accurately scaled drawing of a lot or parcel showing the existing and proposed conditions of the lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

Site-Related Improvements — Road capital improvements and right-of-way dedications, which provide direct access to the development including, but not limited to the following: (a) driveways and streets leading to and from the development; (b) right and left lanes leading to those driveways and roads; (c) one through lane; (d) curb, gutter, and sidewalks where applicable; (e) acceleration and deceleration lanes; (f) traffic control measures for those driveways; and (g) internal streets. Credit is not provided for site-related improvements under an off-site road study or transportation improvement study (TIS).

Site Specific Development Plan — A detailed graphic representation drawn to scale of a proposed development which depicts the specific land uses, site design, and dedication requirements for the property utilized for purposes of establishing vested rights. The site specific development plan provides information including, but not limited to, the building locations and exact footprints, parking areas and designs, ingress or egress, access and utility easements, a detailed landscape plan and location and size of signage. The approved site specific development plan becomes the official plan for the property and is the final site plan submitted with the request for a vesting of property rights. Physical development of the property shall be in strict conformance with the approved site specific development plan. A final plat for a residential subdivision shall constitute a site specific development plan.

Slash Piles — The accumulation of tree limbs, tree tops and miscellaneous natural vegetation residue left by forest management activities, such as thinning, pruning, and timber harvesting and clearing.

Small Area Plan — A sub-area Master Plan adopted as a component of the overall Master Plan, which provides specific land use guidance and detailed direction for the specific geographic area included within the plan.

Soil Profile Test Pit Excavation- A trench or other excavation used for access to evaluate the soil horizons for properties influencing effluent movement, bedrock, evidence of seasonal high ground water, and other information to be used in locating and designing an On-site Wastewater Treatment System.

Solar Energy Generation Facility — A large-scale electrical energy generation facility with a minimum energy generation capacity of 500 kilowatts typically consisting of photovoltaic panels, heliostats (mirrors), collection tower(s), turbine(s), collection lines, electrical substation(s), transmission line(s), and other appurtenant facilities.

Solid Waste — Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial or commercial operations or from community activities. "Solid waste" does not include:

- Any solid or dissolved materials in domestic sewage;
- Agricultural wastes;
- Solid or dissolved materials in irrigation return flows;
- Industrial discharges which are point sources subject to permits under the provisions of the "Colorado Water Quality Control Act", article of title 25, C.R.S; Materials handled at facilities licensed pursuant to the provisions on radiation control in article 11 of title 25, C.R.S;
- Exploration and production wastes, as defined in section 34-60-103(4.5), C.R.S., except as such wastes may be deposited at a commercial solid waste facility;

Excluded scrap metal that is being recycled; or shredded circuit boards that are being recycled. (C.R.S. § 30-20-101.)

Solid Wastes Disposal Site and Facility — The location and facility at which the deposit and final treatment of solid wastes occur. (See C.R.S. § 30-20-101, Certificate of Designation, Inert Materials.)

Sound Level — The weighted sound pressure level obtained by the use of the sound level meter and frequency weighing network, as specified in the American National Standards Institute Specifications.

Sound Level, A-Weighted — The A-scale sound level is a quantity, in decibels, read from a standard sound-level meter with A - weighting circuitry. The A-scale weighting discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The A-scale sound level measures approximately the relative "noisiness" or "annoyance" of many common sounds, while the low and high frequencies are de-emphasized.

Sound Level, C-Weighted — A quantity, in decibels, read from a standard sound level meter with C-weighting circuitry. The C-scale incorporates slight de-emphasis of the low and high portion of the audible frequency spectrum.

Special District — A special district organized under and existing by virtue of the provisions of C. R. S §§ 32-1 -101, et seq.

Special District Policies — The El Paso County Special District Policies as adopted by Resolution 07-272, as may be subsequently amended.

Special Flood Hazard Area (SFHA) — Land in the floodplain subject to a one percent chance of flooding in a given year. Also called Area of Special Flood Hazard.

Specialized Group Facility — A facility which is established and supervised by a County Department of Social Services or a licensed child-placement agency for the purpose of providing 24-hour care for children from 3 years to 18 years old and those persons to 21 years old who are placed by court order prior to their 18th birthday whose special needs can best be met through the medium of a small group.

Specified Anatomical Areas — Includes any of the following: (a) human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, which are not completely and opaquely covered; and (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities — Includes any of the following: (a) fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy; (c) masturbation, actual or simulated; (d) human genitals in a state of sexual stimulation or arousal; or (e) human excretory functions as part of or in connection with any of the activities set forth in parts (a) through (d) hereof.

Stable — A building, structure, barn, shed or similar enclosure for the purpose of housing and feeding of horses or other livestock and for the storage of equipment relating to the care, maintenance and operation of the farm animals.

Stable, Commercial — Any stable where horses or other livestock are boarded for remuneration or where horses or other livestock are kept for sale or hire, except as permitted under the definition of ranch.

Stable, Private — Any stable where farm animals are boarded and owned by the occupants of the premises and are not kept for remuneration or hire.

Stadium — A large, often unroofed structure in which sporting events and other forms of entertainment are held.

Stand — A booth, stall or counter for the display and sale of goods.

Storage — The act of stocking or supplying a product reserved for future use.

Storage, Outside — Open air storage of vehicles, raw materials, supplies, finished or semi-finished products or equipment.

Store — An establishment operating from an enclosed building engaged in providing of services or the retail sale of products that are not primarily consumed or used upon the premises but may be assembled or installed upon the premises. The term shall not include adult uses or gasoline filling stations.

Story — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Structural Alterations — Any change in the supporting members of a building or structure such as bearing walls, columns, beams, girders, floor joists or roof joists.

Structure — Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment of something having a permanent location on the ground. The term shall include "building" as defined herein, but not include fences or walls 7 feet in height or less, retaining walls less than 4 feet in height, or poles, lines, cables or other transmission or distribution facilities of public utilities.

Structure (when located in CAD-O zoning district) — An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, overhead transmission lines, and vegetation. This definition is applicable to the CAD-O only.

Structure, Accessory — A subordinate detached structure, the use of which is customarily incidental to that of the principal structure or to the principal use of the land, which is located on the same lot or parcel (or on a contiguous lot or parcel in the same ownership upon the recording a combination or use agreement that binds the accessory structure to both lots or parcels in common ownership) with the principal structure or use.

Structure, Agricultural — For the purpose of determining exemption from the Building Code, any structure used for the sole purpose of providing shelter for agricultural implements, farm products, livestock (including horses) or poultry as intended in C.R.S. § 30-28-201 (1).

Structure, Nonconforming — Any legally existing structure which does not conform to the "location and bulk" regulations of this Code, either at the effective date of this Code or as a result of subsequent amendments which may be incorporated into this Code.

Structure, Principal — A structure or combination of structures of chief importance or function on a lot or parcel. In general, the principal use of the site is carried out in a principal structure. The difference between a principal and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

Studio — A place, where an art is taught or studied; an artist's or photographer's establishment. Subdivider —. Any person, firm, partnership, joint venture, association or corporation who shall participate as owner, applicant, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision — Any parcel of land in unincorporated El Paso County which is divided into 2 or more parcels, separate interests, or interests in common, including land to be used for condominium, apartments or any multiple dwelling units, unless the land when previously subdivided was accompanied by a filing which complied with the provisions of this Code with substantially the same density. The term "subdivision" shall not apply to any division of land which creates parcels of land each of which comprises 35 or more acres of land and none of which is intended for use by multiple owners, C.R.S. § 30-28-101(10)(b). Unless the method of disposition is adopted for the purpose of evading C.R.S. §§ 30-28-101, et. seq., the term "subdivision", as defined above, shall not apply to (1) any division of land the BoCC determines is not within the purposes of C.R.S. §§ 30-28-101, et. seq.; or (2) any division of land which (a) creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any parcel, results in 35 or more acres per interest; (b) is created by a lien, mortgage, deed of trust or any other security instrument; (c) could be created by any court in this State pursuant to the law of

eminent domain, or by operation of law, or by order of any court in this State if the BoCC is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of provisions of this Code prior to entry of the court order; and, if the Board does not file an appropriate pleading within 20 days after receipt of such notice by the court, then such action may proceed before the court; (d) is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in any investment entity; (e) creates cemetery lots; (f) creates an interest or interests in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership of real property; (f) is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common and any such interest shall be deemed for the purposes of this Section as only one interest; (g) is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Code and any applicable County regulations, the land which is to be acquired pursuant to the contract; (h) is created by the combination of contiguous parcels of land into one larger parcel. Easements and rights-of-way shall not be considered interests for purposes of this definition.

Subdivision, Minor — A division of land that creates 4 or fewer lots.

Subdivision Improvements Agreement — An enforceable development agreement between an applicant or owner and El Paso County that serves as the security arrangement to secure the cost of public improvements associated with a subdivision required by the ECM and LDC.

Subdivision Regulations — The provisions of this Code, as they apply to the division of land within the jurisdiction of El Paso County.

Subject Property — The site for which an application for land use, development or subdivision approval has been submitted.

Surcharge — For purposes of this Code, surcharge means any mass of earth or other material being held in place by a wall structure.

Surveyor — A Professional Land Surveyor licensed by the State of Colorado.

Target Weeds — A list and B list noxious weeds as defined and identified by the Colorado Noxious Weed Act.

Temporary Housing — The temporary placement of a manufactured home or recreational vehicle to serve as living quarters while the principal dwelling is under construction.

Temporary Occupancy — A time period not to exceed 30 consecutive days or a total of 90 days in any one calendar year.

Thinning — The selective removal of trees and shrubs based on a management prescription as determined by a professional forester or someone with fuel mitigation expertise.

Threatened or Endangered Species — Plants and animals identified by the federal government as threatened or endangered or proposed for threatened or endangered status, plants and animals identified as rare or sensitive by the CDW, and plants or animals identified as ranking G1 or G2 by the Colorado Natural Heritage Program.

Tiny House— A unit built on a permanent chassis, with no attached motor as the means of propulsion, constructed to ANSI RVIA standards or certified by a licensed professional structural engineer, to be used as a dwelling unit with the exterior appearance of a single-family dwelling unit. This definition also applies to tiny houses on a single lot and within a recreational vehicle park.

Title Commitment — Formal documentation from a title company committing to insure the property and listing the name of the owner of the subject property, the legal description of the subject property and any legal holdings on the subject property such as easements, rights-of-way, liens, and other encumbrances.

Tower, Commercial (Non-CMRS) — The structure on which transmitting or receiving antennas are located and not considered a CMRS Facility. This term shall include the following: VHF and UHF television and AM and FM radio. Private towers and citizens band radios shall not be included within this definition.

Tower, Private (Non-CMRS) — Any external tower, antenna, attached apparatus, and supporting structure not defined as a Commercial Tower or CMRS Facility. This term includes television reception antennas, citizens' band (C.B.) radio facilities, amateur radio facilities, or satellite dishes.

Townhouse — A single-family attached dwelling situated on its own lot but attached to one or more similar dwelling units by a common wall and each unit has its own front and rear access to the outside and no unit is located over another unit.

Tract — An area of land that is not a lot or a public right-of-way, platted as part of a subdivision, and the use of which is restricted to those uses consistent with the stated purpose as described on the plat, in the maintenance agreements, or through CC&Rs. Examples include stormwater management tracts, private street or alley tracts, school tracts, open space tracts, and tracts for future development.

Trade Schools — Educational facilities which are publicly or privately operated and provide training for trades, such as welding, automobile mechanic, dog grooming, barbers, etc.

Traffic Markings — All lines, patterns, words, colors or other devices, except signs and power operated traffic-control devices, set into the surface of, applied upon, or attached to the pavement or curbing or to objects within or adjacent to the roadway, placed for the purpose of regulating, warning or guiding traffic.

Trails — A corridor or recreational easement developed for non-motorized uses such as biking, hiking, horseback riding.

Transportation Impact Study — A report that documents a study of traffic conditions before and after construction of a proposed development prepared in accordance with the ECM. It addresses any deficiencies in the transportation system, either current or after development, and proposes recommended mitigation.

Trash Transfer Facility — A facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of containerized collection receptacle and placed into another or is processed for compaction.

Treatment Plant — A facility for the collection, treatment, and disposal of sanitary sewage that complies with the minimum standards specified in the Design Criteria Considered in the Review of Wastewater Treatment Facilities, Colorado Department of Health and Environment, Water Quality Control Commission, and generally has a design capacity to receive more than 2,000 gallons of sewage per day ; or a facility for the treatment, purifying, supplying, and holding of raw water designed to meet the water quality requirements contained in the Colorado Primary Drinking Water Regulations.

Tree Farm — Any parcel of land used to grow and harvest trees for wood products, such as lumber, posts and poles, fuel wood and Christmas trees, where forest products are sold on-site or transported to market.

Truck and Recreational Vehicle Repair Garage — A building used for the care or repair of trucks generally larger than ½ ton and recreational vehicles including major or minor work such as body and fender work or engine and transmission overhaul and incidental storage or parking of repaired vehicles, but excluding the dismantling or wrecked vehicles or storage of junk vehicles.

Truck Farm — An intensive agricultural operation for the growing of produce for sale.

Truck Stop — An establishment that provides maintenance, repair, storage and other services to commercial vehicles and their drivers, which may include but are not limited to fuel, accessory or parts sales, overnight accommodations, restaurant facilities, or any combination thereof.

Trucking and Motor Freight Terminal — A facility designed or intended to be used for the receiving or discharging of cargo and providing for the temporary or permanent storage of the conveyance vehicle.

Turf Grass — Continuous plant coverage consisting of hybridized grasses that, when regularly mowed, form a dense growth of leaf blades and roots.

Turnout — A widening in a road of sufficient length and width to allow vehicles to pass one another.

Unified Control — Control of two or more lots, parcels or tracts of land by one or more landowners through a joint operating agreement, right to purchase, or similar agreement, but developed and implemented under a unified plan to which the owners, successors, heirs, or assigns shall be bound by the approved development plan, including any amendments thereto approved by the County.

Urban Density Development — Land development of higher density and intensity which is characteristically provided with services of an urban nature (i.e. central water and sewer, fire hydrants, paved roads often with curb and gutter, and shorter emergency service response times). This category of development ordinarily includes most commercial, office and industrial uses and residential uses with densities of more than one dwelling unit per 2.5 acres.

Use, Accessory — A subordinate use, incidental and related to the principal structure or use and located on the same lot or parcel as that of the principal structure or use (or on a contiguous lot or parcel in the same ownership upon the recording a combination or use agreement that binds the use to both lots or parcels in common ownership).

Use, Allowed — Any use permissible in a zoning district provided all provisions and standards of this Code have been satisfied.

Use, Commercial — A business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include offices and retail shops.

Use, Industrial — A use engaged in the basic processing or manufacturing of materials or products predominately from extracted or raw materials or natural resources, or component parts; a use engaged in storage of, or manufacturing processes using flammable, hazardous or explosive materials; or manufacturing processes that potentially involve hazardous or commonly recognized adverse conditions.

Use, Nonconforming — Any legally existing use, whether within a structure or on a piece of land, which does not conform to the use regulations of the zoning district in which the use is located, either at the effective date of this Code or as a result of the subsequent amendments which may be incorporated into this Code.

Use, Principal — An activity or combination of activities of chief importance on the lot or parcel. The main purposes for which the land is intended, designed, or ordinarily used.

Use, Special — A use that, owing to some special characteristics attendant to its operation or installation (e.g. potential danger, traffic, smoke or noise impact), is allowed in a zoning district, subject to approval and special requirements, different from those usual requirements for the zoning district in which the special use may be located.

Use, Temporary — A seasonal, short-term or transient land use allowed on a property on a temporary basis.

Utilities — Water, sewer, gas, electric power, stormwater, telephone and cable television and other facilities or services necessary to reasonably provide for the needs of a development or subdivision.

Utility — Any public or private entity whose principal purpose is to provide electricity, water, sewer, storm drainage, gas, radio, television, telephone, and other forms of communication utilizing the electromagnetic spectrum to the public.

Utility Substation — Any electric transmission lines, substations or electric utilities, major gas regulator station, transmission and gathering pipelines and storage areas of utilities providing natural gas or petroleum derivatives and their appurtenant facilities.

Vacation of a Plat, Right-of-Way, or Public Easement — The process through which recorded plats, rights-of-way, or public easements, or portions thereof are made null and void by action of the BoCC pursuant to the statutory procedure by which the County may relinquish its interest in roads, alleys, or easements, and may authorize the vacation of plats.

Variance — The means by which an adjustment is made in the application of the specific bulk, dimensional, or performance standards set forth in this Code to a specific property.

Variance, Use — The means by which a use not otherwise authorized as an allowed, special, or accessory use by this Code may be approved for a specific property.

Vehicle, Inoperable — A vehicle which is damaged or dismantled to a degree that it is unable to move under its own power or is unsafe or illegal to operate on public road rights-of-way. This definition does not include implements of husbandry, farm tractors, farm or ranch equipment, or vehicles customarily operated in a farm or ranch operation.

Vehicle Repair Garage, Commercial — An establishment used for the care or repair of passenger vehicles and light trucks, including major or minor work such as paint, body and fender work or engine and transmission overhaul and incidental storage or parking of repaired vehicles, but excluding the dismantling of wrecked vehicles and the storage of junk vehicles.

Vested Property Rights — The right to undertake and complete the development and use of the property under the terms and conditions of a site specific development plan.

Vineyard — A plantation of grapevines, typically producing grapes used in winemaking. Accessory uses may incude a tasting room and winery where wine is made using some of the grapes cullivated onsite.

Violator, Alleged — The owner of record, whether person, partnership, firm, corporation, governmental agency or other association of persons, any authorized agent or representative of the owner of record and any occupant of the premises or property upon which there is probable cause to believe a violation of this Code, a County Ordinance, or a development permit or approval exists or has occurred.

Waiver — The request or action for relief from compliance with a specific development standard, subdivision standard, or submittal requirement or action.

Warehouse — A building or portion thereof used by the occupant for the inside storage, safekeeping, distribution or selling at wholesale of goods and materials in the regular course of commercial dealing and trade. This generally includes land and buildings used as a relay station for the transfer of goods from one vehicle or party to another, and the parking and storage of tractor and other trailer units, and may include incidental retail sales. Bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions is considered flammable material storage or hazardous material storage.

Waste Water Lift Station — A wastewater pumping station used to pump wastewater when the continuance of a gravity sewer line is not feasible.

Water, Non-Renewable — Unless otherwise specified by the State Engineer or a State court of competent jurisdiction, all tributary, nontributary and not nontributary groundwater, as defined by appropriate State Statute, found in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, and other bedrock aquifers.

Water, Surface — Water which flows in rivers and streams. Surface and alluvial groundwater include waters diverted out of surface streams and water diverted out of wells or other structures which are hydraulically connected to a surface stream. Water meeting this definition is governed by the Water Right

Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 et seq., Surface water and alluvial groundwater are said to be tributary, and thus, are governed by Colorado's prior appropriation doctrine.

Water Demand — The total quantity of water a proposed subdivision will require for a period of 300 years.

Water Right, Adjudicated — A decree issued by a Colorado State Water Court or a determination issued by the Colorado Groundwater Commission that grants an appropriation of water to an owner.

Waters of the State — All surface and underground water in or tributary to all natural streams within the State of Colorado, except designated groundwater as referred to in C.R.S § 37-90-103(6) pursuant to C.R.S. § 37-92-1 03(1 3).

Well — Any structure or device used for the purpose or with the effect of obtaining groundwater for beneficial use from an aquifer. Well does not include a natural flowing spring or spring where the natural spring discharge is captured or concentrated by installation of a near-surface structure or device less than ten feet in depth located at or within fifty feet of the spring or springs' natural discharge point and the water is conveyed directly by gravity flow or into a separate sump or storage. C.R.S. § 37-90-103(21)(a) and (b); § 37-92-103(14)(a) and (b).

Well Permit, Domestic Use — Permitted water use for up to one acre foot per year which may include household use, irrigation and watering of domestic animals.

Well Permit, Exempt — Water permits issued by the State of Colorado for certain small capacity wells based on the presumption of non-injury to senior water rights in accordance with C.R.S § 37-90-105 and § 37-92-602. The presumption does not apply when the well is located in a subdivision.

Wet Bar — An area in a dwelling used for the preparation of refreshments and cocktails. A wet bar shall be limited to a one-basin sink with no garbage disposal, a small refrigerator, and counter and storage areas. The installation of any cooking device (other than a portable microwave or similar device) shall constitute a kitchen.

Wetlands — Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetlands Analysis — A report that identifies any existing wetlands in the National Wetlands Inventory or from field inspection that are located on a lot, parcel, or tract, or affected by drainage from a lot, parcel, or tract and any proposed wetlands. The report provides a description of potential impacts from a proposed activity and identifies methods or strategies to address or mitigate the described impacts.

Whip Antenna — An array of antennae that is cylindrical in shape.

Wholesale — A business use characterized by the selling of goods primarily to retailers, contractors, manufacturers, industrial users, commercial users or professional business users.

Wildfire Mitigation — The actions taken to reduce the occurrence of or reduce the damage from wildfire.

Wildland Fire — An unplanned and uncontrolled fire spreading through vegetative fuels, at times involving structures.

Wildland Fire Area — An area where improved property and wildland fuels meet at a well-defined boundary, which includes areas identified as forested on the Vegetation Map.

Wildland/Urban Intermix — An area where improved property and wildland fuels meet with no clearly defined boundary.

Wildlife Habitat Map — Maps that represent the general geographic extent of habitats occupied by various wildlife species. Species are anticipated to occur within these areas during all or a portion of their life cycle.

Wildlife Report — A written document that identifies the wildlife resource within the general area of a development project and that describes the impacts to the resource as a result of a project. The report shall also identify methods that will mitigate any potential impacts to the resource.

Wildlife Rehabilitation — The act of rehabilitating sick, injured, or orphaned wildlife by a person licensed by the Colorado Division of Wildlife, but excluding veterinarians, for the purpose of returning them back to the wild.

Wind Energy Generation Facility — A large-scale electrical energy generation facility with a minimum energy generation capacity of 500 kilowatts typically consisting of wind turbines, meteorological data gathering devices, collection lines, electrical substation(s), transmission line(s), and other appurtenant facilities.

Wind/Meteorological Measuring Facility (Met Tower) — The location and devices used to monitor or transmit weather data and/or wind speed and wind flow characteristics over a period of time, either for instantaneous wind information or to characterize weather conditions or wind resources at a given location. This includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices.

Wind Powered Generator — A machine by which mechanical energy supplied by the wind is changed to electric energy, generally located in association with a single dwelling or business.

Xeriscape — The application of the principles of landscape planning and design, soil analysis and improvement, appropriate plant selection, limitation of turf area, use of mulches, irrigation efficiency, and appropriate maintenance that result in water use efficiency and water-saving practices.

Yard — The unoccupied or vacant portion of a lot, parcel or tract between the lot, parcel or tract boundary line and a structure.

Yard, Front — A yard extending across the width of the lot, parcel, or tract and measured from the front boundary line of the lot, parcel or tract on which the lot, parcel, or tract fronts or is addressed by to the nearest building. A lot, parcel, or tract bordered by roads on both sides shall have two front yards for setback purposes.

Yard, Rear — A yard extending across the width of the lot, parcel or tract and measured from the rear boundary line of the lot, parcel or tract to the nearest building. The rear line of the lot, parcel or tract shall be that line most nearly parallel with the line of the road on which said lot, parcel or tract is numbered and toward the rear of said lot, parcel or tract as it faces on that road.

Yard, Side — A yard on each side of the building between the building and the side line of the lot, parcel or tract and extending from the front yard to the rear yard.

Yard Sale — The sale or offering for sale on site of articles of tangible personal property by the owner, lessee or other occupant of the residential dwelling. The term yard sale shall include patio sale, garage sale, rummage sale, auction, or any other similar sale.

Yard Waste Recycling Facility — See Composting Facility.

Zero Lot Line — The location of a structure on a lot, parcel or tract in such a manner that one or more of the structure's sides rest directly on a lot, parcel or tract boundary line with no easement or setback requirement, including two adjoining structures on separate lots, parcels or tracts sharing a common wall.

Zone A Floodplain — The area of Special Flood Hazard as depicted on the Flood Insurance Rate Maps where detailed ratemaking has not been completed.

Zoning District — A specifically delineated area within which uniform regulations and requirements govern use, placement, spacing, and size of lots, parcels and buildings.

Zoning District, Agricultural — A zoning district where the primary intent of the zoning district is to provide for agricultural use or forestry while accommodating residential or other uses.

Zoning District, Base — All general zoning districts, special purpose zoning districts, and obsolete zoning districts. The land use restrictions in a base zoning district may be modified by an overlay district.

Zoning District, Commercial — A zoning district where the primary intent of the zoning district is to provide for commercial and office use while accommodating some other uses.

Zoning District, Industrial — A zoning district where the primary intent of the zoning district is to provide for industrial and manufacturing use while accommodating some other uses.

Zoning District, Obsolete — A zoning district which remains applicable to land but which has been determined by the BoCC to be outdated and which cannot be applied to any additional land within the county.

Zoning District, Overlay — An overlay zone is generally defined as any specially mapped zoning district which is subject to supplementary regulations or requirements for development. Overlay zoning districts, by either adding restrictions to or removing restrictions from the base zoning district, include specific provisions designed to address issues unique to a particular geographic area.

Zoning District, Residential — A zoning district where the primary intent of the zoning district is to provide for human habitation in dwelling units or recreational vehicles while accommodating some other uses.

Zoning District, Special Purpose — Zoning districts designed to accommodate unique uses or development types or to address special development conditions. Special purpose zoning districts are base zoning districts.

Zoning Map — The official zoning map of El Paso County as originally adopted May 11, 1942 and subsequently amended by various resolutions to apply zoning or to change the previous zoning of a property.

Zoning Resolution — The provisions of this Code including all amendments to this Code that regulate the use of land within any zone district and any resolution of approval adopted by the BoCC that applies zoning or changes the zoning of land within unincorporated El Paso County. The zoning resolution includes the Zoning Map.

(Res. No. 15-503, Exh. A, 12-15-2015; Res. No. 16-164, 5-17-2016)

1.16. - ABBREVIATIONS OF TERMS AND PHRASES

The following represent the abbreviations used in this Code. The abbreviations are in alphabetical order.

AASHTO — American Association of State Highway and Transportation Officials

ADA — Americans with Disabilities Act of 1990

ADT — Average Daily Traffic

ANSI RVIA — American National Standards Institute Recreational Vehicle Industry Association

BESQCP — Builder's Erosion and Stormwater Quality Control Permit

BMP — Best Management Practice

BoCC — Board of County Commissioners

CD — Certificate of Designation

CRS — Colorado Revised Statute

CC&Rs — Covenants, conditions and restrictions

CDOT — Colorado Department of Transportation

CDPHE — The Colorado Department of Public Health and Environment

CGS — Colorado Geologic Survey

CMRS — Commercial Mobile Radio Service Facility

CO — Certificate of Occupancy

CSFS — Colorado State Forest Service

CLOMR — Conditional Letter of Map Revision

CSU — Colorado State University

dbA — Sound Level, A-Weighted

DBPS — Drainage Basin Planning Study

DNL — Day-Night Average Sound Level

DOW — Colorado Division of Wildlife

PCD — Planning and Community Development Department

PCD Director — Planning and Community Development Department Director or delegated representative

ECM — The El Paso County Engineering Criteria Manual

ECM Administrator — The County Engineer or delegated representative

EPCBOH----El Paso County Board of Health

EPCCSD — El Paso County Community Services Department

EPCPH — El Paso County Public Health (formerly El Paso County Department of Health and Environment)

EPCDPW — El Paso County Department of Public Works (formerly Department of Transportation)

ESD — El Paso County Environmental Services Department

ESQCP — Erosion and Stormwater Quality Control Permit

FAA — The United States Department of Transportation Federal Aviation Administration

FAR — Federal Aviation Regulations

FAR — Floor Area Ratio

FCC — Federal Communications Commission

FCWFCGD — Fountain Creek Watershed Flood Control and Greenway District

FEMA — Federal Emergency Management Agency

FIRM — Flood Insurance Rate Map

GPD – Gallons Per Day

HOA — Homeowners' Association

IESNA — Illuminating Engineers Society of North America

LDC — The Land Development Code of El Paso County

Ldn — Day-Night Equivalent Sound Level

Leq — Equivalent Sound Level

LOMR — Letter of Map Revision

MDDP — Master Development Drainage Plan

MLRB — Colorado Mined Land Reclamation Board

MTCP — Major Transportation Corridor Plan

MUTCD — Manual of Uniform Traffic Control Devices.

NFPA — National Fire Protection Association

NLR — Noise Level Reduction

NRCS — Natural Resource Conservation Service

OCA — Office of the El Paso County Attorney

OWTS — Onsite Wastewater Treatment System

PPACG — Pikes Peak Area Council of Governments

RLUP — Rural Land Use Plan

SD/LID Committee — Special District/Local Improvement District Committee

SFHA – Special Flood Hazard Area

SIA — Subdivision Improvements Agreement

TIS — Transportation Impact Study

USACOE — United State Army Corps of Engineers

USFS — United States Forest Service

Chapter 2 - ADMINISTRATION

2.1. - GENERAL

2.1.1. Purpose

This Chapter sets forth the general authorities used in the administration of LDC including the types of review processes established to facilitate fair and effective decision-making and to encourage public participation.

2.1.2. Procedures Manual

The PCD Director shall establish processes, standards, and procedures to support the efficient review of development applications for conformance with this Code and State statute. The processes, standards, and procedures established by the PCD Director shall be published in a Procedures Manual, and may include detailed submittal requirements, application forms, review procedures including public notice requirements, review policies and guidelines to support the implementation and administration of the LDC. The public notice requirements the Procedures Manual, including the nature, extent, time period, and methods of delivery, shall, at a minimum, conform to the requirements of State Statute. The public notice requirements established by the PCD Director may exceed the minimum requirements of State Statute where determined necessary by the PCD Director to achieve the purposes of this Code.

The Procedures Manual and any amendments thereto shall become effective when approved by the PCD Director; however the Procedures Manual and any amendments thereto shall be submitted to the Planning Commission and BoCC for review and comment within 30 days of approval by the PCD Director. The Planning Commission and BoCC shall provide comments to the PCD Director within 30 days of receipt of the Procedures Manual or any amendment thereto. The PCD Director shall consider any comments provided by the Planning Commission and BoCC, and may amend the Procedures Manual based on the comments received from the Planning Commission and BoCC. The Planning Commission and BoCC may, but are not required to, endorse the Procedures Manual and any amendments thereto.

The Procedures Manual is a management and administration tool for the PCD. As a result, it is the duty of the PCD Director to develop and maintain the Procedures Manual in a manner that ensures the achievement of organizational and administrative efficiencies, timely processing of development applications, and effective and fair public involvement in the processing and review of development applications and administration of this Code.

A copy of the Procedures Manual shall be on file in the PCD. The Procedures Manual shall control the processing and review of all development applications.

2.1.3. Master Plan Advisory

Simply by stating in this Code a requirement or preference for Master Plan consistency, the Board of County Commissioners has not by such statement rendered the Master Plan a binding requirement or regulation for either zoning or subdivision matters. The Board of County Commissioners' intent as expressed in its various Master Plan elements and in Appendix A, § A.1.6(B) to this Code is that the Master Plan be advisory only, and that the Board of County Commissioners retains its considerable discretion in deciding how to apply the Master Plan in making land use decisions.

2.1.4. Resubmittal of Denied Application

No development application which has been denied by the final decision-making authority for such application may be resubmitted unless evidence is presented showing that there has been a substantial change in conditions or circumstances. A substantial change has occurred when the development application is substantially different in a material way from the one previously denied, or the conditions or circumstances surrounding the development application and material to the approval criteria for such application have substantially changed.

2.2. - AUTHORITIES

2.2.1. BoCC (Board of County Commissioners)

The authority of the BoCC to conduct its activities is established by State Statute. The manner in which those activities are conducted is established by BoCC Resolution Number 05-106, as may be amended from time to time. In addition to any authorities identified in BoCC Resolution Number 05-106, the BoCC is empowered to do the following with respect to administration of this Code:

(A) **Adopt Regulations.** The BoCC may adopt and amend the LDC including, but not limited to, zoning and subdivision regulations and any associated maps.

(B) **Approve Permits and Applications.** The BoCC may approve, approve with conditions, or deny map amendments, code amendments, special use permits, variance of use applications, preliminary plans, final plats, development plans, Development Agreements, and all other actions as identified by this Code, the Procedures Manual, or as established by State Statute.

(C) **Revoke Prior Approvals.** The BoCC may void plats, SIAs or other official documents, or agreements if it is found there has been a material misrepresentation of fact, a failure to abide by conditions of approval, or violation of time limits established in this Code that impacts the design, or legal or physical status of a subdivision or development proposal after holding a hearing, following the proper notice procedure, in order for the parties in interest to have the opportunity to address any misrepresentation of fact or non-compliance issue.

(D) **Appoint Members.** The BoCC shall appoint members of the Board of Adjustment and Planning Commission.

(E) **Retain Experts.** The BoCC may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.

(F) **Delegate Powers.** The BoCC may delegate powers, duties, and responsibilities to the Planning Commission, Board of Adjustment, other boards and commissions or committees, and County staff to the extent permitted by law and provided that the delegation is made subject to specific instruction, criteria, and standards to guide the exercise of any delegated discretion.

(G) **Impose Reasonable Conditions.** The BoCC may impose reasonable conditions upon approval of any application.

(H) **Interpret this Code and Hear Appeals.** The BoCC is the ultimate interpreter of the meaning and application of this Code as to the type, nature and rights of uses, conforming and nonconforming, as allowed under this Code. Except for those procedures expressly prescribed for appealing of certain administrative decisions, all interpretations or applications by the PCD Director as they relate to uses under this Code and believed to be erroneous or inapplicable may be appealed to the BoCC.

(I) **Grant Waivers.** The BoCC, at a public hearing on a specific application, may hear the request for a waiver from the subdivision design standards of Chapters 6, 7 and 8 and decide to accept or reject the request, or make modifications to the waiver request.

2.2.2. Planning Commission

(A) **Establishment, Membership, and Rules of Procedure.** The BoCC shall appoint a Planning Commission. The Planning Commission shall consist of 9 commission members. Each member shall be a resident of El Paso County. The Planning Commission shall meet once a month or as often as deemed necessary for the transaction of business. The authority of the Planning Commission to conduct its activities, the process for appointment, and the terms of its members are provided in the bylaws of the Planning Commission and by State Statute. The Planning Commission may adopt policies and procedures as it may consider necessary or advisable to discharge its statutory functions, and it shall keep a record of its proceedings

(B) **Authority.** All decisions of the Planning Commission constitute a recommendation to the BoCC, except those relating to the Master Plan, approval of location, and site approval applications. The Planning Commission, through the authority granted to it by the BoCC and State Statute, is empowered to do the following with respect to administration of this Code.

(1) **Develop and Adopt a Master Plan.** The Planning Commission may develop and adopt a Master Plan for the physical development of the unincorporated area of the County in accordance with the provisions of C.R.S. § 30-28-106.

(2) **Review and Act Upon Applications for Amendment to the Master Plan.** The Planning Commission may review and approve any amendment to the Master Plan, whether initiated by the County or any citizen or group.

(3) **Develop and Adopt a Zoning Plan.** The Planning Commission may develop and make a zoning plan or plans for zoning all or part of the unincorporated territory within the County including potential amendments to this Code including text and maps representing those applicable policies identified in the Master Plan. Any regulation or amendment shall be subject to the review and formal adoption by the BoCC.

(4) **Develop Subdivision Regulations.** The Planning Commission may develop, propose, and recommend subdivision regulations and amendments to subdivision regulations.

(5) **Review and Act Upon Applications for Approval of Location of Public Facilities.** The Planning Commission may review and act upon applications for the approval of location for a public building, way, place, or space in accordance with the provisions of CRS § 30-28-110

(6) **Retain Experts.** The Planning Commission may consider the qualifications of, contract with, and retain technical experts to assist in the review of proposals submitted pursuant to this Code.

(7) **Make Recommendations on Applications.** The Planning Commission may review and make recommendations concerning applications for zoning text and map amendments, special use permits, variance of use applications and subdivisions of land and any other applications as identified in this Code, State Statute and the Procedures Manual.

(8) **Recommend or Impose Reasonable Conditions Upon Approvals.** The Planning Commission may recommend reasonable conditions for approval of any application where the Planning Commission acts as a recommender and may impose reasonable conditions on approval of any application where the Planning Commission acts as a decision maker.

2.2.3. Board of Adjustment

(A) **Establishment, Membership, and Rules of Procedure.** The BoCC shall appoint a Board of Adjustment. The Board of Adjustment is established by resolution of the BoCC pursuant to State Statutes. The Board of Adjustment shall consist of 5 members. Each member shall be a legal resident of El Paso County. The Board of Adjustment shall meet once a month or as often as necessary for the transaction of its business. The meetings shall be noticed and open to the

public.. The affirmative vote of at least 4 members is required for any action by the Board of Adjustment regarding an appeal or application.

(B) **Authority.** The Board of Adjustment shall hear and determine appeals of general relief decisions and dimensional variances in accordance with this Code the Procedures Manual, or as established by Colorado law. Decisions of the Board of Adjustment may not be appealed to the BoCC, but shall be appealed pursuant to State Statute and State Rules of Civil Procedure. The Board of Adjustment, through the authority granted to it by C.R.S. § 30-28-117 and C.R.S. § 30-28-118 and this Code, is empowered to do the following with respect to administration of this Code.

(1) **Grant Variances.** The Board of Adjustment may grant or deny a variance pursuant to the requirements and procedures of this Code relating to special physical requirements, but not to use, of the property.

(2) **Hear and Decide Appeals of Administrative Determinations.** The Board of Adjustment may hear and decide appeals brought by any aggrieved person regarding allegations of error by an administrative official in the application or enforcement of this Code.

(3) **Impose Reasonable Conditions.** The Board of Adjustment may impose reasonable conditions on approval of any application.

2.2.4. PCD Director

(A) **Designation.** The PCD Director is designated as the official charged with the administration of the LDC.

(B) **Powers and Duties.** The PCD Director, through the authority granted by this Code, the County Administrator and the BoCC, is empowered to do the following with respect to administration of this Code.

(1) **Render Interpretations.** The PCD Director may render interpretations of all provisions of this Code. Interpretations applicable to 2 or more properties (general interpretation) shall be collected and retained by the PCD and made available to the public for inspection. Each general interpretation shall be provided to the Planning Commission, Board of Adjustment and BoCC.

(2) **Establish Application Requirements.** The PCD Director may establish application and submittal requirements and schedules for review of applications and appeals pursuant to this Code.

(3) **Provide Advice.** The PCD Director may provide expert technical assistance to the BoCC, the Planning Commission, and the Board of Adjustment and determine when outside, technical expertise is needed to assist in the review of any development application submitted pursuant to this Code.

(4) **Review Applications.** The PCD Director may review development applications and make recommendations to the BoCC, the Planning Commission, and the Board of Adjustment concerning compliance with this Code.

(5) **Maintain Master Plan.** The PCD Director may maintain the Master Plan including, but not limited to, land use, transportation, and open space elements.

(6) **Administer Standards and Regulations.** The PCD Director may administer the provisions of this Code as they relate to the review and permitting of development.

(7) **Promulgate Administrative Forms.** The PCD Director may promulgate and require the use of application forms and other standardized documentation deemed necessary or helpful to administer the provisions of this Code.

(8) **Make Administrative Decisions.** The PCD Director may issue written administrative decisions and determinations concerning the application of this Code to specific property or

development applications and permit renewals, including any grant of relief allowed by this LDC

(9) **Issue Administrative Permits.** The PCD Director may review and issue administrative permits pursuant to the requirements and procedures of this Code.

(10) ~~—~~**Sign Plats and Other Administrative Documents.** The PCD Director may sign plats and other documents relating to the application of this Code to specific property or development applications.

(11) **Approve Final Plats.** The PCD Director may administratively approve ~~a~~ final plats, vacations, replats, and final plat amendments ~~and final plat~~ pursuant to the requirements and procedures of this Code.

(12~~1~~) **Approve Certain Minor Agreements**

The ~~DSD~~ PCD Director may review and approve certain minor agreements, including the subsequent release of collateral associated with such agreements. These agreements include Subdivision Improvement Agreements (SIA) associated with administratively approved final plats, Sidewalk Completion Agreements, Landscape Completion Agreements, Private Detention Basin ~~Improvement~~ and Best Management Practices (BMP) Agreements, ~~and~~ Parking Lot Paving Agreements, and all other agreements necessary to carry out the intent of this Code.

(132~~1~~) **Interpret Maps and Regulatory Documents.** The PCD Director may interpret maps and regulatory documents for their applicability to a development application, and consult with any other agencies in that interpretation.

(143~~2~~) **Delegate Decision Making Authority.** The PCD Director may delegate decision making authority to staff on development applications, maps, or other matters in accordance with the decision-making procedures of the LDC.

(15~~4~~) **Other Administrative Authorities.** The PCD Director has the authority to complete all other actions as necessary to carry out the intent of this Code.

Chapter 7 - RULES GOVERNING DIVISIONS OF LAND

7.1. - GENERAL

7.1.1. Purpose

The purpose of this Chapter is to establish the rules governing the division of land in El Paso County in accordance with C.R.S. §§ 30-28-101 et seq., and to provide clear criteria the County will use in processing and approving divisions of land. It is hereby declared that the standards contained in this Chapter are necessary for the protection and preservation of the public health, safety and general welfare. It is intended that the implementation of these standards accomplish the following objectives:

- Provide efficient and effective review, determination, and compliance procedures;
- Ensure proper legal description, identification, monumentation, and recording of property boundaries;
- Ensure adequate access;
- Prevent the haphazard division of land and the inadequate provision of physical improvements;
- Ensure that a division of land complies with other rules and regulations, such as zoning and environmental regulations, pertinent to the development;
- Ensure safe and convenient traffic control;
- Prevent flooding within developments by providing adequate flood control and drainage facilities;
- Ensure the installation of necessary and adequate roads, water, wastewater, and sidewalk facilities; and
- Ensure compliance with C.R.S. §§ 30-21-101 et seq., and the Master Plan C.R.S. § 30-28-106.

7.1.2. Applicability

Any subdivision, subdivision exemption, or other action that creates or modifies property boundaries or interests in property, as defined by this Code, shall conform to the requirements of this Chapter.

7.1.3. Requirement to File Plat for Recording

The filing for recording with the Clerk and Recorder of an approved plat is required for all subdivisions, subdivision exemptions, or other actions that create or modify property boundaries or interests in property except as otherwise provided by this Code.

An approved plat shall be filed for recording with the Clerk and Recorder within one year of receiving final approval from the approving authority. If the approved plat is not filed within one year of receiving final approval from the approving authority, the approval shall be void and the plat shall not be filed for recording until a new approval is granted by the applicable approving authority in accordance with the requirements of this Code and the Procedures Manual.

7.1.4. Compliance with Regulations

(A) **No Unusable Lots, Tracts or Parcels.** No lot, tract, or parcel of land shall be created, either by inclusion within or exclusion from a subdivision, subdivision exemption or other action that creates or modifies property boundaries or interests in property, as defined by this Code, which will result in a lot, tract, or parcel of land that cannot be used for an allowed use under the existing zoning district standards including all applicable dimensional standards.

(B) **Approval of Action Does Not Abrogate Responsibility to Comply with Other Regulations.** The approval of a subdivision, subdivision exemption or other action that creates or modifies property boundaries or interests in property, as defined by this Code, does not abrogate any legal requirement to comply with the rules and regulations of any other governmental agency, local, state, or federal, which may have jurisdiction over the proposed activity.

7.1.5. Taxes Paid

No plat of a subdivision, subdivision exemption or other action that creates or modifies property boundaries or interests in property, as defined by this Code, shall be filed for recording with the Clerk and Recorder until all taxes have been paid on the land.

7.1.6. Design Objectives

A division of land should be designed to create a functional and attractive environment, minimize adverse impacts, provide maximum livability, provide safe and efficient access and circulation, and generally be an asset to a community. The approval authority may, in the application of this Code, exercise design discretion to achieve the intent and purpose of this Code. All divisions of land shall comply with the design standards in Chapter 8 unless otherwise specifically provided.

7.1.7. Review Procedures

The PCD Director shall coordinate the formal technical review of all divisions of land to ensure the plats are prepared in accordance with all applicable codes, ordinances, and development standards. The PCD Director shall prepare and implement detailed procedures and standards for document preparation, submittal, and review to carry out the intent of this Code for subdivisions, subdivision exemptions, or other action that creates or modifies property boundaries or interests in property, as defined by this Code. The procedures and standards shall be incorporated into the Procedures Manual by the PCD Director. The PCD Director has the discretionary authority to modify the review procedures from time-to-time to meet the intent and purpose of this Code and pursuant to C.R.S. § 30-28-133.5.

7.1.8. Vesting

The recording of the approved plat is considered a site specific development plan for the purposes of establishing vested rights. No additional vesting procedure is required.

7.2. - SUBDIVISIONS, SUBDIVISION EXEMPTIONS, AND OTHER ACTIONS THAT CREATE OR MODIFY PROPERTY BOUNDARIES OR INTERESTS IN PROPERTY

7.2.1. Subdivisions

(A) **Purpose.** The purpose of this Section is to identify the types of subdivisions that are recognized by El Paso County and the criteria by which their conformance with this Code and C.R.S. §§ 30-28-133 through 139, will be established.

(B) **Applicability.** This Section shall apply to all divisions of land that meet the statutory definition of subdivision and are not otherwise exempted from the term "subdivision" by the BoCC.

(C) **Type of Subdivisions.**

(1) **Minor Subdivision.**

(a) **Purpose.** The purpose of establishing the minor subdivision is to provide a simplified review process which combines preliminary plan and final plat for subdivision of limited impact and complexity.

(b) **Applicability.** A minor subdivision is a division of land that results in the creation of 4 or fewer lots that do not discernibly impact surrounding properties, environmental resources or public facilities.

(c) **Applicable Minor Subdivision Criteria for Approval.** A minor subdivision shall be required to conform to all preliminary plan and final plat requirements including the criteria for approval, except to the extent that those requirements are modified by this Code or the Procedures Manual.

(d) **Completed Action.** A minor subdivision shall be considered completed and in effect when an approved final plat is filed for recording with the Clerk and Recorder.

(e) **Circumvention of Process.** If it is determined that the applicant is using the minor subdivision process to circumvent the subdivision process such as the submittal of adjoining multiple minor subdivisions or multiple replats of the same property, the applicant shall be required to comply with the preliminary plan and final plat process.

(2) **Major Subdivision.**

(a) **Purpose.** The purpose of establishing the major subdivision is to provide a detailed and intensive review process for a complex subdivision which may have significant impacts on a neighborhood, water resources, the environment, and community facilities and services.

(b) **Applicability.** A major subdivision is a division of land that results in the creation of 5 or more lots in accordance with C.R.S. § 30-28-101(10)(d).

(c) **Applicable Major Subdivision Criteria for Approval.** A major subdivision shall be required to conform to all preliminary plan and final plat requirements including the criteria for approval. A sketch plan may be required where the PCD Director determines a sketch plan is necessary to support the efficient and comprehensive review of a major subdivision.

(d) **Completed Action.** A major subdivision shall be considered completed and in effect when an approved final plat is filed for recording with the Clerk and Recorder.

(D) **Subdivision Approval Process and Criteria for Approval.** The subdivision approval process is usually a three step process. The steps can occur concurrently in cases where the size and complexity of the subdivision are limited.

(1) **Sketch Plan.**

(a) **Description of Sketch Plan.** The sketch plan is the first step of the approval process for larger or more complex divisions of land. The sketch plan process reviews, at a conceptual level, the feasibility and design characteristics of the proposal based on the standards set forth in this Code. Minor subdivisions are not subject to the sketch plan process. The review examines the feasibility of the division of land including review of the schematic design, ability to obtain water and sanitation, location of geologic hazards, identification of environmentally sensitive areas and wildlife habitat areas, source of required services, vehicular and pedestrian circulation, relationship to surrounding land uses, evaluation of wildfire hazards and conformance with the

requirements of this Code and Master Plan. During this step, public hearings are held before the Planning Commission and the BoCC.

(b) **Applicability.** The determination of whether a sketch plan is required is made by the PCD Director.

(i) Sketch Plan Required. A sketch plan is generally required in the following instances:

- When the development is to be staged over an extended time, with multiple phases;
- When a variety of different land uses are proposed.

(ii) Sketch Plan Optional. A sketch plan may be used by the applicant or requested by the PCD Director when consistency of a proposed subdivision with the Master Plan is unclear, or subject to dispute.

(iii) Concurrent Review and Approval. A new sketch plan may be reviewed and approved concurrently with a zoning and concept plan or development plan for a PUD. A sketch plan amendment may be reviewed and approved concurrently with any zoning and platting actions.

(c) **Criteria for Approval.** In approving a sketch plan, the BoCC shall find that:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The proposed subdivision is in conformance with the requirements of this Code;
- The proposed subdivision is compatible with existing and proposed land uses within and adjacent to the sketch plan area;
- The water supply report provides sufficient information to identify probable compliance with the water supply standards and identifies any need for additional water supplies;
- Services are or will be available to meet the needs of the subdivision including, roads, police and fire protection, schools, recreation facilities, and utility service facilities;
- The soil is suitable for the subdivision;
- The geologic hazards do not prohibit the subdivision, or can be mitigated;
- The subdivision will not interfere with the extraction of any known commercial mining deposit [C.R.S. §§ 34-1-302(1), et seq.];
- The design of the subdivision protects the natural resources or unique landforms;
- The proposed methods for fire protection are adequate to serve the subdivision; and

• The subdivision is appropriate and the design is based on mitigating the constraints of topography, soil types, geologic hazards, aggregate resources, environmental resources, floodplain, airplane flight overlays, or other constraints.

(2) **Preliminary Plan.**

(a) **Description of Preliminary Plan.** The preliminary plan is generally the second step of the approval process for a large or complex division of land or the first step in the process for simpler divisions of land. The preliminary plan process will review the feasibility and design characteristics of the proposed division of land based on the standards in this Code. The preliminary plan process will also evaluate preliminary engineering design.

The purpose of the preliminary plan is to provide an in-depth analysis of the proposed division of land including a refinement of the design considering the geologic hazards, environmentally sensitive areas, source of required services, vehicular and pedestrian circulation, and relationship to surrounding land uses. The preliminary plan and reports shall meet the statutory requirements as contained in C.R.S. § 30-28-133, as amended. During this step public hearings will be held before the Planning Commission and the BoCC.

(b) **Applicability.** The preliminary plan applies to all subdivisions except those that can be classified as minor subdivisions.

(c) **Concurrent Review of Preliminary and Final Plat.** The preliminary plan may be submitted concurrently with the final plat if the proposed division of land and development of the lots does not require extensive engineering. The PCD Director shall determine whether a particular subdivision may combine processes. The preliminary plan may also be submitted in conjunction with a PUD rezoning application and serve as the development plan, as long as all applicable requirements for both applications are met.

(d) **Preliminary Plan Approval Required.** Preliminary plan approval or conditional approval is required in order to proceed to the final plat.

(e) **Criteria for Approval.** In approving a preliminary plan, the BoCC shall find that:

• The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;

• The subdivision is consistent with the purposes of this Code;

• The subdivision is in conformance with the subdivision design standards and any approved sketch plan;

• A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code (this finding may not be deferred to final plat if the applicant intends to seek administrative final plat approval);

• A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;

• All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)];

• Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;

• The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;

• Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;

• The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;

• Necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;

• The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and

• The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

(3) **Final Plat.**

(a) **Description of Final Plat.** The final plat is the last step in the approval process for a division of land. The final plat process will review the final engineering plans, the SIA, financial assurance, CC&Rs (if applicable), the plat, and any other documents, reports, or studies as necessary; and may also review issues such as building height, landscaping, and building envelopes which have been deferred.

The purpose of this Section is to detail the ~~approval~~ review and approval criteria for a final plat, engineering plans, SIA, and other legal requirements for platting a division of land. During this step, there ~~will~~ may be public hearings before the Planning Commission and BoCC.

(b) **Applicability.** A final plat shall be required for all subdivisions.

(c) **Concurrent Review of Preliminary Plan and Final Plat.** The final plat of the division of land may be processed concurrently with the preliminary plan of the proposed division of land; however, design modifications associated with the preliminary plan review may result in modifications to the final plat and delay the public hearing.

(d) **Final Plat Requires Preliminary Plan Approval.** Where a preliminary plan is required, a final plat may only be submitted if a preliminary plan for the subject property has been approved and the final approved version of the preliminary plan, incorporating any changes or conditions of approval, has been provided to the PCD. ~~However~~Similarly, in the case of concurrent submittal of a preliminary plan and final plat, the final plat may only be filed for recording if the final approved version of the preliminary plan, incorporating any changes or conditions of approval, has been provided to the PCD.

(e) **Final Plat for Portion of Preliminary Plat Area.** The final plat may be for a distinct portion of preliminary plan area to provide for phased development.

(f) **Criteria for Approval.** In approving a final plat, the ~~BoCC~~ approving authority shall find that:~~,~~

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;

- The subdivision is in substantial conformance with the approved preliminary plan;

- The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;

- Either ~~A~~a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code, or, with respect to applications for administrative final plat approval, such finding ~~has been~~was previously made by the BoCC ~~in connection with the~~at the time of preliminary plan approval;

- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of this Code;

- All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];

- Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;

- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;

• Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

• The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;

• Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;

• Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;

• The subdivision meets other applicable sections of Chapter 6 and 8; and

• The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]

(f) ~~**Criteria for Administrative Approval.** In approving a final plat, the PCD Director shall find that,~~

~~• The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;~~

~~• The subdivision is in substantial conformance with the approved preliminary plan;~~

~~• The PCD Director finds that those public improvements are consistent with those public improvements that the BoCC found to be adequate with the plan, and as identified in the BoCC preliminary plan resolution.~~

~~The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;~~

~~• A finding of sufficiency has previously been made by the BoCC with the preliminary plan approval, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;~~

~~• A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of this Code;~~

~~• All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];~~

~~• Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;~~

~~• Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;~~

~~• Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;~~

- ~~The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;~~
- ~~Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;~~
- ~~Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;~~
- ~~The subdivision meets other applicable sections of Chapter 6 and 8; and~~
- ~~The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]~~

7.2.2. Subdivision Exemptions

(A) **Purpose.** The purpose of establishing standards for exemptions is to provide framework whereby the BoCC may grant exemptions from the definition of the term subdivision for any division of land the BoCC determines is not within the purpose of C.R.S. § 30-28-101.

(B) **Applicability.** The BoCC may, pursuant to this Code, exempt from the definition of "subdivision" any division of land the BoCC determines is not within the purposes of the definition of "subdivision". The BoCC has exempted certain divisions of land from the definition of "subdivision" as set forth in C.R.S. § 30-28-101, as amended through the adoption of this Code.

(1) **Highway Rights-of-Way Exemptions.** Any parcel created by the division of a parcel of land which is the direct result of the acquisition, by condemnation or otherwise, of the state or County highway rights-of-way, and any parcel created by the right-of-way taken or acquired by federal, state or local government, shall be considered an exemption provided that the parcel being divided was not created illegally.

(2) **Utilities Exemptions.** Any parcel of land divided into two or more separate interests, one being the interest of the fee owner of the parcel and the other being easements or land granted for purposes of public or private utility lines entering or crossing the parcel, shall be exempt from the definition of the terms "subdivision", except when a division of land of this nature is made to avoid compliance with the provisions of C.R.S. § 30-28-101, as amended.

(3) **Open Space Exemptions.** Any parcel created by the division of a parcel of land which is the direct result of an acquisition by federal, state or local government for open space or park land shall be exempt from the definition of the term "subdivision", provided that the resulting parcel is in conformance with the minimum lot area requirements for the proposed use in the zone district in which said property is located and provided that the parcel being divided was not created illegally;

(4) **Boundary-Line Adjustments or Combination of Contiguous Parcels Exemptions.** The combination of contiguous unplatted parcels by the removal of a parcel boundary line or the reconfiguration of 2 unplatted parcels shall be exempt from the definition of the term "subdivision".

(5) **Condominiums and Townhome Exemptions.** A conversion of existing multiple units to condominium or townhome units as defined by C.R.S. § 38-33-103, as amended, where there is no increase in density from what was originally approved, shall be exempt from the definition of the term "subdivision".

(6) **Merger Exemptions.** Property held in single and separate ownership on or before July 17, 1972 which would otherwise be subject to the provisions of C.R.S. § 30-28-101, as amended, and the LDC, due to merger by contiguity into common ownership with adjacent property shall be exempt from the definition of the term "subdivision".

(7) **Rural Land Use Plan Exemption.** The Rural Land Use Plan Overlay District was removed from this Code by Board of County Commissioner Resolution No. 15-461. Any Rural Land Use Plan approved prior to the adoption of this Code or as otherwise amended, shall be governed by the approved and/or recorded Rural Land Use Plan, conditions of Board approval as contained in the recorded Board Resolution of the same and the Code in effect at the time of approval. Amendments or modifications deemed to minor by the determination of the Planning and Community Development Director may be approved administratively; those amendments or modification deemed to be major and/or substantial shall require approval by the Board of County Commissioners.

(C) **Exemption Lot and Parcel Design Standards.**

(1) **Comply with LDC.** The resulting lots or parcels shall comply with the LDC unless: (1) a waiver or variance of one or more of the provisions of the LDC has been approved; or (2) the lots or parcels are for community facilities including utilities.

(2) **Comply with Master Plan.** The resulting lots or parcels shall conform to the Master Plan and any applicable intergovernmental agreement concerning land use or development.

(3) **Avoids Hazards.** The resulting lots or parcels will not result in development on a topographic or geologic hazard or within the 100-year floodplain, unless it is determined by the Floodplain Administrator that all proposed uses are capable of receiving a floodplain development permit.

(D) **Exemption Not Subject to Certain Subdivision Standards.** Subdivision standards and requirements regarding water supply and subdivision exactions including drainage fees, park fees, and school fees shall not be applicable to an exemption.

(E) **Standards and Criteria for Specific Exemptions.**

(1) **Condominium and Townhome Plats.**

(a) **Purpose.** The purpose of this Section is to provide standards and criteria for approving an exemption plat for the creation of condominium units in existing buildings, townhomes on owned lots, and for new construction where the intent to create condominium units or townhome units was established with the approval of the final plat.

(b) **Applicability.** A condominium map or townhome plat may be approved where a condominium or townhome is proposed to be established on land that was platted in a manner intended for condominium or townhome uses at the density proposed, where the proposal involves:

- The conversion of an existing building to condominium units;
- The construction of a building in order to establish condominium; or
- The establishment of townhome units, where land ownership is conveyed to the homeowner.

(c) **Approval Criteria.** The PCD Director, in approving a condominium map or townhome plat, shall find:

- The proposed uses in the condominium units or townhome units are consistent with existing zoning of the site;

• The site complies with the approved Site Development Plan, where applicable;

• The condominium map or townhome plat is consistent with the intent of the original subdivision of the property and does not result in an increase in density;

• The condominium map or townhome plat complies with the monumentation and plat preparation standards required by State Statute;

• Access and utility connections as appropriate are provided for any subsequent phases of the project;

• Homeowners' association documents or their equivalent address the unit owners' rights and responsibilities with respect to parking, loading and access facilities, landscaping, utilities and any other common areas and facilities on the site; and

• Perpetual maintenance of common facilities by property owners is provided for by the homeowners' association documents and allow for the option of County to take over maintenance and charge the cost to the property owners until property owners demonstrate they can adequately maintain the property if the property owners fail to adequately maintain the common facilities.

(d) **Completed Action.** An action establishing a condominium or townhome shall be considered completed and in effect when an approved condominium map or townhome plat is filed for recording with the Clerk and Recorder.

(2) **Merger by Contiguity.**

(a) **Purpose.** The purpose of this Section is to establish standards whereby nonconforming substandard-sized lots or parcels can be combined to create a lot or parcel that more closely approximates the lot size requirements of the applicable zoning district to provide for building permit issuance for new construction or habitable additions, without necessitating a replat or variance.

(b) **Applicability.** The merger by continuity may be applied to any contiguous nonconforming lots or parcels of land where:

• Not more than one residential dwelling is located on the lots or parcels to be combined;

• The lots or parcels to be combined are located within the same zoning district; and

• The lots or parcels are owned in common ownership by the same person, persons or entity.

(c) **Interpretation of Contiguity.**

(i) Common Boundary. Lots or parcels shall be regarded as contiguous when not less than one-sixth of the perimeter of either lot or parcel is shared by both lots or parcels or if the lots or parcels share a common boundary of at least 50 feet, whichever is less.

(ii) Severance of Contiguity. The contiguity of lots or parcels shall not be considered severed by the existence, along their common boundaries, of a private road, road easement, driveway or alley; a public or private transportation or utility easement

or utility easement; a river, creek, stream, or other natural or artificial waterway; geologic condition that naturally or artificially divides property; or an intersecting mining claim.

(d) **Effect of Merger.** The following provisions shall be applied as a result of merger to the merged lots or parcels:

- The merged lots or parcels shall be considered as one lot or parcel of land for the purposes of application of this Code;

- The merged lots or parcels shall have setbacks applied only along the exterior boundaries of the merged properties;

- Lot frontage requirements shall not apply to merged lots or parcels; and

- The merged lots or parcels shall be considered a zoning lot.

(e) **No Guarantee of Merger Results in Buildable Parcel.** Merger does not guarantee that the resulting lot or parcel will meet the zoning district standards and be considered buildable, but shall establish the legality of the lot or parcel for zoning purposes.

(f) **Approval Criteria.** The PCD Director, in approving a merger by contiguity, shall find:

- The lots or parcels being merged are legal lots or parcels;

- The merger will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;

- The merger will not result in a nonconformity not otherwise existing prior to the merger;

- The merger is necessary to achieve compliance with the nonconforming lot or record provisions of this Code, or will accomplish a similar purpose;

- All separation distances for an OWTS can be met; and

- The extraction of areas designated as 100 year floodplain, major drainageways and slopes in excess of 30 percent leaves a single buildable area of at least 30 percent of the lot or parcel's total net area.

(g) **Completed Action.** These actions shall be considered completed and in effect when an approved merger agreement is filed for recording with the Clerk and Recorder.

(3) **Combination of Contiguous Lots or Parcels.**

(a) **Purpose.** The purpose of this Section is to establish standards whereby lots or parcels that are conforming with respect to lot area may be combined to create a zoning lot to provide for building permit issuance for new construction or habitable additions, without necessitating a replat or variance; or an illegal parcel may be joined to a legal lot.

(b) **Applicability.** The combination by contiguity may be applied to any contiguous lots or parcels of land where:

- Not more than one residential dwelling is located on the lots or parcels to be combined;
- The lots or parcels to be combined are located within the same zoning district; and
- The lots or parcels are owned in common ownership by the same person, persons or entity.

(c) **Interpretation of Contiguity.**

(i) Common Boundary. Lots or parcels shall be regarded as contiguous when not less than one-sixth of the perimeter of either lot or parcel is shared by both lots or parcels or if the lots or parcels share a common boundary of at least 50 feet, whichever is less.

(ii) Severance of Contiguity. The contiguity of lots or parcels shall not be considered severed by the existence, along their common boundaries, of a private road, road easement, driveway or alley; a public or private transportation or utility easement or utility easement; a river, creek, stream, or other natural or artificial waterway; a geologic condition that naturally or artificially divides property; or an intersecting mining claim.

(d) **Effect of Combination.** The following provisions shall be applied to the combined lots or parcels as a result of a combination agreement:

- The combined lots or parcels shall be considered as one lot or parcel of land for the purposes of application of this Code (i.e., zoning lot);
- The combined lots or parcels shall have setbacks applied only along the exterior boundaries of the combined properties; and
- The combined lots or parcels shall be considered a zoning lot.

(e) **No Guarantee of Buildable Lot or Parcel.** Combination of lots does not guarantee that the resulting lot or parcel will meet the zoning district standards and be considered buildable.

(f) **Criteria for Approval.** The PCD Director, in approving a combination of contiguous parcels, shall find:

- The lots or parcels being combined are legal lots, except that an illegally-created lot or parcel may be combined with one or more existing legal lots if the PCD Director determines the resultant lot or parcel are consistent with the intent and purpose of this Code;
- The combination agreement will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;
- The combination agreement will not result in establishing a nonconformity; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions that the establishment of a zoning lot will not result in a conflict with the CC&Rs or other restrictions.

(g) **Completed Action.** A combination of contiguous lots or parcels shall be considered completed and in effect when an approved combination agreement is filed for recording with the Clerk and Recorder.

(4) **Boundary Line Adjustment between Unplatted Parcels.**

(a) **Purpose.** The purpose of this Section is to establish standards whereby the boundaries of contiguous unplatted parcels may be modified by deed in order to accommodate property transfers where no additional lots are created, without necessitating the need to file a plat.

(b) **Applicability.** A boundary line adjustment is applicable where it is necessary or desired to transfer a portion of land from one parcel to another contiguous parcel in order to increase the desirability of the parcels for development or use or eliminate an existing or potential non-conformity.

(c) **Criteria for Approval.** The PCD Director, in approving a boundary line adjustment, shall find:

- The parcels subject to the boundary line adjustment were legally created;

- No additional parcels will result from the action;

- The boundary line adjustment will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;

- The boundary line adjustment will not result in creating a nonconformity;

- The boundary line adjustment will not result in a change in the water supply for either lot;

- The resultant parcels will meet the required minimum lot size and lot width standards of the applicable zoning district or where one or both lots are nonconforming with respect to minimum lot size or lot width, the boundary line adjustment does not increase the nonconformity; and

- The deeds to be recorded will serve the purpose of both transfer of title and recombination of land to result in a legal parcel.

(d) **Completed Action.** A boundary line adjustment shall be considered completed and in effect when approved deeds are filed for recording with the Clerk and Recorder.

(5) **Right-of-Way, Utility, and Open Space Exemptions.**

(a) **Purpose.** The purpose of this Section is to establish a process for the PCD acknowledgement that the proposed or actual acquisition or conveyance action is in conformance with these regulations and to document the changes to the affected parcels to ensure that any resulting nonconformities are recognized and that the development rights of the lot or parcel owner is documented.

(b) **Applicability.** The acknowledgement provided by this Section shall be applicable to the division of a lot or parcel of land which is the direct result of the acquisition by condemnation or otherwise, of any federal, State or local government road rights-of-way, acquisition by federal, state, or local government of land for open space or parks, and any parcel of land divided into two or more separate interests, one being the interest of the fee owner of the parcel and the other being easements or land granted for purposes of public or private utility lines entering or crossing the parcel.

(c) **Criteria for Approval.** The PCD Director, in approving a right-of-way, utility or open space exemption, shall find:

• The request serves a legitimate government or utility purpose; and

• There will be no impact on the status of the lot or parcel as a conforming lot or parcel, and if a nonconformity will result that the nonconforming lot or parcel will be deemed conforming with respect to lot size and will be eligible to apply for a variance in the event they do meet the development standards of the applicable zone district.

(d) **Completed Action.** The establishment of right-of-way, utilities easements, or open space parcels shall be considered completed and in effect when an approved deed and graphical depiction, and any nonconforming lot determination necessary to document the rights associated with any nonconforming lot or parcel created are formally accepted by the BoCC. The documents shall be filed for recording with the Clerk and Recorder.

(6) **Other Subdivision Exemptions Approved by BoCC.**

(a) **Purpose.** The purpose of this Section is to provide criteria and standards whereby the BoCC may grant exemptions from the definition of the term "subdivision" for any division of land the BoCC determines is not within the purpose of C.R.S. §§ 30-28-101, et seq., and that have not otherwise been identified by the BoCC within this Code as exempt.

(b) **Applicability.** The BoCC, may pursuant to this Code, exempt from the definition of "subdivision" any division of land the BoCC determines is not within the purposes of the definition of "subdivision". Generally, an exemption shall be consistent with one of the following criteria in order to receive an exemption from the definition of the term "subdivision:"

• The division of land creates parcels for public or quasi-public use where no dwelling units are allowed, including but not limited to: utility facility, park, open space, fire station, sheriff substation, library, metro district office, and water/sewage facility; or

• The division of land is effected by a deed recorded in the Clerk and Recorder that the BoCC determines is not within the purposes of the definition of subdivision.

(c) **Approval of Exemptions.** An exemption, not otherwise previously established by this Code as an exemption by the BoCC, is required to obtain a release from the requirements of subdivision platting, by resolution of the BoCC.

(d) **Criteria for Approval.** In approving an exemption, the following findings shall be made:

• The exemption is consistent with and conforms to this Code and the Master Plan;

• The exemption is a division of land determined not to be within the purpose of C.R.S. §§ 30-28-101, et seq.;

• Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;

• The size, location, and availability of services to the proposed lots or parcels are reasonable, appropriate, and customary for the proposed use; and

• No beneficial purpose would be served by requiring the platting of the subject property.

(e) **Completed Action.** An exemption shall be considered completed and in effect when an approved exemption plat or other document approved creating an exemption is filed for recording with the Clerk and Recorder.

7.2.3. Actions Vacating or Altering a Recorded Plat

The purpose of this Section is to establish standards for obtaining approval to correct a recorded plat; replat a lot, easement or building envelope; vacate a recorded plat, right-of-way or easement; or replat a subdivision to ensure that the intent of the recorded plat is not substantially altered.

(A) **Vacations of Recorded Plats.**

(1) **Vacations of Interior Lot Lines.**

(a) **Purpose.** The purpose of establishing standards for the vacation of platted lot lines is to allow for the removal of a lot line that will not substantially modify the originally platted subdivision.

(b) **Applicability.** Interior lot lines on a recorded plat may be vacated under the lot line vacation process where the:

• Vacation does not result in the combination of more than 10 lots;

• Vacation does not result in a violation or require a waiver of any provision of this Code or violate any condition or requirement of the original approval of the recorded plat; or

• Vacation is being conducted to create lots that conform with the minimum lot area requirements resulting from a rezoning of the property except where the rezoning was from one agricultural or residential classification to another.

(c) **Approval Criteria.** The PCD Director, in approving the vacation of interior lot lines, shall find:

• The lot line is no longer necessary for original purposes for which it was established or needed by those who have a right to it;

• The resolution of approval or the vacation plat adequately renames or renumbers the lot;

• The vacation of the lot line will not adversely affect the public health, safety, and welfare; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the removal of the lot line has been resolved.

(d) **Completed Action.** A vacation of interior lot lines shall be considered completed and in effect when an approved plat and correction deeds or other document approved by

the PCD Director vacating the lot line is filed for recording with the Clerk and Recorder.

(2) **Vacations of Utility or Drainage Easements.**

(a) **Purpose.** The purpose of establishing standards for the vacation of platted utility or drainage easements is to allow for the removal of a utility or drainage easement where the vacation will not substantially modify the originally platted subdivision.

(b) **Applicability.** Any utility or drainage easements as identified on the subdivision plat may be vacated by administrative action of the PCD Director or approval of a vacation plat provided any individual or entity using the easement in question or holding rights to use agrees, in writing, to the proposed vacation.

(c) **Approval Criteria.** The PCD Director, in approving the vacation of a utility or drainage easement, shall find:

• Vacation of the easement will not leave any lots or parcels without adequate utility or drainage easements;

• Vacation of the easement will not inhibit the provision of adequate public facilities or services to other property as required by this Code;

• Vacation of the easement will not adversely affect the public health, safety, and welfare;

• Vacation of the platted easement for utilities or drainage purposes has been approved by any individual or entity using the easement in question or holding rights to use the easement where a specific entity has been identified as holding the associated rights; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the removal of the easement has been resolved.

(d) **Completed Action.** A vacation of utility or drainage easement shall be considered completed and in effect when an approved plat and correction deeds, or other document approved by the PCD Director vacating the utility or drainage easement, is filed for recording with the Clerk and Recorder.

(3) **Vacation of a Plat with No Rights-of-Way.**

(a) **Purpose.** The purpose of establishing standards for the vacation of a recorded plat with no rights-of-way is to allow a recorded plat to be vacated if no development has occurred.

(b) **Applicability.** The owner of all lots shown on a recorded plat of record may request the lots be vacated resulting in a single, unplatted parcel.

(c) **Approval Criteria.** The PCD Director, in approving the plat vacation, shall find:

• Vacation of the recorded plat will not leave any lots or parcels without adequate utility or drainage easements;

• Vacation of the recorded plat will not vacate road rights-of-way or access easements needed to access other property;

• Vacation of the recorded plat will not inhibit the provision of adequate public facilities or services to other property as required by this Code;

• Vacation of the recorded plat is consistent with the Master Plan;

• Vacation of the recorded plat will not adversely affect the public health, safety, and welfare; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the vacation of the plat has been resolved.

(d) **Completed Action.** A vacation of a plat shall be considered completed and in effect when an approved plat and correction deeds or other document approved by the PCD Director vacating the plat is filed for recording with the Clerk and Recorder.

(4) **Vacation of a Plat with Rights-of-Way.**

(a) **Purpose.** The purpose of establishing standards for the vacation of a recorded plat that has associated public infrastructure or dedication is to ensure the vacation of the plat will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties, utility services or other improvements; and that the vacation of the plat will not be contrary to the Master Plan, this Code, or State Statutes.

(b) **Applicability.** An approved vacation resolution and vacation map or plat shall be required to vacate any recorded plat that has associated public infrastructure or dedication, and right-of-way that was established by the plat. The vacation shall be pursuant to C.R.S. §§ 43-2-301, et seq.

(c) **Approval Criteria.** The BoCC, in approving a plat vacation that includes right-of-way, shall find:

• The plat vacation complies with this Code and the original conditions of approval of the recorded plat;

• No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;

• The action does not fall within the intent and purpose of the subdivision regulations;

• The approval will not adversely affect the public health, safety, and welfare;

• No land is left, by reason of this vacation, without an established public right-of-way or private access easement connecting the land with an established public road;

• A dedication or intent to dedicate has been established, where necessary; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the vacation of the plat has been resolved.

(d) **Completed Action.** A vacation of a plat shall be considered completed and in effect when an approved plat and correction deeds or other document approved by the BoCC vacating the plat is filed for recording with the Clerk and Recorder.

(e) **Vesting of Title.** Vesting of title upon vacation of right-of-way shall be in accordance with C.R.S. § 43-2-302 as amended.

(B) **Alterations to Recorded Plats.**

(1) **Lot Line/Building Envelope Adjustment.**

(a) **Purpose.** The purpose of this Section is to provide for a realignment of a lot line or building envelope, or replatting of several lots (e.g., 3 lots into 2 lots), in which the original subdivision is not substantially modified and additional lots are not created; however, tracts may be created provided the declared use of the tract does not include a structure.

(b) **Applicability.** An approved lot line/building envelope adjustment plat or map and any correction deeds shall be required to realign any lot lines or adjust a building envelope on a recorded subdivision plat.

(c) **Approval Criteria.** The PCD Director, in approving a lot line/building envelope adjustment, shall find:

• The lot line/building envelope adjustment and any resultant lots comply with this Code, and the original conditions of approval associated with the recorded plat;

• No nonconforming lots are created, and in the case of nonconforming lots, the nonconformity is not increased;

• The lot line/building envelope adjustment is in keeping with the purpose and intent of this Code;

• The lot line/building envelope adjustment will not adversely affect the public health, safety, and welfare; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the lot line/building envelope adjustment has been resolved.

(d) **Completed Action.** A lot line or building envelope adjustment shall be considered completed and in effect when an approved amended plat and correction deeds or other document approved by the PCD Director amending the plat is filed for recording with the Clerk and Recorder.

(2) **Plat Amendment.**

(a) **Purpose.** The purpose of establishing standards for plat amendment is to provide for a change to a recorded plat that is deemed insubstantial, the modification or deletion of a plat note, or modification to or deletion of a plat restriction.

(b) **Applicability.** A plat amendment may be applicable in the following circumstances:

• To implement an amendment to a recorded plat that is deemed insubstantial by the PCD Director based on, but not limited to, the following factors: design, size, number of lots, public concern, public facilities, services, access, and transportation network;

• To modify, delete, or replace a specific plat note which appears on the face of a plat based upon a determination that conditions requiring the plat note have been satisfied or are no longer applicable; or

• To modify, delete, or replace a specific restriction which appears on the face of the plat based upon a determination that the conditions leading to the restriction have been satisfied or are no longer applicable.

(c) **Approval Criteria.** The PCD Director, in approving the plat amendment, shall find:

• The plat amendment complies with this Code, and the original conditions of approval associated with the recorded plat;

• The changes to the recorded plat are insubstantial, or the plat amendment is necessary to reflect the current circumstances or restrictions;

• The plat amendment is in keeping with the purpose and intent of this Code;

• The approval will not adversely affect the public health, safety, and welfare; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the plat amendment has been resolved.

(d) **Completed Action.** A plat amendment shall be considered completed and in effect when an approved amended plat, correction deeds, or other document approved by the PCD Director amending the plat is filed for recording with the Clerk and Recorder.

(3) **Plat Correction.**

(a) **Purpose.** The purpose of establishing standards for plat corrections is to provide for making changes to recorded plats, due to errors or omissions, i.e. dimensions, road names, addresses and plat notes, or to correct one or more technical errors in an approved plat when the correction plat is consistent with the approved plat.

(b) **Applicability.** An approved plat correction certificate or correction plat shall be required to effect any change to correct errors and omissions to a recorded approved plat.

(c) **Approval Criteria.** The PCD Director, in approving a plat correction, shall find:

• The correction complies with this Code, and the original conditions of approval;

• No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;

• The correction is in keeping with the purpose and intent of this Code;

• The approval will not adversely affect the public health, safety, and welfare;

• The correction certificate or plat complies with all provisions and requirements of this Code, explains the relationship between the correction plat or certificate and the approved plat, and provides a full description of all matters corrected; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the plat correction has been resolved.

(d) **Completed Action.** A correction of a plat shall be considered completed and in effect when a correction certificate or correction plat is filed for recording with the Clerk and Recorder. A correction plat is most appropriately utilized when it is necessary to graphically depict the proposed changes on a plat, rather than to describe the changes in a text document.

(C) **Replat.**

(1) **Purpose.** The purpose of this Section is to provide for replatting a subdivision or lots in a subdivision, in which the original subdivision is substantially modified or additional lots~~,~~ are created.

Generally, a replat involves two actions, the vacation of the portion of the subdivision plat where the change is proposed or a vacation of the entire subdivision plat where all or a majority of lot lines will be changed on the recorded plat, and approval of a new subdivision plat. These actions can be taken concurrently.

(2) **Applicability.** A replat shall be required in order to substantially alter an existing recorded subdivision plat or where the standards for a lot line adjustment are exceeded.

(3) **Determination of Plat Amendment or Minor/Major Subdivision.** The PCD Director shall determine whether the proposed replat is substantial or insubstantial based on, but not limited to, the following factors: design, size, number of lots, public concern, public facilities, water supply (with recommendation from OCA) services, access, and transportation network. If the PCD Director determines the subdivision replat is insubstantial, the replat may be processed as an alteration to a recorded plat.

If the replat is determined to be substantial, the replat may be considered a major or a minor subdivision depending on the number of lots affected by the proposed changes and the impact to public facilities. The PCD Director shall determine whether the platting action is a replat or whether it is a major or minor subdivision.

(4) **Criteria for Approval.** The BoCC, in approving a replat of a minor or major subdivision, shall find:

• The replat complies with this Code, and the original conditions of approval associated with the recorded plat;

• No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;

• The replat is in keeping with the purpose and intent of this Code;

• The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;

• Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;

• The approval will not adversely affect the public health, safety, and welfare; and

• Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

(5) **Completed Action.** A replat shall be considered completed and in effect when a final plat is filed for recording with the Clerk and Recorder.

7.2.4. Other Actions Altering Property Boundaries and Interests in Property

(A) **Real Estate Interest Disclaimer.**

(1) **Purpose.** The purpose of this Section is to establish standards to allow the BoCC to disclaim or quitclaim any interest in real estate that may not have been properly conveyed to, vested in, accepted by, or no longer of any interest to, the County. Public record may indicate that the real estate is owned by or under the authority and control of the County including a real estate interest which may have been established by a recorded document other than a subdivision plat where the County does not claim an interest in the real estate.

(2) **Applicability.** BoCC may disclaim a real estate interest or to approve the conveyance of a real estate interest from the County to the requestor for any real estate interest that may not have been properly conveyed to, vested in, accepted by, or no longer any interest to the County, but which may appear in the public record to be owned by or under the authority and control of the County where:

• A Section line resolution affects the property, where the resolution may or may not apply, and where a determination has been made that a public road will not be needed at that location;

• An easement or right-of-way granted to El Paso County by deed or other instrument, and is determined to no longer be needed; or

• An easement or right-of-way granted to El Paso County by deed or other instrument not accepted by the County, where the County was not party to the transaction creating the interest, or when the deed or other instrument does not sufficiently express the requisite intent or formalities to create the interest to the County.

(3) **Exceptions.** A real estate disclaimer of interest shall not apply where:

• The interest in the land has been used as public right-of-way;

• The interest was granted by recorded plat with a dedication statement;

• The deed or other instrument does sufficiently express the requisite intent or formalities to create the interest in the County; or

• Utilities have been installed in the area to be disclaimed or conveyed by quitclaim deed and it is necessary to retain easements for those utilities.

(4) **Criteria for Approval.** The BoCC shall approve or deny the disclaimer or quitclaim deed based on consideration of the staff report, the evidence from the public hearing, and compliance with the criteria for approval. The BoCC shall exclusively determine such matters in its legislative capacity. Therefore, the determination to approve the request for disclaimer or quitclaim deed shall be made in the sole and exclusive discretion of the BoCC.

The BoCC, in approving a disclaimer, shall find:

- The disclaimer or quitclaim deed complies with this Code;

- The real estate interest to be disclaimed or conveyed by quitclaim deed has not been implemented for public use, or is no longer intended for public use;

- The approval and subsequent relinquishment of County interest will not adversely affect the public health, safety, and welfare;

- Adjoining properties will not be negatively affected by the disclaimer or quitclaim deed;

- The requestor has been advised that the action by the County may not result in clear title to the property;

- Utilities are not installed in the area to be disclaimed or conveyed; and

- A recommendation has been received from the PCD, the EPCDPW, and the OCA.

(5) **Completed Action.** A real estate disclaimer shall be considered completed and in effect when the real estate disclaimer is filed for recording with the Clerk and Recorder.

(B) **Vacation of Rights-of-Way.**

(1) **Purpose.** The purpose of this Section is to provide for vacation of right-of-way that was acquired by plat dedication or by deed, or has associated public infrastructure.

(2) **Applicability.** An approved vacation resolution or vacation plat shall be required to vacate any road right-of-way. The vacation shall be pursuant to C.R.S. §§ 43-2-301, et seq.

(3) **Approval Criteria.** The BoCC, in approving a vacation of right-of-way, shall find:

- The right-of-way vacation complies with this Code and applicable State law;

- The approval will not adversely affect the public health, safety, and welfare;

- No land, by reason of this vacation, is left without an established public right-of-way or private access easement connecting said land with an established public road; and

- Right-of-ways and easements are reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone and similar lines appurtenances.

(4) **Completed Action.** A vacation of right-of-way shall be considered completed and in effect when a vacation plat or vacation resolution is filed for recording with the Clerk and

Recorder. If a road has been established as a County road, the road and any associated right-of-way shall not be vacated except by a resolution approved by the BoCC.

(5) **Vesting of Title.** Vesting of title upon vacation shall be in accordance with C.R.S. § 43-2-302 as amended.

7.2.5. Plat Naming and Number Conventions and Standards

All plats or documents filed for the purposes of compliance with this Chapter shall meet the following naming and numbering conventions:

(A) **Plat Naming.** Plats including preliminary plans and final plats shall be named in accordance with the following naming conventions. Deviations from the plat naming convention shall be approved by the PCD Director.

(1) **First Application Filed Entitled to Name.** The first application which utilizes a specific name is exclusively entitled to use that name throughout the platting process. Plat names for final plats shall follow the name established by the preliminary plan or PUD. Changes to a plat name after initial approval of the plat or PUD may require that a name change fee be paid to cover the cost of changing County records. Changes to the proposed plat name after development application submittal, unless requested by County staff, shall be approved by the PCD Director.

(2) **No Duplication.** No plat shall receive approval if the name duplicates or could be confused with the name of a subdivision of record within any jurisdiction located in El Paso County on file with the Clerk and Recorder.

(3) **Geographic Names Limited to Geographic Areas of the County.** Plat names using a geographical description of a recognizable area of the County should be located within that recognized area.

(4) **Filing Designators Contiguous to Original Filing.** Plat names with filing designators shall be contiguous and in the geographic area of the County as the original filing.

(5) **Multiple Filings within Same Preliminary Plan or PUD.** Multiple plat filings within the same preliminary plan or PUD area shall utilize sequential filing or phase numbers consistent with the name of the preliminary plan or PUD, unless they represent distinctly separate land uses (e.g., residential and commercial).

(6) **Replat.** Replat names shall be consistent with the name of the original plat filing unless the land includes more than one plat name, and characterized by an alphabetic descriptor after the filing number, and shall reflect consistency with the order of the original filing.

(B) **Road Naming.**

(1) **Approval Required.** Road names shall be subject to the approval of the El Paso Teller E9-1-1 Authority, in coordination with the PCD, EPCDPW, and the Building Official.

(2) **Road May Be Required.** The Building Official shall have the authority to require a road and road name when there are not enough numeric addresses available on an adjacent road such that numeric addresses can be assigned in accordance with the Building Code.

(3) **Road Name Changes.** Applications for road name changes shall be submitted to the EPCDPW in accordance with the requirements of the EPCDPW.

(4) **Temporary Access.** Temporary access to a lot, tract or parcel shall not be construed as a guarantee of continued usage of a numeric address or road name assigned at the time of approval.

(C) **Lot Numbering.**

(1) **Sequential Numbering.** The numbering of lots shall follow a sequential numbering pattern.

(2) **Lot Numbers Not Repeated in Same Block.** Lot numbers shall not be repeated within the same block.

(3) **Lot Numbering in Case of Vacation or Replat.** A vacation or a replat of lots or tracts shall conform to the following lot number conventions:

(a) **Vacating Common Lot Line.** When vacating a common lot line between two lots, the original lot number followed by the letter "A" shall be used to number the new lots (e.g., when vacating the common lot line between lot 1 and lot 2, the newly created lot shall be renumbered lot 1A).

(b) **Replatting with Fewer Lots.** When replatting 3 lots into 2 lots, the original lot numbers followed by the letter "A" shall be used to number the new lots (e.g., when replatting lots 3, 4, & 5, into two lots, the new lots should be numbered lot 3A and 4A).

(c) **Adjustment to Common Lot Line.** When adjusting the common lot line between two lots, the original lot numbers followed by the letter "A" shall be used to number the new lots (e.g., when realigning the common lot line between lots 7 and 8, the new lots should be numbered 7A and 8A).

(d) **Replatting Entire Subdivision Filing.** When replatting an entire subdivision filing, the lots shall be numbered consecutively starting with the number "1".

(4) **Common Area Tracts Labeled.** Tracts that are common open space for the subdivision shall be labeled "Common Area Tract" followed by a consecutive letter designation beginning with "A". Common area tracts shall be further identified by one of the following applicable designations that shall be placed in parentheses after the common area tract label:

• "Buildable/Support Buildings Only" for those common area tracts that may be occupied by buildings or structures that are intended for use by the lot owners within the subdivision;

• "Non-Buildable" for those common area tracts that are not intended to be occupied by buildings or structures.

(D) **Addressing.**

(1) **Assignment of Addresses.** Assignment of numeric addresses is the responsibility of the Building Official, in accordance with the Building Code.

(2) **Address Correction.** Corrections to addresses shown on a final plat may be accomplished by an Affidavit of Correction, Plat Correction, Amended Plat or a Replat, or other method approved by the Building Official.

(E) **Requirements for Phased Platting.** The following requirements apply to phase platting:

(1) **Phasing Schedule.** The phasing schedule shall be noted on the PUD Plan, preliminary plan, and in the SIA or development agreement.

(2) **Phasing to Accommodate Interim Conditions.** The phasing schedule shall accommodate proper drainage, secondary access, water and sewer systems, open space and listed threatened or endangered species during construction of a phased subdivision.

(3) **Phasing of Through Roads.** Phasing a road connection eliminates the need to obtain a waiver of requirements for connection of through roads if appropriate notes are placed on the preliminary plan and final plat, financial assurance is provided for the road connection, or a deviation is granted by the ECM Administrator.

7.2.6. Survey and Monumentation Standards

(A) **Survey Closure Requirements.** An accurate and complete boundary survey shall be made of the land to be divided. A traverse of the exterior boundaries of the tract, and of each block, when computed from field measurements on the ground must close within a limit of one foot to 10,000 feet of perimeter. Boundaries shall be clearly indicated on the plat.

(B) **Lot Dimensions and Distances.** Bearings and angles and lengths shall be given for all lot lines. In cases where a lot line is a common line only one set of figures, adjacent to the line described, need be given if the lot descriptions are given to the same bearing, not a reverse bearing. If table data is used, each individual lot shall be separately described giving all bearings and angles and lengths making each lot close by data provided and a table shall be included on the same page as the plat. Should the plat drawing be of such a size as to preclude the data table then the drawing shall be developed in such a manner as to show a portion of the plat and its pertinent table on each sheet as required. All bearings and lengths on the plat shall close to within plus or minus 0 degrees, 01 minute.

(C) **Curved Boundaries.** On curved boundaries and all curves on the plat sufficient data shall be given to enable the reestablishment of curves on the ground. Curve data shall include: (1) central angle; (2) radius; and (3) arc length.

(D) **Monuments.** Permanent reference monuments and block and lot monuments shall be set on the external boundary of the subdivision pursuant to C.R.S. §§ 38-51-101 et seq. Subdivisions will be tied by angles and distances to the nearest accepted monuments. All monuments shall be located and described. Information adequate to locate and trace all monuments shall be noted on the plat.

(E) **Supplemental Information to Submit with the Plat.** Closure sheets (DMD or equivalent) for the external boundary and blocks of the subdivision, including the computed acreages for the entire subdivision, shall be submitted to PCD for review and approval prior to recording the plat.

7.3. - WAIVERS

7.3.1. Purpose

The purpose of this Section is to provide for flexibility in the application of this Code when a subdivision design standard is inapplicable or inappropriate to a specific subdivision design.

7.3.2. Authorization to Grant Waivers

(A) **Planning Commission Recommendation.** The Planning Commission~~, as part of the hearing on a specific application,~~ will hear the request for a waiver from the standards and make recommendations to the BoCC.

(B) **BoCC Authorized to Grant Waivers.** After receiving a recommendation from the Planning Commission, the BoCC may approve a waiver from any of the subdivision design standards and requirements of this Code. ~~in association with a development application.~~

7.3.3. Criteria for Approval of Waivers

A waiver from standards shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

- The waiver does not have the effect of nullifying the intent and purpose of this Code;
- The waiver will not result in the need for additional subsequent waivers;

• The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;

• The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;

• A particular non-economical hardship to the owner would result from a strict application of this Code;

• The waiver will not in any manner vary the zoning provisions of this Code; and

• The proposed waiver is not contrary to any provision of the Master Plan.

7.3.4. Timing of Waiver Request

A written waiver request may be made in connection with a subdivision application or submitted as a separate and stand-alone request. In either case, ~~A~~the ~~written~~ waiver request shall be submitted no later than at the time of the preliminary plan application in the case of a major subdivision. ~~The waiver request may be a separate request, or requested in conjunction with an application.~~ If the waiver request substantially alters the design, location, anticipated construction, phasing, impacts on adjacent properties or roads, impacts on designated protected areas, or other special circumstances as were reviewed during the previous application review, the applicant shall submit a revised plan including the waiver. The Planning Commission shall review the revised plan and provide a recommendation to the BoCC.

7.3.5. Waiver Application Requirements

The written request for a waiver shall state in detail the extent of the waiver, the grounds for the requested waiver and all of the facts relied upon by the applicant. The applicant shall have the burden of providing both the justification for their waiver requests and sufficient documentation to allow PCD to properly evaluate the engineering and planning impacts of the requested waiver.

Chapter Eight

SUBDIVISION DESIGN, IMPROVEMENTS AND DEDICATIONS

8.1. GENERAL

8.1.1. Purpose

This Chapter is enacted for the purpose of promoting the health, safety, convenience, and welfare of the general public and to establish standards of design which will encourage the development of sound, economical, stable neighborhoods and create a healthy environment for present and future inhabitants of El Paso County, Colorado, by:

- Assisting in the orderly, efficient and integrated development of the County;
- Making provisions for adequate open spaces for traffic, drainage, recreation and parks, sites for schools and educational facilities, light and air;
- Making provisions for the proper location, width, and design of roads in order to minimize traffic hazards, and to provide for safe and convenient vehicular circulation;
- Specifying the extent to which, or manner in which, roadways shall be graded and improved and to what extent water, sewer and other utilities shall be required and installed;
- Ensuring that structures will harmonize with the physical characteristics of the site;
- Ensuring that land is divided into lots that are of adequate size and configuration for the purpose for which they are intended to be used;
- Protecting the natural resources, considering the natural vegetation and promoting the natural beauty of the County;
- Implementing the Master Plan;
- Ensuring that definite provision will be made for a water supply that will be sufficient in terms of quantity, dependability and quality to provide an appropriate supply of water for the type of development proposed; and
- Providing for an adequate and accurate system to record land divisions and ensuring proper legal descriptions and survey monumentation in order to inform the public, and especially future residents, of the facts about the division, thereby safeguarding the interests of the public, the homeowner, the applicant, and the County.

8.1.2. Applicability

This Chapter shall apply to divisions of land including subdivisions, replats, subdivision exemptions, and other actions resulting in the creation of new lots, parcels, or tracts or the reconfiguration of existing lots, parcels, or tracts, unless specifically exempted.

The dedication requirements, fees in lieu of dedication, or fees imposed by this Code shall be those requirements and fees in effect at the time a complete development application is submitted to the PCD unless specifically modified by a resolution of the BoCC.

8.2. CONFORMITY WITH PLANS AND STANDARDS

8.2.1. Conformity with the Master Plan

Divisions of land shall generally conform to the Master Plan. The County may require that reasonable efforts are made to help ensure a division of land conforms to the Master Plan.

8.2.2. Conformity with this Code

Divisions of land shall conform to this Code to help ensure that the division of land takes into account the basic design principles necessary for a safe, serviceable, attractive and healthy living environment while protecting the interests of the County.

8.2.3. Zoning and the Division of Land

Lands included within a plat shall be zoned prior to approval of a plat.

8.2.4. Conformity with the ECM

Divisions of land shall conform to the ECM to help ensure that the design and construction of common development and public improvements take into account the basic design principles necessary for a safe, serviceable, attractive and healthy living environment while protecting the interests of the County.

8.2.5. Conformity with Self-Imposed Restrictions

If an owner commits in writing or verbally in a hearing to restrictions or requirements greater than those required by this Code, the ECM or any other County regulation or ordinance, the plat shall conform to the self-imposed restrictions and the commitments shall be indicated on the face of the plat or contained within the SIA or development agreement. The commitments shall be fully enforceable under this Code.

8.3. RESTRICTIONS ASSOCIATED WITH THE PLAT

8.3.1. Plats to be Recorded

The approved plat shall be recorded with the Clerk and Recorder. Approval of the plat shall be evidenced by the signature of the approval authority on the face of the plat. The plat shall be recorded within one year of approval by the approval authority.

8.3.2. No Changes to Approved Plat without BoCC Approval

No changes, erasures, modifications, or revisions shall be made on the plat after the approval by the ~~BoCC~~approval authority, except as required by the ~~BoCC~~ approval authority to satisfy conditions of approval. ~~or with the approval of the PCD Director~~.

8.3.3. Actions Required at Recording of Plat

(A) Plat Notes Required

The ~~BoCC~~ approval authority may require specific plat notes to be included on a plat prior to recording including, but not limited to, notes to implement review agency recommendations, ~~BoCC~~approval authority conditions, OCA conditions, and standard plat notes identified in the Procedures Manual to help ensure conformance of the plat with this Code and other County requirements.

(B) Plat Addressed Prior to Recording

No plat shall be recorded until the Building Official has assigned numeric addresses in a legible manner on the face of the plat.

(C) Taxes Paid Prior to Recording of Plat

No plat shall be recorded unless the ad valorem taxes applicable to the subject property, for all years prior to that year in which approval is granted, have been paid. [C.R.S. §30-28-110(4) (a)].

(D) Fees and Dedications

Any fees required by this Code shall be paid and any land dedications required by this Code shall be completed prior to or concurrently with filing of the plat for recording with the Clerk and Recorder.

8.3.4. Plat Filed Before Construction of Structures

No building permit shall be issued or structure erected before a plat of the subject property has been filed for recording with the Clerk and Recorder except as may be required to: (1) complete the common development or public improvements required as part of the approval of the division of land and construction permit issued by the ECM Administrator; or (2) construct model homes or other structures expressly authorized by the PCD Director~~BoCC~~.

8.4. DESIGN CONSIDERATIONS AND STANDARDS

8.4.1. Planning Considerations

The following planning considerations shall be adhered to when dividing land:

(A) Land Found Unsuitable for Development

Land unsuitable for development due to physical constraints shall not be divided unless methods authorized by this Code are used to mitigate the problems created by the unsuitable land conditions.

(B) Safe for the Intended Purpose

Land shall be divided in a manner that allows it to be used safely for the intended purpose without danger to the public health, safety or welfare or peril from fire, flood, geologic hazards~~,~~ or constraints, or other ~~natural~~ hazards. Building sites shall not be located in areas subject to geologic hazards or constraints as determined by the CGS or a Geologic Report unless such hazard or constraint has been appropriately mitigated~~ion has been provided~~ as determined by the PCD Director; or in a 100-year floodplain unless ~~located~~ in compliance with the Floodplain Regulations.

(C) Topography to be Considered

Consideration shall be given to topography. Building sites shall not be located on land with a slope of 30% or greater.

(D) Planning Required for Remainder Parcels

A remainder parcel shall be at least 35 acres, platted as a tract, identified as a future phase consistent with the preliminary plan, or exempted ~~by the BoCC~~ in accordance with Chapter 7. A remainder parcel is not eligible for use or building permits unless specifically approved by BoCC action.

(E) Continuation of Roads and Other Linear Facilities

Divisions of land shall be designed to accommodate the continuation of roads, trails, pedestrian access, utilities and drainage facilities into adjacent property

unless there is sufficient justification for an alternative design. The connection shall provide a logical, safe and convenient circulation link for vehicular, bicycle, pedestrian, or equestrian traffic with existing or planned circulation routes and, in particular, to destinations such as schools, parks and business or commercial centers.

(F) Lot Layout, Design and Configuration

Divisions of land shall be designed to provide for lots that are of an appropriate size and configuration for the site characteristics and intended uses; adequate buffering from the adverse impacts of adjoining uses through lot orientation, setbacks, landscaping or other appropriate methods; conservation of water, land and energy resources; conveniently located recreation facilities within the development; minimal grading, road cuts and fills; and a road system designed to preserve the integrity and function of the arterial and local roadway network. Lots shall have reasonable access to open space, trails, park land or recreation facilities that are set aside for either homeowner use or use by the general public.

(G) Preservation of Natural Landscape

The primary importance of the preservation and enhancement of the natural landscape and vegetation shall be considered. The layout and design of lots, blocks, and rights-of-way shall provide desirable settings for structures by making use of natural features, unique or distinctive topographic features including buttes and rock outcroppings;~~,~~ existing vegetation;~~,~~ ~~natural~~ drainage, riparian and wetland areas;~~,~~ significant wildlife habitats;~~,~~ identified aquifer recharge areas;~~,~~ and aesthetic features. Alteration of features shall be kept to a minimum and shall be based on practical engineering considerations.

(H) Preservation of Historical and Archaeological Sites

Alterations of historical or archaeological sites shall be avoided. Emphasis should be placed on reuse of historical structures and incorporation of historical and archaeological sites into the park and open space system. If disturbance of sites is unavoidable, the applicable public agency shall be provided the opportunity to excavate, purchase, or record the site before alteration takes place.

8.4.2. Environmental Considerations

The following environmental design considerations apply to divisions of land:

(A) Miscellaneous Environmental Requirements

(1) Buffers

(a) Planting Easement Along Collectors, Arterials, or Expressways

A planting or screening easement may be required along the property line of lots abutting collectors, arterials, or expressways. No vehicular access shall be allowed through a planting or screening easement.

(b) Landscaping between Differing Land Uses

Landscaping should be provided, especially as a buffer between different types of uses. Xeriscape should be used whenever possible to minimize water consumption.

(2) Multifamily Lots Served by Central Sewage Collection System

Multifamily residential lots shall be served by a central sewage collection system.

(3) Airport Impacts

Residential lots should be located to minimize adverse influences from airports and airport operations.

(4) Threatened and Endangered Species Compliance

The design shall consider threatened and endangered species.

(B) Hazards

Land shall not be divided until ~~natural~~ hazards ~~-~~have been removed or the impact of ~~natural~~ hazards has been ~~-~~mitigated as determined by the PCD Director. Lots or tracts subject to ~~natural~~ hazards which may be eliminated through specialized engineering shall be identified on the plat. Identification of ~~natural~~ hazards on the plat shall include a statement about the specific ~~natural~~ hazard and a statement of the engineering alterations required to eliminate the ~~natura~~l hazard. The following hazards are subject to these requirements:

- Geologic hazards including mine hazards, as identified by the applicant, review agency, or contained in the County inventory of geologic hazards;
- Soil hazards as identified by the applicant, review agency, or contained in the County inventory of soil hazards;
- 100-year floodplain as identified by the applicant, review agency, or the Floodplain Administrator;
- Wildfire hazards as identified on the County and State wildfire hazard inventory or maps;
- Hazards caused by high water table or polluted water, as identified by the applicant, review agency, or County inventory;
- Hazards associated with airports and major utility facilities; and
- Hazards associated with the presence of old landfills, fill areas, and surface and subsurface contamination.

Land subject to ~~natural~~ hazards shall generally be identified through field investigation and reports, existing County ~~natural~~ hazard inventories, and review agency comments.

(1) Flood Hazard Area Requirements

In Special Flood Hazard ~~a~~Areas ~~of special flood hazards~~, the standards in Chapter 6 and the following standards shall be met:

(a) Review by Floodplain Administrator

Divisions of land shall be reviewed by the Floodplain Administrator for compliance with the Floodplain Regulations.

Applicants are required to comply with the Floodplain Administrator's requirements in accordance with the provisions of the Pikes Peak Regional Building Code, RBC313, as may be amended from time to time.

(b) Minimize Flood Damage

Divisions of land shall be designed and constructed to minimize potential flood damage to properties and public utilities and facilities such as sewer, gas, electrical, and water systems. Development in the floodplain shall be limited to uses compatible with the flood hazard and shall specifically exclude residential uses, sewage and water treatment plants, commercial shopping areas, and industrial sites.

(c) Hazardous Activities Prohibited

Activities in a Special Flood Hazard Area that may be hazardous to public health and water quality are prohibited, including but not limited to septic systems, landfills, disabled vehicles, etc.

(d) Lots or Portions of Lots within Floodplain

(i) Lots Less than 2.5 Acres in Size

Lots less than 2.5 acres in size are required to be located entirely outside of the 100-year floodplain. Lands within the 100-year floodplain shall be established in a tract. A special district, HOA, or other corporate entity shall be designated to maintain the tract unless otherwise provided by this Code.

(ii) Lots Greater than 2.5 Acres in Size

Lots 2.5 acres and larger are required to provide drainage easements for the 100-year floodplain with the restriction of "No Build" and "No Storage of Materials".

(e) Base Flood Elevations and Floodplain Boundaries

(i) Floodplain Boundaries to be Shown on Plat

Approved Base Flood Elevation (BFE) data and 100 year floodplain boundaries shall be shown on the plat.

(ii) Located within 300 Feet of a Zone A Floodplain

If any portion of a division of land is located within 300 feet of a Zone A Floodplain, approved base flood elevations and boundaries are required to be determined and shown on the plat, or the applicant may provide a Floodplain Certification Letter stating that the 100-year floodplain would not be shown to enter the property in question if studied, in accordance with the **Pikes Peak Regional Building Code**, as may be amended from time to time.

(2) Noise

(a) Impacts of Noise Pollution to be Minimized

Divisions of land shall be designed to minimize the impacts of noise pollution to residents. Divisions of land shall be designed with reference to potential and actual noise pollution hazards based on both existing conditions and projected conditions as identified in the TIS or noise study.

(b) Roadway and Railroad Mitigation

(i) Types of Noise Mitigation

Where noise levels exceed or are predicted to exceed 67 dBA Equivalent Sound Level (Leq), any or all of the following mitigation measures (~~in order of County preference)~~ shall be included in the design:

Increased building setbacks;

Modified site orientation for buildings and outdoor areas;

Landscape buffers or tracts;

Noise easement;

Soil berming; ~~or~~

Noise barrier.

In the event that building setbacks or orientation standards are utilized as the mitigation strategy, those building setbacks and orientation standards shall be noted on the plat.

(ii) Mitigation in Residential Subdivisions

Noise mitigation may be required for any residential subdivision, and shall be required for single-family and duplex residential subdivisions, which contain lots that will be individually owned, and are located adjacent to expressways, principal arterials or railroads. Where required, mitigation shall reduce the existing or projected exterior noise levels at the building site location and outdoor areas for patios and decks closest to the noise generator to 67 dBA Leq. A noise study to determine the area of potential impact is required where a subdivision includes or borders an expressway, principal arterial or railroad. A noise study is not required for minor subdivisions and minor replats.

(iii) Noise Activity Covenant and Disclosure Required

In the event noise mitigation within the area subject to noise levels of 67 dBA Leq would not achieve a noise level reduction of a minimum of 5 dBA Leq without a noise barrier, a Noise Activity Covenant and Disclosure is required to be applied to each lot which will remain in the 67 dBA Leq,

either by notation on the plat or by recording a separate document.

(iv) Noise Mitigation Located Outside Right-of-Way

Noise mitigation measures shall be located in easements or on tracts to be maintained by a special district or homeowners association and outside of the right-of-way or roadway easements, unless otherwise approved by the ECM Administrator. A noise easement or maintenance agreement is required to assure access to and maintenance of the noise mitigation.

(c) Noise Barriers

(i) Appropriateness of Noise Barriers

Noise barriers are generally more appropriate within an urban area or adjacent to urban development. Increased setbacks and orientation standards are more appropriate in rural areas. A noise barrier should not be the default design alternative unless other mitigation strategies cannot practically and effectively achieve the noise reduction.

(ii) Noise Barrier Standards and Construction

When noise barrier construction is selected as the noise mitigation strategy, the noise barrier should be designed to achieve a noise reduction of at least 10 dBA Leq.

Noise barriers shall be constructed according to current CDOT standards, unless specifically modified by the ECM.

(iii) Noise Barriers Required Prior to Occupancy

Noise barriers shall be installed prior to approval of a certificate of occupancy by the Building Department for residential structures, unless an extension of time to install the noise barrier is granted by the PCD Director.

(iv) Noise Barrier Not Required to Meet Zoning Setback

A noise barrier is not required to comply with zoning district setbacks.

(v) Consistency in Design and Materials

Noise barriers shall be of similar design and materials along an expressway, principal arterial, or railroad, unless an alternative design or material type is approved by the PCD Director.

(d) Airport Noise

Where lots are located within the 65 Day-Night Equivalent Sound Level (Ldn) noise contour as determined by a current FAR Part 150 study for public airports or an AICUZ study for military airfields, the plat shall include a plat note advising that

construction shall achieve a 30 dBA interior noise level reduction through approved construction techniques as evidenced by a Noise Reduction Certificate.

(e) Military Installation Noise

Where lots are located within the 130 dBA noise contour line under adverse weather as determined by the current Fort Carson Installation Environmental Management Plan, the plat shall include a plat note restricting residential development on impacted lots. Development of commercial, industrial, or public structures devoted to office uses shall incorporate noise reduction measures sufficient to achieve an interior noise level reduction of 35 dBA as evidenced by a Noise Reduction Certificate.

(f) Relationship to the Noise Ordinance

The requirements of this Section do not supersede requirements of any applicable BoCC Ordinance regarding noise.

(3) Unsuitable Building Areas

Areas within lots or tracts which reflect one or more of the following characteristics shall be deemed unsuitable for building and shall be identified as no build areas on the plat:~~.~~

- Areas not suitable for location of water or sewage disposal systems as determined by State and County health regulations.
- Areas where slopes are greater than 30%.
- Areas of identified or designated geologic, soil, or natural hazards as identified in the geology and soils report or designated in the El Paso County hazard identification inventory; provided that the limitations cannot be overcome through the application of specialized engineering or mitigation.
- Areas within the l00-year floodplain as reflected on FEMA Flood Insurance Rate Map (FIRM), within proposed boundaries as reflected in LOMR/CLOMR, or as determined by a flood study as approved by the Floodplain Administrator.
- Areas within easements, without the permission or release from the beneficiary of the easement holder.

(4) Snow Drift Areas

Where the subdivision is adjacent to arterial roads subject to snow drifting problems as identified in the ECM, additional design features ~~to~~ and/or easements to mitigate ~~prevent~~ snow drifting may be required at the direction of the ECM Administrator pursuant to the provisions of the ~~as listed in the~~ ECM ~~are applicable~~.

8.4.3. Division of Land, Block, Lot, and Tract Layout Standards

(A) Division of Land Standards

(1) Minimum Frontage for Division of Land

A division of land shall have a minimum of 60 feet frontage on a public road.

~~**(B) Block Standards**~~

~~**(1) General**~~

~~The lengths, widths, and shapes of blocks shall conform to the following standards:~~

~~**(a) Separation of Differing Land Uses**~~

~~Blocks shall be used to separate distinct land uses or zoning classifications.~~

~~**(b) Vehicular and Pedestrian Circulation**~~

~~Blocks shall be laid out and designed to provide for convenient control, safety, and access for vehicular and pedestrian circulation.~~

~~**(c) Topography and Natural Features**~~

~~Blocks shall be laid out with respect for the existing topography, vegetation, and other natural features.~~

~~**(2) Block Lengths and Pedestrians**~~

~~Block lengths in excess of 600 feet may require pedestrian access be provided approximately midway through the block.~~

~~(C)~~(B) Lot Design

Lot design and layout shall conform to the following standards:

(1) Buildable Lots

Lots shall be buildable lots, unless specifically approved and restricted by plat note.

(2) Lot Area and Dimensions

(a) Minimum Lot Dimensions in Zoning District

The minimum area and dimensions of lots shall conform to the requirements of the applicable zoning district.

(b) Adequate Buildable Area Required

Lots shall have sufficient buildable area to reasonably accommodate the allowed uses. Buildable areas shall be excluded from easements unless otherwise approved by the easement holder, and shall not encroach into natural hazard areas unless the natural hazards are mitigated as required by this Code.

(c) Lot Area Adequate to Accommodate Parking

Lot area shall be adequate to allow for the provision of necessary parking facilities for the allowed uses.

(d) Corner Lots and Building Setbacks

Corner lots shall accommodate the required setback on both frontages, which may require extra lot width.

(e) Minimum Frontage

Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E).

(f) Lots Using OWTS

(i) Lots Designed to Use an OWTS

Lots which will utilize an OWTS shall have a minimum area of 2.5 acres.

(ii) Minimum Buildable Area for Lots Using an OWTS

A minimum of 1 acre of buildable area is required for lots proposed to utilize an OWTS.

(g) Side Lot Lines at Right Angles

Side lot lines shall be substantially at right angles or radial to road right-of-way lines.

(h) Irregular or Wedge-Shaped Lots

Irregular or wedge-shaped lots shall have sufficient width at the front setback line to accommodate construction of a principal structure that meets side setback requirements

(3) Double Frontage and Reverse Frontage Lots

(a) Limited Use of Double Frontage and Reverse Frontage Lots

Double frontage and reverse frontage lots are discouraged except where essential to provide a separation of residential properties from arterial roads or incompatible uses, or where access is not allowed to one of the roads.

(b) Access to Double Frontage Lots Restricted

Access for double frontage lots shall be taken from the lowest classification roadway providing access to the lot and not from perimeter collectors, arterials, or expressways. A statement dissolving the right of access to collectors, arterials, and expressways shall be required on the plat.

(c) Access Control Using Reserve Strips of Land

Reserve strips of land to prevent access to roads are prohibited.

(4) Flag Lots

(a) Only Allowed Where Other Options Impractical

Flag lots shall only be used where other lot layouts are impractical.

(b) Not Used to Avoid Public Road or Utilities Construction

Flag lots shall not be used as a means of avoiding the construction of public roads or the extension of utilities.

(c) Cul-De-Sac Required

The lot layout shall incorporate a cul-de-sac where 3 or more abutting flag lots would occur.

(d) Shared Access

Flag lots shall be required to share access where inadequate frontage exists for multiple accesses in accordance with the access requirements of the ECM.

(e) Minimum Pole Width

The minimum width for a flag lot pole shall be 30 feet.

(f) Maximum Pole Length

The length of the flag lot pole shall not exceed the length of the longest side of the flag portion of the flag lot.

(g) Pole Not Included in Lot Area

The area of the pole of the flag lot shall not be included in the lot area in meeting the minimum lot area requirements. Where the pole is irregular or wedge shaped the PCD Director shall determine where the flag pole is measured to.

(5) Division of Lots by Boundaries and Man-Made or Natural Features

(a) Roads or Other Lots

Lot shall not be divided by a road, alley, or another lot.

(b) Municipal, County or Zoning District Boundary

Lots shall not be divided by a municipal or County boundary or zoning district boundary.

(c) Special, Taxing, or School District Boundary

Lots shall not be divided by a special district, taxing district, or school district boundary, unless coordinated with the affected districts.

(d) Lots Divided by Irrigation Ditch, Stream or Drainage Facility

Lots should not be divided by an irrigation ditch, stream, or drainage facility unless a bridge or crossing is built to provide vehicular or pedestrian access to both sides.

(e) Lots Divided by Easements

Lots should not be divided by easements. Drainage easements which bisect a lot are only allowed where no reasonable alternative to the drainage solution exists.

~~(D)~~(C) Tracts

(1) Not Eligible for Building Permits

Tracts shall not be used for structures and are not considered eligible for building permits, unless authorized by the approving authority and expressly noted on the plat.

(2) Not Subject to Minimum Lot Size Requirements

Where a tract is not to be used for structures, the tract is not required to meet the minimum lot size requirements of the zoning district.

(3) Areas to Be Shown

Tract area shall be shown on the plat in square feet and acreage.

(4) Tract Boundary Line Locations

Tract boundary lines shall be located, when practicable, at the top of slopes or along benches or the flowlines of drainage courses.

(5) Minimum Frontage

Tracts shall have a minimum of 30 feet of frontage on and have access from a public road or approved access easement, except where private roads are approved by the BoCC.

(6) Park and School Tracts

(a) Dimensions of School Tracts

Tracts for schools shall have sufficient buildable area to reasonably accommodate the intended use. Buildable areas shall be excluded from easements unless otherwise approved by the applicable easement authority, and shall not encroach into hazardous areas unless the hazards are abated as specified in the required documents and plans.

(b) Access for School Tracts

Tracts for schools shall have access meeting the requirements of this Code and the ECM.

(c) Adequate Area for Recreation Required

Tracts for parks and schools shall have suitable areas for active or passive recreation facilities.

(7) Tracts Not Divided by Municipal, County, or Zoning District Boundary

Tracts shall not be divided by the boundary line of a County, city or zoning district.

(8) Public and Common Areas in Tracts

Land intended to be conveyed or reserved for common homeowner or public use except lands to be dedicated as rights-of-way use shall be located within tracts.

8.4.4. Transportation System Considerations and Standards

(A) Planning and Design of Transportation System

(1) Transportation System Design Principles

Transportation systems serving the division of land shall be designed in conformance with the planning and design principals and criteria in the ECM. New roadways and associated structures shall be designed and built to bear a logical relationship to existing and planned roads and to provide suitable service to the ultimate land use of their service areas, and designed and constructed to achieve suitable capacity, safety, and levels of service and maintenance.

(2) Consistent with MTCP

The location and design of roads shall be consistent with the road network and functional classification as identified in the MTCP.

(3) Transportation Facilities Adequate

The nature and amount of traffic likely to be generated by the division of land shall be accommodated by existing and planned roadways without significant degradation of the physical condition or levels of service and safety as evidenced by a TIS prepared in conformance with the requirements in Appendix B of the ECM.

(B) Right-of-Way Dedication Required

Roads shall be located within a dedicated public right-of-way meeting the requirements of the ECM for the roadway classification proposed. In addition, adequate right-of-way shall be dedicated to accommodate the construction of the roads identified within the MTCP in accordance with BoCC policy. In accordance with BoCC policy, the BoCC may allow a disclosure such as "public ROW easement" or "future ROW" to be placed on a plat as an alternative to dedication.

(C) Public Roads Required

Divisions of land, lots, and tracts shall be served by public roads.

(D) Dead-End Road Standards

(1) Maximum Number of Lots on Dead-End Road

The maximum number of lots fronting and taking access from a dead-end road is 25. A corner lot is not counted in the maximum number of lots on a dead-end road when the fire department determines that adequate emergency access is provided to the corner lot by an alternative road.

(2) More than 25 Lots on a Dead-End Road

Where more than 25 lots would front and take access to a dead-end road, a second means of access shall be provided. The second access

shall be either a public road or a road located within an easement specifically constructed for emergency access purposes.

In situations where a second access is planned but is not practicable to construct initially, a divided 4 lane road meeting the design and construction requirements of the ECM shall be considered a second means of access until the second access road is constructed. Provision for crossing the median of a 4 lane road by emergency vehicles shall be included in the design. Roads taking access from the 4 lane road shall be subject to the dead end and roadway termination standards of this Code and the ECM.

(3) Maximum Length of Dead-End Road

The maximum length of a dead-end road is governed by the ECM, and may be further limited in those areas subject to wildfire hazard in accordance with this Code.

(E) Private Road Allowances

(1) Use of Private Roads Generally Limited

Private roads shall normally be confined to closed loops and dead-end roads not likely to be needed for the convenience and safety of the general public.

(2) Private Roads Require Waiver

The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BoCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads.

(3) Private Roads to Meet County Standards

Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:

- Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;
- Design speed where it is unlikely the road will be needed for use by the general public;
- Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;
- Maximum and minimum block lengths; and
- Maximum grade.

(4) Private Roads Determined to Comply with Access Requirements

In cases where private roads are approved, the private roads shall be deemed to comply with the access and frontage requirements of this Code as if the private roads were public roads.

(5) Private Roads Posted

Private roads shall be posted and identified on the plat.

8.4.5. Drainage Considerations and Standards

(A) Drainage Design Concepts

- The design and operation of the drainage facilities serving a division of land shall ensure that:
  - Historical flow patterns are maintained in a manner that will reasonably preserve the natural character of the area and prevent property damage of the type generally attributed to runoff peak flow and velocity increases, diversions, concentration and unplanned ponding of storm runoff;
  - Runoff volumes and peaks in areas affected by runoff conform to the applicable provisions of the ECM;
  - The division of land does not impede the flow of natural water courses;
  - Low points within the affected area are ensured adequate drainage;
  - The drainage system considers the drainage basin as a whole and is capable of accommodating not only runoff from the proposed division of land, but also, where applicable, the runoff from areas adjacent to and upstream of the division of land;
  - Provision exists in the design or operation of proposed drainage facilities for suitable maintenance including requiring the applicant to enter into a Private Detention Basin Maintenance Agreement and Easement or create covenants whereby the lot owners are required to maintain the detention basin(s); and
  - Where a division of land will cause the introduction of new pollutants into the runoff water, storage, treatment and removal of pollutants conforms to the requirements of the ECM.

(B) Site Drainage Standards

(1) Lot Grading

Lots and tracts shall be laid out to provide positive drainage away from building sites. Overlot grading shall be designed and maintained consistent with the drainage basin planning study and master drainage plan.

(2) Coordinated with Drainage and Flood Control Systems

The design and site drainage shall be coordinated with the drainage and flood control systems.

(C) Drainage and Bridge Facility Design and Construction Standards

(1) Drainage and Bridges Constructed to ECM Standards

Drainage and bridge facilities shall be designed and constructed in conformance with the standards specified in this Code and the ECM.

(2) Compliance with Drainage Basin Planning Study and Master Drainage Plan

Drainage improvements shall conform to the requirements of the drainage basin planning study and master drainage plan.

(D) Maintenance Provisions Required

Provision for the maintenance of drainage areas shall be included as part of the subdivision easement and documents.

(E) Protection of Hazardous Areas Associated with Drainage Facilities

(1) Low-Lying Areas Preserved

Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for easement dedication, shall be preserved and retained in their natural state as drainage ways.

~~**(2) Prudent Line Setback**~~

~~Where applicable, the Prudent Line Setback, which is a buffer zone on either side of the channel where development is prohibited and the channel is allowed to move laterally, shall be shown as a no-build area and shall have a maintenance easement to grant El Paso County maintenance access.~~

~~(3)~~(2) **Subdivision Below a Jurisdictional Dam**

Land which is subject to possible failure of an upstream dam meeting the size, volume or height standards of a jurisdictional dam shall not be platted unless the potential flooding condition is alleviated according to plans approved by the ECM Administrator or the State Engineer. A Dam Failure Analysis may be required prior to approval of downstream subdivisions.

(F) Detention Ponds and Permanent BMPs

Detention ponds and permanent BMPs shall be located in separate tracts or permanent easements where appropriate or required by the ECM.

(G) Drainage Easements

(1) Drainage Easements Required for Watercourses and Ditches

A drainage easement shall be provided if a division of land is traversed by a watercourse, drainageway, channel, stream, water supply ditch, or canal. The easement shall exclude the right to make improvements of the type which would interfere with runoff. Dedication shall include a right to access if necessary.

(2) Drainage Easements Required Outside Subdivision Boundaries

When a proposed drainage system will carry water across land outside the division of land, appropriate drainage rights and easements shall be secured.

(3) Drainage Easements Required for Runoff Leaving Roadside Ditch

Drainage easements shall be established for runoff which enters private property from a roadside ditch.

(4) Width of Drainage Easements

(a) General Requirements

A drainage easement or right-of-way shall conform to the lines of watercourse and the requirements of this Code, the ECM, and related technical documents, and be of a width adequate for the intended purpose and maintenance. The minimum requirements for easements shall be based on the base flood, but shall not be less than 15 feet in width unless otherwise approved by the ECM Administrator.

(b) Standard Drainage Easement Widths and Locations

Drainage easements may be coincident with the required utility easements unless requested otherwise by the review engineer. The standard drainage easements for urban and rural lots shall be provided as follows:

(i) Urban Density

Side Lot Lines: 5 feet

Rear Lot Lines: 7 feet

(ii) Rural Density

Front Lot Lines: 10 feet

Side Lot Lines: 10 feet

Rear Lot Lines: 10 feet

8.4.6. Utilities Considerations and Standards

(A) General

Provision shall be made for facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure adequate electric and natural gas service for the division of land.

(B) Utilities Standards

(1) Utilities Located Underground

Utility facilities shall be located underground throughout the division of land except in situations or locations where undue hardship result from compliance with this requirement and the overriding intent of this Code has been demonstrated to the satisfaction of the PCD Director. Transformers, switching boxes, pedestals and other necessary facilities may be placed aboveground.

(2) Extended to Each Lot or Building Site

Utilities shall be extended to each lot, tract or building site.

(3) Utilities Located in Rights-of-Way or Easements

Utility lines, including appurtenances, shall be placed either within rights-of-way or within the easements or tracts provided for the particular facilities in accordance with the approved utility service plan and the ECM. Utility easements shall be identified for water, sewer, gas, electric power, telephone, cable television, and drainage facilities on the plat.

(C) Standards for Easements

(1) General

(a) Meet ECM Requirements

Utility easements shall meet the requirements of the El Paso County ECM.

(b) Located to Provide for Efficient Installation

Easements shall be located to provide for efficient installation and maintenance of utilities, drainage, vehicular and pedestrian access, emergency access, detention/retention facilities, water courses, and fire protection.

(c) Utility Rights within Easements

Easements for the utility companies for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, and sewer lines, shall include the right to trim interfering trees and brush and a perpetual right of ingress and egress for installation, maintenance, and replacement of lines.

(d) Approved by Utility Companies Providing Service

Utility easements shall be approved by utility companies serving the project or the beneficiary of the easement.

(e) Shared Utility Easements

Shared use of a given easement is encouraged to minimize the number of easements.

(f) Free of Conflicting Encumbrances

Easements shall be free from conflicting legal encumbrances, avoid unnecessary removal of trees or excessive excavations, and be reasonably free from physical obstructions.

(g) Blanket Utility Easements Prohibited

Blanket utility easements shall be prohibited. Existing blanket or undefined easements shall be defined or located on the ground. If an easement already of record cannot be definitely located, a statement of the existence, the nature of the easement, and its recorded reference shall be placed in the note section.

(h) No Structures Over Easements

No structure or obstruction may be erected in, placed on or extend over an easement unless approved in writing by the entity or entities having jurisdiction over the easement.

(i) Easements Used for Stated Purpose

Easements shall only be used for stated purpose as shown on the recorded plat.

(2) Easement Locations and Dimensions

(a) Easements Along Lot and Tract Lines

Utility easements shall be provided along lot and tract lines in accordance with the serving utility, this Code, and ECM.

(b) Easements Abutting Rear Lot Lines

Where an easement abuts a rear lot line which is not the rear lot line of another lot, or which is on the perimeter of the division of land, the easement width shall be 10 feet or more.

(c) Utility Easements Combined with Drainage Easements

Where easements are combined with a water course, drainage way, channel, or stream, an additional utility easement of at least 10 feet in width shall be provided if the use would be in conflict with drainage requirements or wetlands.

(d) Standard Easement Widths and Locations

Unless otherwise required by the utility provider, the standard utility easements for urban and rural lots shall be provided as follows.

(i) Urban Density

Side Lot Lines: 5 feet.

Rear Lot Lines: 7 feet.

(ii) Rural Density

Front Lot Lines: 10 feet

Side Lot Lines: 10 feet

Rear Lot Lines: 10 feet

(D) Vacation of Easements

(1) Easement Vacation to Follow Requirements of Chapter 7

Easements may be vacated in accordance with the provisions of Chapter 7 and the Procedures Manual after review by public utilities or other service providers providing designated services to the area in and around the subdivision.

(2) Approval of Structure over Easement Not Construed as Vacation

Approval in writing for the placement of a structure within an easement shall not be construed to be a vacation of the easement.

8.4.7.Water Supply Standards

(A) General

(1) Purpose

The purpose of this Section is to promote the health, safety, and welfare of the residents of El Paso County and is adopted pursuant to various State statutory authorities granted to counties, including, but not limited to, C.R.S. §§30-28-101, et seq., C.R.S. §§30-28-201, et seq., C.R.S. §§29-20-101, et seq., C.R.S. §§24-65.1-101, et seq., C.R.S. §§24-67-101, et seq., respectively.

This Section is not intended to enhance, diminish, displace, modify or supersede any applicable State Statutes or regulations regarding the initiation, adjudication, administration or use of water rights.

(2) Applicability

The requirements of this Section shall apply to any development application which results in the creation of new lots, except as otherwise provided, with the following clarifications:

- The effective date of this Section is originally November 20, 1986, and this Section shall fully apply to any subdivision which does not have preliminary plan approval prior to that date;
- Any proposed subdivision with a preliminary plan approval by the BoCC prior to November 20, 1986, but still in the process of obtaining plat approval, shall be subject to the previously existing water supply regulations in this Code and any controlling State statutory requirements regarding subdivision water supplies. Notwithstanding the foregoing, a subdivision proposing a change in its source of water which would result in a substantial decrease in the quality, quantity or dependability of the water supply or a substantial increase in the annual water demand shall be subject to this Section. In no case shall a change from a renewable to non-renewable source provide less than a 300-year water supply; and
- The requirements of this Section shall apply if there has been a substantial change in the water supply of the subdivision. The BoCC, with recommendations from the ~~County Hydrogeologist or the~~ OCA, shall determine if a substantial change in the water supply or water demand is proposed. Factors to be considered in the determination of a substantial change in the water supply or water demand include the percent increase or decrease in water demand or water availability and the absolute quantity increase or decrease in the water demand or water availability.

(3) Exceptions

The requirements set forth in this Section shall not apply to:

- Subdivisions which will not use water;

- Agricultural uses not associated with residential, commercial, or industrial activities requiring subdivision approval;
- A proposed subdivision which, by reason of the nature, type and extent of the proposed development, will not require a water supply as prescribed herein. Subdivisions meeting this requirement are not designed or developed for permanent occupation or habitation. The determination shall be made by the BoCC, following recommendations by the OCA~~,~~ or ~~-~~PCD Director, ~~or County Hydrogeologist,~~ on a case-by-case basis, and shall be based on a specific request and supporting evidence presented by the applicant along with recommendations of the Planning Commission. If exempted by the BoCC, any subsequent change in the subdivision as approved may require compliance with this Section;
- A vacation or vacation and replat of an existing subdivision or lots within an existing subdivision or any plat change, any of which will not result in significantly greater total water use than previously anticipated for the subdivision. All determinations as to the significance of the change in water use shall be made by the BoCC, with recommendations by the ~~County Hydrogeologist or~~ OCA; and
- The Planning Commission may recommend and the BoCC may, on a case-by-case basis, waive any or all of the requirements of this Section pursuant to a waiver application; however the finding of sufficiency for the quality, quantity, and dependability for water supplies shall not be waived.~~; and~~

(4) Terminology

Unless specifically provided by this Code, water terminology within this Section shall have the same meaning, definition and application as set forth in C.R.S. §§37-90-101, et seq. and §§37-92-101, et seq.,

(B) Water Resource Report

(1) General

(a) Purpose

The purpose of the water resources report is to provide the data necessary for the Planning Commission and the BoCC to determine whether the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision.

(b) Water Resources Report Required

A water resources report as required by this Section shall be submitted with sketch plan, preliminary plan, final plat, and any subdivision applications which will create a new lot. A copy of the report will be kept on file in the El Paso County PCD.

(c) Prepared by Qualified Professional

The water resources report shall be prepared by a qualified hydrogeologist, hydrologist, licensed civil engineer, qualified groundwater geologist, or other qualified professional with appropriate experience.

(d) Document Adequate Water Supply

The Water Resources Report shall include adequate documentation that the proposed water supply is sufficient in terms of quantity, dependability, and quality for the proposed subdivision.

(e) Enforcement

In addition to any other remedies provided by law or this Code, the BoCC shall have the right to enforce compliance with the provisions of this Section, including any agreement provided pursuant to this Section, by means of withholding building permits within the subject subdivision or withholding plat approvals for additional development phases within the subject subdivision pending full compliance or other resolution.

(2) Description Report Contents and When Required

(a) Sketch Plan Report

The initial water resource report submitted with the sketch plan may be of a general nature, may be based on published and unpublished data and reports, and need not include site-specific hydrogeologic data. The purpose of the report included with the sketch plan is to identify probable compliance of the proposed subdivision with the water supply standards and to identify the need for additional water supplies which will be required for the subdivision.

(b) Preliminary Plan Report

The water resource report submitted with the preliminary plan shall include all of the data needed to determine whether the water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision. The report shall be based on engineering calculations and site-specific data and shall include a detailed discussion of the water demand, supply, quality, dependability, and supply facilities for the proposed project. The report shall identify those aspects of the water supply plan which are insufficient in terms of quantity, quality or dependability and shall identify the actions to remedy the deficiencies.

(c) Final Plat and Replat Report

The water resource report submitted with the final plat shall include all of the data needed to determine whether the proposed water supply is sufficient in terms of quality, quantity

and dependability for the type of subdivision proposed. The report shall be based on engineering calculations and site-specific data and shall include a detailed discussion of the water demand, supply, quality, dependability, and supply facilities for the proposed subdivision.

A water resources report is not required if the BoCC made a finding that the proposed water supply plan of the preliminary plan was sufficient in terms of quantity, quality and dependability. However, an amended water resources report is required if there is a substantial change in either the water supply or the estimated water demand.

~~**(d) Residential Subdivisions of 4 Lots or Fewer**~~

~~A complete water resources report is not always required for minor subdivisions. State statute requires the State Engineer to review all proposed water supplies. The State Engineer requires at a minimum a narrative discussion and a Water Supply Information Summary Form.~~

(3) Water Resource Report

The water resource report shall document the requirements of this Section and shall include the following data, documentation, and analysis at a level of detail necessary to make the determinations of sufficiency:

(a) Summary of the Proposed Subdivision

The water resource report shall include a summary of the proposed subdivision with the following information:

A location map including roads, Township and Range, a copy of all maps required with sketch and preliminary plan and final plat submittals, and legal description; and

A description of subdivision including acreage of each proposed land use, number of dwelling units, etc. For phased projects the description shall clearly describe the acreages, land uses and number of units of each phase. The location of each proposed land use shall be shown on appropriate maps.

(b) Information Regarding Sufficient Quantity of Water

(i) Calculation of Water Demand

The water resource report shall include water demand calculations in separate calculations for the type, number and annual water requirements of existing, proposed and potential maximum uses of the subject property and a general timetable when the demands are expected. Acceptable methods of determining water demand are described in this Section.

(ii) Calculation of Quantity of Water Available

The water resource report shall identify and describe each source of water including: (1) a map showing the location of any off-site water to be used and the location of major water transmission lines, reservoirs, etc; (2) calculations of the quantity of water available from each source (on-site and off-site sources shall be determined separately); and (3) a description of groundwater sources.

(iii) Groundwater Source Information

The water resource report shall list each aquifer to be used. Each aquifer shall be identified as tributary, non-tributary, not non-tributary or from a designated basin, and as either renewable or non-renewable aquifers. The report shall discuss the need for and the status of any augmentation plans required to use the proposed supply. The report shall also describe the annual and the 300-year quantity of water available from each proposed aquifer.

(iv) Production Wells Information

The water resource report shall discuss location, construction and production details of existing and proposed production wells. The following shall be included: (1) estimated number, size and short- and long-term yields of wells necessary to serve the proposed subdivision; (2) estimated life expectancy of wells; (3) estimated short and long-term well development schedule indicating probable timing of bringing additional wells on line; (4) ~~A~~a map showing locations of wells to be used during the first 5 years of the subdivision and probable locations of wells in the following years; (5) ~~W~~well drilling logs and well completion reports; and (6) ~~P~~pumping test data and analysis, including data and analysis of constant rate and step drawdown tests.

(v) Surface Water Sources

The water resource report shall list each surface water supply to be used. The report shall discuss the need for and the status of any augmentation plans required to use the proposed supply. In addition, the report shall describe the annual and the 300-year quantity of water available from each proposed surface water supply, and calculate the number of years of water supply. For phased projects, the calculation shall delineate the years of water available for each phase.

(c) Information Regarding Sufficient Dependability of Water Supply

The water resource report shall include the following information to allow a determination of sufficient dependability of the water supply to be established:

(i) Proof of Ownership

Proof of ownership or right of acquisition of use of existing or proposed water rights sufficient in quality, quantity and dependability to serve the proposed use including well permits, court decrees, well applications, export permits, etc.

(ii) Financial Plan

Financial plan and capital improvements plan of water provider.

(iii) Description of Water Supply

Description of the water supply, location shown on maps, and, when appropriate, engineering designs of existing and proposed water supply facilities, including wells, storage facilities, major transmission lines, etc.

(iv) Calculations Demonstrating Quantity

Calculations and documentation demonstrating that the aquifers are capable of supplying the required quantity of water and analysis showing the wells are capable of producing the required water supplies, if groundwater is to be used.

(v) Evidence of Water System Source

If a public or private water system is to be used, evidence that the source can and will supply water to the proposed subdivision stating the amount of water available for use within the subdivision and the feasibility of extending service to the area. This evidence shall include the following information: (1) A letter indicating a commitment to serve (except in the case of a sketch plan); (2) Name and address of the municipality, quasi-municipality, or water company which will supply the water; (3) Current capacities of the existing system; (4) Total amount of current and committed use; and (5) Amount and timing of water to be supplied to the subdivision.

This requirement does not apply to subdivisions to be supplied by individual wells.

(vi) Evidence of Short-Term Supply for Fire

Evidence that short-term water supply needs of the subdivision can be met to satisfy fire demand and reduction of supplies as a result of flooding~~, and~~or damaged or

otherwise incapacitated systems. Short-term dependability can be satisfied by such features as reservoirs, cisterns, standby wells and standby connections with other water supply or distribution systems.

(d) Information Regarding Sufficient Quality

The following shall be supplied: (1) Chemical analyses of proposed water from each proposed source; (2) Evidence of compliance with County and State water quality standards; and (3) Discussion of potential for water quality degradation from on-site and off-site sources.

(e) Public and Private Commercial Water Providers

(i) Information from Commercial Water Providers

It is the responsibility of the applicant to provide information regarding the availability of water supplies from any source, including public and private commercial water providers. Should the subdivision fall within a water provider's service district, a general water resources report supplied by the provider may be used to evaluate available water resources provided the content meets or exceeds the requirement of the Water Resource Report.

(ii) Water Providers Report

In those cases where the water provider submits a general Water Resources Report, the water resource report shall be updated annually, by February of each year. Update information shall include:

Volume of water sold in the previous year;

New water acquisitions, commitments, augmentation plans, etc.;

Water trades or other losses of water supplies;

Anticipated water acquisitions for the upcoming year;

Legal documentation accompanying new water acquisitions and augmentation plans;

Major capital improvements accomplished during the past year and anticipated major capital improvements for the upcoming year; and

Other information which would be useful in evaluating the availability of water supplies.

(f) Review of Water Resource Report

Water Resource Reports will be referred to the State Engineer and any applicable designated groundwater management district or water service provider, and reviewed by the ~~County~~

~~Hydrogeologist,~~ OCA, ~~EPCDHE~~EPCPH, and PCD. When a proposed subdivision is located within a designated groundwater management district, El Paso County may receive comments and review recommendations from the district; however, the recommendations are not binding on the County.

(i) Sketch Plan Report

After receipt of the report, County staff and review agencies will submit a statement of their conclusions, finding and recommendations to the PCD.

Given the general and preliminary nature of water information available at the sketch plan stage, the OCA will not provide recommendations or comments on the sufficiency of the water supply for sketch plan.

(ii) Preliminary Plan Report

The ~~County Hydrogeologist~~OCA will, in consultation with ~~the OCA and~~ the PCD, prepare a recommendation that the water supply be found sufficient or insufficient in terms of quantity and dependability. The ~~EPCDHE~~EPCPH will prepare a recommendation that the water supply is sufficient or insufficient in terms of quality. If the ~~County Hydrogeologist,~~ OCA or ~~EPCDHE~~EPCPH recommend that the proposed water supply be found insufficient, they shall identify the deficiencies in the water supply plan to be corrected prior to submittal of the final plat.

(iii) Final Plat

The ~~County Hydrogeologist~~OCA will, in consultation with ~~the OCA and~~ the PCD, prepare a recommendation that the water supply be found sufficient or insufficient in terms of quantity and dependability. The ~~EPCDHE~~ EPCPH will prepare a recommendation that the water supply is sufficient or insufficient in terms of quality. If the ~~County Hydrogeologist,~~ OCA or ~~EPCDHE~~EPCPH recommend that the proposed water supply be found insufficient they shall identify the deficiencies in the water supply plan.

(4) Basis of Determination of Sufficiency

(a) General Provisions

The Planning Commission shall, as part of its deliberations, make a recommendation regarding the sufficiency of the proposed water supply. The BoCC shall determine the sufficiency of the proposed water supply in terms of quantity, dependability, and quality based on the information presented and the recommendation of the Planning Commission.

In determining the sufficiency of a proposed water supply, the BoCC shall, at a minimum, consider the Water Resources

Report, data and recommendations from the State Engineer's Office, OCA, EPCPH, and the County staff~~, and the County Hydrogeologist;~~, the recommendations of the Planning Commission,~~;~~ and public comment. In all cases the burden of proof in demonstrating sufficiency rests with the applicant, and it shall be the applicant's sole responsibility to document in the Water Resources Report that the proposed water supply is sufficient in terms of quantity, dependability, and quality.

(b) Conditional Finding of Sufficiency

Conditional findings of sufficiency can be made by the Planning Commission and the BoCC specifying conditions that shall be met prior to recording the final plat. Some examples of conditions include, but are not limited to: written proof from the Colorado Division of Water Resource~~'~~s that a well has been abandoned or re-permitted, written proof that an applicant has voluntarily reduced the amount of withdrawal, completion of CDPHE Technical, Managerial and Financial (TMF) analysis and issuance of PWSID number for a new central water system, and formal annexation of the lot into a central water system's service area. Once these requirements are met, the conditional finding of sufficiency becomes a finding of sufficiency.

(c) Exception to 300-Year Water Supply

An exception to the requirement for a 300-year water supply can be granted in those situations where proposed ~~to those~~ lot~~(~~s~~)~~ are not included in ~~the~~ a Special District's ~~Water and Sanitation or Metropolitan District's~~ service area, but the applicant ~~desires to~~seeks ~~subdivide their land, annex~~inclusion of those lots into the District~~,~~ and to utilize the District's service for the new lot~~(~~s~~)~~, ~~which lot(s) may be granted an exception of the 300-year water supply requirement due to the fact that~~ and where the District has effectively appropriated all the groundwater under the proposed subdivision by virtue of the cylinders of appropriation around its pre-1973 well(s). However, if an exempt well~~(~~s~~)~~ will continue to be used by an existing lot (and will not use the District's water service), the applicant must reduce the amount of withdrawal from ~~their~~such exempt well~~(~~s~~)~~ to meet the County's 300-year supply ~~life~~ requirement.

(d) Documents Needed for Review by the OCA

The following documents shall be reviewed by the OCA:

Water Supply Information Summary Form

Letter of Commitment from Water District

Copies of all well permits

Copies of all Water Court Decrees

Copies of all Colorado Groundwater Commission Determinations of Water Rights

State Engineer's Office Opinion

(e) Phases of Plan Approval

(i) Sketch Plan:

Approval of a sketch plan by the Planning Commission and BoCC does not require a finding that the proposed water supply is sufficient in terms of quality, quantity and dependability.

(ii) Preliminary Plan

Action of the Planning Commission: The Planning Commission shall make a recommendation that the proposed water supply is or is not sufficient in terms of quantity, dependability, and quality. Separate recommendations may be made. A preliminary plan may be approved even if a recommendation of insufficiency is made. The Planning Commission shall identify the deficiencies in its recommendations to the BoCC.

Action of the BoCC: The BoCC shall make a finding that the proposed water supply is or is not sufficient in terms of quantity, dependability, and quality. Separate findings may be made. A preliminary plan may be approved even if a finding of insufficiency is made. The BoCC shall identify the deficiencies with respect to the water supply plan.

(iii) Final Plat

No final plat shall ~~be approved~~receive a recommendation of approval by the Planning Commission or be approved by the ~~BoCC~~ approving authority without a finding that the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision. If the applicant seeks administrative approval of the final plat, the finding must have been previously made by the BoCC ~~in connection with the preliminary plan~~at the time of preliminary plan approval.

~~If a finding of sufficiency for the proposed water supply has been made at the preliminary plan; a finding is not required at the final plat.~~

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 an 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 and Easement Agreement. Unless the water court or Colorado Groundwater Commission authorizes differently, no more than 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. Prior to recording the final plat for any such subdivision, the applicant shall provide to PCD and the OCA for review and approval documents including, but not limited to, water court decrees and plans for augmentation signed by the Water Judge; determinations of water rights and replacement plans signed by the Colorado Groundwater Commission; deeds to cure defects in title to water rights; form deeds conveying water rights to individual lot owners; deeds conveying water rights for augmentation or replacement to the HOA (or to lot owners for subdivisions with 3 lots or less); Joint Use Well Sharing and Easement Agreements (where applicable); restrictive covenants; and documents creating the HOA including articles of incorporation, certificate of incorporation by the Secretary of State, and bylaws.

(5) Finding of Sufficient Dependability

The proposed water supply shall meet the following criteria to be found sufficient in terms of dependability:

- The supply is of sufficient quantity to meet the needs of the proposed subdivision for 300 years;
- The proposed water supply system and water supply is capable of meeting the average annual and peak daily demand of the proposed subdivision; and
- The applicant has provided adequate evidence of ownership or the right of acquisition or use of existing or proposed water rights

sufficient in quantity, dependability, and quality to serve the proposed uses within the subdivision; and (1) the legal capability to accomplish any changes in the uses or points of diversion of the rights with quantities and dependability necessary to serve the proposed subdivision without material injury to vested water rights; or (2) adequate evidence that the public or private water provider can and will supply the proposed subdivision with water of adequate quality, quantity and dependability.

(6) Adequate Proof of Ownership or Right of Acquisition

No final plat will be approved without adequate proof of ownership or the right of acquisition or use of existing and proposed water rights. If the applicant seeks administrative approval of the final plat, such proof must be made to and accepted by the BoCC ~~in connection with the preliminary plan~~at the time of preliminary plan approval. Following are the minimum requirements of each type of water supply as proof of ownership or the right of acquisition of or use of existing and proposed water rights of surface or groundwater:

(a) Surface Water

For surface water and underground water defined in C.R.S. §37-92-103 (11), the following shall be considered adequate proof of ownership or right of acquisition:

Copies of appropriate well permits or court decrees for water rights, changes of water rights, and augmentation plans or State Engineer approved temporary exchange plans; or

If the decree or historic use and priority does not provide for a probable uninterrupted supply, the applicant shall submit a legally binding alternative supply plan, such as reserve groundwater.

(b) Groundwater Outside the Designated Groundwater Basins

For groundwater outside the designated groundwater basins and subject to C.R.S. §37-90-137(4) (S.B.-5 and S.B.-213), the following shall be considered adequate proof of ownership or right of acquisition:

Copies of well permits, court decrees for the intended type of use and quantity, or determinations made by the State Engineer under rules and regulations adopted pursuant to C.R.S. §37-90-137(9) in response to water court request pursuant to C.R.S. §37-92-302(2), and in the referral and review process of C.R.S. §30-28-136(1) (h)(I);

With respect to groundwater classified as not non-tributary, a court decree approving a plan of augmentation is required.

(c) Designated Groundwater

(i) Alluvial Groundwater

For alluvial groundwater, permits or determinations issued by the Colorado Groundwater Commission for the intended type of use or court decrees shall be considered adequate proof of ownership or right of acquisition. If appropriate, export permits are required.

(ii) Bedrock Groundwater

For bedrock groundwater, permits or determinations issued by the Colorado Groundwater Commission for the intended type of use, or court decrees and estimates of the quantity of groundwater in Denver Basin formations shall be considered adequate proof of ownership or right of acquisition. Either a permit or a court decree is required for water which will be used during the first 20 years of the proposed project. Denver Basin formation estimates are only permissible for those deeper aquifers which will not be needed during the first 20 years of the project life. If appropriate, export permits are required.

Perfected Groundwater Rights (1973): For groundwater rights perfected prior to enactment of Senate Bill 213 (July 6, 1973) and not defined in §37-92-103 (11), C.R.S., a court decree or well permits for the intended types of use shall be considered adequate proof of ownership or right of acquisition.

(d) Other Information Required

In addition to the above requirements, the applicant shall provide any other pertinent information and documentation which further expands, restricts or modifies (or which could potentially expand, restrict, or modify) the existence, ownership and right to use the subject water rights for the proposed subdivision.

(e) Written Evidence Required

The applicant shall provide written evidence satisfactory to the BoCC that documented water rights have been committed to and will be retained for subdivision use to the fullest extent necessary to satisfy the water demand of the proposed subdivision as required by this Section. The written evidence may include one or a combination of the following:

An adequate letter of commitment from an established water provider agreeing to provide

water service to the proposed subdivision, and stating the amount of water available for use within the proposed subdivision and the feasibility of extending service to that area;

A legally binding agreement between the BoCC and the applicant or water provider setting forth and prescribing the terms, conditions, limitations and restrictions as to the commitment and retention of documented water rights necessary to satisfy the present and anticipated future water demand of the proposed subdivision or the respective filing thereof in accordance with this Section; or

A plat note conveying or identifying the documented water rights committed to the proposed subdivision, and restricting the further conveyance, sale, transfer, or change in use of the committed water rights.

In determining the appropriate means to accomplish the foregoing, the BoCC shall consider, among other factors, the legal classification of the water involved, the type of water system proposed, and the water provider's history of experience and reliability of providing service.

(f) Written Documentation Recorded Prior to Plat Approval

The written documentation required by the BoCC pursuant to this Section 8.4.7, shall be finalized, fully executed and recorded prior to or concurrent with the recording of the final plat for the subject property, except that the letter of commitment shall not be recorded. HOA documents shall be recorded, to the extent that the HOA is in existence at the time of plat recording.

(g) Adequate Proof from Water Provider

(i) General

Adequate proof is required of the capability of the water provider to serve the proposed subdivision and pre-existing subdivisions, if any, with adequate quantity, dependability, and quality at average annual and at peak daily demand. The 300-year water supply requirement does not apply to pre-existing (prior to November 20, 1986) subdivisions.

(ii) Financial and Capital Improvement Plan

The financial plan and capital improvements plan shall include a program for future wells if future groundwater development is planned and shall show that necessary financial resources have been satisfactorily committed to extend water service to the proposed subdivision and to adequately maintain and operate the water supply system.

Projects in which each residence will be served by an individual well are not required to have a financial or capital improvement plan.

(iii) Water Bearing Capacity of Aquifers

Proof shall be provided that the water bearing properties of aquifers (i.e., hydraulic conductivity, transmissivity, storativity, storage coefficient, etc.) are adequate to yield the quantity of water which is proposed to be extracted from the aquifer.

(iv) Physical Facilities and Technical Capabilities Adequate

Proof shall be provided that physical facilities, or the necessary financial and technical resources and legal commitments and authority to construct a system, for raw water acquisition, collection, storage and treatment, and for treated storage and distribution and maintenance or water pressure are sufficient to serve the needs of the proposed subdivision.

(v) Water Demands for Fire

Proof shall be provided that water demands needed to satisfy fire demand, replacement of supplies reduced due to flooding, damaged or otherwise incapacitated systems can be met. This short term dependability is satisfied by such features as reservoirs, cisterns, standby wells and standby connections with other water supply or distribution systems.

(vi) Compliance with Drinking Water Regulations

When a new community water system subject to the Colorado Primary Drinking Water Regulations is proposed in conjunction with a subdivision, a conditional finding of sufficiency may be issued by the Planning Commission and BoCC in the approval of a preliminary plan or final plat subject to the following:

CDPHE TMF capacity, analysis and approval thereof, as evidenced by issuance of a Public Water System Identification (PWSID) number;

Adequate construction surety for the proposed water system which includes all waterworks identified in the CDPHE TMF analysis;

Restrictions on the sale of lots and the issuance of building permits until the water system is constructed and certified are included on the final plat; and

An entity acceptable to the water court, or Colorado Groundwater Commission or the

CDPHE shall be formed or engaged to assure operation of the community water system.

(7) Finding of Sufficient Quantity

(a) Sources of Water

Water shall be supplied from legally and physically available water sources and may be supplied from on-site sources, off-site sources, or both.

(b) Required Water Supply

The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years. Sketch plans are not required to include documented evidence that the proposed water supply will meet the needs of the proposed subdivision for a period of 300 years.

(c) Determination of Water Demand

(i) Sketch Plan

The total 300-year water demand shall be estimated for the entire subdivision. Each phase of a subdivision shall be estimated independently. It is recognized that this estimate will be based on the general concept of the proposed subdivision and not final engineering plans. Acreages of community landscaping, lawn sizes, specific types of commercial and industrial uses, etc., may be based on estimates.

(ii) Preliminary Plan and Final Plat

Estimates shall be based on actual acreages and densities, engineering plans and designs, land surveys and restrictive covenants, as applicable.

(d) Presumptive Use Values

In the absence of data on water use to the contrary or other minimum values established as acceptable by the State Engineer, the following presumptive values will be used to calculate the annual water demand:

Residential inside use 0.26 acre feet per year for single family residences and 0.20 acre feet per year for each occupancy unit in multiple family residences other than single family. A duplex contains 2 occupancy units, a triplex contains 3 occupancy units, etc;

Residential and commercial landscaping use 0.0566 acre feet per 1,000 square feet of landscaping;

Commercial and industrial inside use 0.1 gallon per day for each square foot of developed space; and

Miscellaneous irrigation (landscaping, golf courses, etc.) use 2.46 acre feet per acre per year.

(e) Calculation of Unusual Water Demands

Unusual water demands for residential projects, such as large swimming pools, lakes, large fountains, irrigation of golf courses, greenbelts and pasture land, shall be determined and calculated separately.

(f) Water Use for Uses Not Itemized

For uses not itemized above the applicant shall conduct a site specific study.

(g) Water Demand of Comparable Projects

The applicant may also submit an estimate of annual water demand based on the water use of comparable projects, water reuse, groundwater recharge, water conservation, or other innovative methods. Complete documentation shall accompany these estimates, and it shall be the applicant's sole responsibility to demonstrate the validity of water demand estimates made from alternative calculations. If alternative calculations are included, calculations using the above presumptive values shall also be included. The BoCC will make the final determination of water demand.

(h) Adjustments to Water Demand Calculations

At the preliminary plan and final plat stage of a subdivision, the calculations of the water demand may be adjusted for the time required for subdivision buildout. The adjustment shall be in increments of whole years and the adjustment period shall not exceed 20 years from the date of final plat approval.

(8) Determination of Available Water

(a) Sketch Plan

Existing and potential water supplies shall be estimated for the entire subdivision. Proposed quantities of available water are considered general estimates and need not be based on court decrees, well permits or final engineering plans. The quantity of water available from each proposed on-site and off-site source and each aquifer shall be determined and described separately. For phased projects the supply for each phase shall be estimated independently. The quantities of available water shall be expressed in acre feet per year and total acre feet for the proposed subdivision to evidence a 300-year supply. Because substantial differences may exist between the estimates included

with the sketch plan submittal and actual water supplies available for preliminary plan and final plat submittals, acceptance of the estimates accompanying the sketch plan will not guarantee the number of dwelling units permissible in later stages of the subdivision approval process.

(b) Preliminary Plan and Final Plat

The quantity of water available from each proposed on-site and off-site source and each aquifer shall be determined and described separately. Calculations shall be based on court decrees, well permits, approved augmentation plans and determinations by the State Engineer. The quantities of available water shall be expressed in acre feet per year and total acre feet for the proposed subdivision to evidence a 300-year supply.

(9) Water Calculation by Category of Water Type

(a) Surface and Undergroundwater as Defined by Statute

Available surface and undergroundwater as defined in C.R.S. §37-92-103(11) are calculated as follows.

(i) Renewable Water Sources

Certain water as defined in C.R.S. §37-92-103(11) which is provided from surface water and underground sources is considered to be annually renewable and is therefore considered to have a minimum life of 300 years.

(ii) Well Permits and Court Decrees

The quantities of water available shall be derived from appropriate well permits, court decrees for water rights, changes of water rights, augmentation plans, and State Engineer approved temporary water exchange plans which will be legally and physically available for the proposed subdivision. In the event the court decreed quantity or well sited quantity of water has historically been unavailable at times because of a junior priority or for other reasons, the water supply may only be counted if an alternative supply, of equal quantity, is available when the surface supply is not. For example, if the priority of a surface water supply is such that water is only available seasonally, then an equal supply of reliable alternative water shall be available when the surface supply is not available.

(iii) Calculation of Quantity

The quantity of water available shall be calculated by multiplying the annual appropriation, in acre feet, times 300 years. If a supplemental water supply is required, reduce the number of years by the percentage of time the supply is not available. For example, if a supply of surface water is not available for 6 months out of the year, then the quantity of

surface water available shall be reduced by 50%. The supplemental source shall be documented independently.

(b) Groundwater Outside Designated Basins

Available groundwater outside designated groundwater basins and subject to C.R.S. §37-90-137(4) (S.B. 5 (July 1, 1985) and S.B. 213 (July 6, 1973) groundwater) is calculated as follows:

(i) Quantity of Nontributary and Not-Nontributary Groundwater

The quantity of nontributary and not nontributary groundwater available is that quantity prescribed by court decrees, wells, or quantity determinations made by the State Engineer under rules and regulations adopted pursuant to C.R.S. §37-90-137(9), in response to water court request pursuant to C.R.S. §37-92-302(2) and in the referral and review process of C.R.S. §30-28-136(1)(h)(I). With respect to groundwater classified as not nontributary, the applicant shall furnish a court decree approving a plan of augmentation.

(ii) Calculation of Quantity

The quantity is calculated by multiplying the annual appropriation by 100 years. The quantity shall be adjusted for the quantity of groundwater used in prior years. Calculations of the quantity of groundwater available shall be based on the following priority: first, court decrees; second, well permits; and third, State Engineer's recommendations.

(c) Available Designated Groundwater

(i) Not Exceed Quantity Allocated by Commission or Court

The quantity of groundwater may not exceed the quantity of groundwater allocated by permits or determinations approved by the Colorado Groundwater Commission, or the quantity exhibited by court decrees plus the quantity of groundwater which occurs beneath the project site in Denver Basin formations for which the Colorado Groundwater Commission has not approved well permits.

(ii) Priority of Wells a Factor

If a court or the Colorado Groundwater Commission has decreed a priority appropriation list of wells in the basin, the priority and significance of the priority of the proposed wells to any condition of basin over-appropriation shall be a factor in determining sufficiency.

(iii) Quantity of Alluvial Groundwater

The quantity of renewable alluvial groundwater is calculated by multiplying the annual well appropriation or court decree, in acre feet, by 300 years. The appropriation shall be

adjusted, if necessary, to account for a junior priority appropriation.

(iv) Quantity of Bedrock Groundwater

The quantity of nonrenewable bedrock groundwater is calculated by multiplying the annual appropriation, as specified in the Colorado Groundwater Commission determination or court decrees and well permits, in acre feet, by 100 years. The appropriation shall be adjusted, if necessary, to account for groundwater previously appropriated or extracted. Denver Basin groundwater underlying the project site for which Colorado Groundwater Commission determinations or court decrees or well permits have not been issued may be counted as part of the water supply. The estimates of Denver Basin groundwaters are only permissible for those deep aquifers which will not be needed during the first 20 years of the project.

(d) Available Perfected Groundwater

Available groundwater from groundwater rights perfected prior to enactment of Senate Bill 213 (July 6, 1973) is calculated as follows:

(i) Calculating Quantity of Groundwater

If renewable (i.e. alluvial) multiply the annual appropriation by 300 years; if nonrenewable (i.e. Denver Basin aquifers) multiply the annual appropriation by 100 years. If appropriate make adjustments for the 3/7 rule on the Arkansas River or other extraction limitations.

(ii) Calculating Quantity of Pre-1973 Court Decree and Groundwater

The quantity of groundwater from pre-1973 court decrees and well permits shall be calculated independently, and when appropriate the cylinder of appropriation of the well shall be subtracted from the area of other groundwater calculations.

(10) Finding of Sufficient Quality

In conjunction with applicable State and federal water quality standards and requirements, the proposed water supplies shall meet the following requirements:

(a) Chemical Analysis Required

~~In~~For subdivisions ~~where~~ in which water will be supplied ~~by~~utlizing individual wells rather than a central water supply system, ~~A~~a chemical analysis shall be performed on a representative water sample from every bedrock groundwater source which will be utilized by the subdivision during the first 5 years and from every non-bedrock source to be used by the subdivision. Large subdivisions may require multiple samples

from the same source (not the same well) to ensure representative water quality analyses.

~~The El Paso County Public Health intent was never to require sampling of *all* the parameters in the drinking water regulations, but only those that pertain to raw, untreated water intended as a drinking water source obtained from private individual wells in these developments.~~

~~Therefore, the following water quality parameters are all that have been determined to be required for sampling, and for the proper determination of sufficiency in terms of water quality:~~ The required chemical analysis shall test for the following contaminants, and the results must meet the following parameters, which may be updated from time to time by EPCPH without corresponding amendments to this Code being approved. Any such updates to the testing parameters approved by the EPCPH shall be the controlling requirements for testing. For subdivisions served by groundwater wells drawing only from a confined aquifer, ~~however,~~ the chemical analysis does not need to include ~~Exception,~~ the Volatile Organic Chemical Contaminants and~~,~~ Synthetic Organic Chemical Contaminants. ~~are not required to be tested for when the proposed subdivision is proposed to be served by wells from a confined aquifer. (~~The EPCPH may require additional testing in some cases~~,~~ where blending of the water is proposed ~~to be blended~~,~~ ~~ie:~~e.g., ~~alluvial versus confined~~).

Volatile Organic Chemical Contaminants and MCL (mg/L):

1.	Vinyl chloride	0.002
2.	Benzene	0.005
3.	Carbon tetrachloride	0.005
4.	1,2 Dichloroethane	0.005
5.	Trichloroethylene	0.005
6.	1,4 Dichlorobenzene	0.075
7.	1,1 Dichloroethylene	0.007
8.	1,1,1 Trichloroethane	0.2
9.	cis-1,2 Dichloroethylene	0.07
10.	1,2 Dichloropropane	0.005
11.	Ethylbenzene	0.7
12.	Monochlorobenzene	0.1
13.	o-Dichlorobenzene	0.6
14.	Styrene	0.1
15.	Tetrachloroethylene	0.005

16. Toluene 1.0
17. Trans-1,2 Dichloroethylene 0.1
18. Xylenes (total) 10
19. Dichloromethane (methylene chloride) 0.005
20. 1,2,4 Trichlorobenzene 0.07
21. 1,1,2 Trichloroethane 0.005

Synthetic Organic Chemical Contaminants and MCL (mg/L):

1. Alachlor 0.002
2. Atrazine 0.003
3. Carbofuran 0.04
4. Chlordane 0.002
5. Dicbromochloropropane 0.0002
6. 2,4 D 0.07
7. Ethylene dibromide 0.00005
8. Heptachlor 0.0004
9. Heptachlor epoxide 0.0002
10. Lindane 0.0002
11. Methoxychlor 0.04
12. Polychlorinated biphenyls 0.0005
13. Pentachlorophenol 0.001
14. Toxaphene 0.003
15. 2,4,5 TP (Silvex) 0.05
16. Benzo[a]pyrene 0.0002
17. Dalapon 0.2
18. Di(2-ethylhexyl)apidate 0.4
19. Di(2-ethylhexyl)phthalate 0.006
20. Dinoseb 0.007
21. Diquat 0.02
22. Endothall 0.1
23. Endrin 0.002
24. Glyphosate 0.7
25. Hexachlorobenzene 0.001
26. Hexachlorocyclopentadiene 0.05
27. Oxamyl (Vydate) 0.2
28. Picloram 0.5
29. Simazine 0.004

Inorganic Chemicals and MCL (mg/L):

1. Antimony 0.006
2. Arsenic 0.01
3. Barium 2.0
4. Beryllium 0.004
5. Cadmium 0.005
6. Chromium 0.1
7. Cyanide (Total*) 0.2
8. Fluoride 4.0
9. Mercury… 0.002
10. Nitrate 10.0 (as Nitrogen)
11. Nitrite 1.0 (as Nitrogen)
12. Total Nitrate and Nitrite 10.0 (as Nitrogen)
13. Selenium 0.05
14. Thallium 0.002

*If total cyanide is 0.2 mg/L, or greater then further analysis for free cyanide is required.

Secondary Maximum Contaminants :

1. Aluminum 0.05 to 0.2 mg/L
2. Chloride 250 mg/l
3. Corrosivity Non-corrosive
4. Iron 0.3 mg/L
5. Manganese 0.05 mg/L
6. pH 6.5-8.5
7. Silver 0.1 mg/L
8. Sulfate 250 mg/L
9. Total dissolved solids (TDS) 500 mg/L
10. Zinc 5.0 mg/L

Radionuclides:

1. Gross Alpha/Beta-Water
2. Combined radium-226 and radium-2281 5pCi/L

Bacteriological:

1. Total Coliform Absence

(b) Contaminant Levels to Meet Drinking Water Requirements

Maximum permissible contaminant levels shall meet the requirements of the Colorado Primary Drinking Water Regulations, as clarified by the ~~EPCDHE~~EPCPH~~.~~

(c) Analysis of Major Ions

Analyses of the major ions calcium, magnesium, potassium, sodium, bicarbonate/carbonate, chloride and sulfate may be required by the ~~EPCDHE~~EPCPH.

(d) Collection Techniques

Samples shall be collected by qualified personnel using standard collection and preservation methods and shall be analyzed within the limits of standard holding times. A chain of custody shall be maintained and documented from sampling to a laboratory analysis. Samples shall be analyzed by a Colorado certified testing laboratory.

(e) Sampling Location and Expiration

Samples from bedrock aquifers shall be collected within one-half (½) mile of the project site or off-site source. If the bedrock source will not be used during the first 5 years of the project and if wells are not available for sampling, the requirement for bedrock aquifer water quality analysis may be deferred as a condition of approval by the BoCC. Samples from shallow alluvial aquifers shall be collected within ~~500 feet~~1/2 mile ~~-~~of the project site or off-site source and ~~shall~~ should be collected from the closest up-gradient well. All samples shall be representative of the source. Where there is no well within one-half (½) ~~of a~~ mile, the determination of the location of the well shall be made by EPCPH~~HE~~. Water quality testing and analysis shall only be valid for two (2) years ~~of~~from the date of the report unless an extension to the expiration date is otherwise approved by the EPCPH ~~grants an extension~~. Analyses for the quality of water obtained from ~~C~~contained aquifers typically do not expire unless otherwise conditioned as such by EPC~~HE~~PH.

(f) Water Quality Not Meeting Standards

If the quality of the source water does not meet the standards specified in the Colorado Primary Drinking Water Regulations, as ~~clarified~~ specified by the ~~EPCDHE~~EPCPH, the applicant shall demonstrate that treatment facilities will be constructed and maintained which will bring the water within the standards.

~~**(g) Presumption of Water Quality**~~

~~In the absence of evidence to the contrary, a presumption is made that residential subdivisions of 4 or fewer lots will meet the water quality standards. In the absence of evidence to the contrary, it is presumed that water supplied from an existing~~

~~Community Water Supply, which operates in conformance with the Colorado Primary Drinking Water Regulations and the CDPHE requirements, as clarified by the EPCDHE, is determined to meet the water quality standards as required by the section~~.

~~(h)~~(g) **Future Water Quality to Meet Standards**

Under foreseeable and likely future conditions, the quality of the proposed water supply ~~shall~~ should meet or exceed the water quality standards established herein. Both on-site and off-site source conditions shall be considered.

~~(i)~~(h) **Compliance Not to Diminish Other State and Federal Standards**

Compliance with this Section is not intended to modify, displace, supersede or diminish compliance with other State and federal water quality requirements.

(C) General Requirements (Clarifications)

(1) Renewable Groundwater Life 300 Years

Water provided from renewable groundwater sources is considered to be annually renewable and, therefore, is considered to have a minimum life of 300 years.

(2) Recharge Not Used to Modify Bedrock Calculations

Groundwater recharge may not be used to modify the calculations of the quantity of extractable groundwater in bedrock aquifers unless it is included in court decrees, well permits, approved augmentation plans or determinations by the Colorado Groundwater Commission and the State Engineer.

(3) Alternative Supplies May be Considered Renewable

Alternative water supplies such as treated effluent may be considered renewable or nonrenewable and shall be evaluated on a case-by-case basis.

(4) Private Arrangements and Agreements

Any private or public arrangements, agreements or contracts that modify, limit, or condition the use of any water rights or water supplies may result in a reduction of the water calculated to be available for subdivision use.

(5) Nonrenewable Water from Off-Site

When nonrenewable water is provided to a development from an off-site location, the calculation of water for purposes of this Section is at the point of delivery to the development or customer, rather than at the point of pumping of the well.

(D) Post-Approval Compliance

(1) Prior to Authorization of ~~Building Permits~~Certificate of Occupancy

The PCD Director may, at his or her discretion, require the following prior to PCD authorization of a certificate of occupancy for any habitable structure within a subdivision th~~is~~at is not served by individual groundwater wells. ~~This provision does not apply to subdivisions supplied by individual wells.~~~~Prior to authorization by the PCD for the issuance of building permits~~the a certificate of occupancy, the following ~~shall be accomplished~~may be required at the discretion of the PCD Director in consultation with CDPHE:. ~~This provision does not apply to subdivisions supplied by individual wells.~~

- All required step drawdown tests shall be performed on production wells.
- For new community water supply systems a certification shall be issued by a qualified professional (knowledgeable with the water system) certifying that the water system is operational for the intended use. CDPHE Technical Managerial Financial (TMF) capacity analysis and approval thereof, as evidenced by issuance of a public water system Identification (PWSID) number, shall be provided.
- For existing and established community water supply systems the certification may come from the water supplier's engineer or may be satisfied by the district or supplier's acceptance of the facilities.

(2) Proof of Well Permit Prior to Approval of ~~Building Permits~~Certificate of Occupancy

Subdivisions subject to this Section ~~shall~~ may be required to provide proof of a well permit prior to the PCD's authorization for the issuance of ~~building permits~~a certificate of occupancy for residential usage for properties located within the designated groundwater basins and for individual lots within a subdivision dependent on an individual on-lot well system.

(3) Water Provider No Longer Able to Supply

In the event that the applicant or his water provider is no longer able to supply the subdivision with the quality, quantity, or dependability of water identified in this Section and in the final plat and associated documents approved for the subdivision, the issuance of building permits for the subdivision may be limited by the BoCC until the problem is resolved to the satisfaction of the BoCC.

(4) Production Well Testing

The PCD Director may, at his or her discretion following consultation with the State Water Engineer, determine that the following are required ~~in consultation with the State Water Engineer~~following ~~shall~~ may apply:

(a) Step Drawdown Test Performed

A step drawdown test ~~shall~~ may be required to be performed on each production well which will be needed to meet the daily and peak water needs of the proposed subdivision and which meet the following criteria: (1) The well or anticipated production rate is for 40 gpm or more, or (2) The well is a community well and will ultimately serve more than 50 acres or 100 dwelling units or an equivalent commercial or industrial project which is subject to the provisions of this Section.

Step drawdown testing is encouraged for all wells. Step drawdown tests shall be an appropriate number of steps of adequate duration to allow evaluation of the production potential of the well. Step drawdown testing is not required for approval of sketch plans. It is recommended that the test results be included with the preliminary plan and final plat submittals.

(b) Test Results to Determine Capacity

Test results will be used to determine whether the production wells have adequate capacity to supply the needs of the subdivision. If test results indicate additional production wells are necessary, the additional wells ~~shall~~ may be required to be installed and tested prior to authorization by the PCD for issuance of ~~building permits~~~~a~~ certificates of occupancy for the subdivision. Prior to issuance of ~~building permits~~~~the~~ a certificate of occupancy, the County ~~Hydrogeologist shal~~may elect to review the test results to ~~and to~~ verify ~~shall certify that the test results indicate~~ that the production wells have, at the time of ~~certification~~testing, adequate production capability to supply the needs of the subdivision.

(c) Sufficient Production Wells Required Before A~~pproval of Building Permits~~uthorization of a Certificate of Occupancy

The PCD ~~shall~~ may ~~not~~ elect to withhold ~~the~~ authorization of~~e~~ the issuance of a ~~building permit~~certificate of occupancy for an approved subdivision until sufficient production wells needed to supply the subject phase of the subdivision are installed, tested, and conveyance is established.

(5) Water Level Monitoring

The following monitoring and reporting is ~~required~~ recommended until all plats for a proposed subdivision have been approved and all building permits for the subdivision have been issued:

- Monthly pumping volumes from each community production well shall be reported to the PCD semiannually;
- Water level and piezometric level monitoring is required for all projects using community or commercial wells. The purpose of this monitoring is to develop historical data of long-term water level changes. Measurements will usually be taken monthly.

Monitoring shall be done in accordance with a monitoring plan approved by the County ~~Hydrogeologist~~. It is anticipated that most monitoring programs will use existing wells. Deep bedrock wells may not be required for monitoring purposes only; and

- All required water level monitoring devices shall be maintained in good working order and the wells shall be available to County staff at reasonable times for water level measurements. The water supplier will be responsible for maintaining the water level monitoring devices.

(E) Substantial Change In Water Supply

(1) Substantial Change Requires Compliance

A substantial change in the water supply for a subdivision shall require compliance with this Section. A substantial change to the water supply includes, but is not limited to, the following:

- A change in the source of water which would result in a substantial decrease in the quality, quantity or dependability of the water supply;
- A change in the subdivision which would result in an increase in the annual water demand exceeding 10%;
- A change from a central water system to individual wells;
- A change from individual wells to a central water system;
- A change that causes modifications to an approved and recorded subdivision plat, covenants as they relate to water supply, a decree, or an augmentation plan;
- A change that results in the water being supplied from a different aquifer from that which was proposed in the review and approval of the subdivision; or
- A change from a renewable source of water to a non-renewable source which would provide less than a 300 year water supply.

(2) Administrative Determination of Whether Change is Substantial

The administrative determination whether the change in water supply is considered substantial shall be made by the PCD Director, in consultation with OCA and County staff. Factors to consider in this determination include, but are not limited to:

- The percent increase or decrease in water demand or water availability; or
- The absolute quantity increase or decrease in the water demand or water availability.

(3) Substantial Change Requires New Final Plat Submittal

In the event that the change is determined to be substantial, the application for a substantial change in water supply may be a customized submittal as determined by OCA and County Staff, and processed as a platting action which may require submittal of new plat documents, and which is subject to approval by the Board of County Commissioners.

(4) Administrative Approval of Change Granted

In the event that the change is determined to be not substantial, administrative approval of the change may be granted along with any other modifications to implement the administrative approval.

8.4.8. Wastewater Disposal

(A) General

(1) Purpose

The purpose of this Section is to establish the wastewater disposal provisions at the sketch plan or preliminary plan stage of subdivision development and ensure conformance of wastewater disposal with this Code at the time of approval of the final plat.

(2) Applicability

This Section shall apply to all development applications for subdivision and any other action that creates a new lot or parcel.

(B) Minimum Standards

(1) General

(a) Central Wastewater System Required

A central wastewater system is the required method of wastewater collection and treatment in all new subdivisions or zoning districts with a density greater than one dwelling unit per 2½ acres or where lot sizes are less than 2½ acres. Every reasonable effort shall be made to provide a central wastewater system.

(b) Compliance with ~~EPCDHE~~ EPCPH Regulations

All wastewater disposal~~s~~ systems shall comply with the ~~EPCDHE~~ EPCPH regulations and the CDPHE guidelines, as applicable.

i. An OWTS with design capacity less than or equal to 2,000 GPD must comply with regulations adopted by El Paso County Board of Health (EPCBoH) pursuant to this regulation and the OWTS Act. Within the jurisdiction of EPCBoH and EPCPH, the regulations promulgated by the EPCBoH govern all aspects of OWTS permits, performance, location, construction, alteration, installation, and use.

ii. An OWTS with design capacity greater than 2,000 GPD must comply with this regulation, site location and design approval in section 25-8-702, C.R.S., and the discharge permit requirements in the Water Quality Control Act, 25-8-501, et seq. C.R.S. OWTS with design capacity greater than 2,000 GPD must also comply with Appendix B of this Code.

(c) Favorable Recommendation from ~~EPCDHE~~ EPCPH Required

The ~~EPCDHE~~EPCPH is considered the County's expert concerning the adequacy of a proposed sewage treatment system. No sketch or preliminary plan or final plat shall receive the approval of the BoCC unless ~~EPCDHE~~EPCPH has made a favorable recommendation regarding the proposed method of sewage disposal.

(d) Wastewater Treatment to Meet Requirements of this Section

In addition to the requirements of the ~~EPCDHE~~EPCPH, the provisions of this Section shall be used to evaluate the adequacy of the wastewater treatment system intended to serve a proposed subdivision.

(e) New and Replacement Systems Designed to Minimize Flood Impacts

New and replacement wastewater systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood water.

(C) Onsite Wastewater Treatment Systems (OWTS)

(1) Burden of Proof on Subdivider to Show OWTS Effective

The burden of proof for showing that an OWTS meets the spirit and intent of this Section shall be on the applicant. Reports, data, and other evidence shall illustrate that the subdivision, at a minimum, achieves the following:

- Non-contamination of surface or subsurface water resources;
- Non-interference with water resources of adjoining lots. The standard for determining interference shall be the probability of well deepening or the necessity to remove land from agricultural use;
- Non-interference with the enjoyment, use, or utility of adjoining land by virtue of pollution, odor, health hazard or water usage. Placement of leach fields within the cone of influence of a well shall constitute interference, unless otherwise approved by the ~~EPCDHE~~EPCPH;
- Lot sizes compatible with the limitations inherent in soils, geologic, and hydrologic characteristics of the site. Lot sizes in excess of 5 acres may be required in areas in which site characteristics dictate larger lots; and
- Compliance with any physical setback requirements of the ~~EPCDHE~~EPCPH regulations.

(2) Two OWTS Sites Required for All Lots or Parcels

All lots shall be designed to e~~,~~nsure that each lot has a minimum of 2 sites appropriate for OWTS which do not fall in the restricted areas identified on the preliminary plan~~,~~; soils and geology report~~,~~ delineated

wetland ~~maps~~or floodplain~~,~~ maps;~~,~~ or other reports required under this Code.

(D) Public System

(1) Evidence Provision Made for System

If a public sewage disposal system is proposed, evidence shall be provided with the preliminary plan or final plat to establish that provision has been made for the system that complies with State and local laws and regulations.

(2) Public System Operated in Conformance with Regulations

At the time of preliminary plan submittal and final plat recording, the public sanitation district or company shall be operating in compliance with State and County regulations, or shall have received approval of a service plan in accordance with C.R.S. §§32-1-201, et seq., and approval of location or a 1041 Permit in accordance with Appendix B and site application in accordance with State regulations.

(3) Plans for Off-Site and New Facilities

The construction drawings shall include any plans and specifications for off-site facilities and any new facilities proposed within any existing or proposed County right-of-way.

(4) Construction Costs

The construction costs for wastewater facilities including any required wastewater lift stations or off-site facilities necessary to serve the subdivision which are not guaranteed by the wastewater provider or which are not the responsibility of the wastewater provider shall be included in the construction surety estimate required by the ECM and this Code.

(E) Report Requirements

(1) General

(a) Wastewater Disposal Report Required

All sketch plans, preliminary plans, and final plats submitted for review shall be accompanied with a wastewater disposal report. The requirements of the preliminary plan report shall not be deferred or postponed until the final plat application.

(b) New Report Not Required

A final plat is not required to be accompanied by a new report where a wastewater report was previously approved, unless there are modifications to the report.

(c) Letter of Commitment Required

A letter of commitment is required for all final plats involving creation of new lots within an area served by a public sewer system.

(d) Professional Engineer Required to Prepare Report

The wastewater disposal report shall be prepared by a professional engineer licensed to practice in the State of Colorado.

(2) Types of Reports

(a) Sketch Plan Report

The following information shall be included in the wastewater report submitted with the sketch plan application:

Map showing relative location of point of connection to an existing system;

Map showing relative location of the existing or proposed treatment facility;

Estimate of projected population, units, and density, as related to wastewater production on an average daily basis;

Capacity of the existing treatment plant and current utilization;

Anticipated capacity of any proposed treatment plant; and

Letter of commitment from the wastewater provider proposed for service, with identification of whether the sketch plan area is within the service boundaries of the proposed provider.

(b) Preliminary Plan Report

The following information shall be included in the wastewater report submitted with the preliminary plan application:

All items required to be included with the sketch plan report; and

Letter of commitment from the wastewater provider proposed for service, which includes whether the preliminary plan area is within the service boundaries of the proposed provider, and a statement by the wastewater provider that adequate capacity exists or will exist in order to provide service.

(c) Final Plat Report

The following information shall be included in the wastewater report submitted with the final plat application:

Unless previously provided with a preliminary plan application for the property, all items required to be included with the sketch plan report; and

Unless provided with the preliminary plan, a Letter of Commitment from the wastewater provider proposed for service, which includes information indicating that the land has been included into the boundaries of the provider's service area, or that contractual arrangements for service have been met.

(d) OWTS Report

(i) General Requirements

The following shall be fully addressed in or submitted with an OWTS Report. These requirements may be updated from time to time by EPCPH without corresponding amendments to this Code being approved. Any such updates by EPCPH shall control. The ~~EPCDHE~~EPCPH may require the subdivider to submit additional engineering or geological applicant reports or data and to conduct a study of the economic feasibility of service by central sewage system prior to making its recommendations. which may be updated from time to time by EPCPH without .

- A map, drawn at the same scale as the preliminary plan, locating all lots, drainage-ways, floodplains, slopes in excess of 30%, surface and sub-surface soils hazards and ~~or~~ constraints, natural and cultural features, geologic hazards and ~~or~~ constraints, depth to bedrock, water table depth, current and historic land use, and other hazards;
- Soil conditions, NRCS soils classification, slope of the terrain, undergroundwater table, subsurface rock, and limitations on site location of the system;
- Conditions which may cause deleterious effects to systems in the area, such as runoff or irrigation;
- The availability of a central sewage system and the feasibility of inclusion into the system;
- The proximity of water wells, lakes, streams, irrigation ditches, ponded water, and other water sources in the area being subdivided; and
- Soils investigation, including the following:
  - Visual and tactile evaluation of two or more soil profile test pit excavations must be conducted to determine soil type as well as to determine whether a limiting layer is encountered;
  - In addition to the two soil profile test pit excavations, percolation testing may be conducted to obtain additional information

regarding the long-term acceptance rate of the soil.;

- If the site evaluation includes both ~~a~~the visual and tactile evaluation of soil profile test pit excavations and percolation tests, and the results from these two evaluations do not coincide with the same LTAR (Long Term Acceptance Rate) as noted in Table 10-1of the EPCPH Regulations, the designer must use the more restrictive LTAR in determining the size of the soil treatment area as listed below:
  a) Evaluation of two or more soil profile test pit excavations must be performed to determine soil types, limiting layers, and best depth for the infiltrative surface, unless otherwise approved by EPCPH. (At least one of the soil profile test pit excavations must be performed in the portion of the soil treatment area anticipated to have the most limiting conditions).
  b) The total number of soil profile test pit excavations required is based on the judgment of the competent technician who may require an additional soil profile test pit excavation in the area of the proposed alternate soil treatment area if deemed necessary.
  c) The minimum depth of the soil profile test pit excavation must be to any limiting layer, or four feet below the infiltrative surface of the in-situ soil, whichever is encountered first.
  d) Layers and interfaces that interfere with the treatment and dispersal of effluent must be noted. Thus, any limiting soil characteristic such as consistence also needs to be evaluated. The evaluation of consistence may also include an evaluation of excavation difficulty, rupture resistance, and/or penetration resistance.
  e) The soil observations must be conducted at or immediately adjacent to the location of the proposed soil treatment area, but if possible, not under the final location of a trench or bed.
  f) Each soil profile test pit excavation observed at the proposed soil treatment area must be

evaluated under adequate light conditions with the soil in an unfrozen state.

g) The soil observation method must allow observation of the different soil horizons that constitute the soil profile.

h) Soil profile test pit observations must be conducted prior to percolation tests to determine whether the soils are suitable to warrant percolation tests and, if suitable, at what depth percolation tests must be conducted.

i) The soil type at the proposed infiltrative surface of the soil treatment area or a more restrictive soil type within the treatment depth must be used to determine the long-term acceptance rate from Table 10-1 or Table 10-1A. The treatment depth is two to four feet depending on the required thickness for the treatment level below the infiltrative surface from Item 4, Table 7-2.

j) Soils data, previously collected by others at the site can be used for the purposes of an OWTS design at the discretion of EPCPH. It is recommended that the data be verified, at a minimum, by performing an evaluation of a soil profile test pit excavation.

o Soil descriptions for determination of a limiting layer must include:

a) The depth of each soil horizon measured from the ground surface and a description of the soil texture, and structure of each soil horizon;

b) Depth to the bedrock;

c) Depth to the periodically saturated soil as determined by:

1. Redoximorphic features and other indicators of water levels, or
2. Depth of standing water in the soil observation excavation, measured from the ground surface, if observed, unless redoximorphic features indicate a higher level.
3. Any other soil characteristic that needs to be described to design a system,

such as layers that will restrict permeability.

~~a minimum of one percolation test per standard soils category. Additional tests may be required if necessary to evaluate the site. Conditions requiring additional tests shall include presence of steep slopes or major drainage channels in the area being subdivided. The percolation test procedure shall comply with the OWTS regulations.~~

~~All test sites shall be clearly flagged in order that reviewing agencies may make field checks of test locations;~~

~~Groundwater profile including an 8 foot deep soil/groundwater profile analysis at the site of each percolation test; and~~

~~A narrative summary of the conditions of the land to be subdivided including any precautions to developers and residents, construction constraints, and special problems foreseen by the engineer: (1) all locations not suited for placement of leach fields due to soils, geologic, topographic, or hazard conditions shall be noted on the preliminary plan and final plat; (2) relationship of the leach fields to leach fields, wells, structures, lakes, streams, irrigation systems, and other water features on adjoining parcels and identification of any possible hazards; and (3) if private wells are to be utilized in conjunction with OWTS, the probability of contamination shall be analyzed.~~

(ii) Additional Requirements for Lot Sizes Between 2½ and 5 Acres

For lots of between 2½ and 5 acres where OWTS are proposed, the wastewater disposal report shall additionally address the following:

- ~~Percolation tests~~Soil Investigation conducted for no fewer than 20% of the total number of lots in the filing. Investigation shall be evenly disperbursed over the project area~~.~~. In cases in which unique geologic, topographic, or soils conditions, such as~~:~~ depth to bedrock, depth to groundwater~~of water~~, slopes in excess of 3~~.~~0percent~~%~~, etc. are found, additional tests may be required by EPCPH ; and
- An analysis of the availability of a central sewage system and the feasibility of service by a central sewage system. If there is a central sewage system

within one mile of the proposed subdivision, or if the subdivision is within an organized sewage district or municipal service area, the applicant shall submit documentation that the district or municipality is incapable of serving the site or that the costs of service are prohibitive.

(iii) Additional Requirements for OWTS on Lots Within 400 Feet of a Sewer Line

Pursuant to Chapter 8, On-Site Wastewater Treatment Systems (OWTS) Regulations, of the Regulations of the El Paso County Board of Health, ~~A~~a permit to construct, alter, modify or repair an OWTS may be denied by EPCPH if a municipal or sanitation district sewer mainline exists within 400 feet, as measured by way of public access~~,~~ or legal easement, to any part of the applicant's property, and if the municipality or district agrees to provide sewer service. EPCPH shall only approve an OWTS permit for a property that is subject to connection to sanitary sewer if all OWTS installation criteria can be satisfied, and the applicant can provide evidence that the municipality or district does not expressly object to the OWTS installation . If, as a condition of service, an annexation of the property to a different political entity is required, connection to the community sewer is not required by EPCPH.~~When a subdivision is proposed that is within 400 feet of a sewer line or triggers the connection requirements of the OWTS regulations, the following additional requirements apply~~:

~~The EPCDHE requires connection to the central system unless the district refuses service to the property;~~

~~Should the district accept the service connection from outside the district boundaries, then connection is required by the EPCDHE, unless otherwise approved; and~~

~~The owners of any lot that meets this description are required to apply to the EPCDHE for an OWTS to repair or replace a failing approved secondary leach field area.~~

8.4.9.Geology and Soils Standards and Reports

~~(F)~~(A) **Geology and Soils Report Required**

(1) Required with Sketch Plans and Preliminary Plans

All sketch plans and preliminary plans submitted for review shall be accompanied by geology and soils report. ~~Where a preliminary plan is not required or where a geology and soils report has never been~~

~~reviewed, the applicant may be allowed to utilize a modified report requirement, as determined by the PCD Director.~~

(2) Previously Submitted

Where a geology and soils report has been completed and reviewed at an earlier stage of the subdivision review process, a new report may not be required if in the determination of the PCD Director the existing report provides the level of site~~-~~-specific detail necessary to review the subdivision application, and the recommendations of the report and the Colorado Geological Survey ~~(~~CGS) have been followed in the preparation of the preliminary plan.

~~(G)~~(B) General

(1) Prepared by Professional Geologist

The geology and soils report shall be prepared by, or under the direction of, a professional geologist~~,~~ as defined by CRS 34-1-201(3)~~;~~, or~~,~~ a Professional Engineer as defined by Board Policy Statement 50.2 – "Engineering in Natural Hazard Areas" of the Colorado State Board of Registration for Professional Engineers and Professional Surveyors. ~~Board authority as defined by CRS 12-25-107(1).~~

~~as defined by State Statute.~~

~~**(2) Combined with Wastewater Disposal Report**~~

~~The geology and soils report requirements of this Section and wastewater disposal report may be combined in a single report.~~

~~(3)~~(2) Roads, Drainage, ~~,~~ Building Sites ~~Trail Improvements~~ Avoid ~~Natural~~ Hazards and Mitigate Constraints

Public improvements, including r~~R~~oads~~,~~ and drainage improvements, and ~~trails~~ buildin~~m~~g sites shall be constructed away from geologic constraints and ~~-~~hazards, or ~~protected from~~mitigation of such constraints or hazards must be provided ~~for geologic constraints and or hazards~~ in accordance with the provisions of the ECM, Appendix C.

~~(4)~~(3) No Interference with Extraction of Commercial Mineral Deposits

Development of the subdivision shall not interfere with the extraction of any known commercial mineral deposit as defined in C.R.S. §34-1-302(1).

~~(H)~~(C) Report Requirements

(1) Data to be Complete to Allow Review

It is recognized that certain geologic interpretations cannot be firm or complete, at least in advance of grading operations, but it is expected that all pertinent data will be presented fully and clearly so that interpretations and recommendations can be critically reviewed by others.

(2) Issues to be Addressed by Report

The following concerns shall be fully addressed in the geology and soils report. ~~If any of these items are addressed in other reports, reference may be made to the appropriate reports~~.

(a) Mapping

i. Large-Scale Map Required

A detailed ~~large~~-map, drawn to scale, ~~map~~ is required for geology and soils reports ~~on a tract or smaller area in which the geologic relationships are not simple~~.

ii. Structure Sections Required

Where three-dimensional relationships are significant but cannot be described satisfactorily in words alone, the geology and soils report should be accompanied by one or more appropriately positioned structure sections.

iii. ~~(~~Test Hole, Percou~~l~~ation Test, and ~~and~~ ~~)~~Soil Investigation Test Pit Excavation Locations Mapped

The locations of test holes, percou~~l~~ation tests, soil investigation test pit excavations, and other specific sources of subsurface information utilized by the geologist or qualified engineer of record shall~~ould~~ be indicated on the map and on any sections that are submitted with the geology and soils report., ~~or, if none are submitted, in the text of the geology and soils report.~~

(b) General Information

The geology and soils report shall~~ould~~ include definite statements concerning the following matters:

- Location and size of subject area and its general setting with respect to major geographic and geologic features;
- Who did the geologic mapping on which the report is based and when the mapping was done;
- Any other kinds of investigations made by the geologist and, where pertinent, reasons for doing the work;
- Topography and drainage in the subject area;
- Abundance, distribution, and general nature of exposures of earth materials within the area; and
- Nature and source of available subsurface information. Suitable explanations should provide any technical reviewer with the means for assessing the probable reliability of the data. Subsurface relationships can be variously determined or inferred, for example, by projection of surface features from adjacent areas, by the use of test hole logs, and by interpretation of geophysical data. It is evident that different sources of the information can differ markedly from one

another in degree of detail and reliability according to the method used. The relative reliability of the methods used shallould be discussed in the report.

(c) Geologic Descriptions

The geology and soils report should contain brief but complete descriptions of all natural and man-made materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for the interpretations should be clearly stated. The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

(i) Bedrock (Igneous, Sedimentary, Metamorphic Types)

- Identification as to rock type (e.g., granite, silty sandstone, mica schist);
- Relative age, and where possible, correlations with named formations;
- Distribution;
- Dimension features (e.g., thickness, outcrop breadth, vertical extent);
- Physical characteristics (e.g., color, grain size, nature of stratification, foliation, or schistocity, hardness, coherence);
- Special physical or chemical features (e.g., calcareous or siliceous cement, concretions, mineral deposits, alteration other than weathering);
- Distribution and extent of weather zones; significant differences between fresh and weathered rock; and
- Response to natural surface and nearsurface processes (e.g., raveling, gullying, and mass movement).

(ii) Structural Features

The geology and soils report should contain brief descriptions of the structural features, stratification, foliation, schistocity, folds, and zones of contortion or crushing, joints, shear zones, faults, etc., including information about:

- Occurrence and distribution;
- Dimensional characteristics;
- Orientation and shifts in orientation;
- Relative ages (where pertinent);
- Special effects on the bedrock (Describe conditions of planar surfaces); and
- Specific features of faults (e.g., zones of gouge and breccia, nature of offsets, timing of movements) and whether faults are active in either the geological sense or the historical sense.

(iii) Surficial (Unconsolidated) Deposits

The geology and soils report should contain brief description of surficial deposits include artificial (man-made) fill, topsoil, stream-laid alluvium, beach sands and gravels, residual debris, lake and pond sediments, swamp accumulations, dune sands, marine and non-marine terrace deposits, talus accumulations, creep and slopewash materials, various kinds of slump and slide debris, etc., including the following information:

- Distribution, occurrence, and relative age; relationships with present topography;
- Identification of material as to general type;
- Dimensional characteristics (e.g., thickness, variations in thickness, shape);
- Surface expression and correlation with features such as terraces, dunes, undrained depressions, anomalous protuberances;
- Physical or chemical features (e.g., moisture content, mineral deposits, content of expansible clay minerals, alteration, cracks and fissures, fractures);
- Physical characteristics (e.g., color, grain size, hardness, compactness, coherence, cementation);
- Distribution and extent of weathered zones; significant differences between fresh and weathered material; and
- Response to natural surface and near-surface processes (e.g., raveling, gullying, subsidence, creep, slope-washing, slumping, and sliding).

(iv) Drainage of Surface Water and Groundwater

The geology and soils report shallould contain information about surface and groundwater, as applicable, including:

- Distribution and occurrence (e.g., streams, ponds, swamps, springs, seeps, subsurface basins);
- Relations to topography;
- Relations to geologic features (e.g., previous strata, fractures, faults);
- Sources and permanence;
- Variations in amounts of water (e.g., intermittent spring and seeps, floods);
- Evidence for earlier occurrence of water at localities now dry; and
- Occurrence or conveyance of water into or within man-made features; and

- The effect of water on the properties of the in-place materials.

(v) Features of Special Significance

The geology and soils report should describe features of special significance including:

- Features representing accelerated erosion (e.g., cliff reentrants, badlands, advancing gully heads);
- Features indicating subsidence or settlement (e.g., fissures, scarplets, offset reference features, historic records and measurements);
- Features indicating creep (e.g., fissures, scarplets, distinctive patterns of cracks or vegetation, topographic bulges, displaced or tilted reference features, historic records and measurements);
- Slump and slide masses in bedrock or surficial deposits; distribution, geometric characteristics, correlation with topographic and geologic features, age and rates of movement;
- Deposits related to recent floods (e.g., talus aprons, debris ridges, canyon-bottom trash); and
- Active faults and their recent effects on topography and drainage.

(vi) Mineral Resources

The geology and soils report should contain brief description of mineral resources including the identification of the types, location and value of mineral resources within the land to be subdivided. These include, but are not limited to, limestone used for construction, coal, sand, gravel, and quarry aggregate, for which extraction by an extractor is or will be commercially feasible, or which is a deposit having significant economic or strategic value to the County, state, or nation. Any area known to contain a commercial mineral deposit shall not be subdivided until the deposit is extracted, unless the BoCC finds that extraordinary environmental damage or public hazard results from the extraction.

(d) Bearing of Geologic Factors on the Intended Land Use

Treatment of this general topic, whether presented as a separate section or integrated in some manner with the geologic descriptions, normally constitutes the principal contribution of the geologic and soils report. It involves: (1) the effects of geologic features on the proposed grading, construction, and land use; and (2) the effects of these proposed modifications on future geological processes in the area. The following checklist includes the topics that ordinarily should be considered in

submitting discussion, conclusions, and recommendations in the geologic reports:

(i) Compatibility with Proposal

General compatibility of natural features with proposed land use related to:

Topography;

Lateral stability of earth materials;

Problems of flood inundation, erosion, and deposition;

Problems caused by features or conditions in adjacent properties; and

Other general problems.

(ii) Proposed Cuts

Prediction of what materials and structural features will be encountered;

Prediction of stability based on geologic factors;

Problems of excavation (e.g. unusually hard or massive rock, excessive flow of groundwater); and

Recommendations for reorientation or repositioning of cuts, reduction of cut slopes, development of compound cut slopes, special stripping above daylight lines, buttressing, protection against erosion, handling of seepage water, setbacks for structures above cuts, etc.

(iii) Proposed Masses of Fill

General evaluation of planning with respect to canyon-filling and sidehill masses of fill;

Comment on suitability of existing natural materials for fill; and

Recommendations for positioning of fill masses, provision for underdrainage, buttressing, special protection against erosion.

(iv) Onsite Wastewater ~~Disposal~~ Treatment System (if applicable)

Soil types, depths, distributions and relationship to bedrock;

General slope conditions, and limitations of slope to building sites and disposal sites; and

Present and expected percolation rates.

(v) Recommendations for Subsurface Testing and Exploration

Cuts and test holes needed for additional geologic information; and

Program of subsurface exploration and testing, based on geologic considerations that are most likely to provide data needed by the soils engineer.

(vi) Special Recommendations

Areas to be left as natural ground;

Removal or buttressing of existing slide masses;

Flood protection;

Problems of groundwater circulation; and

Position of structures, with respect to active faults.

~~(e) Report Modification~~

~~Where a report modification is authorized by the PCD Director such as in the instance of a minor subdivision, the report is not required to be prepared by a professional geologist but shall include information regarding the following:~~

~~Streams, lakes, topography, and vegetation;~~

~~Geologic characteristics of the area and a determination of the impacts of the characteristics on the proposed subdivision;~~

~~Suitability of types of soil in the proposed subdivision, including where appropriate, maps and tables in accordance with any standard soil classification; and~~

~~Identification of potential radiation hazards, where applicable.~~

~~(I)~~(D) **Relationship to ~~ECM~~ Other County Regulations**

In addition to the~~se~~ requirements set forth in this Code , the ECM requires geologic hazards and geotechnical ~~soils investigation~~ reports addressing site constraints and mitigation ~~and outlines the basic criteria and procedures for soils investigations associated with~~ for projects involving construction of ~~subdivision~~ public improvements. ~~Section 11.3.3 of~~The DCM Volume 1 addresses the need for geotechnical analyses for embankment structures and DCM Volume 2 addresses geotechnical construction requirements for water quality best management practices (BMPs). ~~Developers~~Applicants are also required to comply with the State Engineer's requirements regarding embankments and dams utilized for storage of water.

~~(J)~~(E) **Referral to and Resolution of Issues Raised by the CGS**

The geology and soils report will be referred to the CGS for review and recommendations. The applicant is responsible for payment of fees associated with the review by the CGS. The applicant is responsible for resolution of issues raised by the CGS, to the satisfaction of the PCD Director.

~~(K)~~(F) **Effect of Approval**

The geology and soils report will be maintained in the subdivision file, available for public viewing. The applicant is responsible for implementation of the report recommendations and review agency recommendations to the satisfaction of the PCD Director. The resolution of an issue may be in the form of modification of the development design to mitigate the constraints and~~/ or~~ hazards, placement of notes on the preliminary plan and final plat~~(s)~~ to advise buyers of the constraints and~~/ or~~ hazards, restrictions on construction within a lot or within the subdivision, or a determination that the constraint ~~and/~~ or hazard may be mitigated by specialized engineering or construction techniques and identification of ~~who~~ the entity ~~is~~ responsible for such~~for providing/performing the~~ mitigation.

8.5. DEDICATION AND FEE STANDARDS AND REQUIREMENTS

8.5.1. General

(A) Applicant or Owner Responsible

The applicant or owner is responsible for paying required fees and making the required land dedications at the time of filing the final plat for recording with the Clerk and Recorder in accordance with the following standards. Land dedication may include both public and private land dedications.

(B) Common Homeowner Land

(1) Homeowners Association Required

For a division of land that includes easements or tracts to be used for common facilities including common open space or areas, private roads, detention facilities, water facilities, water augmentation obligations, landscaping or other features requiring maintenance, the owner shall establish a HOA or other entity approved by the OCA to be responsible for the maintenance. For subdivisions with 3 lots or less, maintenance responsibility may be placed on the individual lot owners in the covenants without having to create an HOA or other entity. Prior to recording the final plat for any subdivision with maintenance requirements, the applicant shall provide to PCD and the OCA for review and approval the appropriate legal documents (e.g., covenants, articles of incorporation, bylaws, maintenance agreements, etc.) necessary to create the HOA or other entity and to place maintenance responsibility on said HOA, other entity, or the individual lot owners.

(2) Conveyance of Common Homeowner Land

Easements, lots or tracts to be owned and maintained by the HOA shall be dedicated by both a statement on the final plat and warranty deed. A plat note concerning the responsibility for ownership and maintenance of the easements or tracts shall be included on the face of the final plat.

(C) Public Land Dedications and Payment of Fees in Lieu

(1) Dedication of Public Lands

(a) Dedication by Warranty Deed at Time of Filing of Plat

Dedications of land both on-site and off-site to be used for public uses and owned by the County, a public agency, special district or other corporate entity that are required by this Code, including lots, tracts, or parcels for open space, parks, schools or drainage facilities or where reversionary interests will exist shall be dedicated by warranty deed in favor of El Paso County or other corporate entity approved by the BoCC to receive the land dedication at the time the plat is filed for recording with the Clerk and Recorder. Prior to recording the final plat, the applicant shall provide said warranty deed to PCD and the OCA for review and approval. The legal description contained in the warranty deed shall be prepared by a licensed surveyor.

(b) Dedicated Land Free of Encumbrances

The title associated with the dedicated land shall be free and clear of any and all liens and encumbrances, including real property taxes prorated to the time of conveyance as evidenced by a current title insurance policy in the County's name, a certified survey, and a treasurer's certificate proving that current taxes, prorated to the date of deed transfer, have been paid at the time of conveyance.

(c) Indemnification to be Provided for County

If fee title interest in a lot, tract or parcel for open space, parks, schools or drainage facilities is to be dedicated to the County by warranty deed or where reversionary interests will exist, the property owner shall indemnify the County from any and all damages, claims, losses, injuries and expenses including attorney's fees related to or arising out of the presence of solid waste, hazardous materials, or petroleum products whether known or unknown, including, without limitation, any cleanup costs for said materials. The indemnification shall be in a form and manner acceptable to the OCA.

(2) Payment of Fees in Lieu

(a) Payment Due at Time of Filing

Fees in lieu of required land dedications, where approved by the BoCC, shall be paid at the time the plat is filed for recording with the Clerk and Recorder.

(b) Deferral of Fees for Condominium or Townhome Lots

When a lot is platted which will require the filing of condominium plats, townhome plats or administrative plats prior to development of the lot, collection of park and school fees in lieu

of required land dedications may be deferred to the time of recording of said administrative plats. Any deferral of the payment of fees in lieu of land dedication shall be expressly authorized by the BoCC.

(3) Dedication of Easements

(a) Plat to Show Easements

The plat shall show existing and proposed easements. Existing easements shall bear notation of dedication or conveyance by recordation information.

(b) Owner Required to Dedicate Easements

The owner shall dedicate or deed easements required by this Code, or the ECM, or to serve the division of land with utilities and other required services, or those easements that may be requested by public agencies including, but not limited to:

Avigation easements;
Trail easements;
Open space and scenic easements;
Utility easements;
Wetlands or wetlands mitigation easements;
Conservation easements;
Easements relative to protected species; and
Noise Easements.

(c) Shown in Standard Form

Easements shall be clearly labeled, identified, dimensioned and tied to reference points within the division of land and be shown by fine dashed lines. The beneficiary of and maintenance responsibility for easements shall be designated and the disposition thereof indicated in the plat note section of the plat.

(d) Temporary Easements

Temporary easements, if reflected on the plat, shall include the trigger event and action necessary to relinquish them.

(4) Land Dedication and Fees Not Personal Obligation

Land dedications or fees in lieu of land dedications required by this Code are not personal, but are specific to the property being divided, and are not transferable to other divisions of land unless alternative arrangements are expressly authorized by the BoCC.

(5) Disposition of Dedicated Lands and Refund of Fees

(a) Disposition of Land

(i) Future Disposition of Dedicated School or Park Lands

If a dedicated park or school land is no longer needed by the County, the BoCC may sell the land, may trade the land for

other park or school land, or dispose of the land in a manner allowed by statute. The owner shall have a right of first refusal to purchase all or a portion of any land dedicated by the owner to the County, school district, or other public entity before the land is sold, transferred, or conveyed to any party other than a school district. Statutory notice provisions to the owner shall be followed. Any such right of first refusal shall expire twenty (20) years from the date the land was dedicated by the owner to the County, school district, or other public entity.

(ii) Disposition of Other Dedicated Lands

The disposition of all other lands dedicated during the development review and permit process shall be governed by State Statute.

(b) Refund of Fees

(i) No Refunds of Fees Paid if Lower Densities Achieved

The failure to achieve the density stated in the development application or assumed based on the density allowed by the applicable zoning district shall not be grounds for a refund of any fees paid in lieu of land dedication, but may be used as a basis for establishing either fee or land credit within the same development.

(ii) Refund of Traffic or Transportation Fees Not Spent, Credits for Payment or Overpayment, Transfer of Credits

The refund, transfer and credit of traffic and transportation impact fees are governed by the provisions of this Code concerning Off-Site Road Studies and Plans and Impact Assessments.

8.5.2. Park and Open Space Standards and Dedications

(A) General

(1) Purpose

The purpose of this Section is to provide the definition and structure, outline the requirements, and assigns the responsibility for providing, developing, operating and maintaining specific categories of public park lands within the unincorporated areas of El Paso County.

(2) Dedication of Land for Parks

It is hereby found and determined:

- That a part of the public need for both regional and urban parks, trails and open space generated by the influx of new subdivisions should be provided by a mandatory dedication of land, fees in lieu of land or a combination of land and fees as a condition of preliminary plan or final plat approval.

- That it is reasonable to require the dedication of land, payment of fees in lieu of land or a combination of land and fees to provide the following facilities: regional parks, open space, regional trails or urban parks (reserved land).
- That urban park lands acquired by the County as a result of land dedication under the provisions of this Section may be classified as "reserved lands" and held in reserve by the County in an essentially undeveloped state for another unit of government provided that the perpetual use of the park land shall be for park purposes and shall provide reasonable recreation opportunities for residents of the neighborhood or community planning unit from which the lands were originally dedicated to the County.
- That the decision on whether the dedications will consist of land, fees in lieu of land or a combination of land and fees will rest with the BoCC in consideration of recommendations of the Parks Advisory Board.

(3) Exemptions from Dedication or Fee Requirements

A division of land that is exempted from the definition of subdivision by the BoCC in accordance with the provisions of C.R.S. §30-28-101(10) shall be exempt from the park land dedication and fee in lieu of dedication requirements of this Code.

(4) Establishment of Agency to Acquire and Transfer Land

(a) Responsible Agency

The El Paso County Community Services Department (EPCCSD) shall be a Regional Park Agency and shall be charged with the responsibility of providing, developing, operating and maintaining regional parks, trails and open space within El Paso County.

(b) Authority to Acquire and Transfer Park Land in Association

Within the unincorporated areas of the County, wherever urban density development occurs, the EPCCSD may, through the subdivision review process, function as a land acquisition agency for the purpose of acquiring and preserving urban category park lands for transfer to another unit of government.

(5) Banking Reserved Land

(a) Designation as Reserved Land and Land Bank

Land acquired in accordance with urban density subdivision requirements for urban park purposes shall become designated as "reserved land" and placed into a land bank category for future transfer to another governmental or quasi-governmental entity for urban park purposes.

(b) Agreement of Recipient Entity to Take Reserved Land

Governmental or quasi-governmental agencies, such as metropolitan districts, special districts, school districts, and homeowners associations providing a bonding or financing mechanism for maintenance and insurance, shall provide written intent to accept the reserved land prior to final plat approval by the ~~BoCC~~approving authority. Property in the reserved land category shall become the development, operation and maintenance responsibility of the recipient governmental or quasi-governmental entity.

(B) Considerations in Locating Park Land

Land to be dedicated as park land shall generally conform to the following criteria. Generally, park land should be located in consideration of:

- Conservation and maintenance of the natural environment of the region;
- Combating air quality problems, enhancing the environment, and preserving community integrity in the most practical, attractive manner possible;
- The size, shape, topography, geology, presence and condition of ground cover and timber, condition of soil, drainage, location, access and availability of water to lands proposed for park, trail, and open space uses;
- An assessment of the suitability of proposed land dedications for both regional and urban park, trail, and open space needs;
- A determination of the population densities which will result from the proposed subdivision and their relation to both regional and urban park, trail, and open space needs;
- Compliance with regional plans, particularly the EPCCSD policies and development statement for regional parks, trails and open space per the current Master Plan;
- The protection of natural and historical features, scenic vistas, watersheds, timber and wildlife;
- The need to provide regional park land, trails, open space and facilities which will serve the entire region and will support outdoor recreation programs including, but not limited to, interpretation of the natural and historic qualities of the region;
- The continuity of open space links, trails and other major components of the regional open space system;
- A determination of the location of parks, trails open space and recreational facilities within specific subdivisions and the broad scope of the County regional park, open space and regional trail system; and
- The provision of urban park lands as “reserved lands” which, with future development, will reasonably serve the needs of the intended neighborhood or community planning unit.

(C) Standards for Dedicated Land

(1) Dedicated Land Reasonably Adaptable for Park Use

The dedicated park land shall be reasonably adaptable for use as a regional park, open space, regional trail or urban park. Factors to be used in evaluating the adequacy of proposed park areas shall include, but not be limited to, size, shape, topography, geology, flora, fauna, access, and location.

(2) Associated Water Rights to be Dedicated

Unless otherwise negotiated between the County and owner, the dedicated park land shall include the real property together with tributary and non-tributary water rights owned by the applicant as a consequence of ownership of the dedicated property, water rights underlying the property, well rights, ditches and ditch rights appurtenant to the property, mineral rights and improvements thereon.

(3) Conveniently Located and Free of Hazards

The dedicated park land shall be conveniently located and have public access. The land shall be free of hazards that would threaten the safety of those using the land.

(4) Served by Roads, Utilities and Required Infrastructure

The dedicated park land shall be served by the required roads, traffic signalization, utilities, and other public infrastructure necessary to support the use of the dedicated land for parks. An SIA and appropriate collateral shall be required in lieu of providing the required facilities prior to recording the final plat.

(D) Dedication Requirements

Land, fees in lieu of land, or a combination of land and fees for public parks and open space may be required when a proposed subdivision will generate a need for parks or open space. The presumed need shall be determined in accordance with the following standards. The need shall be based on the subdivision density category of the proposed subdivision. The subdivision density category is based on a per--acre dwelling unit density, or the average lot size of a residential use classification within a proposed subdivision or portions of a proposed subdivision.

(1) Park Land Dedication Requirements

Dedication of land for regional parks, open space, regional trails, or urban parks (reserved land) purposes shall be based on the following subdivision density categories:

(a) Rural Density Subdivisions

(i) Commercial/Industrial Use

In rural density subdivisions, the minimum land dedicated for regional park purposes shall be .05 acre of land for each gross acre of commercial/industrial use contained within the proposed subdivision. For land dedication requirements,

refer to the current Schedule of Park Fees in Lieu of Land as adopted by the BoCC.

(ii) Residential Use

In rural density subdivisions, the minimum land dedicated for regional park purposes shall be .0194 acre of land for each dwelling unit contained within the proposed subdivision.

(b) Urban Density Subdivisions

(i) Regional Park Requirements

Commercial/Industrial Use: In urban density subdivisions, the minimum dedication for regional park purposes shall be .05 acre of land for each gross acre of commercial/industrial use contained within the proposed subdivision. For land dedication requirements, refer to the current Schedule of Park Fees in Lieu of Land as adopted by the BoCC.

Residential Use: In urban density subdivisions, the minimum dedication for regional park purposes shall be .0194 acre of land for each dwelling unit contained within the proposed subdivision.

(ii) Urban Park Requirements

Commercial/Industrial Use: For land dedication requirements, refer to the current Schedule of Park Fees in Lieu of Land as adopted by the BoCC.

Residential Use: The combined urban park standard for park land dedication shall be 4 acres of park land per 1,000 projected residents. The number of projected residents shall be based on 2.5 residents per dwelling unit. The combined urban park standard shall provide for both the neighborhood and community park needs in accordance with the following standards: (a) the neighborhood park standard is 1.5 acres of park land per 1,000 projected residents or 0.00375 acres of park land for each dwelling unit contained within an urban density subdivision; and (b) the community park standard is 2.5 acres of park land per 1,000 projected population of the combined urban park dedication standard or 0.00625 acres of park land for each dwelling unit contained within an urban density subdivision.

Neighborhood Park Size and Location: The minimum size of a neighborhood park to be dedicated shall be 3 acres. Neighborhood parks should be located adjacent to elementary schools and within a ½ mile radius of the residential units that they are intended to serve.

Community Park Size and Location: The minimum size of a community park to be dedicated shall be 24 acres. Community parks should be located adjacent to junior high or senior high schools and within a one mile radius of the residential communities that they are intended to serve.

(iii) Consideration of Reductions in Land Dedication

Dedication of less than the required urban park dedications may be considered in association with a specific plat if agreements provide for the dedication of park land on adjacent properties such that the composite park land area will result in: (1) a park area meeting the minimum area of the specific type of urban park required; and (2) the overall minimum park land dedication requirements being met on dedication of the park land on the adjacent properties.

(2) Trail Dedication Requirements

If the proposed subdivision is in an area where the Master Plan identifies a regional trail, a 25 foot trail easement shall be provided.

(3) Fees in Lieu of Park Land Dedication

(a) Requirement for Fee in Lieu of Land

When dedication of required regional park, open space, regional trail or urban park lands is not deemed feasible or not in the public interest, the BoCC shall require the applicant to pay to El Paso County a fee in lieu of land.

(b) Fees Established Annually by Subdivision Density Category

Fees in lieu of land shall be established each year by resolution of the BoCC. Fees in lieu of land for regional park, open space, regional trail, or urban park purposes shall be based on the same subdivision category standards used to establish land dedication requirements.

(c) Fees Credited to Park Fee Fund

Fees paid to the County in lieu of land dedication shall be credited to the proper park fee fund and utilized for the defined purpose of that fund.

(4) Combination of Land and Fees in Lieu of Land

When either dedication of required regional park, open space, regional trail or urban park lands alone or payment of required fees in lieu of land

alone is not deemed feasible or in the public interest, or not sufficient to mitigate impacts the BoCC shall require the owner to dedicate and to pay to El Paso County a combination of land and fees in lieu of land. The combination of land dedication and payment of fees in lieu of land shall not exceed the fair market value of the land area required.

(5) Adjustments to Park Land Dedication Requirements

(a) Existing Dwelling Units Excluded

Existing dwelling units shall be excluded from the calculation of the park land dedication requirement if they have previously been included in the calculation for park land dedication unless the lot on which the existing dwelling will be located allows for greater residential density, in which case the dedication requirements shall be calculated based on the maximum potential residential density.

(b) Calculating Dedication for Replats or Resubdivisions

(i) Land Platted Before July 17,1972

Land subdivided or platted prior to July 17, 1972 which is replatted or resubdivided shall be subject to the land dedication and fee in lieu of dedication requirements of this Code.

(ii) Land Where Park Land Dedicated Previously Made

Land replatted or resubdivided shall be exempt from the land dedication and fee in lieu of dedication requirements of this Code if fees in lieu of land have been paid or park land has been dedicated when the land was previously subdivided, unless as a result of the replat or resubdivision residential acreage or density or commercial/industrial acreage is increased.

(iii) Residential Acreage or Density Increased

Where the replat or resubdivision increases the residential acreage or density, the replatted or resubdivided land shall be subject to the fee in lieu of land dedication and park land dedication requirements of this Code as applied only to the additional number of residential units or the additional number of residential units that are a result of increased acreage.

(iv) Residential Acreage or Density Altered to Reach Urban Density

Where the replat or resubdivision either increases the average dwelling unit density per acre or decreases the average lot size, such that the resulting subdivision meets the definition of urban density subdivision, the entire park and open space requirement will be recalculated and amended based on fee in lieu of land dedication and park land dedication requirements of this Code. Previously paid

fees in lieu of land or park land dedication will be credited to the appropriate amended requirements.

(v) Commercial/Industrial Acreage or Density Increased

Where the replat or resubdivision increases the commercial/industrial acreage, the replatted or resubdivided land shall be subject to the fee in lieu of land dedication and park land dedication requirements of this Code as applied only to the additional commercial/industrial acreage. Where the replat or resubdivision increases commercial/ industrial density, the entire park and open space requirement will be recalculated and amended based on fee in lieu of land dedication and park land dedication requirements of this Code. Previously paid fees in lieu of land or park land dedication will be credited to the appropriate amended requirements.

(6) Credit for Required Park Land Dedication

Credit for park land dedication may be approved by the Parks Advisory Board on a case-by-case basis.

(7) Regional Park Requirements

Credit for park land dedication may be approved if a unique opportunity to expand the regional park system in the respective region and the value meets or exceeds the required land dedication or fees in lieu of land.

(8) Credit for Joint Use for School and Park Sites

Credit for park land dedication for joint use of park and school sites may be approved.

(E) Park Land Dedications to Other Entities

(1) Dedication to Governmental or Quasi-Governmental Entity

If the subdivision is located within the service area of a governmental or quasi-governmental entity that is willing and capable of acquiring, developing, operating and maintaining the required urban park property, the Parks Advisory Board may recommend that the required urban park land dedication be deeded directly to the entity.

(2) Dedication to Future Quasi-Governmental Entity

If the subdivision is located within the service area of a future quasi-governmental entity that would be organized and formed by the applicant, either prior to or concurrently with the approval of the plat, and that the entity would be capable of acquiring, developing, operating and maintaining the required urban park property, the Parks Advisory Board may recommend that the required urban park land dedication be deeded directly to the approved entity after formation.

8.5.3. School Land Standards and Dedications

(A) General

(1) Purpose

The purpose of this Section is to ensure that adequate land areas and funds for the acquisition of school sites and other capital outlay are made available through the subdivision process to meet the needs of future County residents. It is reasonable that those who accommodate population increases through the subdivision of land should provide for the additional need for school sites that the subdivision creates.

(2) Exemptions from Dedication or Fee Requirements

A division of land that is exempted from the definition of subdivision by the BoCC in accordance with the provisions of C.R.S. §30-28-101(10) shall be exempt from the school land dedication and fee in lieu of dedication requirements of this Code.

(3) Division of Responsibility

(a) School District Responsibilities

The appropriate school district shall, pursuant to statute and after review of the subdivision, make recommendations to the Planning Commission and the BoCC concerning the adequacy of provisions for school needs to serve the subdivision. When a subdivision results in lots which are split among more thant ~~t~~ one school district, the school district which will include the largest land area of affected lots or the greatest number of dwelling units is considered the appropriate school district.

(b) BoCC Responsibilities

The BoCC shall make the final determination of the method by which the dedication requirement shall be satisfied.

(B) Criteria for Determining Appropriateness of Dedication

When reviewing a subdivision, the appropriate school district shall consider the following criteria prior to making recommendation to the Planning Commission and the BoCC concerning the dedication:

- The assurance that areas set aside for schools within the subdivision have been examined for compliance with regional plans, particularly the Master Plan;
- The determination of the population densities which will result from the proposed subdivision and their relations to school needs;
- The assessment of the suitability of proposed land dedications for school uses;
- The examination of the size, shape, topography, geology, presence, and condition of ground cover and timber, condition of soil, drainage, location, access and availability of water to lands proposed for school uses;

- The assurance of the protection of natural and historical features, scenic vistas, watersheds, timber and wildlife; and
- The demonstration of a present or future need for a school site.

(C) Standards for Dedicated Land

(1) Land Centrally Located and Public Access

The dedicated school land shall be centrally located and have public access and public road frontage.

(2) Dedication Reasonably Provides for Future Residents

The dedication of land shall be reasonably necessary to serve the proposed subdivision's future residents.

(3) Land Free of Hazards

The dedicated school land shall be free of hazards that would threaten the safety of those using the land, or be capable of having the hazards eliminated through subdivision improvements.

(4) Land Served by Required Roads, Utilities and Infrastructure

The dedicated school land shall be served by the required roads, traffic signalization, utilities, and other public infrastructure necessary to support the use of the dedicated land for schools prior to platting. An SIA and appropriate collateral shall be required in lieu of providing the required facilities prior to filing the plat for recording with the Clerk and Recorder.

(5) Land to Accommodate Intended Use

The dedicated school land shall be a single parcel, meet minimum area requirements, and be sufficiently configured to be usable for the intended use.

(6) School Site Area Standards

The minimum acreage for the dedication of school sites shall be based on the site area guidelines in Table 8-1.

Table 8-1. School Site Area Guidelines.

Type of Facility	Minimum Site Area Required
Elementary schools	10 acres
Junior high schools	20 acres
Senior high schools	45 acres

(D) Standards for Dedication

Dedication of land, fees in lieu of dedication, or a combination of land dedication and fees shall be required to meet school needs. The following standards will be employed by the appropriate school district in making recommendations concerning dedication of land or fees in lieu of dedication or a combination thereof and by the BoCC in their decision.

(1) General

(a) Requirements Independent of Other Contributions

Applicability of this Section is independent of voluntary contributions or impact fees which may be negotiated between the appropriate school district and the applicant.

(b) Credit for Joint Use for School and Park Sites

Joint use or credit for park and school sites may be considered on a case by case basis

(c) Land Dedication and Fees Not Personal Obligation

School land dedication or fees in lieu of land dedication are not personal, but are specific to the property being subdivided, and are not transferable to other subdivisions unless alternative arrangements are expressly authorized by the BoCC.

(d) Resulting Dedication Inadequate for School Site

Where the subdivision does not generate the required land dedication area for a school site or there is not an acceptable location for a school site within the subdivision, the owner may enter into an agreement for the acquisition of a school site located outside the subdivision so long as the site will reasonably serve the subdivision. The owner shall receive credits against the dedication requirement if approved by the BoCC. The agreement shall be executed by the owner, the owner of the subject property, the guarantor, and the BoCC. The owner shall provide proof of ownership. The agreement shall include a legal description of the property to be dedicated and shall be recorded with the Clerk and Recorder. The agreement shall be binding on the owner’s and the owner's heirs, legal representatives, successors in interest, and assigns.

(e) Type of Dedication at Option of School District

When dedication of all or portions of required school lands is not deemed feasible or in the public interest, the appropriate school district may recommend to the BoCC one of the other options authorized by State Statute and this Code.

(2) Dedication Requirements

Dedication of land for school purposes shall be based on the dedication standards in Table 8-2. If in the opinion of the BoCC following the recommendation by the appropriate school district, adequate land for school purposes is not provided by the applicant to meet the demand by the development under consideration, the application may be denied.

Table 8-2. Land Area Dedication Requirements per Dwelling Unit.

School District	Area to be Dedicated per Single Family Detached Unit[1,]	Area to be Dedicated for Each Other Residential Unit[2,]
Lewis Palmer District 38	697 sq. ft.	384 sq. ft.
Academy District 20	697 sq. ft.	384 sq. ft.
Falcon District 49	675 sq. ft.	371 sq. ft.
Widefield District 3	653 sq. ft.	359 sq. ft.
Other Districts	653 sq. ft.	359 sq. ft.

[1]Single Family Detached Unit: A residential dwelling unit completely separate of other units and situated on its own lot. A mobile home subdivision or manufactured home shall be included within this definition for dedication requirement calculation, as well as patio home or townhome where not attached.
[2]Other Residential Units: All other types of residential units not included as single family detached units, including but not limited to attached single family homes, townhomes, condominiums, apartments, and mobile home parks.

(3) Adjustment to School Land Dedication Requirements

(a) Existing Dwelling Units

Existing dwelling units shall be excluded from the calculation of the school land dedication requirement if they have previously been included in the calculation for school land dedication unless the lot on which the existing dwelling will be located allows for greater residential density in which case the dedication requirements shall be calculated based on the maximum potential residential density.

(b) Number of Dwellings Undefined

When a division of land results in the creation of a new parent parcel where the number of dwelling units is undefined, the maximum density allowed by the zoning district will be used in the calculation of land dedication or fees in lieu of land requirements.

(4) Fees in Lieu of Land Dedication

When, after recommendation of the appropriate school district, dedication of all or portions of required school lands is not deemed feasible or in the public interest, the BoCC shall require the payment of fees in lieu of land dedication. The fees in lieu of land dedication shall be established and reviewed each year by the BoCC.

(E) Guarantee of Future School Land Dedication

Guarantee of future land dedication may be requested by the appropriate school district when dedication of all or portions of required school lands is not deemed feasible or in the public interest in a particular phase of the subdivision. Prior to or in conjunction with final plat approval, the owner and the BoCC shall enter into an SIA or development agreement in which the applicant guarantees the future dedication of land for school sites. The agreement shall be executed by the owner of the site, the guarantor, and the BoCC. The owner shall provide proof of ownership. The agreement shall include a legal description of the property to be dedicated in a subsequent phase of the subdivision and shall be recorded with

the Clerk and Recorder. The agreement shall also be binding on the owner and the owner's heirs, legal representatives, successors in interest, and assigns.

(F) Reservation of School Sites for Future Acquisition by a School District

(1) Purpose of Reservation

The purpose of reserving a school site on a plat is to allow flexibility in planning for school needs. When the dedication of land or fees in lieu of dedication or a combination thereof will not be adequate to meet school needs, reservation of a school site for future acquisition may be used to set aside the land needed and to be acquired by the appropriate school district.

(2) Reservation for 5 Years Does Not Constitute Conveyance

The reservation of land for school purposes merely sets aside land as specified on the plat for public school purposes for a period of 5 years and does not constitute a conveyance of that land to the BoCC or appropriate school district.

(3) Reservation Not a Substitute for Dedication

Reservation of a school site does not operate as a substitute for the dedication of school land and is only an option in addition to the requirements of either the dedication of land or the payment of fees in lieu of dedication of land or a combination thereof.

(4) Compensation of Owner by School District

The owner of the property is entitled to compensation by the school district when the appropriate school district elects to take reserved land for school purposes. Acquisition of a reserved school site from the owner shall be the responsibility of the appropriate school district.

(5) Reserved Land Not to be Used Inconsistently with Reservation

Until the designation of a site as reserved for school purposes is removed by the County from the plat, the owner shall not utilize the property in a manner inconsistent with the reservation.

(6) Plat Designation and Plat Note Required

The owner shall indicate the designated school site on the plat as "reserved for public school purposes for 5 years from the date of recording of this instrument" and shall include a specific plat note referencing the reservation.

(7) Extension of 5 Year Reservation by Mutual Agreement

The 5 year period for reservation of school sites may be extended by the mutual consent of the appropriate school district and the owner, or the owner's successors and assigns. The agreement shall be in writing and shall be recorded with the Clerk and Recorder, and a copy of the agreement shall be provided to the PCD.

(8) Removal of the Plat Restriction Reserving School Land

(a) Before Expiration of 5-Year Reservation

The designation of land as reserved for public school purposes may be removed from the plat by the County prior to the expiration of the 5-year period utilizing the procedures for amending a plat if mutually agreed to by the owner or the owner's successors and assigns and the appropriate school district.

(b) Expiration of 5 Year Reservation

After expiration of the 5 year period, the owner may petition to remove the designation of land as reserved for public school purposes from the plat using the procedures for amending a plat or replatting.

(G) Transfer of Land and Fees to School District

(1) Transfer of Land to School District

(a) School District Request for Land and Transfer of Land

The BoCC shall give written notification to the appropriate school district of the dedication. Following notice, an appropriate school district may request the property and shall demonstrate to the BoCC a need for the land. On approval by the BoCC of the school district's request for the land, the property shall be immediately conveyed by the BoCC to the school district. The deed conveying the land to the school district shall include a reverter clause providing that the land shall revert to El Paso County if the land is not used for public school purposes. If a dedicated school site is not requested by the appropriate school district within 20 years from the date of dedication, the BoCC may consider disposal of the dedicated school land pursuant to this chapter.

(b) Disposal of Dedicated Land

If a dedicated school site is no longer needed by a school district, the BoCC may sell the land at the request of the appropriate school district. The owner who previously dedicated the school land shall be given the right of first refusal for a 20 year time period from the date the land was dedicated by the owner to the County or school district to purchase all or part of the land, after payment of the current fees in lieu of school land dedication. The proceeds of the sale of dedicated school land shall be held by the BoCC until the appropriate school district demonstrates a need for the use of the fees pursuant to State Statute.

(c) Request by School District to Transfer Fees

Periodically, the BoCC shall give written notification of the receipt of school fees to the appropriate school district. A school district

may request the fees in accordance with County Policy and shall demonstrate to the BoCC a need for the use of the fees pursuant to State Statute. On approval by the BoCC of the school district's request for fees, the fees shall be transferred to the school district.

8.5.4. Road Dedication and Fees

(A) Dedication of Right-of-Way

(1) Dedication of Right-of-Way Required

The owner shall dedicate the entire right-of-way for roads, trails, and other public improvements associated with the division of land in accordance with standards in this Code, the ECM and the MTCP. Dedications shall be shown on the plat and meet the general dedication requirements of this Code. The County requirements regarding Roadway Functional Classification, Roadway Design Criteria, and Access Criteria are included in Chapter 2 of the ECM.

(2) Subdivision Adjoining Existing Road

Where the division of land adjoins an existing right-of-way, the ordinary obligation of the owner is for one-half of the required additional right-of-way required by the ECM or the MTCP, if any.

(3) Section Line Road Dedication

Where a division of land borders a section line road, the dedication shall include the ownership to the section line.

(4) Dedication of Half of Road Right-of-Way

The dedication of ½ of a required road right-of-way is only allowed with the approval of the BoCC where evidence is provided that the owner is unable to secure the entire right-of-way.

(5) Dedication Modified When Not Proportional to Impact

Dedication requirements may be modified where the BoCC determines the dedication is not roughly proportional to the impact caused by the division of land.

(B) Fair Share Reimbursement Fees Paid Before Recording

Where a Fair Share Reimbursement applies to the subject property, the owner shall submit payment in the amount established by the BoCC to the PCD prior to filing the plat for recording with the Clerk and Recorder.

~~(C) Traffic or Transportation Fee Paid Before Recording~~

~~Where an Off-Site Road Improvement Study and Plan has been approved and a specific mechanism has been established requiring payment of fees, no plat shall be filed for recording with the Clerk and Recorder within the study and plan area boundaries until all required fees have been paid, unless otherwise provided by the resolution approving the Off-Site Road Improvement Study and Plan.~~

8.5.5. Drainage Facilities Dedication and Fees

(A) Purpose

The purpose of this Section is to:

- Provide uniform and consistent standards for drainage and bridge facilities and related easements necessary to serve the proposed division of land and implement the provisions of the ECM;
- Implement the provision of BoCC Resolution 99-383 as it may be amended regarding equitable contribution to the total costs of the drainage and bridge facilities in the drainage basin in which the subdivision is located; and
- Implement the provisions of the Master Plan for Drainage Basins of Mutual Concern.

(B) Dedication of Right-of-Way Required

The owner shall dedicate the entire easement or right-of-way for drainage improvements associated with the division of land in accordance with this Code and the ECM. Dedications shall be shown on the plat and meet the general dedication requirements of this Code.

(C) Drainage Basin Fees and Bridge Fees

(1) Drainage Basin Fees Established

Drainage basin fees shall consist of a drainage fee and, where applicable, a bridge fee. The drainage basin fee schedule, which includes bridge fees, is set by the BoCC. A request to modify a fee requires BoCC approval.

(2) Fees Paid at Time of Filing of Plat for Recording

Drainage basin fees shall be paid at the time of filing the plat for recording with the Clerk and Recorder. The required fees shall be those in effect at the time the final plat is submitted for approval.

(3) Fee Reductions, Credits or Reimbursement for Facilities

(a) Credit for Construction of Planned Facilities

The owner will be credited for fees related to eligible drainage and bridge facility construction costs when the applicant constructs facilities identified in the applicable drainage basin planning study in accordance with the provisions of this Code, the ECM, and the drainage fee resolution. The mechanism and details for receiving a fee reduction or credit shall either be included within the drainage fee calculation required with the drainage report or within a separate SIA or development agreement, at the discretion of the County.

(b) Determining Allowable Credits or Reimbursements

(i) Reduction of Fees by Cost of Reimbursable Facilities

When the engineer's cost estimate for reimbursable drainage facilities is less than the drainage fees for the subdivision, the amount of the engineer’s cost estimate is subtracted from the fees due to obtain the balance due in cash at the

time of filing the plat for recording with the Clerk and Recorder.

(ii) Excess Costs Eligible for Credit or Reimbursement

When the engineer's cost estimate for providing reimbursable drainage facilities is greater than the drainage fees due for a subdivision, no cash fees are paid at the time of filing the plat for recording with the Clerk and Recorder. Actual costs of the facilities in excess of the fees due are eligible for credit or reimbursement from the drainage basin fund as funds become available.

If the plat is applicable to only a portion of the ownership and located in the same drainage basin as the remainder of the ownership, the credit for the cost of facilities installation in excess of the drainage basin fees may be credited to the drainage basin fees due at the time of subdivision of the balance of the ownership.

(c) Determining Fee Reductions and Credit Allowances

(i) Lots of 2.5 Acres or Larger

A fee reduction of 25% occurs for those portions of subdivisions that consist entirely of 2.5 acre and larger lots.

~~(ii) Prudent Line and Dedications~~

~~If the prudent line is determined by the ECM Administrator to be appropriate in a proposed subdivision, a fee reduction of up to the total fee may be granted for the land in excess of the floodplain which is required to be dedicated. If the reduction exceeds the total fee, the remainder of the credit will be paid by the County when the basin account has sufficient funds. In addition, a reasonable construction cost for channel improvements associated with the prudent line will be eligible for credits or reimbursement.~~

~~(iii)~~(ii) Credit for Small On-Site Ponds

50% of the reasonable construction cost of small on-site ponds (less than 15 acre-feet) that meet County criteria will be eligible for credits or reimbursements.

~~(iv)~~(iii) Credit for Large On-Site Ponds

100% of the reasonable land and construction cost of large on-site ponds that are either required facilities in a drainage basin planning study or an addendum to a drainage basin planning study and that are accepted by the County and paid for other than by the County are eligible for credits or reimbursement.

~~(v)~~(iv) Credit for Other Regional Facilities

100% of the reasonable land and construction cost of other regional facilities that are identified as reimbursable in a

drainage basin planning study will be eligible for credits or reimbursements.

~~(vi)~~(v) Approved Drainage Basin Planning Studies

100% of the cost of approved drainage basin planning studies will be eligible for credits or reimbursements.

~~(vii)~~(vi) Credit for Fees Previously Paid

When drainage basin fees for a lot or development have been previously paid and a subsequent development permit results in an increase in the impervious area, the drainage basin fee assessed in association with the development permit shall equal the difference between the current drainage basin fees and the previous drainage and bridge fees paid.

(d) Appeal of Fee Reduction or Credit Decisions

The ECM Administrator is responsible for decisions regarding fee reductions or credits. Appeal of a decision shall be in accordance with the applicable provisions of the ECM.

8.6. CONSTRUCTION AND ACCEPTANCE OF REQUIRED IMPROVEMENTS

8.6.1. General

(A) Construction of Common Development and Public Improvements

The owner shall be responsible for constructing the required common development and public improvements unless otherwise explicitly provided, including roads, drainage facilities, bridges and related structures, utilities, etc.

(B) Improvements to Division of Land Require Construction Permit

No common development or public improvements shall be constructed until a Construction Permit and Notice to Proceed have been secured from the ECM Administrator in accordance with the ECM.

8.6.2. Responsibility for Road Construction

(A) Road Construction to Conform to this Code and ECM

Roads shall be constructed in conformance with the roadway standards specified in this Code, the ECM, related technical documents, and other applicable County standards, regulations, and ordinances. The County requirements regarding roadway functional classification, roadway design criteria, and access criteria are included in Chapter 2 of the ECM.

(B) Capital Cost of Adequate Transportation Facilities

Capital costs for new roadway systems and transportation system improvements directly assignable to the needs generated by the division of land shall be paid by those who would benefit.

(C) Construction of Required Road Improvements

The owner is responsible for construction of the road and related improvements necessary to serve the division of land and connect the division of land to

existing roads, which may include but are not limited to curbs, gutters, sidewalks, roads, traffic control devices, drainage facilities, drainage structures and trails.

(1) Internal Roads

The entire cost associated with construction of the internal roads and related facilities is the responsibility of the owner, including any costs associated with the construction of a road with an arterial classification or below as identified in the MTCP, the TIS, or both, which is located entirely within the division of land.

(2) Adjacent Roads and Related Improvements

Where an existing County road must be extended to serve the division of land, the owner of the division of land shall pay the entire cost of the extension. For review purposes, the improvements shall be considered a part of the division of land.

(3) Half Road Construction

If ½ of a required road right-of-way is approved for dedication, the entire road cross-section may be required to be constructed in the dedicated half if approved by the ECM Administrator.

(4) Railroad Grade Separations Required

Where railroad crossings are proposed or are affected, provisions for grade separation, buffer strips, and safety protection devices shall be provided by the owner. Obtaining approval from the affected railroad company and the Colorado Public Utilities Commission, where applicable, shall be the owner's responsibility.

8.6.3. Responsibility for Drainage Improvements

(A) Owner Responsible for Drainage Improvements

The owner shall construct the required drainage, bridge, and related structures. Drainage, bridge, and related structures shall be constructed in conformance with ECM requirements.

(B) Extension of Facilities Outside Boundaries of Subdivision

Where drainage structures must be extended to or beyond the subdivision, the owner shall pay the entire cost of the extension, subject to appropriate reimbursement provisions of the Drainage Fee Resolution and the drainage criteria. For review purposes, the improvements shall be considered a part of the division of land, shall be included in the surety estimate, and shall be constructed to County standards. If the owner is not authorized to extend drainage facilities beyond the owner property, the owner shall redesign the drainage plan in conformance with the ECM.

8.6.4. Acceptance of Public Improvements

(A) Acceptance of Public Improvements Required Before Maintenance Begins

The BoCC shall withhold public maintenance of rights-of-way, easements or public improvements that have not been accepted by the BoCC in accordance with the provisions of the ECM and this Code.

(B) County Acceptance of Public Improvements

The ECM provides an acceptance process and warranty period for new or upgraded public roads, drainage facilities, and other improvements. The acceptance process requires financial surety to ensure that the public will not be forced to bear the cost of maintaining or correcting inadequately designed or constructed improvements.

8.7. PUBLIC INFRASTRUCTURE FINANCING PROVISIONS

8.7.1. Off-Site Road Studies, Plans and Impact Assessments

~~The Cost Recovery for Off Site Improvements~~This section has been replaced by the El Paso County Road Impact Fee Program. ~~Resolution (Resolution No. 16-454), or any amendments thereto.~~

8.7.2. Cost Recovery for Off Site Improvements

(A) General

(1) Purpose

The purpose of this Section is to state the conditions and procedures under which an applicant subdivider may be required to reimburse requestor subdivider for a fair share of the cost of certain improvements that the County required to have installed as part of the development approval, and which improvements would benefit the proposed development.

(2) Applicability

This section shall apply to applications for divisions of land which fall under the definition of “subdivision” and to development applications and actions that fall within the purview of this Code.

(3) Retroactive Application

A requestor subdivider may apply for a fair share reimbursement for any plat, including any amendment thereto, approved by the ~~BoCC~~ approval authority and recorded on or after August 8, 2001. A request for a fair share reimbursement shall only be applicable, however, to an applicant subdivider's petition for final plat approval that is accepted as a complete submittal by the PCD~~DSD~~ on or after the date of ~~BoCC~~ approval of the requestor subdivider's plat.

(B) Eligibility

(1) Improvements that May be Eligible for Cost Recovery

An improvement may be eligible for cost recovery if it is adjacent to the applicant subdivider's subdivision or the applicant subdivider's subdivision receives the presumed use of the improvement. An improvement located within the boundary of the requestor subdivider's subdivision may also be eligible for cost recovery.

(2) Right to Apply for Cost Recovery Approved by PCD ~~DSD~~ Director

Whether a requestor subdivider may apply for cost recovery is an administrative decision to be made by the ~~DSD~~PCD Director.

(3) Assignments

Unless the instrument of assignment provides otherwise, the assignee shall have the same rights and obligations as the assignor. The instrument of assignment shall be in writing signed by the assignor and assignee, and each signature shall either be acknowledged or subscribed and sworn before a notary public. The instrument of assignment shall provide a full and complete description in clear and plain language of the rights being assigned. The ~~DSD~~PCD Director shall have the sole and complete discretion to accept or reject the instrument of assignment.

(4) Metropolitan Districts, Local Improvement Districts, Regional Transportation Authorities, or Similar Governmental Entities

A metropolitan district, local improvement district, regional transportation authority, or similar type of governmental entity may qualify as a requestor subdivider when a document under the subdivision approval process identifies the metropolitan district, local improvement district, regional transportation, or similar type of governmental entity as being responsible for the installation of an improvement. The metropolitan district, local improvement district, regional transportation authority, or similar type of governmental entity may seek fair share reimbursement as an assignee of requestor subdivider.

(5) Limits to Cost Recovery

Under no circumstances may a requestor subdivider recover more than the actual costs incurred for the improvement less the actual costs of improvement attributable to use by the requestor subdivider's subdivision.

(6) Ineligibility to Pursue Cost Recovery

A requestor subdivider is not eligible to seek fair share reimbursement if the PCD~~DSD~~ Director determines that there is another procedure under this Code that enables the requestor subdivider to otherwise receive a fair share reimbursement for the cost of an otherwise eligible improvement.

(C) Approval and Effect of Private Agreements

(1) Allowed and Limited Rights to Seek Cost Recovery

Nothing prohibits a requestor subdivider and an applicant subdivider from entering into a private agreement for the recovery of the fair share reimbursement; however, a private agreement renders a requestor subdivider ineligible to seek cost recovery for the relevant improvement with respect to property that is the subject of a private agreement.

(2) Private Agreement to be Reviewed and Approved by PCD~~DSD~~ Director

A private agreement considered for review by the PCD~~DSD~~ shall be in a writing signed by the requestor subdivider and the applicant subdivider, or benefited property, and each signature shall either be acknowledged

or subscribed and sworn before a notary public. The private agreement shall provide a full and complete description in clear and plain language of the rights and obligations contained in the private agreement. The PCD~~DSD~~ Director shall have the sole and complete discretion to accept or reject a private agreement.

(D) Process for Request and Approval of Fair Share Reimbursement

(1) Application for Fair Share Reimbursement

A requestor subdivider seeking fair share reimbursement for the costs of an improvement shall file a cost recovery statement, which shall include the submittals required below, with the PCD~~DSD~~ no earlier than the date of final plat approval and no later than one year after the date of completion of the improvement. Different improvements in a subdivision may have different application dates and different application deadlines. Furthermore, there may be multiple applications per subdivision, but under no circumstances shall a requestor subdivider be entitled to submit more than one application for a particular improvement. The requestor subdivider shall submit the following with the cost recovery statement:

- A clear description and drawing of the improvement together with an itemized statement of the total actual costs of the improvement together with copies of paid receipts or other evidence of payment of the costs. This does not preclude preparation of a cost recovery statement based upon estimated costs;
- A statement, report, or study, including supporting data, prepared or certified by a professional engineer or other professional in the relevant field, that expresses the maximum and net remaining capacity of the improvement in quantitative terms generally accepted by professionals in the relevant area of expertise and consistent with any procedures maintained by the County;
- A calculation that relates the quantitative measurement derived per the requirements of the above-stated paragraph to a dollar cost per the quantitative measurement. For example, in the case of a road the amount should generally be expressed in terms of dollar cost per ADT or similar terms; and
- A list of all properties, identified by address (if available), legal description, and tax parcel number, to which the requestor subdivider may desire to make a request for fair share reimbursement, any of which hereinafter shall be referred to as a potential benefited property, together with a scaled drawing or survey establishing the location of the relevant improvement in relation to these properties. For all properties, a list of the names and mailing addresses of the property owners, any of which may be referred to as a potential benefited property owner. For purposes of determining a property owner's address, the requestor subdivider may use the most current records of the El Paso County Assessor's Office.

(2) Request Based on Estimated Cost of Improvement

A requestor subdivider may submit a request for fair share reimbursement based only upon the estimated costs of an improvement. The estimated costs of an improvement shall be the those established for the improvement in the surety estimate associated with the SIA, exclusive of any percentage of overage (i.e. contingency) required by the County.

A requestor subdivider that has selected the estimated cost approach may change that selection to actual cost approach; however, in changing the selection, the requestor subdivider shall follow the procedures as if submitting a new request for fair share reimbursement. Furthermore, in changing the selection, the requestor subdivider shall not be entitled to seek fair share reimbursement from an applicant subdivider who received a final determination of fair share reimbursement or from the owner of any property that is no longer subject to cost recovery due to the passage of time.

(3) Review of Cost Recovery Statement

The PCD~~DSD~~ Director shall review the cost recovery statement. The review shall include, but is not limited to, an analysis of the following: the accuracy and veracity of the costs, the reasonableness and appropriateness of the costs; a comparison of the costs to prevailing rates; consistency of the cost recovery statement with technical and professional standards, in order to generally assure that the cost recovery statement does not disproportionately or inequitably attempt to shift the cost of constructing the improvement to other property owners; and general conformance with the requirements of this Section. The PCD~~DSD~~ Director may request additional information from the requestor subdivider. A request for additional information shall be made within 30 days after submission of the cost recovery statement and the requestor subdivider shall have 30 days following the date of the request to submit the additional material requested.

(4) Initial Notice to Potential Benefited Property Owners

Within 10 days after submission of the cost recovery statement to the PCD~~DSD~~, the PCD~~DSD~~ Director shall prepare a notification to potential benefited property owners.

(5) Approval or Denial of Cost Recovery Statement

Within 60 days after submission of the cost recovery statement, or within 30 days after the receipt of the requested additional materials, whichever is later, the PCD~~DSD~~ Director shall prepare and issue a written determination, which includes a description of the reasons for the determination, to: (1) approve the cost recovery statement as submitted, or (2) approve the cost recovery statement with adjustments, or (3) deny the cost recovery statement because of failure to produce required or requested materials or because the improvements do not provide benefits to other property owners.

(6) Notice of ~~DSD~~PCD Director Decision

As soon as practicable after making its determination, the PCD~~DSD~~ Director shall send the written determination to the requester subdivider and to each potential benefited property owner. The PCD~~DSD~~ Director shall include with the written determination a notice of right to appeal to both the requester subdivider and any benefited property owner.

(7) Notice of Fair Share Reimbursement Recorded

As soon as practicable after the issuance of the BoCC's final determination upon appeal, or, if no appeal is taken, after the expiration of the period for appeal from the determination of the ~~DSD~~PCD Director, the ~~DSD~~PCD shall prepare and record a Notice of Fair Share Reimbursement in the chain of title for each benefited property. The ~~DSD~~PCD shall mail a copy of the recorded notice to the requester subdivider and each benefited property owner.

(E) Notification

(1) Notification by Mail

Whenever a notice or a mailing is required, the notice shall always be sent to the person or entities both by first class mail, postage prepaid return receipt requested, and by first class mail, postage prepaid. Notice shall be deemed received when mailed. In the event the last day for giving or receiving notice falls on a day when ~~DSD~~PCD is not open for business, the last day shall be deemed to extend to the next business day in which the ~~DSD~~PCD is open for business.

(2) Address to be Used for Notice

Notice to a potential benefited property owner shall be sent to the address in the El Paso County Assessor's Office current property records. Notice to a requestor subdivider shall be sent to the last known address of the requestor subdivider provided with the request for fair share reimbursement. Notice to any applicant subdivider shall be sent to the address in the ~~DSD~~PCD files for the relevant subdivision.

(3) Burden to Keep County Informed of Current Address

It is the obligation of the requestor subdivider and applicant subdivider to keep the ~~DSD~~PCD informed of a current mailing address. The sole and exclusive method to keep the ~~DSD~~PCD informed is to mail an address notification to the ~~DSD~~PCD. The notice shall reference the relevant file number for the requestor subdivider or applicant subdivider. The absence of address notification in a requestor subdivider or applicant subdivider file at the ~~DSD~~PCD shall be conclusive proof that the notice was not received.

(F) Appeal

(1) Notice of Appeal

The requestor subdivider or any benefited property owner may appeal the decision of the ~~DSD~~PCD to the BoCC by filing a written request for appeal in accordance with the Procedures Manual and this Code. In

order to be considered for appeal, the notice of appeal shall be received by the ~~DSD~~PCD no later than 30 calendar days after the date of mailing of notice of the ~~DSD~~PCD Director's determination.

(2) Notice of Hearing

The ~~DSD~~PCD Director shall set the matter for hearing before the BoCC, which hearing shall be held in an open and public meeting no later than 45 calendar days after the ~~DSD~~PCD receives a copy of a notice of appeal. The ~~DSD~~PCD shall send notice of the hearing to the requestor subdivider and each potential benefited property owner.

(3) BoCC Hearing Procedure

The hearing shall be de novo. At the hearing, the ~~DSD~~PCD, the requestor subdivider, and any benefited property owner shall be entitled to present evidence or comments to the BoCC. The BoCC shall make its findings and determinations on the public record. No later than 30 calendar days after the hearing, the BoCC shall issue its written findings and determinations as found on the record. In making its determination, the BoCC shall generally consider the factors set forth in the review of cost recovery statement.

(4) Notice of BoCC Determination

The ~~DSD~~PCD shall send a copy of the BoCC's final determination to the requestor subdivider and each property owner who was originally noticed.

(5) Review of BoCC Determination

The benefited property owner and the requestor subdivider's sole and exclusive remedy concerning the BoCC's final determination shall be to seek a judicial review of the decision.

(6) Limit of Effect of Request for Judicial Review

Although a regulation enacted by the BoCC cannot generally bind a court of competent jurisdiction, it is the intent of the BoCC in the adoption of this Section that disputes concerning the amount of fair share reimbursement should not result in an order prohibiting final plat approval or recording of the final plat; disputes should only result in the applicant subdivider depositing a sum certain or other security in the registry of the relevant court in the approximate amount of the disputed fair share reimbursement. The purpose of these provisions is to assure that the applicant subdivider receives the protections guaranteed to it by the United States Constitution, and specifically the protections guaranteed by the decisions of the United States Supreme Court.

(G) Payments, Interest and Duration of Cost Recovery Obligations

(1) Reimbursement Limited to15 years

A requestor subdivider is only entitled to receive a fair share reimbursement from an applicant subdivider for a period not to exceed 15 years from the date of completion of the improvement.

(2) Amount Due for Fair Share Reimbursement

(a) Calculation of Fair Share Reimbursement

In the final plat approval process for the applicant subdivider's subdivision, the extent of the applicant subdivider's usage of the relevant improvement shall be determined. The extent of this usage shall be multiplied by the rate determined and stated in the Notice of Fair Share Reimbursement. The requestor subdivider shall be entitled to simple interest on this amount at the rate of 8% per annum, calculated from the date of recording of the Notice of Fair Share Reimbursement.

(b) Studies Required to Determine Usage of Improvement

As a condition of allowing an applicant subdivider's subdivision to proceed to a hearing on final plat approval, the ~~DSD~~PCD Director shall require the applicant subdivider to submit a statement, report, or study, including data in support thereof, which should be prepared or certified by a professional engineer or other professional in the relevant field, concerning the applicant subdivider's subdivision's anticipated use of the improvement, which proposed use shall be stated in a quantity consistent with the rate established in the Notice of Fair Share Reimbursement for the relevant Improvement.

(3) BoCC May Limit Obligation

If supported by the evidence provided by the applicant subdivider, the BoCC shall have the right to make a determination that the applicant subdivider's subdivision does not make use of the improvements and is therefore not under an obligation to pay a fair share reimbursement to the requestor subdivider,.

(4) Hearing Concerning Requestor Subdivider's Request for Reimbursement

(a) Notice of Hearing

At least 14 days before the date of the hearing before the Planning Commission and the BoCC, the ~~DSD~~PCD shall send notice of the hearing to the requestor subdivider.

(b) ~~DSD~~PCD Director's Recommendation Presented

At the hearing, the ~~DSD~~PCD shall present the ~~DSD~~PCD Director's recommendation pursuant to the fair share reimbursement obligation of the applicant subdivider. The applicant subdivider and the requestor subdivider shall also have an opportunity to present evidence and comment concerning the proposed subdivision's anticipated use of the relevant improvement.

(c) BoCC Findings and Determination

The BoCC shall make a findings and determination concerning the applicant subdivider's subdivision's anticipated use of the

improvement and the applicant subdivider's fair share assessment at the hearing on the applicant subdivider's final plat. The BoCC findings and determination shall be final on the matter. The applicant subdivider's and the requestor subdivider's sole and exclusive remedy concerning the BoCC's final determination shall be to seek a judicial review of the decision.

(5) DSD Director Actions Upon Receipt of Funds

Upon receipt of the funds, the ~~DSD~~PCD Director shall record a Notice of Release of Claim for Fair Share Reimbursement in the chain of title for each relevant benefited property. The ~~DSD~~PCD Director shall send a copy of the recorded Notice of Release to the applicant subdivider and the requestor subdivider. The ~~DSD~~PCD Director shall then mail the amount received to the requestor subdivider. After mailing the amount received, the ~~DSD~~PCD shall record in the chain of title for the relevant property a Release of Notice of Fair Share Reimbursement. In the event that the release is only for a partial release of a property, the ~~DSD~~PCD Director shall consult with the OCA before preparing or recording a release. In the event that a title company, etc. requests a different release than as set forth in the Procedures Manual, the ~~DSD~~PCD Director shall consult with the OCA before preparing, executing, or recording any other release. The ~~DSD~~PCD Director shall provide a copy of the recorded release to the requestor subdivider and the applicant subdivider.

(6) Return of Funds

In the event the mailing is returned to the ~~DSD~~PCD, the ~~DSD~~PCD Director shall have the discretion to either deposit the funds to the Great Colorado Payback Program, C.R.S. §§30-13-110, et seq., as amended, or to interplead the funds in the Registry of the El Paso County District Court.

(H) Release of Notice of Fair Share Reimbursement After Expiration of 15-Year Period

(1) Filing of Release

Upon the expiration of the 15-year period following the date of completion of a particular improvement, the ~~DSD~~PCD Director shall prepare and record in the chain of title for the relevant property a Release of Notice of Fair Share Reimbursement. The ~~DSD~~PCD Director shall mail a copy of the recorded release to the requester subdivider and any benefited property owner not previously released from any obligation related to that improvement.

(2) Erroneously Recorded Release

In the event a Release of Notice of Fair Share Reimbursement is erroneously recorded, erroneous release shall not exempt the property from performance of its obligations. The property shall perform its obligations as the recording of the Notice of Fair Share Reimbursement is merely a statement that a unique government land use regulation may apply to a property; the Notice is thus not a lien or any other type of encumbrance on the chain of title for the property.

(3) Effect of Release Upon Re-Subdivision/More Intensive Development

The Notice of Fair Share Reimbursement recorded in the chain of title is not an encumbrance upon real estate; it is merely a notice that the property may be subject to a local land use regulation. Accordingly, the fact that a Release of Notice of Fair Share Reimbursement may have been recorded for a particular property, shall not preclude the particular property from being subject to obligation to participate in a fair share reimbursement upon a re-subdivision of the particular property to a higher density or more intensive development.

HOUSE BILL 19-1274

BY REPRESENTATIVE(S) Snyder, Duran, Exum, Gray, Kraft-Tharp, Michaelson Jenet, Sullivan, Valdez A.;
also SENATOR(S) Hisey, Priola, Scott, Tate.

CONCERNING THE ABILITY OF THE BOARDS OF COUNTY COMMISSIONERS TO DELEGATE TO COUNTY ADMINISTRATIVE OFFICIALS CERTAIN LAND USE DETERMINATIONS AFFECTING SUBDIVISION PLATTING.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 30-28-133.5, **add** (1.5) as follows:

30-28-133.5. Review of plats and other plans. (1.5) (a) COUNTY RESOLUTIONS, ORDINANCES, OR REGULATIONS REQUIRED BY SUBSECTION (1) OF THIS SECTION MAY PROVIDE FOR THE DELEGATION BY A BOARD OF COUNTY COMMISSIONERS TO ONE OR MORE COUNTY ADMINISTRATIVE OFFICIALS THE AUTHORITY TO:

(I) APPROVE OR DENY FINAL PLATS, AMENDMENTS TO FINAL PLATS, AND CORRECTION PLATS INSOFAR AS THE FINDINGS REQUIRED BY SECTION 30-28-133 (6) HAVE PREVIOUSLY BEEN MADE BY EITHER THE BOARD OF

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

COUNTY COMMISSIONERS OF THE COUNTY OR BY ONE OR MORE COUNTY ADMINISTRATIVE OFFICIALS TO WHOM THE MATTER HAS BEEN DELEGATED IN CONNECTION WITH THE PRELIMINARY PLAN WITH WHICH THE FINAL PLAT COMPLIES;

(II) APPROVE SUBDIVISION IMPROVEMENT AGREEMENTS AND OTHER AGREEMENTS REQUIRED IN CONNECTION WITH A FINAL PLAT, AN AMENDMENT TO A FINAL PLAT, OR CORRECTION PLAT;

(III) REVIEW AND APPROVE THE DATA, SURVEYS, ANALYSES, STUDIES, PLANS, AND DESIGNS SUBMITTED IN CONNECTION WITH A FINAL PLAT, AMENDMENT TO A FINAL PLAT, OR CORRECTION PLAT; AND

(IV) REVIEW AND APPROVE ANY SUBDIVISION EXEMPTION AS AUTHORIZED BY SECTION 30-28-101 (10)(d).

(b) ANY DELEGATION OF AUTHORITY MADE PURSUANT TO SUBSECTION (1.5)(a) OF THIS SECTION SHALL NOT INCLUDE:

(I) THE APPROVAL OF ANY AGREEMENT FOR THE EXPENDITURE OF PUBLIC FUNDS; OR

(II) THE WAIVER OR RESTRICTION OF ANY APPEAL PROCESS PROVIDED BY COUNTY RESOLUTION, ORDINANCE, OR REGULATION.

(c) ANY DELEGATION OF AUTHORITY MADE PURSUANT TO SUBSECTION (1.5)(a) OF THIS SECTION MUST INCLUDE PROCEDURES FOR PUBLIC NOTICE AND THE SUBMISSION OF WRITTEN COMMENTS PRIOR TO THE ADMINISTRATIVE APPROVAL OR DENIAL OF A FINAL PLAT OR AMENDMENT TO A FINAL PLAT AND FOR THE APPEAL TO A BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SUCH ADMINISTRATIVE APPROVAL OR DENIAL.

SECTION 2. Act subject to petition - effective date. This act takes effect September 1, 2019; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED May 31, 2019 at 2:34 p.m
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO