

PHILLIPS COUNTY LAND USE CODE

Adopted by the Board of County Commissioners of Phillips County

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ARTICLE 1 GENERAL PROVISIONS

SECTION 1-101 TITLE AND SHORT TITLE

These Regulations shall be known as the Phillips County Land Use Code.

SECTION 1-102 AUTHORITY

Phillips County is authorized to regulate zoning, planning, and the subdivision of land by *inter alia*, these sections of state statute: Section 30-28-101 *et seq.*; Section 30-28-201 *et seq.*; Section 29-20-101 *et seq.*; Section 24-67-104 *et seq.*; and Section 25-10-101 *et seq.*

SECTION 1-103 PURPOSES

The general purposes of this Land Use Code include:

- A. Protect Quality of Life.** To provide for protection of the public health, safety, and welfare of the residents of the County and to protect the environment.
- B. Provide for Orderly Development of the County.** To provide for balanced, orderly growth patterns and to provide efficient, phased government services to accommodate existing and future residents.
- C. Preserve Property Values.** To preserve and promote the value of property, to protect the tax base of the County, and to respect property rights.
- D. Protect and Enhance Agriculture.** To protect and enhance agricultural uses and the rural character of the County.

SECTION 1-104 APPLICABILITY

- A. Unincorporated Phillips County.** This Land Use Code shall apply to new land use change proposals on all land within the unincorporated areas of Phillips County.
- B. Compliance with Code Required.** No person may engage in any Land Use Change without first complying with this Code.
- C. Existing Uses to Continue.** Land uses in effect at the time of enactment of this Land Use Code do not require review by the County and may continue as a "Nonconforming Use" pursuant to Article 7 of this Land Use Code.

SECTION 1-105 REPEALER; RE-ENACTMENT; EFFECTIVE DATE

A. Repeal of County's Prior Land Use Regulations. The existing Zoning Resolution, Subdivision Regulations, Holyoke Airport Regulations, and Haxtun Airport Regulations are hereby repealed.

B. Enactment. This Land Use Code has been adopted by the Board of County Commissioners, after review and recommendation by the Phillips County Planning Commission, following public hearings.

SECTION 1-106 AMENDMENT TO THE TEXT OF THIS LAND USE CODE

A. Initiation. Text amendments to this Land Use Code may be initiated by the Board of County Commissioners, the Planning Commission, or the Administrator.

B. Proposed Amendment. A proposal for text amendment shall state the precise wording of the proposed text amendment, and the reason for the proposed amendment.

C. Public Review. Copies of the proposed text amendment shall be available at the County offices for review by the public.

D. Review and Recommendation of Planning Commission. Following the publication of notice of the proposed text amendment published at least fourteen (14) days prior to the public hearing in a newspaper of general circulation, the Planning Commission shall conduct a public hearing. The Planning Commission may make modifications to the proposed amendment and transmit its recommendations on the proposed text to Board of County Commissioners.

E. Action by Board of County Commissioners. After receipt of the recommendation from the Planning Commission and following publication of a notice of the proposed text amendment published at least thirty (30) days prior to the public hearing, the Board of County Commissioners shall hold a public hearing and determine whether the text should be amended. Following the close of the hearing, the Board may direct the Administrator to make any such amendments to the official Land Use Code.

SECTION 1-107 SEVERABILITY

If any section, clause, or portion of this Code is found to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected and shall remain in full force and effect.

ARTICLE 2 LAND USE CHANGE PERMITS

SECTION 2-101 LAND USE CHANGE PERMIT REQUIRED FOR LAND USE CHANGES

- A. Land Use Change Permit.** Unless exempt pursuant to Section 2-102 of this Code, any Land Use Change shall require an Administrative, Minor, or Major Land Use Change Permit.
- B. Divisions of Land Are Not Land Use Changes.** Divisions of land are not Land Use Changes and are subject to the requirements of Article 10.
- C. Land Use Change Permit Application.** An application for a Land Use Change Permit shall be filed with the County.
- D. No Development Prior to Permit Issuance.** No development or Land Use Change for which a Land Use Change Permit is required may begin until a Land Use Change Permit has been approved by the County.
- E. Permits Run with the Land.** Any Land Use Change Permit issued under this Code shall run with the land.
- F. Building Permits.** It shall be unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure of more than one thousand (1,000) dollars cost or which changes the assessed valuation of the property, within the unincorporated territory covered by this Land Use Code, without the property owner or his authorized representative first obtaining a building permit from the County. A building permit shall not be issued unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all applicable provisions of this Land Use Code. The Board of County Commissioners shall establish the fee for proposed amendments to cover the cost of processing.

SECTION 2-102 EXEMPTIONS FROM LAND USE CHANGE PERMIT REQUIREMENTS

The following Land Use Changes are exempt from the requirement to obtain a Land Use Change Permit:

- A. Single Family and Accessory Dwelling Units.** The construction of one single family dwelling, and accessory uses that are incidental and secondary to the single-family dwelling, on a single lot shall not require a Land Use Change Permit, but shall be subject to site development standards in Section 4-103.
- 1. Building Permit Required.** The Applicant shall obtain a building permit before construction of a single-family dwelling and accessory structures.

B. Agricultural Uses. New or changes in agricultural uses are exempt from the requirement to obtain a Land Use Change Permit except for those activities and structures listed in Section 2-102.B.2., or if the Administrator deems that the nature, scale, or intensity of the proposed use creates impacts to public health, safety, welfare, and the environment such that a Land Use Change Permit is warranted.

1. Building Permit Required for Structures. The owner shall obtain a building permit before construction of any agricultural structure other than fences.

2. Agricultural Uses Requiring Land Use Change Permit. The following Agricultural Uses require a Major or Minor Land Use Change Permit:

a. Major Land Use Change Permit. The following agricultural uses require a Major Land Use Change Permit:

(1) Large Agricultural Structures. Structures that are 2,500 square feet or larger, enclosed arenas, or other enclosed areas when the activities that occur there provide services and/or goods to the general public on site, trucking operations, slaughterhouses, or off-site processing facilities.

(2) Confined Animal Feeding Operations.

(3) Custom Meat or Poultry Processing Facility. A facility for the processing of meat and poultry for individuals, not intended for resale on the premises, including but not limited to the butchering, cutting, dressing, and packaging of meat and poultry products.

(4) Keeping of Nondomestic Animals. The location for commercial dealers, breeders, exhibitors, transporters, or researchers, or wildlife rehabilitators of any and all species not listed by the Colorado Division of Wildlife as domestic. Species listed as prohibited by the Colorado Division of Wildlife are not allowed.

b. Minor Land Use Change Permit. The following Agriculture uses require a Minor Land Use Change Permit:

(1) Domestic Animal Feeding Operations.

(2) Minor Expansion of Concentrated Animal

Feeding Operations.

(3) Large Equestrian Center. An equestrian center with amplified sound and/or lighted outdoor riding, driving, or showing of horses, or for improved riding facilities provided in connection with boarding of horses for more than fifteen (15) persons per month, in addition to the owner or manager of the property. The boarding of horses for less than fifteen (15) persons per month does not require a Land Use Change Permit.

(4) Commercial Kennel. A commercial establishment other than a pet shop or veterinary clinic, in which adult dogs or domesticated animals are housed, groomed, bred, boarded, or trained and have greater than 8 adult dogs and more than 2 litters of pups per any 1 calendar year. Dogs used as a part of an agricultural activity are exempted from the definition.

C. Home Occupations. The conduct of a home occupation is exempt from the requirement to obtain a Land Use Change Permit so long as the home occupation complies with the following minimum standards. Failure to conduct the home occupation in compliance with the minimum standards shall be a violation of this Code and will be subject to enforcement proceedings.

The following minimum standards shall apply to home occupations:

1. Such use is incidental and secondary to residential use of the principal dwelling or accessory structure or addition and does not change the residential character thereof.
2. Such use will be conducted by the resident(s) of the principal dwelling and only within the principal dwelling or accessory structure or addition.
3. Such use does not generate traffic that significantly affects the residential character of the area.
4. Such use does not create excessive or offensive noise, vibration, smoke, dust, odors, heat, glare or light noticeable or extending beyond the property boundaries.
5. Such use shall not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

6. Such use adheres to the sign regulations in Article 8.

D. Residential Wind and Solar Energy Systems.

1. Residential Wind Energy System. A building permit shall be required for the installation of a Residential Wind Energy System. Any wind energy system that is not residential is subject to Article 5, Wind Energy Facility Regulations.

2. Residential Solar Energy System. A building permit shall be required for the installation of a Residential Solar Energy System. Utility-Scale Solar Energy Systems are subject to Section 4-106.C.

SECTION 2-103 CLASSES OF LAND USE CHANGE PERMITS

Phillips County has adopted three classes of Land Use Permits: Administrative Land Use Permits, Minor Land Use Permits, and Major Land Use Permits. The determination of the class of Land Use Permit that will be required for a Land Use Change shall be made at the time that an application has been filed with the County. See Section 3-101.B.

A. Administrative Land Use Change Permits. Administrative Land Use Change Permits may be issued by the Administrator under Section 3-102 of this Code for any of the following Land Use Changes:

1. Construction of a second or third dwelling unit on a single parcel of land thirty-five (35) acres in size or larger.
2. Extension or enlargement of a non-residential structure adding less than 500 square feet.
3. 500 cubic yards or less of land disturbance not associated with development that requires a Minor or Major Land Use Change Permit.

B. Minor Land Use Change Permits. Minor Land Use Change Permits may be issued by the Board of County Commissioners under Section 3-103 of this Code for any of the following Land Use Changes:

1. **Roads and Excavations of a Road**, except roads or excavations that are part of exempt agricultural activities.
2. **Excavation and Land Disturbance.** Excavation and disturbance of land greater than 500 cubic yards and not associated with development that requires a Minor or Major Land Use Change Permit.
3. **Minor Expansion of Concentrated Animal Feeding Operations.**

4. Equestrian Center. An equestrian center with amplified sound and/or lighted outdoor riding, driving, or showing of horses, or for improved riding facilities provided in connection with boarding for more than fifteen (15) individual persons per month, in addition to the owner or manager of the property.

5. Commercial Kennel. A commercial establishment other than a pet shop or veterinary clinic, in which adult dogs or domesticated animals are housed, groomed, bred, boarded, or trained and have greater than 8 adult dogs and more than 2 litters of pups per any 1 calendar year. Dogs used as a part of an agricultural activity are exempted from the definition.

C. Major Land Use Change Permits. All Land Use Changes that are not exempt or listed under Administrative Land Use Change Permits or Minor Land Use Change Permits require a Major Land Use Change Permit pursuant to Section 3-104.

ARTICLE 3 APPLICATION AND REVIEW PROCESS FOR LAND USE CHANGE PERMITS

SECTION 3-101 GENERAL APPLICATION PROVISIONS FOR LAND USE CHANGE PERMITS

This section describes the general process that applies to all Land Use Change Permits.

- A. Preapplication Meeting.** Any person contemplating a Land Use Change shall first schedule a preapplication meeting with the Administrator to discuss the proposed Land Use Change.
- B. Determination of Class of Land Use Change Permit.** Within seven (7) working days of the meeting with the Applicant, the Administrator shall determine if the Land Use Change requires an Administrative Land Use Change Permit, Minor Land Use Change Permit, or Major Land Use Change Permit and shall notify the Applicant of the determination email or phone.
- C. Application Fee.**
- 1. Fee Established.** Any application shall be accompanied by an application fee in accordance with the Fee Schedule. (The application fee schedule will be proposed by the Administrator, and adopted by a Resolution of the Board.) The application fee schedule shall reflect the minimum cost of reviewing and processing the application package, including costs of copying, mailings, publications, and labor.
 - a.** The Administrator shall add to the application fee the estimated costs of any outside consultants, experts, and attorneys as the County deems necessary to advise it on the review and consideration of the application package.
 - 2. Accounting of Fee.** The County will deposit that portion of the application fee that is not necessary to cover immediate costs and expenses in an account. The County will obligate, encumber, or use such funds, from time to time, at its discretion, when necessary to cover the cost of review and consideration of the application. If costs associated with review and consideration of the application package exceed the funds available in the account, the Administrator shall notify the Applicant of the additional fee required to proceed with review and consideration of the application package.

SECTION 3-102 ADMINISTRATIVE LAND USE CHANGE APPLICATION SUBMITTAL REQUIREMENTS AND REVIEW PROCEDURES

- A. Permit Application Materials.** An Applicant for an Administrative Land Use Change Permit shall submit the following information. The Administrator may request

additional information that may be necessary to evaluate the application. The Administrator may waive one or more of these materials if the Administrator determines that the information is not necessary to determine whether the information satisfies the applicable standards in Article 4.

1. Written Description. A brief written description of the proposed Land Use Change shall be submitted to the Administrator. The written description shall include the type of Land Use Change, and the total number of acres of the site where the change will occur and how the Land Use Change complies with the applicable standards.

a. Applicant is Not the Owner. If the Applicant is not the owner of the land, or is a contract purchaser of the land, the Applicant shall submit a letter signed by the owner consenting to the submission of the application.

b. Applicant is Not the Sole Owner. If the Applicant is not the sole owner of the land, the Applicant shall submit a letter signed by the other owners or an association representing the owners consenting to or joining in the application for Land Use Change Permit.

2. Vicinity Map. An 8 ½ x 11 vicinity map locating the parcel in the County. The vicinity map shall clearly show the boundaries of the site, and the ownership and use of adjacent properties.

3. Site Plan. A site plan prepared at a scale acceptable to the Administrator, which best conveys the conceptual aspects of the plan. The site plan shall have the following elements:

a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).

b. Clearly identified boundary lines, corner pins, dimensions of the site, and distance of structures from the boundaries of the site.

c. Location of lot lines.

d. Size of the site, in acres or square feet.

e. Existing uses of the site and the adjacent properties.

f. Location, dimension of all structures, existing and proposed.

g. Existing and proposed grading.

- h.** Existing and proposed roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements and rights-of-ways on or adjacent to the site, shown by location and dimension.
- i.** The location of wells, septic systems, leach fields, waterbodies, and similar features.

4. Wastewater System. Description of any proposed wastewater treatment system, including location and size of leach field, that will serve proposed uses.

5. Water Supply System. Description of the source and capacity of any water supply, including location, size, and permits of well(s) and/or water lines to serve the proposed use.

6. Elevations Drawings of Structures. Where the proposed Land Use Change is for the construction of buildings or structures, the Applicant shall submit elevation drawings of proposed structures showing existing grade, finished grade, and height of structure above existing grade.

B. Administrative Land Use Change Permit Review Procedures. Following the preapplication conference described in Section 3-101, the following review process applies to an Administrative Land Use Change Permit.

1. Completeness Determination. The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required based on the submittal requirements for the relevant type of Land Use Change Permit application. A determination that the application is complete is not a determination that the standards have been satisfied.

a. Notification of Incompleteness. If the application is not complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

b. Completeness Date. Once the Application is complete, the Administrator shall stamp the application with the date that it was determined to be complete and all time frames within this Code pertaining to review of the application shall be based on the completeness date.

2. Evaluation of Application by Administrator. Upon determination of completeness, the Administrator shall review the application for compliance with the applicable General Standards set forth in Article 4.

3. Review by Referral Agencies. The Administrator may send copies of the application to any referral agencies and consultants deemed necessary by the County. The Applicant is responsible for paying the direct costs of review by referral agencies and outside consultants.

4. Notice to Adjacent Property Owners. Notice to adjacent property owners may be required if the Administrator determines that the proposed use is likely to affect adjacent property owners. If notification is required, the notice shall be made by the County by sending a written notice describing the proposed Land Use Change to property owners within five hundred (500) feet of the boundaries of site to be developed.

5. Decision by Administrator. Following the completeness determination, the Administrator may approve, approve with conditions, or deny the application based on whether it complies with general standards in Article 4. The Administrator shall inform the Applicant of the decision in writing within five (5) working days of the decision.

SECTION 3-103 MINOR LAND USE CHANGE PERMIT APPLICATION SUBMITTAL REQUIREMENTS AND REVIEW PROCEDURES

A. Permit Application Materials. The Applicant for a Minor Land Use Change Permit shall submit an application that contains the following materials. The Administrator may request additional information that may be necessary to evaluate the application. The Administrator may waive one or more of these materials if the Administrator determines that the information is not necessary to determine whether the information satisfies the applicable standards in Article 4.

1. Written Description. A brief written description of the proposed Land Use Change shall be submitted to the Administrator. The written description shall include the type of Land Use Change, and the total number of acres of the site where the change will occur.

a. Applicant is not the owner. If the Applicant is not the owner of the land, or is a contract purchaser of the land, the Applicant shall submit a letter signed by the owner consenting to the submission of the application.

- b.** Applicant is not the sole owner. If the Applicant is not the sole owner of the land, the Applicant shall submit a letter signed by the other owners or an association representing the owners consenting to or joining in the application for Land Use Change Permit.
- 2. Vicinity Map.** An 8 ½ x 11 vicinity map locating the site in the County. The vicinity map shall clearly show the boundaries of the site, and the ownership and use of adjacent properties.
- 3. Site Plan.** A site plan prepared at a scale acceptable to the Administrator that conveys the conceptual aspects of the plan suitable for public presentation. The site plan must have the following elements:
 - a.** Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
 - b.** Clearly identified boundary lines, corner pins, dimensions of the site, and distance of structures from the boundaries of the site.
 - c.** Location of lot lines.
 - d.** Size of the parcel, in acres or square feet.
 - e.** Existing uses of the site and the adjacent properties.
 - f.** Location, dimension of all structures, existing and proposed.
 - g.** Existing and proposed grading.
 - h.** Existing and proposed roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements and rights-of-ways on or adjacent to the parcel, shown by location and dimension.
 - i.** Significant features on the site such as contours, natural and artificial drainage ways, wetland areas, ditches, hydrologic features (with flooding limits based on information available through the County), and aquatic habitat, geologic features and hazards, soil types; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that might be affected by or affect the development.
- 4. Wastewater System.** Description of any proposed wastewater treatment system, including location and size of leach field, that will serve proposed uses.

5. Water Supply System. Description of the source and capacity of any water supply, including location, size, and permits of well(s) and/or water lines to serve the proposed use.

6. Elevations Drawings of Structures. Where the proposed Land Use Change is for the construction of buildings or structures, the Applicant shall submit elevation drawings of proposed structures showing existing grade, finished grade, and height of structure above existing grade.

7. Compliance with Standards. A brief written description of how the proposed Land Use Change satisfies the applicable standards in Article 4.

B. Review of Minor Land Use Change Permit Application Materials.

Following the preapplication conference described in Section 3-101, the following review process will apply to a Minor Land Use Change Permit.

1. Completeness Determination. The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required based on the submittal requirements for the relevant type of Land Use Change Permit application. A determination that the application is complete is not a determination that the standards have been satisfied.

a. Notification of Incompleteness. If the application is not complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

b. Completeness Date. Once the Application is complete, the Administrator shall stamp the application with the date that it was determined to be complete. All time frames within this Code pertaining to review of the application shall be based on the completeness date.

2. Evaluation of Application by Administrator. The Administrator shall review the application for compliance with the relevant standards and criteria set forth in Article 4.

3. Review by Referral Agencies. The Administrator may send copies of the application to any referral agencies and consultants deemed necessary by the County. The Applicant is responsible for paying the direct costs of review by referral agencies and outside consultants.

4. Administrator Recommendation. Within thirty (30) days of the date that the application was determined to be complete, the Administrator shall prepare a report that recommends approval, approval with conditions, or denial of the application for a Minor Land Use Change Permit. The timeframe for review of a Minor Land Use Change Permit may be extended by the Administrator to a total of sixty (60) days if review by outside consultants or legal counsel is required.

5. Public Hearing by Board of County Commissioners

a. Schedule of Board of County Commissioner Public Hearing. Following the Administrator Recommendation, the Administrator shall schedule the Minor Land Use Change application for review by the Board at a public hearing to be held at the first meeting for which the agenda can accommodate such a hearing.

b. Publication of Notice of Board of County Commissioner Public Hearing. The County shall arrange for notice of the Board of County Commissioners public hearing to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date, and place of the hearing.

c. Notice to Adjacent Property Owners by County. Not less than ten (10) days prior to the date of the Board hearing, the County shall notify property owners within five hundred (500) feet of the boundaries of the site where the development will occur by sending a written notice describing the proposed Land Use Change; site location and legal description by section, township, and range; name of Applicant; and setting forth the time, date, and place of the Board hearing on the Minor Land Use Change application.

d. Notice to Mineral Estate Owners. Not less than thirty (30) days prior to the date of the Board's hearing, the Applicant shall notify or cause to be notified mineral estate owners with mineral interest in the parcels in which surface development is occurring on-site by sending a written notice by certified mail, return receipt requested. For parcels in which no surface development is occurring, notice to mineral estate owners shall be required in a manner defined by the Board of County Commissioners at the recommendation of the Administrator.

e. Posting on the Website. Posting on the website will be at the discretion of the Board of County Commissioners following recommendation from the Administrator.

6. Public Hearing and Action by Board of County

Commissioners. The Board of County Commissioners shall hold a public hearing to consider the application for a Minor Land Use Change Permit, and hear testimony and accept evidence regarding compliance with the standards and criteria before taking an action on the application.

a. Approval. The Board may approve an application for a Minor Land Use Change Permit if the Board determines that the Applicant has proven that the application satisfies all of the relevant standards and criteria contained in Article 4.

b. Denial. The Board shall deny an application if the Board determines that the Applicant has not proven that the application satisfies all relevant standards and criteria contained in Article 4.

c. Conditional Approval. Instead of denial, the Board may approve an application for a Minor Land Use Change Permit with conditions if the Board determines that the conditions are necessary to ensure compliance with the relevant standards and criteria in Article 4.

SECTION 3-104 MAJOR LAND USE CHANGE PERMIT APPLICATION SUBMITTAL REQUIREMENTS AND REVIEW PROCEDURES

A. Waiver of Permit Application Materials. The Administrator may waive one or more of these materials if the Administrator determines that the information is not necessary to determine whether the information satisfies the applicable standards in Article 4.

B. Permit Application Materials. The Applicant for a Major Land Use Change Permit shall submit an application that contains the following information and any additional information relevant to a particular type of major Land Use Change. The Administrator also may request additional information that may be necessary to evaluate the application.

1. Written Description. A brief written description of the proposed Land Use Change shall be submitted to the Administrator. The written description shall include the type of Land Use Change, and the total number of acres of the site where the change will occur.

- a. Applicant is Not the Owner.** If the Applicant is not the owner of the land, or is a contract purchaser of the land, the Applicant shall submit a letter signed by the owner consenting to the submission of the application.
 - b. Applicant is not the Sole Owner.** If the Applicant is not the sole owner of the land, the Applicant shall submit a letter signed by the other owners consenting to or joining in the application for Land Use Change Permit.
 - c. Corporate Ownership.** In the case of a corporate property owner or corporate Applicant, evidence of registration or incorporation in the State of Colorado.
- 2. Vicinity Map.** An 8 ½ x 11 vicinity map locating the site in the County. The vicinity map shall clearly show the boundaries of the site, and the ownership and use of adjacent properties.
- 3. Site Plan.** A site plan prepared at a scale acceptable to the Administrator, which best conveys the conceptual aspects of the plan and for effective public presentation. The site plan shall have the following elements:

 - a.** Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
 - b.** The name and address of the property owner (s) and of the Applicant(s) if other than the owner or owners, and the person or persons preparing the submittal materials.
 - c.** A list from the County Assessor's office of current property owners of record, including their complete mailing address, for property both onsite and located within five hundred (500) feet of the exterior boundary of the site. This distance provision may be expanded up to two thousand five hundred (2500) feet by the Administrator if the Land Use Change is likely to have impacts within such a radius.
 - d.** A list of the mineral estate owners and their complete mailing address, both onsite and located within 500 feet of the exterior boundary of the site. The list shall comprise mineral estate owners pursuant to C.R.S. § 24-65.5-103(1)(a)(I), as amended.

- e. Clearly identified boundary lines, corner pins to the extent they exist, dimensions of the site, and distance of proposed structures and facilities from the boundaries of the site.
- f. Location of lot lines.
- g. Size of the parcel, in acres or square feet.
- h. Description of the current land use, both onsite and located within 500 feet of the exterior boundary of the site, including agricultural use, dwelling units, microwave communication links and airports.
- i. Location and dimension of all structures and facilities, existing and proposed, both onsite and located within 500 feet of the exterior boundary of the site.
- j. Existing and proposed grading.
- k. Existing and proposed roads, railroad tracks, irrigation ditches, fences, utility lines and facilities, transmission lines and facilities, oil and gas wells, oil and gas facilities, pipelines, flowlines, and easements and rights-of-way of record on the site, including a description of the ownership and purpose of easements and rights-of-way.
- l. Significant features on the site such as contours, natural and artificial drainage ways, wetland areas, ditches, hydrologic features (with flooding limits based on information available through the County), and aquatic habitat, geologic features and hazards, soil types; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that might influence the development.

4. Drainage and Erosion Control Plan. For Land Use Changes that will require any excavation, grading or other surface disturbance, a plan showing existing and proposed grading for the site and description of practices that will be utilized to prevent wind erosion, water erosion, sedimentation, flooding and run-off during both construction and operation of the proposed Land Use Change.

5. Noxious Weed Control Plan. A description of the measures for controlling noxious weeds existing on the site or that may become established as a result of the development.

6. Wastewater System. A description of the proposed wastewater treatment system, including location and size of leach field, sewer service lines, and treatment facilities. The Applicant shall provide proof that the system is in compliance with state standards and adequate to serve the proposed Land Use Change including:

- a. Certification of compliance with state standards, prepared by a professional engineer.
- b. Letter of approval from Northeast Colorado Health Department documenting that the wastewater system is adequate to serve the proposed use.

7. Water Supply System. A description of the source and capacity of the water supply, including location and size of well(s) and/or water lines to serve the proposed use. The Applicant shall provide proof of adequate physical and legal supply to serve the proposed Land Use Change, including a letter of approval from the State Engineer documenting that the proposed water supply is adequate to serve the proposed use.

8. Road Maintenance and Improvement Agreement. A long-term Road Maintenance and Improvements Agreement that includes provisions to address the applicable standards and a mitigation plan to address impacts to public roads caused by construction and operation of the proposed use.

9. Impact Analysis. Description of the impacts that the proposed Land Use Change may cause, based upon the relevant standards and criteria of Article 4, and a description of how the Applicant will ensure that impacts will be mitigated and standards will be satisfied. The impact analysis shall include, but is not limited to, the following information:

- a. **Surface Water**
 - (1) Description and map of surface water bodies in the area affected by the proposed use including existing water quality, and uses of those water bodies.
 - (2) Description of impacts of the proposed use on surface water quality or quantity.
 - (3) Description of mitigation techniques that will be used to prevent significant degradation of the quality and quantity of surface water resources.

b. Ground Water

(1) Description and map of ground water affected by the proposed use including affected water wells, aquifers, designated uses of ground water and ground water quality.

(2) Description of impacts of the proposed use on ground water quantity or quality.

(3) Description of mitigation techniques that will be used to prevent significant degradation of the quality and quantity of ground water resources.

c. Air Quality

(1) Description of air quality affected by the proposed use.

(2) Description of impacts to air quality.

(3) Description of mitigation techniques that will be used to prevent significant degradation of air quality.

d. Wildlife and Wildlife Habitat

(1) Description of wildlife and wildlife habitat affected by the proposed use, including terrestrial and aquatic game and non-game species and livestock, and migration routes.

(2) Description of impacts to wildlife and wildlife habitat.

(3) Description of mitigation techniques that will be used to prevent significant degradation of wildlife and wildlife habitat.

e. Glare, Dust and Noise

(1) Description of existing levels of glare, dust and noise in the area affected by the proposed use.

(2) Description of increase in levels of glare, dust and noise associated with the proposed use.

(3) Description of mitigation techniques that will be used to prevent objectionable levels of glare, dust and noise.

f. Agricultural Lands

(1) Description of agricultural lands affected by the proposed use including a description of agricultural operations and levels of production.

(2) Description of impacts to agricultural lands.

(3) Description of mitigation techniques that will be used to prevent significant adverse impacts to agricultural lands and agricultural operations.

g. Important Areas

(1) Description of areas of paleontological, historic or archaeological importance affected by the proposed use.

(2) Description of the impacts to areas of paleontological, historic or archaeological importance affected by the proposed use.

(3) Description of mitigation techniques that will be used to prevent significant degradation of areas of paleontological, historic or archaeological importance affected by the proposed use.

h. Recreational Resources

(1) Description of recreational opportunities and experiences affected by the proposed use including fishing, hunting, hiking or other resources, the number of recreational user days and the revenue generated by a particular recreational use.

(2) Description of the impacts to recreational opportunities and experiences affected by the proposed use.

(3) Description of mitigation techniques that will be used to prevent significant adverse effects on the quality and quantity of recreational resources.

i. Local Government Facilities and Services

(1) Description of government services and capital facilities that will be affected by the construction and operation of the proposed use such as law enforcement, emergency response, water supply, roads and other

facilities and services necessary to respond to or serve the proposed use.

(2) Description of the impact of the proposed use on government services and capital facilities, the capability of local governments to provide the necessary facilities and services.

(3) Description of planned mitigation to eliminate or minimize significant adverse effects on the capability of local government to provide services.

(4) If impacts cannot be fully mitigated, the Applicant may be required to pay a mutually agreed upon impact fee. The owner or operator shall provide all necessary training to ensure provision of emergency services during construction and operation of the proposed use.

10. Materials Required for Concentrated Animal Feeding Operations (CAFOs). CAFOs must obtain the applicable state permits after receiving approval of an application for Major Land Use Change Permit from the County. The County may accept the state permit application and supporting materials in lieu of the permit application requirements for Major Land Use Change Permit set forth under this Section 3-104 (B). Any changes in the original plan must be approved by the County.

a. **Well and Water Line Locations.** Application must include a map identifying the location of domestic and agricultural water wells within a three (3) mile radius of the proposed site and an analysis of any impacts to such wells.

C. Review of Major Land Use Change Permit Application Materials by Administrator. Following the preapplication conference described in Section 3-101, the following process will apply to review a Major Land Use Change Permit.

1. Completeness Determination. The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required based on the submittal requirements for the relevant type of land use change permit application. A determination that the application is complete is not a determination that the standards have been satisfied.

a. **Notification of Incompleteness.** If the application is not

complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

b. Completeness Date. Once the Application is complete, the Administrator shall stamp the application with the date that it was determined to be complete and all time frames within this Code pertaining to review of the application shall be based on the completeness date.

2. Evaluation of Application by Administrator. The Administrator shall review the application for compliance with the relevant standards and criteria set forth in Article 4.

3. Review by Referral Agencies. The Administrator shall send copies of the application to any referral agencies and consultants deemed necessary by the County. The Applicant is responsible for paying the direct costs of review by referral agencies and outside consultants.

4. Administrator Recommendation. Within thirty (30) days of the date that the application was determined to be complete, the Administrator shall prepare a report that recommends approval, approval with conditions, or denial of the application for a Major Land Use Change Permit. The timeframe for review of a Major Land Use Change Permit may be extended by the Administrator to a total of sixty (60) days if review by outside consultants or legal counsel is required.

D. Recommendation by Planning Commission. The Major Land Use Change Permit Application shall be considered by the Planning Commission at the first regular meeting following the Administrator Recommendation for which the agenda can accommodate the agenda item. At the meeting, the Planning Commission shall review the application and the Administrator's Recommendation and may then recommend approval, approval with conditions, or denial of the application for a Major Land Use Change Permit based on the applicable standards and criteria in Article 4.

E. Public Hearing and Action by Board of County Commissioners

1. Schedule and Notice of Board of County Commissioners Public Hearing. The Administrator shall schedule the Major Land Use Change Permit application for review by the Board at the first meeting for which the agenda can accommodate such a public hearing.

- 2. Notice to Adjacent Property Owners.** Not less than ten (10) days prior to the date of the Board public hearing on the Major Land Use Change Permit application, the County shall notify property owners within five hundred (500) feet of the exterior boundary of the site by sending a written notice describing the proposed Land Use Change and setting forth the time, date, and place of the Board hearing. The Administrator may extend the distance of the notice up to two thousand five hundred (2500) feet if the Land Use Change is likely to have impacts within such a radius.
- 3. Notice to Mineral Estate Owners.** Not less than 30 days prior to the date of the Board hearing, the Applicant shall notify mineral estate owners on-site and within five hundred (500) feet of the boundaries of the site where the development will occur by sending a written notice by certified mail, return receipt requested, describing the proposed Land Use Change; site location and legal description by section, township and range; name of Applicant; and setting forth the time, date and place of the Board hearing on the Major Land Use Change Permit application.
- 4. Publication of Notice of Board of County Commissioner Public Hearing.** The Administrator shall arrange for notice of the Board of County Commissioners public hearing on the application for a Major Land Use Change Permit to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date and place of the hearing.
- 5. Posting on the Site.** Posting on the site will be at the discretion of the Board of County Commissioners following recommendation from the Administrator and Planning Commission.
- 6. Board of County Commissioners Public Hearing.** The Board of County Commissioners shall hold a public hearing to consider the application for a Major Land Use Change, and hear testimony and accept evidence regarding compliance with the standards and criteria before taking an action on the application.
- 7. Approval.** The Board may approve the application for a Major Land Use Change Permit if the Board determines that the Applicant has proven that the application satisfies all of the relevant standards and criteria contained in Article 4.
- 8. Denial.** The Board shall deny the application if the Board determines that the Applicant has not proven that the application satisfies all relevant standards and criteria contained in Article 4.

9. Conditional Approval. Instead of denial, the Board may approve the application for a Major Land Use Change Permit with conditions if the Board determines that the conditions are necessary to ensure compliance with the relevant standards and criteria in Article 4.

F. Major Electrical or Natural Gas Facility Special Requirements. The following special requirements are imposed by state law, and shall apply to applications for a Land Use Change Permit for a Major Electrical or Natural Gas Facility subject to Public Utilities Commission jurisdiction, as that term is defined by C.R.S. § 29-20-108 and in Article 12, Definitions, of this Code.

1. Notice. A public utility or power authority shall notify the Administrator of its plans to site a Major Electrical or Natural Gas Facility prior to submitting the permit application, but in no event later than filing a request for a certificate of public convenience and necessity pursuant to Article 4 of Title 40, C.R.S., or the filing of any annual filing with the public utilities commission that proposes or recognizes the need for construction of a new facility or the extension of an existing facility. If a public utility or power authority is not required to obtain a certificate of public convenience and necessity pursuant to Article 4 of Title 40, C.R.S., or file annually with the public utilities commission to notify the public utilities commission of proposed construction of a new facility or the extension of an existing facility, then the public utility or power authority shall notify the County of its intention to site a Major Electrical or Natural Gas Facility when such utility or authority determines that it intends to proceed to permit and construct the facility. During the pre-application meeting, the public utility or power authority shall consult with the Administrator to identify the specific routes or geographic locations under consideration and attempt to resolve land use issues that may arise from the contemplated permit application.

2. Alternatives Analysis. In addition to the alternatives described within its permit application, the public utility or power authority shall consider and present reasonable siting and design alternatives to the local government or explain why no reasonable alternatives are available.

3. Certificate of Public Convenience and Necessity from PUC. Applicant shall provide documentation that the public utility or power authority has applied for or obtained a certificate of public convenience and necessity from the Public Utilities Commission, pursuant to Article 5, Title 40, C.R.S. and C.R.S. § 29-20-108.

4. Statutory Timeframe for Approval of Major Electrical Facility. Within one hundred twenty (120) days after submission of a completed

application for a Major Electrical Facility, the County shall decide whether to approve, approve with conditions or deny the application. If the County does not take final action within such time, the application shall be deemed approved. Nothing in these provisions shall be construed to supersede any timeline set by agreement between the County and a public utility or power authority applying for approval of a Major Electrical Facility.

5. Appeal of Denial of Application for Major Electrical or Natural Gas Facility. If the County denies a permit or application of a public utility or power authority that relates to the location, construction, or improvement of Major Electrical or Natural Gas Facilities, or if the County imposes requirements or conditions upon such permit or application that will unreasonably impair the ability of the public utility or power authority to provide safe, reliable, and economical service to the public, the public utility or power authority may appeal the County action to the public utilities commission for a determination under C.R.S. § 40-4-102, so long as one or more of the following conditions exist:

- a.** The public utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the public utilities commission pursuant to C.R.S. § 40-5-101 to construct the Major Electrical or Natural Gas Facility that is the subject of the local government action;
- b.** A certificate of public convenience and necessity is not required for the public utility or power authority to construct the Major Electrical or Natural Gas Facility that is the subject of the local government action; or
- c.** The public utilities commission has previously entered an order pursuant C.R.S. § 40-4-102, that conflicts with the local government action.

6. Notice of Approval by the County. The County shall provide written notice of approval to the Public Utilities Commission and to the concerned electric utility and/or electric transmission entity.

SECTION 3-105 PERMIT AMENDMENT

Any material change to the land use set forth in the Permit approved by the County shall require a permit amendment. The permittee shall meet with the Administrator to discuss the proposed permit amendment and initiate the review process.

A. Submittal Requirements for Permit Amendment. The permittee shall

submit an application for permit amendment to the Administrator that contains the following material:

1. A copy of the current Permit and written statement of the reasons for amending the Permit.
2. A written report of how the proposed permit amendment satisfies the applicable approval criteria, and any additional or changed mitigation plans propose to satisfy those criteria.
3. Additional materials that the County determines necessary to properly review the request for permit amendment.

B. Administrative Land Use Change Permit Amendment.

1. **Administrator Review of Amendment of Administrative Permit.** The Administrator shall consider the proposed amendment of an Administrative Land Use Change Permit.
2. **Review by Referral Agencies.** The Administrator may send copies of the application to any referral agencies and consultants deemed necessary by the County for review of the proposed permit amendment.
3. **Decision by Administrator.** The Administrator may approve, approve with conditions, or deny the application for amendment of Administrative Land Use Change Permit based upon compliance of the modified project with the applicable standards and criteria in Article 4 of these regulations.
 - a. **Approval.** The permit amendment may be approved if the modified project satisfies all applicable standards and criteria without additional conditions.
 - b. **Conditional Approval.** The permit amendment may be approved with conditions if conditions are necessary to ensure compliance with this Code.
 - c. **Denial.** The permit amendment shall be denied and the modified project shall require a new Land Use Change Permit if the modified project does not satisfy all of the applicable standards and criteria.
 - d. **Notice of Administrator's Decision.** The Administrator shall inform the permittee and the Board of County Commissioners of the approval or basis for denial in writing within five (5) working days of the decision.

C. Amendment of Minor and Major Land Use Change Permit. The Board of County Commissioners shall consider the proposed amendment of a Minor or Major Land Use Change Permit.

1. Public Hearing by Board of County Commissioners. The Board of County Commissioners shall hold a public hearing to consider the application for amendment of a Minor or Major Land Use Change Permit and shall hear evidence regarding compliance with the applicable standards and criteria before taking an action on the application.

2. Notice of Board of County Commissioners' Public Hearing.

a. Publication of Notice. The County shall arrange for notice of the Board's public hearing on the application for permit amendment to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date and place of the hearing.

b. Notice to Adjacent Property Owners. Not less than 10 days prior to the date of the Board's hearing, the County shall notify property owners within 500 feet of the exterior boundary of the site by sending a written notice describing the proposed permit amendment and setting forth the time, date and place of the hearing.

c. Notice to Mineral Estate Owners. Not less than 30 days prior to the date of the Board's hearing, the Applicant shall notify mineral estate owners on-site and within 500 feet of the boundaries of the site by sending a written notice by certified mail, return receipt requested, describing the proposed permit amendment; site location and legal description by section, township and range; name of Applicant; and setting forth the time, date and place of the hearing.

d. Posting on the Site. Posting on the site will be at the discretion of the Board of County Commissioners following recommendation from the Land Use Administrator or Planning Commission.

3. Decision by Board. The Board may approve, approve with conditions, or deny the application for amendment of a Minor or Major Land Use Change Permit based on whether the application complies with the applicable standards and criteria in Article 4 of these regulations.

a. Approval. The permit amendment may be approved if the proposed amendment satisfies all of the standards and criteria without additional conditions.

- b. Conditional Approval.** The permit amendment may be approved with conditions if conditions are necessary to ensure that the proposed amendment satisfies all of the standards and criteria.
- c. Denial.** The permit amendment shall be denied if the proposed amendment does not satisfy all applicable standards and criteria in Article 4 of these regulations.

SECTION 3-106 FINANCIAL ASSURANCE REQUIREMENTS FOR MINOR AND MAJOR LAND USE PERMIT

Following approval of a Minor or Major Land Use Change Permit, the Board shall require the permittee to provide financial assurance in an amount necessary to guarantee completion of all public improvements, compliance with permit conditions, or other mitigation requirements.

A. Public Improvement Agreement and Financial Security. Where the Board determines that financial security is necessary for public improvements, the following shall apply:

- 1. Improvements Agreement and Financial Security.** The permittee shall provide a Public Improvements Agreement in a form acceptable to the County agreeing to construct any Public Improvements required by the County, together with financial security in an amount not less than 125 percent (125%) of the estimated cost of the required Public Improvements. The financial security shall be sufficient, in the judgment of the Board, to make reasonable provisions for completion of the Public Improvements in compliance with the plans and specifications and with the terms of the Public Improvements Agreements.
- 2. Release of Financial Security for Public Improvements.** The permittee may apply to the Board for release of the financial security following inspection of completed Public Improvements.
 - a.** The request for release of the financial security must be submitted in writing to the Board a minimum of ten (10) working days before the next regularly scheduled meeting at which the Board may consider the request.
 - b.** The Board shall release the financial security once the Public Improvements have been accepted by the County.
 - c.** If the Board determines that any of the Public

Improvements are not constructed in substantial compliance with plans and specifications or with terms of the Public Improvements Agreement, it shall withhold financial security to guaranty substantial compliance.

ARTICLE 4 STANDARDS AND CRITERIA FOR LAND USE CHANGE PERMITS

SECTION 4-101 GENERAL STANDARDS FOR LAND USE CHANGE PERMITS

The following General Standards shall apply to all Land Use Change Permits. The County may waive any of these standards if, because of the nature, scale, or intensity of the proposed Land Use Change, they are not applicable.

A. Compatibility. The nature, scale, and intensity of the proposed use are compatible with adjacent land uses and will not result in an adverse impact to adjacent land.

B. Roadways and Access

1. All lots and parcels shall have access to a public right-of-way or approved access agreement.
2. Access to and from the use shall be safe and in conformance with access standards set forth in the most recent version of the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction.
3. Any roads serving the proposed use shall have the capacity to accept the additional traffic generated by the use safely and efficiently and the use shall not cause traffic congestion or unsafe traffic conditions.
4. The construction and operation of the use shall not cause damage to County roads or cause an increase in cost to the County to maintain the roads. The Applicant shall work with Phillips County Road and Bridge Department to ensure the proper maintenance and repair of all County roads utilized by the proposed use.
5. Adequate turning radii shall be installed at all entrances to accommodate any large truck movement.
6. Staging activities and parking of equipment and vehicles shall occur on-site and on private rights-of-way and shall be prohibited on maintained County roads.

C. Compliance with Comprehensive Plan and Intergovernmental Agreements. The use is consistent with relevant provisions of the Phillips County Comprehensive Plan, any intergovernmental agreement between the County and a municipality, or other relevant plans that apply to the area where the use will occur.

D. Water Supply and Wastewater Service. The proposed use shall be served by adequate water supply and wastewater service. The water supply shall be adequate in terms of quantity, quality, and dependability at buildout and shall apply the requirements of C.R.S 30-28-133(3)(d).

1. The Applicant must provide a letter from the State Engineer documenting that the proposed water supply is adequate to serve the proposed use.
2. The Applicant must provide a letter of approval from the Northeast Colorado Health Department documenting that the wastewater system is adequate to serve the proposed use.
3. Where an existing water or wastewater system has sufficient legal and physical capacity to serve the development and is located within one half mile of the proposed Land Use Change, the developer shall install service lines and other system requirements necessary to make service available to the property line of each lot.

E. Service Delivery System Capacity. The use shall not have a significant adverse effect on the capability of Phillips County or other governmental districts that provide services to the County to provide services.

1. **Land Dedication.** If the County determines that the use will cause a need for parks or schools, the County may require the developer to dedicate to the County either land or a fee in lieu of land in an amount necessary to satisfy the need caused by the use.
2. **Impact Fees.** If the County determines that there will be unmitigated impacts to County roads or other County capital facilities caused by the use, the County may assess an impact fee in the amount necessary to offset the impact to roads or other capital facilities.

F. Erosion. The Applicant shall implement erosion and sedimentation control measures that ensure that disturbed areas and soil stockpiles are stabilized during construction.

G. Revegetation. Disturbed areas shall be controlled within one growing season, pursuant to an approved vegetation plan.

SECTION 4-102 RESOURCE AND ENVIRONMENTAL PROTECTION STANDARDS FOR MINOR AND MAJOR LAND USE CHANGE PERMITS

The County may waive any of these standards if, because of the nature, scale, or intensity of the proposed Land Use Change, they are not applicable.

A. Water Quality Protection. The use shall not cause significant degradation of the quality of surface or ground water resources, including changes in artesian pressure and impacts to neighboring wells. Groundwater pollution control measures shall be implemented that prevent the discharge of pollutants from the activity into groundwater. If the applicable State or Federal Regulations governing the proposed use do not address the protection of ground water, the County may require a water quality monitoring plan and reporting plan designed for the early detection of an impact to water quality associated with the project.

B. Visual Impacts. The use shall preserve views, vistas, and other features of the surrounding natural environment to the extent practicable.

C. Air Quality. The use shall not cause air quality to be reduced below levels established by the Colorado Air Pollution Control Division.

D. Wildlife. The proposed use shall not significantly degrade wildlife or wildlife habitat.

E. Glare, Dust, Odor, Pests, or Noise. The use shall not cause objectionable glare, dust, odor, pests, or noise to surrounding properties.

1. The proposed use shall comply with the statutory provisions for maximum permissible noise levels in C.R.S. § 25-12-103.

2. Fugitive dust and particulate emissions shall be controlled on the site.

3. Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, fugitive particulate conditions, blowing debris and other potential nuisance conditions.

F. Important Areas. The use shall not significantly degrade areas of paleontological, historic, or archaeological importance. If the site of the proposed use includes or potentially affects known areas of historic, paleontological, or archaeological resources, Applicant shall coordinate with the State Historic Preservation Office to minimize and/or avoid impacts during construction.

G. Recreation Impacts. The use shall not have a significant adverse effect on the quality or quantity of recreational opportunities and experience within the County, including but not limited to hunting, fishing, hiking, and similar recreational activities.

H. Drainage / Stormwater Run-off. Run-off shall be managed in accordance with

all applicable County, State, and Federal regulations. At a minimum, run-off shall be kept on the site in a stormwater detention system approved by the County, and waters in excess of historic run-off shall be prevented from leaving the site during construction and after site development.

I. Protection of Agricultural Lands. The use will not have a significant adverse impact on agricultural lands and agricultural operations.

J. Hazardous Slopes. No final slope exceeding ten percent (10%) may exist in greater than twenty five percent (25%) of any lot in any proposed development. Any changes in the proposed lot grading must be mitigated for wind erosion and sedimentation.

K. Flood Protection. Uses occurring in or near a floodplain shall comply with Phillips County floodplain regulations.

SECTION 4-103 SITE DEVELOPMENT STANDARDS FOR MINOR AND MAJOR LAND USE CHANGE PERMITS

The County may waive any of these standards if, because of the nature, scale, or intensity of the proposed Land Use Change, they are not applicable.

A. General Site Planning Standards.

1. All roads, driveways, lot lines, building sites, and utility corridors designated on any site plan or plat shall be located to preserve to the maximum extent feasible the natural features of the site, avoid areas of environmental sensitivity, and minimize adverse visual impacts.

2. The site shall be adequate in size and shape to accommodate the proposed use and all appurtenant facilities.

B. Lot Size. No Land Use Change shall be approved on a lot smaller than 2.5 acres in size unless the lot will be served by a public wastewater treatment system or the Applicant demonstrates to the satisfaction of the County and Northeast Colorado Department of Health that a smaller lot size will not cause wastewater treatment and/or environmental health concerns, taking into consideration the proposed technology, soil conditions and topography, the proximity of drinking water wells, and related factors.

C. Off-Street Parking and Loading. The Applicant for a building permit or Land Use Change Permit that requires off-street parking, parking lots, and loading shall conform to the *Phillips County Administrative Off-Street Parking and Loading Guidelines*.

D. Height Restrictions.

1. Maximum height of any residential structures shall be thirty-five (35) feet or two and one-half (2-1/2) stories.
2. Heights of structures shall comply with State and Federal Regulations, FAA and FCC Regulations. Maximum height of commercial or industrial structures within 100 feet of a residential/agricultural property shall not exceed 35 feet in height.
3. Heights of structures in overlay districts are subject to FAA and FCC Regulations and the requirements of any applicable overlay district.

E. Setbacks from Site Boundaries. Unless otherwise provided in these regulations, the following minimum setbacks from boundaries of the site shall be required for any structure regulated by this Code and for the construction of one single family dwelling.

1. Measurement. Front setbacks shall be measured as the distance between the road right-of-way and the foundation of a structure, along a line at right angles to the right-of-way. Rear and side setbacks shall be measured as the distance between the nearest lot line and the foundation of a structure, along a line at right angles to the lot line. Where no minimum front, side or rear yards are specified for large parcels, a setback line shall parallel the corresponding lot line.

2. Residential Setbacks.

a. Minimum Setback Requirements.

(1) Front yard setback: 35 feet.

(a) If there are dwellings on both abutting lots with front yards of less than the required setback, the front yard for the lot need not exceed the average front yard of the abutting lot and the required front yard depth.

(2) Side yard setback:

(a) Principal and accessory uses: 20 feet.

(b) Mobile homes: 10 feet.

(3) Rear yard setback:

(a) Principal uses: 35 feet.

(b) Accessory uses and mobile homes: 10 feet.

3. Industrial/Commercial Setbacks.

a. Minimum Setback Requirements.

- (1) Front setback - 30 feet from road right-of-way.
- (2) Side yard setback:
 - (a) 25 feet from adjacent residential/agricultural property.
 - (b) 10 feet from adjacent commercial/industrial property.
- (3) Rear yard setback:
 - (a) 25 feet from adjacent residential/agricultural property.
 - (b) 10 feet from adjacent commercial/industrial property.
- (4) When a property fronts more than one road, the front setback is required from all roads.

4. Excavation Setbacks. Excavations associated with gravel pits or other mining operations shall not be permitted within one hundred (100) feet of the boundaries of the site or the setback established by the Mined Land Reclamation Board, whichever is greater.

SECTION 4-104 STANDARDS FOR PUBLIC UTILITIES¹

A. Underground Location. Utilities shall be located underground unless geologic conditions prevent underground installation. Where utilities are installed underground, and if located in the right-of-way they shall be at a depth of at least twenty-four (24) inches, or as required by Phillips County Road and Bridge.

B. Restoration. Any disturbed portion of the right-of-way shall be restored as nearly as possible to its condition immediately prior to utility construction, improvements, location or relocation, and to the satisfaction of Phillips County Road and Bridge. Back filling shall be made in six-inch lifts, mechanically

¹ Facilities for a Public Utility must meet statutory requirements of C.R.S. § 40-1-101 *et seq.*

tamped and packed, and the last twelve (12) inches shall be crushed rock or gravel.

C. Safety. Safety measures shall be implemented to the satisfaction of Phillips County Road and Bridge, and in accordance with state and federal requirements to protect the public from harm during utility construction, improvements, location or relocation.

D. Roadway Crossing. When the installation crosses a roadway, it shall be located as perpendicular to the roadway as physically practical and installed by boring or jacking beneath the road surface, or as required by Phillips County Road and Bridge.

E. Cuts. Open cuts across a roadway are prohibited unless Phillips County determines that boring is not possible. Where a cut is allowed, it shall be filled with gravel compacted in 5-inch lifts to a density of ninety-five (95) percent of surrounding soils. Any compaction tests shall be conducted by Phillips County Road and Bridge at the expense of the Applicant.

F. As-built Drawings. Certified as-built drawings shall be provided to the County once the utility construction, improvements, location, or relocation has been completed.

G. Notice to Proceed. No work associated with the utility construction, improvements, location, or relocation shall commence until a permit and notice to proceed have been granted by the County.

SECTION 4-105 COMPLIANCE WITH PLANS FOR MAJOR LAND USE CHANGE PERMIT

Applicant shall comply with all plans submitted to and approved by the County in the Major Land Use Change Permit.

SECTION 4-106 ADDITIONAL STANDARDS FOR CERTAIN USES

A. Additional Standards for Commercial and Industrial Uses. In addition to the other applicable standards and criteria in this Article 4, the following standards shall apply to any commercial and industrial development.

1. **Outdoor Storage and Disposal.** Storage areas shall be screened from view by fencing or landscaping and all flammable or explosive materials shall be stored in accordance with state and federal laws.
2. **Smoke and Particles.** Smoke and particulate emissions shall not exceed applicable air quality standards.

3. **Vibration.** Every use shall be operated so that the ground vibration generated is not perceptible, without instruments, at the boundaries of the site.

4. **Lighting.** Exterior lighting shall be designed so that rays are emitted downward onto the site.

5. **Hours of Operation.** Hours of operation shall be established to minimize impacts to adjacent land uses.

6. **Roadway System.** Impacts to the County roadway system associated with hauling, truck traffic and equipment use shall be mitigated through roadway improvements or fees, or both.

B. Additional Standards Applicable to Confined Animal Feeding Operations (CAFOs).

1. **Compliance with State and Federal Laws, Permits and Requirements.** CAFOs subject to Colorado Animal Feeding Operations Control Regulation (5 CCR 1002-81) and Colorado Discharge Permit System Regulations (5 CCR 102-61) must obtain the applicable state and federal permits and must be constructed and operated in compliance with the state and federal laws, permits and requirements, which shall be made a condition of approval of the permit application. Non-compliance with state or federal laws, permits and requirements shall be a violation of this Land Use Code and subject to the enforcement provisions.

2. **Maximum Lot Size.** One hundred sixty (160) acres.

3. **Location Restriction.** Two (2) miles from the nearest regularly-occupied structure or residential building site for which a building permit not associated with the CAFO, as measured from the permitted structure footprint, or the nearest municipal boundary, unless a lesser distance has been agreed to in writing by any party situated less than two (2) miles from the proposed CAFO and filed with the County Recorder.

4. **Setbacks.** Any disturbed area shall be five hundred (500) feet or more from the outer perimeter of the lot or parcel where the facility is located.

a. **Effluent Pits or Lagoons Setbacks.** Effluent pits or lagoons shall be located five hundred (500) feet or more from all waterbodies as measured from the high water mark of the

waterbody.

5. Water Quality Monitoring. If the County determines there are higher risks to water quality for the facility than Federal and/or State CAFO regulations have addressed, the County may require a water quality monitoring plan for the life of the facility, designed for the early detection of an impact to water quality associated with the project.

6. Additional Requirements for Facility Construction and Operation. If the County determines there are higher risks to the County's natural resource or public health and safety than Federal and/or State CAFO regulations have addressed, the County may impose conditions that it deems necessary to protect the County's natural resources and prevent conditions which constitute a health and safety risk to neighboring land owners.

C. Additional Standards Applicable to Utility-Scale Solar Energy Systems.

1. Setbacks.

a. Minimum Setback.

(1) Utility-Scale solar collection panels and equipment shall comply with the Industrial/Commercial Setbacks in Section 4-103.D.3.

b. Scenic Resource Setback.

(1) The Utility-Scale Solar Energy System shall be setback a minimum of ¼ mile from any highway eligible or designated to be a scenic highway or roadway by the Phillips County Comprehensive Plan or by the state.

(2) A scenic resource protection setback requirement may be reduced if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

c. Waiver or Reduction of Setback. The Applicant may request a waiver from the setback requirements at the time of the Land Use Change Permit application. The Board at its discretion may consider an Applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Change Permit application is approved with a setback waiver or reduction, the approved setback shall be

specified in the Land Use Change Permit approval. The burden is upon the Applicant to demonstrate with clear and convincing evidence that:

- (1) The proposed waiver or reduction of setback is necessary to accommodate the Utility-Scale Solar Energy System; and
- (2) The public health, safety, welfare and the environment will not be harmed by the proposed waiver or reduction of setback; and
- (3) The proposed Utility-Scale Solar Energy System otherwise complies with the relevant standards.

2. **Maximum System Height.** Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet.
3. **Visual Impacts.** The Utility-Scale Solar Energy System shall not have an adverse visual impact on the natural features or character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways.
4. **Safety and Security.**
 - a. **Fencing.** Fencing or other barriers acceptable to the County shall be installed to prevent unauthorized access to solar collectors and equipment.
 - b. **Fire Protection.** The Utility-Scale Solar Energy System shall have adequate fire control and prevention measures.
5. **Location Restrictions.**
 - a. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.
 - b. Utility-Scale Solar Energy Systems shall not be located in areas of critical wildlife habitat.
 - c. Utility-Scale Solar Energy Systems are encouraged to locate on predominantly (more than 60 %) non-prime farmland.

6. Certification.

- a.** All equipment and appurtenant facilities shall be certified by a registered structural engineer to be compliant with the applicable industry, state, federal and local regulations.
- b.** The electrical system shall be certified by a registered electrical engineer to be compliant with the applicable industry, state, federal and local regulations.
- c.** Prior to operation, the Applicant shall provide the County with the required certifications.

7. Removal of Discontinued Utility-Scale Solar Energy System. If the Utility-Scale Solar Energy System ceases to perform its originally intended function for more than eighteen (18) consecutive months, the system shall be removed and adequate site restoration performed no later than ninety (90) days after the end of the 18-month period, consistent with the steps to decommissioning a Wind Energy Facility in Article 5.

D. Additional Standards Applicable to Mining Operations.

1. Compliance with State and Federal Requirements. All mining operations shall be conducted in accordance with applicable state and federal standards, conditions and permits, which shall be made a condition of approval of any mining operation.

2. Roads.

- a. Impact Mitigation.** The mining operator or owner shall bear the proportionate cost of all road and bridge improvements, repairs, and maintenance necessitated by the proposed mining operation.
- b. Vehicle Weight.** The weight of trucks shall not exceed federal, state, or local government-imposed road or bridge weight capacity on approved haulage routes.
- c. Seasonal Traffic Limitation.** As a condition of approval, the County may impose limits on the number of trucks that may access the mine to avoid damage to roads caused by heavy vehicle use, weather conditions or water saturation.

3. Routing. Designation of construction and haul routes for a mining operation application shall comply with the following:

a. **Avoidance of Developed Areas.** Truck haulage and traffic routes shall be designed to the maximum extent feasible to avoid residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings, municipalities and already congested locations. Alternative routes shall be identified.

b. **Timing of Hauling.** Timing of truck traffic may be controlled to prevent congestion or adverse noise impacts or safety risks.

c. **Load Control.** Applicant shall prevent loss of loads and fugitive dust emissions during transit, and shall be responsible to ensure that haul routes are maintained in accordance with dust-suppressant methods required by applicable state or federal agency.

4. **Water Quality.** The quality of surface or ground water discharged from the mine or mining operation shall meet the standards set by the U.S. Environmental Protection Agency, the Colorado Water Quality Control Commission, and the Colorado Mined Land Reclamation Board. Water quality monitoring results shall be submitted to the County at the same time results are submitted to state or federal agencies.

5. **Air Quality.** All mining operations shall comply with the applicable Colorado Air Quality Control Commission regulations. Air quality monitoring results shall be submitted to the County at the same time any results are submitted to state or federal agencies.

6. **Wildlife.** Mining operations shall not be located in significant wildlife habitat areas as defined by the Colorado Division of Parks and Wildlife.

E. **Additional Criteria Applicable to Solid Waste Disposal Sites.** In addition to the other standards in this Article 4, the following additional standards shall apply to solid waste disposal sites:

1. **Recycling and Conservation.** Solid waste disposal sites shall be developed in accordance with sound conservation practices and shall emphasize, where feasible, the recycling of waste materials.

2. **Permit.** Solid waste disposal sites shall comply with state laws and regulations applicable to Solid Waste Disposal Sites and shall receive a permit

from Northeast Colorado Health Department in accordance with its requirements.

F. Additional Standards for Onsite Wastewater Treatment Systems.

1. Permit. Onsite Wastewater Treatment Systems shall comply with state laws and regulations and shall receive a permit from Northeast Colorado Health Department in accordance with its requirements.

G. Additional Standards for Manufactured Housing/ Mobile Homes.

1. Manufactured Housing/ Mobile Homes Manufactured Prior to 1976. If Manufactured Housing/ Mobile Homes manufactured prior to 1976 are brought into Phillips County the owner must place in escrow with the County Treasurer \$1,000 for possible removal costs if abandoned by the owner. Escrow shall be refunded if manufactured house/ mobile home is moved from the county or properly disposed of.

2. Approved Land Use. The manufactured house/ mobile home is located in compliance with the provisions of this Code.

3. Installation of Manufactured House/ Mobile Home Unit Complies with Tie Down and Skirting Standards. The proposed blocking and tie down will be adequate and safe.

a. All mobile homes shall be installed and secured in accordance with applicable state and County regulations and manufacturer requirements.

b. Mobile homes shall be equipped with skirting of a rigid material, which shall be installed within forty-five (45) days after the mobile home has been moved to its site.

4. Utility Connections. The proposed connections for water supply, sewage disposal, electricity and gas will be adequate and safe.

5. Address. The street address, or space numbers or letters, will be visible from the access street both during the day and at night.

6. Steps. There will be safe steps, landings, handrails, and guardrails, consistent with current building code requirements.

7. Floodplains. The manufactured house/ mobile home will not be located in floodplains.

ARTICLE 5 WIND ENERGY FACILITY REGULATIONS

- A. Applicability.** Wind Energy Facilities are subject to the regulations adopted in Resolution No. 2022-11-18-01.
- B. Definition.** A Wind Energy Facility is an electricity generating facility consisting of one or more Wind Turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires and other Wind Energy Accessory Buildings, whose main purpose is to supply electricity to off-site customer(s). Non-permanent MET Towers installed to evaluate wind resources will not alone constitute a Wind Energy Facility until such time as siting for permanent MET Towers, Wind Turbines or Wind Energy Accessory Buildings is proposed.
- C. Major Land Use Permit Required.** Wherever the term “Conditional Use Permit” is used in the Wind Energy Facility Regulations adopted in Resolution No. 2022-11-18-01, that shall mean “Major Land Use Change Permit.”

5-101 PURPOSE AND APPLICABILITY; DEFINITIONS

- (A) Purpose. The review and approval process set forth in this Article 5 shall apply to Wind Energy Facilities as that term is defined in Article 5 and Section 12-101 of these Regulations.
- (B) Relationship to Zoning Resolution. To the extent that there are conflicts between the requirements of this Article 5 and other provisions of the Phillips County Zoning Resolution, it is intended that the purpose and intent of this Article 5 shall control the interpretation of the Zoning Resolution concerning Wind Energy Facility related issues.
- (C) Major Electrical Facilities. Applications by public utilities or power authorities proposing development of a Wind Energy Facility that also falls within the statutory definition of a Major Electrical Facility are subject to special review procedures required by Colorado State Statutes. Except as specifically provided by the Colorado Statutes¹, public utilities and power authorities shall comply with the provisions of this Article 5 for Major Electrical Facilities to be located in the unincorporated area of the County.
- (D) Definitions.

AREA AFFECTED BY THE WIND ENERGY FACILITY

Unless a specific distance is referenced, a use or feature is deemed affected by a Wind Energy Facility if located within one thousand feet (1,000') of the boundary of the Wind Energy Facility site.

¹ C.R.S. 29-20-108

AREAS OF PALEONTOLOGICAL, HISTORIC OR ARCHAEOLOGICAL IMPORTANCE

Any area or building listed on the National Register of Historic Places or the Colorado Register of Historic Places as of the date of application for a Major Land Use Change Permit.

BOUNDARY OF THE SITE

The “boundary of the site” or the “boundary of the Wind Energy Facility” shall be the exterior boundary of the real property over which an applicant for a Wind Energy Facility requests or is granted a Major Land Use Change Permit. Property is outside of the exterior boundary of the site if the applicant does not request or receive a Major Land Use Change Permit over such property. The specific siting of individual components of the Wind Energy Facility, including Wind Turbines and Wind Energy Accessory Buildings may be included conceptually within the Site Plan and are permitted to be moved and adjusted as necessary during the design and construction process without modifications to the Site Plan, so long as new lands are not added to the original “boundary” of the Wind Energy Facility, such relocations conform to the setbacks and other requirements of this Article 5, and the total megawatt nameplate does not increase.

OCCUPIED

For purposes of this Article 5, occupied means, in reference to a building or structure, used or occupied by human inhabitants for at least thirty (30) consecutive days during the prior twelve (12) month period.

PUBLIC UTILITY

A “public utility” has the meaning given by Col. Rev. Stat. 40-1-

103.

POWER AUTHORITY

A power authority means an “authority”, as defined by Col. Rev. Stat. 40-4-

102.

WIND ENERGY ACCESSORY BUILDING

Any permanent building located within the boundary of a Wind Energy Facility site that is customarily incidental and subordinate to the principal Wind Turbines. Any

Wind Energy Accessory Building may contribute to the successful operation, convenience and necessity of the Wind Turbines. Examples of Wind Energy Accessory Buildings may include, but not be limited to, electrical substations and switching stations. This definition shall not include any above ground or buried transmission lines, wires, or other electrical equipment in addition to any above ground junction boxes, step-up transformers, operations and maintenance buildings or any temporary or non-permanent buildings or structures used during the construction of a Wind Energy Facility.

DEFINITIONS

The following definitions apply to terms used in the regulatory provisions of this section.

IMPACT

A direct or indirect effect or consequence of the project or an element of the project.

MAJOR ELECTRICAL FACILITIES

Major Electrical Facilities has the meaning given by Colorado Revised Statute § 29-20-108(3)(a)-(d), as it may be amended from time to time.

MET TOWER

A meteorological tower used for the measurement of wind speed.

NON-PARTICIPATING LANDOWNER

The owner of a permanent dwelling on land outside of the boundary of the Wind Energy Facility site.

PERMANENT

For purposes of these regulations, permanent shall mean any building continuing or existing without fundamental or identifiable change for a continuous period of at least three (3) years at the time of the Major Land Use Change Permit application.

SIGNIFICANT

Deserving to be considered; important; notable and not trifling.

SYSTEM HEIGHT.

The total height of the tower, the wind turbine and any blade extended at its highest point, measured from ground level.

WIND ENERGY COMPANY

The applicant for a Major Land Use Change Permit or a Construction Permit for a Wind Energy Facility, or the owner or operator of a Wind Energy Facility.

WIND ENERGY FACILITY

An electricity generating facility consisting of one or more Wind Turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires and other Wind Energy Accessory Buildings, whose main purpose is to supply electricity to off-site customer(s). Non-permanent MET Towers installed to evaluate wind resources will not alone constitute a Wind Energy Facility until such time as siting for permanent MET Towers, Wind Turbines or Wind Energy Accessory Buildings is proposed.

WIND TURBINE

A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. The term "Wind Turbine" shall include the turbine, blade, tower, base and pad transformer.

5-102 PERMIT APPLICATION REQUIREMENTS FOR WIND ENERGY FACILITY

(A) MAJOR LAND USE CHANGE PERMIT APPLICATION MATERIALS: The applicant shall submit a Major Land Use Change Permit application to the County Planning Office that contains the following material.

- (1) Written Description: A written description of the proposed Wind Energy Facility including rated kW capacity, system height and total blade diameter. No Wind Turbine shall exceed FAA regulated system height for that specific site.
 - (a) Applicant is not the owner: If the applicant is not the owner of the land where the proposed Wind Energy Facility will be located, the applicant shall submit a letter signed by each property owner within the boundary of the site consenting to the submission of the application for a Major Land Use Change Permit.
- (2) Location Map: A location map, to scale, that illustrates the following:
 - (a) Location of the proposed Wind Energy Facility in the County,

and description of the current land use, and

- (b) All property within the exterior boundary of the site of the proposed Wind Energy Facility, including the location and description of the current land use, and indicating any occupied dwellings, microwave communication links and airports located within five hundred feet (500') of any Wind Turbine or Wind Energy Accessory Building.
 - (i) Applicant shall provide a list of property owners within one thousand feet (1,000') of the exterior boundary of the site, and their current mailing address on file with the County assessor.
- (3) Wastewater System. If the proposed Wind Energy Facility includes uses that must be served by a wastewater treatment system, the application shall include a description of the proposed system, including location and size of leach field, sewer service lines, and treatment facilities. Applicant shall provide proof that the wastewater system complies with state standards and is adequate to service the proposed Wind Energy Facility, including:
 - (a) Letter of approval from Northeast Colorado Health Department documenting that the wastewater system is adequate to serve the Wind Energy Facility.
- (4) Water Supply System. If the proposed Wind Energy Facility includes uses that must be served by water, the application shall include a description of the source and capacity of the water supply, including location and size of well(s) and/or water lines to serve the proposed Wind Energy Facility. The applicant shall provide proof of adequate physical and legal supply to serve the Wind Energy Facility, including:
 - (a) A letter of approval from the Office of the State Engineer documenting that the proposed water supply is adequate to serve the proposed use.
- (5) Notice to FAA. If any Wind Turbine included in the proposed Wind Energy Facility has a system height over two hundred (200) feet or is located within twenty thousand (20,000) feet of the runway of an airport, the application shall be accompanied by a copy of the written notification to the Federal Aviation Administration (FAA).
- (6) Notice to Operation of Communication Link. If any Wind Turbine included within the proposed Wind Energy Facility is located within one

(1) mile of any microwave communications link, the application shall be accompanied by a copy of the written notification to the operator of the communication link.

(7) Additional Information and Waivers. The Planner may request additional information consistent with the requirements of the Phillips County Land Use Code that may be required to evaluate the proposed Wind Energy Facility. The Planner may waive or reduce any of these requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

(B) BUILDING PERMIT APPLICATION MATERIALS. The applicant shall submit a building permit application to the County Planning Office prior to construction of the Wind Energy Facility that contains the following materials:

- (1) Site Plan: The site plan, prepared at a scale acceptable to the County Planner, shall include the following elements:
 - (a) Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north);
 - (b) Clearly identified boundary lines, corner pins to the extent they exist and dimensions of the site under consideration where the Wind Energy Facility will be located;
 - (c) Size of the site where the proposed Wind Energy Facility will be located, in acres or square feet.
 - (d) Location and dimension of all occupied dwellings on the site where the proposed Wind Energy facility will be located, and on properties within one thousand feet (1,000') to the exterior boundary of the site.
 - (e) Location and dimension of all proposed Wind Turbines and Wind Energy Accessory Buildings in the proposed Wind Energy Facility:
 - (f) Setbacks of the Wind Turbines from property lines on the boundary of the site and the distance between each Wind Turbine.
 - (i) Setbacks of all Wind Energy Accessory Buildings.
 - (ii) The site plan shall be accompanied by a detailed drawing or a photograph of each model of Wind Turbine under consideration to be installed as part of the Wind Energy Facility.

- (g) Existing and proposed roads, railroad tracks, utility lines and facilities, transmission lines and facilities, oil and gas wells, oil and gas facilities, pipelines, flow lines, irrigation ditches, and easements and rights-of- way of record with the County Clerk & Records Office if located within five hundred feet (500') of the exterior boundary of the site where the proposed Wind Energy Facility will be located, shown by location and dimension.
 - (h) Proposed phasing of development. An application proposing to phase development shall provide a description of each phase of development including the number of Wind Turbines and the Wind Energy Accessory Buildings and interconnection requirements for each phase.
- (2) Access. Description of proposed access route to and from the Wind Energy Facility including road surface material, proposed measures for dust control, and proposed road maintenance schedule or program.
 - (3) Utility and/or Transmission Interconnection. Description of utility interconnection or electric transmission system interconnection.
 - (4) Water and/or Wind Erosion Control Plan. A plan showing existing and proposed grading for the Wind Energy Facility site. The Drainage and Erosion Control Plan shall be accompanied by a description of practices that will be utilized to control erosion and run-off during and after construction.
 - (5) Analysis for Erosion, Sedimentation and Flooding. If any Wind Turbine or Wind Energy Accessory Building included in the proposed Wind Energy Facility is located within the one hundred (100) year flood plain, the application shall be accompanied by a report that addresses the potential for wind erosion, water erosion, sedimentation and flooding.
 - (6) Impact Analysis. Description of the significant impacts that the proposed Wind Energy Facility would be expected to cause. The impact analysis shall include, but is not limited to, the following information.
 - (a) Surface Water
 - (i) Description and map of surface water bodies required to be evaluated under water quality or other environmental standards imposed by any state or federal agency with jurisdiction over the Wind Energy Facility.
 - (ii) Description of impacts of the Wind Energy Facility on

surface water quality or quantity.

(iii) Description of mitigation techniques that will be used to mitigate impacts to surface waters.

(b) Ground Water

(i) Description and map of ground water bodies required to be evaluated under water quality or other environmental standards imposed by any state or federal agency with jurisdiction over the Wind Energy Facility.

(ii) Description of impacts of the Wind Energy Facility on ground water quantity or quality.

(iii) Description of mitigation techniques that will be used to mitigate impacts to ground water.

(c) Wildlife and Wildlife Habitat

(i) Description of wildlife and wildlife habitat required to be evaluated under wildlife and wildlife habitat standards imposed by any state or federal agency with jurisdiction over the Wind Energy Facility, including terrestrial and aquatic game and non- game species and livestock, and migration routes.

(ii) Description of impacts to wildlife and wildlife habitat.

(iii) Description of mitigation techniques that will be used to mitigate impacts to wildlife and wildlife habitat.

(d) Glare, Dust and Noise. The Wind Energy Company shall monitor and control all noise levels per C.R.S 25-12-103, unless waived by private agreement between the landowner and Wind Energy Company. The applicant shall include the following:

(i) Description of existing levels of glare, dust and noise in the area affected by the Wind Energy Facility.

(ii) Description of increase in levels of glare, dust and noise associated with the Wind Energy Facility.

(iii) Description of mitigation techniques that will be used to control increases in glare, dust and noise.

(e) Agricultural Lands

- (i) Description of agricultural lands affected by the Wind Energy Facility.
 - (ii) Description of impacts to agricultural lands.
 - (iii) Description of mitigation techniques that will be used to mitigate impacts to agricultural lands.
- (f) Important Areas
 - (i) Description of areas of paleontological, historic or archaeological importance affected by the Wind Energy Facility.
 - (ii) Description of the impacts to areas of paleontological, historic or archaeological importance affected by the Wind Energy Facility.
 - (iii) Description of mitigation techniques that will be used to control impacts to areas of paleontological, historic or archaeological importance affected by the Wind Energy Facility.
- (g) Recreational Resources
 - (i) Description of the reasonably anticipated impacts to recreational opportunities including fishing, hunting, hiking or other resources, and experiences affected by the Wind Energy Facility.
 - (ii) Description of mitigation techniques that will be used to mitigate impacts to recreational resources.
 - (iii) The Wind Energy Company shall design the Wind Energy Facility so that shadow flicker computer modeling estimates of the amount of shadow flicker anticipated to be caused by the Wind Turbines on any occupied dwelling shall not exceed thirty (30) hours per year under planned operating conditions, unless the owner of the occupied dwelling waives such requirement by written agreement.
- (h) Local Government Facilities and Services.
 - (i) Description of government facilities and services that will be affected by the Wind Energy Facility such as law enforcement, emergency response, water supply, roads and other facilities and services necessary to respond to or

serve the proposed Wind Energy Facility.

- (ii) Description of the impact of the Wind Energy Facility on the capability of local governments to provide the necessary facilities and services.
- (iii) Description of mitigation techniques that will be used to mitigate impacts to government facilities and services.

5-103 WIND ENERGY FACILITY PERMIT REVIEW AND APPROVAL PROCESSES

(A) PRE-APPLICATION MEETING

Prior to submitting a Major Land Use Change Permit application, the applicant shall schedule a Pre-application Meeting with the County Planner to discuss the proposed Wind Energy Facility.

- (1) Purpose. The Pre-application Meeting is intended to provide information pertinent to the site and the proposal, to provide an understanding of the applicable review procedures and the standards to be met for approval of the application, and to explain the application materials required for submittal.
- (2) Additional Requirements Applicable to Major Electrical Facility. During the pre-application meeting, the public utility or power authority shall consult with the Planner to identify the specific routes or geographic locations under consideration and attempt to resolve land use issues that may arise from the contemplated permit application.

(B) COMPLETENESS DETERMINATION

Within fifteen (15) calendar days following receipt of the Major Land Use Change Permit or building permit application, the Planner shall determine whether the application is complete. An application shall be deemed complete if it includes all information required.

- (1) Application is Not Complete. If the application is not complete, the Planner shall notify the applicant in writing of any materials that must be submitted for the application to be deemed complete. The time to review the application shall not begin to run until the application has been determined to be complete.
- (2) Completeness Date. Once the application has been determined to be complete, the Planner shall stamp the application with the date that it

was determined to be complete, and all-time frames pertaining to review of the application shall be based on the completeness date.

(C) REVIEW OF APPLICATION MATERIALS

- (1) Review by Referral Agencies. The Planner may request the professional analysis and recommendations of referral agencies, organizations, or technical consultants deemed appropriate and necessary to complete the review.
 - (a) Upon determination of completeness, the Planner may determine that the application materials or any portion thereof shall be submitted for review and comment by any appropriate Colorado or federal agency. The period for comment by the review agencies shall be forty five (45) calendar days from the date the application is deemed complete by the Planner, unless an extension has been requested by the referral agency. The Planner may grant an extension if it is determined that good cause for the delay has been shown. The failure of any agency to respond within the forty five (45) day review period or within the period of extension shall not be deemed an approval of such plan by the referral agency.
 - (b) Applicant shall be responsible for direct payment of review fees charged by consultants and referral agencies.
 - (c) The applicant shall have the right to review the comments and recommendations received from the review agencies. The applicant may submit additional information and make changes in the application to respond to the comments of the review agencies, under the following conditions:
 - (i) If the changes are substantial or significantly alter the nature, character or extent of the application, the Planner may refer the information and revised application back to some or all review agencies for further comment; and
 - (ii) The Planner may extend the period for comment as appropriate for the review, however; the period of time for review and final action by the Board of County Commissioners shall not exceed one hundred twenty (120) days from the date the application was determined to be complete.
- (2) Evaluation of Application by Planner. The Planner shall review the application for compliance with the relevant approval standards in 5-

104, and prepare a report that recommends approval, approval with conditions or denial of the application. The report shall be forwarded to the applicant and to the Planning Commission no less than six (6) calendar days prior to the Planning Commission public hearing on the application.

(D) PUBLIC HEARING ON A MAJOR LAND USE CHANGE APPLICATION

- (1) Approval. The application shall be approved if the application satisfies all of the relevant standards in 5-102.
- (2) Conditional Approval. The application may be approved with conditions, if conditions are necessary to ensure compliance with the relevant standards.
- (3) Denial. The application shall be denied if the application does not satisfy all the relevant standards in 5-102 and a conditional approval or contingent approval would not be sufficient to ensure compliance with the relevant standards.
- (4) Contingent Approval. A Wind Energy Facility may be approved subject to the necessary approvals from state and federal agencies, and acceptance of any electrical interconnection by the applicable electric utility and /or electric transmission entity.
- (5) Term. Approval shall expire two (2) years from the date such permit is granted, unless the Wind Energy Company has filed an application for a Building Permit for the Wind Energy Facility, or the Board of County Commissioners specifically grants a longer period of time for the approval.

(E) ADDITIONAL REQUIREMENTS APPLICABLE TO MAJOR ELECTRICAL FACILITY

Within one hundred twenty (120) days after submission of a completed application for a Major Electrical Facility, the County shall decide whether to approve, approve with conditions, or deny the application. If the County does not take final action within such time, the application shall be deemed approved. Nothing in these provisions shall be construed to supersede any timeline set by agreement between the County and a public utility or power authority applying for approval of a Major Electrical Facility.

(F) PHASES OF DEVELOPMENT

If the application proposes phased development of the Wind Energy Facility, each phase of development shall be described in the permit approval, including the following information:

- (1) Number of Wind Turbines and the appurtenant facilities to be developed in each phase.
- (2) Size of the area involved for each development phase.

(G) WRITTEN NOTICE OF APPROVAL

Upon approval of a Wind Energy Facility, the County shall provide written notice to the Public Utilities Commission and to the concerned electric utility and/or electric transmission entity.

(H) BUILDING PERMIT REQUIRED

A building permit shall be obtained from the Planning Department for all new Wind Turbines and Wind Energy Ancillary Buildings comprising the Wind Energy Facility prior to beginning construction. The building permit shall expire if construction has not commenced within one (1) year, subject to a one (1) year extension upon submission of a written report to the Planning Department setting forth the reason(s) for a delay and the plan for commencing construction within the one-year extension period.

(I) LIFE OF PERMITS

- (1) The time frame for construction to be initiated through the Building Permit shall be determined as indicated in 5-103-H "Building Permit Required".
- (2) The Major Land Use Change Permit for a Wind Energy Facility shall be valid for the operating term of lease agreements between property owners and the Wind Energy Company, continuing for extensions, reissuances, renewals or assignments of the original lease as long as the County Planner is provided documentation that a lease for the Wind Energy Facility was maintained in effect.

(J) MONITORING

Upon twenty-four (24) hours' notice, the Board of County Commissioners or its official representative may enter the property on which a Wind Energy Facility has been permitted, for the purpose of ensuring compliance with the terms of permit approval and applicable County regulations, and of monitoring noise, environmental impacts and other impacts which may arise.

(K) UNSAFE AND INOPERABLE WIND TURBINES.

Any unsafe or inoperable Wind Turbine deemed an unsafe structure, shall

be considered a public nuisance subject to abatement by repair, rehabilitation, demolition, or removal. A Wind Turbine shall not be considered unsafe or abandoned if the owner can demonstrate to the Board's satisfaction that modernization, rebuilding, or repairs are in progress or are planned and will be completed within six months (6) of the date of notice of violation issued by the County pursuant to Section 11-102 (A).

(L) APPEAL OF DENIAL OF APPLICATION FOR MAJOR ELECTRICAL FACILITY

If the County denies a permit or application of a public utility or power authority that relates to the location, construction, or improvement of a Major Electrical Facility, or if the County imposes requirements or conditions upon such permit or application that will unreasonably impair the ability of the public utility or power authority to provide safe, reliable, and economical service to the public, the public utility or power authority may appeal the County action to the public utilities commission for a determination under Section 40-4-102, C.R.S., so long as one or more of the following conditions exist:

- (1) The public utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the public utilities commission pursuant to Section 40-5-101, C.R.S., to construct the major electrical facility that is the subject of the local government action;
- (2) A certificate of public convenience and necessity is not required for the public utility or power authority to construct the major electrical facility that is the subject of the local government action; or
- (3) The public utilities commission has previously entered an order pursuant to Section 40-4-102, C.R.S., that conflicts with the local government action.

5-104 STANDARDS APPLICABLE TO WIND ENERGY FACILITY.

(A) GENERAL STANDARDS

- (1) Public Health, Safety and Welfare. The standards in this Section 5-104 are consistent with the County's goals of protecting the health, safety and general welfare of the community by identifying and limiting known negative impacts of Wind Energy Facility development, while also encouraging the development. Further, the project will not increase the need for public services and facilities.

- (2) Compliance with Comprehensive Plan and Intergovernmental Agreements. The proposed Wind Energy Facility shall be consistent with relevant provisions of the Phillips County Comprehensive Plan and any intergovernmental agreement between the County and a municipality that applies to the area where the use will occur.
- (3) Compliance with Other Regulations. The Wind Energy Facility shall comply with all applicable rules and regulatory requirements of state and federal agencies, and of Phillips County.
- (4) Water and Wastewater Service
 - (a) The water and wastewater service shall be adequate to serve the Wind Energy Facility.
 - (b) The water and wastewater systems shall comply with state standards.
- (5) Roadways and Access. The applicant will enter into a Long-Term Road Maintenance and Improvements Agreement with the Phillips County Commissioners prior to approval of a Major Land Use Change Permit. This agreement will not be limited to but should address the following:
 - (a) Legal access to a public right-of-way to and from the Wind Energy Facility shall be safe and in conformance with access standards set forth by the County Road and Bridge Department.
 - (b) During construction of the Wind Energy Facility, mitigation of traffic congestion or unsafe traffic conditions.
 - (c) Adequate turning radii shall be installed at all entrances to accommodate large truck movement.
 - (d) Off-street parking and loading zones shall be surfaced with gravel or the equivalent and shall be graded to prevent drainage problems.
 - (e) Staging activities and parking of equipment and vehicles shall occur on-site and on private rights-of-way and shall be prohibited on maintained County roads, except for temporary road closures during construction with prior notice to the road manager.
 - (f) The applicant shall work with Phillips County Road and Bridge to ensure the proper maintenance and repair of all County roads utilized by the Wind Energy Project. The construction and operation of the use shall not cause damage to county roads or

cause an increase in cost to the County to maintain the roads. All impacts to the roadway system shall be mitigated through roadway improvements or impact fees, or both.

- (i) All lots and parcels shall have access to public right-of-way or approved access agreement.
- (ii) Roads serving the proposed use shall have the capacity to accept the additional traffic generated by the use safely and efficiently.
- (iii) All new roads shall be constructed in conformance with the Road and Bridge Standards

- (6) Service Delivery System Capacity. The Wind Energy Facility shall not have a significant adverse effect on the capability of local government to provide services (such as fire, law enforcement, medical, etc.) or exceed the capacity of service delivery systems.

(B) RESOURCE AND ENVIRONMENTAL PROTECTION STANDARDS

- (1) Water Quality Protection. The Wind Energy Facility shall not cause significant degradation of the quality of surface or ground water resources. Groundwater pollution control measures shall be implemented that prevent the discharge of pollutants from the activity into groundwater. If the applicable state or federal regulations governing the Wind Energy Facility do not address protection of ground water, the County may require a water quality monitoring plan and reporting plan designed for the early detection of an impact to water quality associated with the Wind Energy Facility.
- (2) Air Quality. The proposed Wind Energy Facility shall not cause air quality to be reduced below levels established by the Colorado Air Pollution Control Division.
- (3) Wildlife. The applicant for a proposed Wind Energy Facility will consult with Colorado Parks & Wildlife as to requirements relating to wildlife habitat areas unless the applicant demonstrates that there is no reasonable viable alternative location. Where the activity must be in significant wildlife habitat areas, the applicant shall contact the Division of Wildlife for recommendations.
- (4) Glare, Dust, or Noise.
 - (a) The proposed Wind Energy Facility shall comply with the statutory provisions for maximum permissible noise levels in Section 25-12-

103, C.R.S.

- (b) Fugitive dust and particulate emissions shall be controlled on the site.
 - (c) Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, fugitive particulate conditions, blowing debris and other potential nuisance conditions.
 - (d) The Wind Energy Facility shall use no more than the minimum lighting required by the Federal Aviation Administration. To the extent permitted by law, all lighting on Wind Turbines shall be shielded to reduce glare and visibility from the ground, shall be red lighting of the lowest reasonable intensity, and shall employ aircraft detection lighting systems designed to mitigate visibility of light to the ground to the greatest extent feasible. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.
- (5) Erosion and Sedimentation Control. Erosion and sedimentation control measures that ensure that disturbed areas and soil stockpiles are stabilized during construction shall be implemented. Disturbed areas shall be controlled within one growing season, pursuant to an approved vegetation plan by Natural Resource Conservation Service (NRCS).
- (6) Drainage / Stormwater Run-off. Run-off shall be kept on the site in a stormwater detention system approved by the County, and waters in excess of historic run-off shall be prevented from leaving the site during construction and after site development.
- (a) If applicable, the applicant shall obtain a Stormwater Discharge Permit from the Colorado Department of Public Health and the Environment, Water Quality Control Division.
- (7) Protection of Agricultural Lands. The Wind Energy Facility shall not have a significant adverse impact on agricultural lands and agricultural operations beyond what is permitted under agreements with landowners within the boundary of the site.
- (8) Protection of Important Areas. The Wind Energy Facility shall not significantly degrade areas of paleontological, historic, or archaeological importance. If the site of the Wind Energy Facility includes or potentially affects known areas of historic, paleontological or archaeological resources, applicant shall

coordinate with the Colorado State Historic Preservation Office to mitigate and or avoid impacts during construction.

- (9) Recreation Impacts. The Wind Energy Facility shall be designed to reasonably avoid significant adverse effects on the quality or quantity of recreational opportunities and experience within the County, including but not limited to hunting, fishing, hiking, and similar recreational activities.
- (10) Protection of Mineral Rights Holders. The Wind Energy Facility shall not have a significant adverse impact on mineral drilling or production activities active within the boundary of the site at the time of Major Land Use Change Permit application.

(C) SITE AND FACILITY DEVELOPMENT STANDARDS

- (1) General Site Plan Standards. The site is adequate in size and shape to accommodate the Wind Energy Facility.
- (2) Unless otherwise required by federal or state regulations applicable to the wind energy facility, the following minimum setbacks shall apply.
 - (a) Front, rear, and side setbacks shall be measured as the distance between the nearest lot line or base of a Wind Turbine, as applicable, and the foundation of a building, along a line at right angles to the lot line.
 - (b) Safety Setbacks. The following setbacks shall apply to each Wind Turbine comprising the Wind Energy Facility.
 - (c) The setback requirements may be waived or reduced by the Board of County Commissioners under the following conditions
 - (i) The application is accompanied by a legally enforceable agreement by which the adjacent landowner agrees to the elimination or reduction of the setback. The term of the agreement shall be for the life of the Wind Energy Facility.
 - (ii) The proposed Wind Energy Facility otherwise complies with the applicable standards.

	MINIMUM SETBACK
Setback from above-ground public electric power lines or communication lines ¹	1.1 times system height or 500 feet, whichever is greater.
Setback from public road or highway or railroad ²	1.1 times system height or 500 feet, whichever is greater
Setback from public road or highway with ADT (Average Daily Traffic) of 7,000 or more ³	1.1 times system height or 800 feet, whichever is greater
Setback of any occupied dwelling on the property of a non-participating landowner, which residence was in existence, or permitted for construction, at the time an application for the applicable Wind Energy Facility was properly submitted to Phillips County officials.	2 times system height, or 2,500 feet, whichever is greater.
Setback from property line of any regularly inhabited public building or public space, such as (but not limited to) schools, hospitals, churches, courts, libraries, arenas, and parks.	2 times system height, or 2,500 feet, whichever is greater.
Setback from all other property lines on or outside the boundary of the site unless appropriate easements are secured from adjacent property owners or other acceptable mitigation is approved by the Board of County Commissioners.	1.1 times system height or 500 feet, whichever is greater.
<ol style="list-style-type: none"> 1. Measured from the outer boundary of the public utility right-of way or easement [or from existing power line or telephone line] 2. Measured from the outer boundary of the public road/highway right-of-way or railroad right-of-way 3. Average daily trips, based on traffic field measurements [determined by CDOT or County] 	

(3) Scenic Resource Setback. Wind Turbines comprising the Wind

Energy Facility shall be setback a minimum of one-quarter (¼) mile from any highway designated to be a scenic highway or roadway by the Phillips County Comprehensive Plan or by the State of Colorado.

(a) A scenic resource protection setback requirement may be reduced to two times the total system height if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

(4) Notice and Record of Waiver or Reduction of Setback.

(a) Memorandums of any proposed setback waiver or reduction shall be included in all public notices regarding the Major Land Use Change Permit application review.

(b) If the application is approved with a setback waiver or reduction, the approved setbacks shall be specified in the approval.

(5) Guy-Wire Anchor Setback. Guy wire anchors shall be set back from any property boundary a minimum of twenty feet (20').

(a) Guy wires shall be distinctly marked and fenced on all permanent towers.

(b) Minimum Ground Clearance. The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than forty feet (40').

(D) SAFETY AND SECURITY

(1) Fencing, or other barriers acceptable to the County, shall be installed to prevent unauthorized access to the Wind Energy Facility electrical interconnection facilities.

(2) All wiring between Wind Turbines and the Wind Energy Facility substation shall be installed at least four feet (4') underground, except as necessary to connect with a larger transmission or distribution network.

(3) All access doors to Wind Turbine towers and electrical equipment shall be and remain locked when unattended.

(4) Signs warning of the electrical hazard and other hazards associated with the Wind Energy Facility shall be posted at the base of each Wind Turbine tower and other electrical equipment.

- (5) A security patrol or other security measure may be required if it is determined to be necessary and appropriate to ensure public safety.
- (6) The Wind Energy Facility shall have adequate fire control and prevention measures in place. The applicant must show the capacity of the county or districts to provide emergency services to the facility (such as fire, law enforcement, medical, etc.). Appropriate training must be provided.
- (7) Underground location of Powerlines. Unless geologic conditions prevent underground installation, the Wind Energy Facility's electrical collection system wiring and power lines shall be installed underground except where the Wind Energy Facility collector wiring is brought together for connection to the transmission or distribution network, or for transmission lines with a voltage rating of one hundred (100) kV or larger. All underground installations located within the public road easement or right-of-way shall comply with the applicable permit and design requirements of Phillips County Road and Bridge and include the following elements.
 - (a) Restoration. Any disturbed portion of the right of way shall be restored as nearly as possible to the condition as existing immediately prior to installation.
 - (b) Safety measures shall be implemented in accordance with County, State, and Federal requirements to protect the public.
 - (c) If the installation crosses a roadway, it shall be located as perpendicular to the roadway as physically possible and installed in compliance with the requirements of Phillips County Road and Bridge.
 - (d) As-built drawings shall be provided to the County once the installation has been completed.
 - (e) Work shall not commence until the required permit(s) and Notice to Proceed with the installation(s) have been issued by the County.

(E) INTERCONNECTION AND ELECTRICAL DISTRIBUTION FACILITIES

- (1) All distribution lines, electrical substations, and other interconnection facilities shall be constructed to the specifications of the American

National Standard Institute (ANSI), National Electrical Code (NEC), Institute of Electrical and Electronic Engineers (IEEE), and National Utility Standards (NUS).

- (2) Interconnection shall conform to the requirements of the electric utility company, and applicable state and federal regulatory requirements.

(F) INTERFERENCE WITH NAVIGATIONAL SYSTEMS.

- (1) The applicant shall minimize or mitigate any interference with electromagnetic communications caused by the Wind Energy Facility, including radio, telephone or television signals.
- (2) Every Wind Turbine shall comply with Federal Aviation Administration regulations for sighting structures near an airport or VORTAC installation.

(G) CERTIFICATION OF EQUIPMENT AND APPURTENANT FACILITIES

- (1) All equipment and appurtenant facilities shall be certified by a registered structural engineer to be compliant with the applicable state, federal and local regulations and to conform with good engineering practices.
- (2) The electrical system shall be certified by a registered electrical engineer to be compliant with the applicable state, federal and local regulations, and to conform with good engineering practices.

(H) SIGNS

Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy facility.

(I) APPEARANCE

- (1) Each Wind Turbine and all Wind Energy Accessory Buildings shall be painted a neutral, matte color, such as a non-reflective medium gray or tan, and match all other Wind Turbines in the Wind Energy Facility.
- (2) No Wind Turbine or other structure in a Wind Energy Facility shall feature advertising. No Wind Turbine shall feature any words or graphics visible from closer than two hundred feet (200') from the base of the Wind Turbine.

- (3) Upon the discretion of the Board of County Commissioners, a written explanation may be required indicating methods to prevent destruction or deterioration of visual amenities.

(J) NOXIOUS WEED CONTROL PLAN.

The Wind Energy Company shall monitor and control all noxious weeds within the boundary of the site per 8 CCR 1206-2 (Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weeds Act), and C.R.S.

§ 35-5.5-101 (Colorado Noxious Weed Act), or any successor regulations or statutes, and provide the County, with a noxious weed control plan that details how noxious weeds will be monitored and controlled throughout the lifetime of the Wind Energy Facility. The County may require the Wind Energy Company to provide a compliance report and update its plan accordingly.

(K) DECOMMISSIONING PLAN

The Decommissioning Plan will outline the complete removal of all wind turbines and related devices and equipment and distribution transmission facilities comprising a Wind Energy Conversion System, including but not limited to, all rotors, nacelles, and towers; all collection step up transformers; all Wind Energy device foundations, pads, underground electrical wires and any and all other underground wind foundations, energy structures and improvements and all access roads (unless the relevant landowner requests that such access road remain.

Prior to receiving building permit approval, the County and the Applicant(s), Owner(s) and/or Operator(s) must formulate a Decommissioning Plan to ensure the Wind Energy Facility is properly decommissioned. The details of the Decommissioning Plan may be based on existing landowner agreements and shall include the following:

- (1) Anticipated life of the project;
- (2) Anticipated manner in which the project will be decommissioned, and the site restored;
- (3) Provisions describing the triggering events for decommissioning the Wind Energy Facility, or any aspect of the facility. If landowner agreements do not describe the decommissioning schedule, decommissioning shall be completed within twenty-four (24) months of an owner filing a Notice of Termination of Operations with the County. or upon twelve (12) months of continuous non-operation of

the facility or of any aspect of any facility, unless by force majeure;

- (4) Provisions for the removal of structures, debris, and cabling, including those below the soil surface to depths agreed to in the landowner agreements or, if not specified by the landowner agreements, down to forty-eight inches (48"). Regardless of any other agreements, at no point will the removal be less than down to thirty-six inches (36");
- (5) Provisions for the restoration of the soil and vegetation;
- (6) A description of the form of Financial Assurance for decommissioning as agreed upon under landowner agreements. In the absence of such agreements, the Applicant is required to provide financial assurance in one of the following forms: a surety bond, a federally insured certificate of deposit, a government-backed security, corporate guarantee, letter of credit, or cash ("Financial Assurance"). Financial Assurance is to begin in year fifteen (15), secured by the Owner(s) or Operator(s), for the purpose of adequately performing decommissioning, in an amount equal to the decommissioning costs less salvage value;
 - (a) The Phillips County Planning Commission may reject the proposed forms of assurance of financial responsibility if the evidence submitted by the Applicant does not adequately assure that funds will be secured as required by these rules. Applicant(s) shall be notified in writing within sixty (60) days of receipt of the evidence of financial assurance. If an applicant is approved, any bond or other form of financial assurance may be canceled by the surety only after written notice to the Board of County Commissioners, and upon receipt of the Board's written consent, which may be granted when the requirements of the bond or assurance have been fulfilled,
- (7) An estimate of the decommissioning costs certified by a Professional Engineer, to be updated every five (5) years following year fifteen (15) of operation;
- (8) Identification of and procedures to access Financial Assurances;
- (9) A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs;
- (10) A provision that the County shall have the right, but not the

requirement, to enter the property and cause the appropriate abandonment and decommissioning measures to occur, as determined by the approved Decommissioning Plan, if decommissioning does not proceed in accordance with the Decommissioning Plan;

- (11) A provision that the County shall have the right to review and reconsider the decommissioning plan at the time of decommissioning and require, if deemed appropriate, other drawings, studies or materials as determined by the County to ensure compliance with this Section;
- (12) A provision that the County shall have the right to review final decommissioning and reclamation to confirm it is consistent with the Decommissioning Plan;
- (13) Bond or other financial assurance forfeiture proceedings shall occur only in the event that abandonment and decommissioning does not comply with the Decommissioning Plan and a cure period of sixty (60) days has expired, or if the cure will require more than sixty (60) days, then the Owner or Operator has submitted a plan to cure the default acceptable to the County.

ARTICLE 6 AIRPORT OVERLAY DISTRICT

SECTION 6-101 APPLICABILITY

No Land Use Change Permit or building permit shall be issued in any Airport Overlay Districts unless the Applicant also satisfies the requirements and standards set forth in this Article 6 and all applicable state and federal laws. If there is a conflict between these requirements and standards and the standards and requirements of Article 4, the more stringent requirements and standards shall apply.

The Airport Overlay Districts are described in the Airport Overlay District Maps for the Holyoke and Haxtun Airports. For the Haxtun Airport Overlay, the Airport Influence Zones shall be the "Critical Zones" in the Airport Overlay District Maps.

SECTION 6-102 SUBMITTAL REQUIREMENTS

In addition to application submittal requirements set forth in Article 4, an Applicant for a Land Use Change Permit in an Airport Overlay District shall submit the following materials:

- A.** A map showing existing and proposed runways and the Airport Influence Zone, elevation, proposed structure height, location with reference to section corners, and centerline profiles of runway.
- B.** Evidence that the Federal Aviation Administration has been notified regarding applications for approval of airspace.

SECTION 6-103 AIRPORT OVERLAY DISTRICT STANDARDS

- A. Allowed Uses.** Any activity with a proposed density in excess of one dwelling unit, structure, or use per thirty-five (35) acres, exclusive of accessory buildings or uses, shall require a Major Land Use Change Permit.
- B. General Standards.** The following standards apply to all Land Use Change Permits and building permits in Airport Overlay Districts. The County may waive any of these standards if, because of the nature, scale, or intensity of the proposed Land Use Change, they are not applicable.
 - 1. Navigational Restrictions.** No use may be made, or activity carried on, within an Airport Overlay District in such a manner as to:
 - a.** Create electrical interference with navigational signals or radio communications between airport and aircraft.
 - b.** Make it difficult for pilots to distinguish between airport lights or other lighting.

- c. Result in glare in the eyes of pilots using the airport.
- d. Impair visibility in the vicinity of the airport.
- e. Interfere with established airport flight paths or structural height restrictions within the Airport Influence Zones.
- f. Otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport.

C. Height Restrictions. Heights of structures shall comply with State and Federal Regulations, FAA & FCC Regulations. There shall be no interference with established airport flight paths or structural height restrictions within Airport Influence Zones.

D. Permit or Variance Conditions. Any permit or variance granted may include conditions that require the owner of the subject structure to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

SECTION 6-104 NONCONFORMING AIRPORT USES AND STRUCTURES

A. Pre-Existing Uses. Any structure or use in existence within an Airport Overlay District at the time the County first established an Airport Zone that does not conform to the Airport Overlay Zone requirements and standards shall be deemed a Nonconforming Airport Use and will be allowed to continue in accordance with the following provisions:

1. Discontinuance of Use or Destruction of Structure. If any Nonconforming Airport Use is discontinued for a period of six months, or a non-conforming structure is destroyed or damaged to the extent of 50% of the appraised value of the non-conforming structure, any re- use, reconstruction, or replacement shall be deemed a new use and shall be subject to the applicable provisions of these regulations.

2. Marking and Lighting. The owner of any non-conforming structure or trees is required to permit the installation, operation, and maintenance of such markers and lights as deemed necessary by the County to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

B. Relationship to Article 7. The provisions of Article 7 shall not apply to Nonconforming Airport Uses.

ARTICLE 7 NONCONFORMING USES

SECTION 7-101 GENERAL

A nonconforming use is any use legally existing as of the effective date of this Code that does not conform to this Code. Except as otherwise provided in this Section, a nonconforming use may be continued or “grandfathered” and normal or routine maintenance of a structure containing a nonconforming use shall be permitted.

SECTION 7-102 ENLARGEMENT OR ALTERATION OF A NONCONFORMING USE

A. No Enlargement or Alteration of Nonconforming Use. The right to continue a nonconforming use terminates immediately when the nonconforming use is enlarged, expanded, extended, or altered in any of the following ways, and the property owner does not successfully pursue any of the options specified in these regulations within thirty (30) calendar days after the Administrator provides written notification of an alleged illegal enlargement or alteration to the owner:

- 1. New Structure.** The addition of a new structure containing, or accessory to, the nonconforming use.
- 2. Enlargement or Alteration of Structure or Use.** Enlargement or alteration of a structure containing, or accessory to, the nonconforming use including but not necessarily limited to an increase in floor area, an increase in height, or any other alteration or improvement in excess of normal or routine maintenance of the structure.
- 3. Enlargement or Alteration in the Land Area.** Enlargement or alteration in the land area occupied by the nonconforming use, unless the basic nature of the use, at the time it became nonconforming, clearly indicated or contemplated such an increase or alteration.
- 4. Enlargement or Alteration Creating Hazard or Nuisance.** Any other enlargement or alteration of the nonconforming use which has the effect or threatened effect of creating a hazard or nuisance on-site or off-site, of adversely affecting the character of the neighborhood, or of intensifying the use of the land or its need for services.
- 5. Removal or Replacement of Any Structural Member.** Removal or replacement of any structural member in a use for which the County is precluded from enforcing this Code specific to use on the basis of estoppel, laches, or waiver.

B. Allowed Enlargement or Alteration. The following shall not be considered prohibited enlargement or alteration:

1. A change of ownership of the property.
2. An alteration or expansion which the Administrator determines is necessary to rectify a hazardous health or safety situation or to comply with the public health or safety requirements of another governmental entity having lawful jurisdiction over the structure.
3. An extension of the nonconforming use within the structure containing the use, provided that such extension is not accompanied by an alteration of the structure falling within category (b), above.
4. The addition of a solar energy device to a structure containing a nonconforming use.
5. Any replacement or upgrading of outmoded or worn equipment or supplies.

SECTION 7-103 CHANGE OF A NONCONFORMING USE

- A. Change to Conforming Use.** A nonconforming use may be changed only to a use which is conforming under the provisions of these Regulations.
- B. Termination of Nonconforming Use.** Any change of a nonconforming use to any other use shall immediately terminate the right to continue the nonconforming use. Thereafter, the property shall be used only in conformity with the use provisions of these Regulations.

SECTION 7-104 DESTRUCTION OF A STRUCTURE CONTAINING A NONCONFORMING USE

- A. Structure Deemed Destroyed.** A structure containing a nonconforming use shall be deemed destroyed when either greater than fifty percent (50%) of its floor area, or greater than fifty percent (50%) of its actual value (as determined by the Phillips County Assessor) is destroyed.
- B. Termination of Nonconforming Use.** The right to continue a nonconforming use terminates immediately when the structure containing that use is destroyed by an intentional act of the property or structure owner or their agent.
- C. Restoration of Structure.** In all other cases, when a structure containing a nonconforming use is destroyed, the structure may be restored, and the nonconforming use may be reestablished.

1. **Timeframe for Restoration.** Restoration of the structure must be commenced within six (6) months after the date on which the nonconforming structure was destroyed and completed within one year after the date on which the restoration was commenced.
2. **Extensions.** These times may be extended for a reasonable period, if approved by the County Commissioners at a public hearing upon a showing of extraordinary circumstances by the property owner or their agent.

SECTION 7-105 ABANDONMENT OF A NONCONFORMING USE

- A. Termination of Nonconforming Use.** The right to continue a nonconforming use terminates as soon as the use is abandoned through the discontinuance of the use for an uninterrupted period of six (6) months or more, as a result of causes within the control of the property owner or their agent.
- B. Termination of Seasonable Nonconforming Use.** If the nonconforming use is a seasonal use, the use shall be terminated if it is discontinued for an entire single season based upon the history and nature of the use.
- C. Abandonment of Seasonal Nonconforming Use.** Any seasonal nonconforming use may be abandoned in less than six (6) months or a season, as applicable, if the property owner expressly states an intent to abandon the use, or engages in action which unambiguously expresses an intent to abandon.

SECTION 7-106 NOTICE OF TERMINATION IN THE EVENT OF UNLAWFUL ENLARGEMENT OR ALTERATION OF A NONCONFORMING USE, CHANGE OF USE, ABANDONMENT OF A NONCONFORMING USE, OR DESTRUCTION, OR DAMAGE TO A STRUCTURE CONTAINING A NONCONFORMING USE

- A. Written Notification.** If the Administrator receives information that the right to continue a nonconforming use has been or may have been terminated, the Administrator shall provide a written notification of this determination by first class mail to the property owner and to the parcel address, all as shown on the records of the County Assessor.
 1. **Property Owner Response.** The property owner shall have thirty (30) calendar days after the date of the notification within which to provide evidence satisfactory to the Administrator to show that the determination is in error, to abate the illegal enlargement or alteration,

or to file an appeal of the Administrator's determination to the Board of County Commissioners.

2. **Appeal.** Any appeal shall occur at a regularly scheduled meeting of the Board of County Commissioners. In any appeal, the property owner shall have the burden to show that the right to continue the nonconforming use was not terminated according to the applicable provisions of this Article, when judged in light of the history and nature of the use and the circumstances of the alleged termination.

B. Right to Bring Enforcement Action. Nothing in these regulations shall alter or diminish the County's right to take enforcement action against the unlawful continuation of a nonconforming use. Except in the case of an illegal enlargement or alteration for which the owner shall be provided with a thirty (30) day opportunity to abate, any failure by the Administrator to provide a notification of a determination of termination as provided for in this regulation shall in no way entitle the property owner to continue or resume a nonconforming use terminated under provisions of these regulations.

ARTICLE 8 SIGN REGULATIONS

SECTION 8-101 INTENT

The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance, and protect the physical appearance of the community. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of the natural environment and enhance community development.

SECTION 8-102 GOVERNMENTAL SIGNS EXCLUDED

For the purpose of this resolution, "sign" does not include signs erected and maintained pursuant to and in discharge of any governments function, or required by any law, ordinance, or governmental regulation.

SECTION 8-103 GENERAL REQUIREMENTS

The following regulations apply to all signs:

- A.** In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- B.** All wiring, fittings, and materials used in the construction connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the National Electric Code or the local electric code in effect.
- C.** No sign of any classification shall be installed, erected, or attached in any form, shape, or manner to a fire escape of any door or window giving access to any fire escape.
- D.** All signs hung and erected shall be plainly marked with the name of the person, firm, or corporation hanging or erecting the sign.
- E.** Any sign that is unsafe or in danger of falling shall be put in a safe and secure condition or removed by the owner.
- F.** No sign may be placed upon vehicles parked or abandoned along roadways, nor upon mobile homes.

G. No sign shall be placed within or extended over any public right-of-way except publicly-owned signs such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall be permitted on any property.

H. All signs along state highways are regulated by the Colorado Department of Transportation.

SECTION 8-104 SPECIAL PROVISIONS

A. Measurement of Sign Area. The surface area of a sign includes the entire display area of the sign and including all elements of the matter displayed. Frames and structural members not being advertising matter shall not be included in surface area measurement.

B. Temporary Signs. Temporary signs not exceeding fifty (50) square feet in area announcing special public or institutional events or the erection of a building, the architect, the builders, or contractors may be erected for a period of sixty (60) days plus the construction period.

C. Free-Standing Signs. Free-standing signs not over fifteen (15) feet in height, having a maximum total sign area of one hundred (100) square feet per display area and located not closer than thirty (30) feet to any adjoining lot line may be erected to serve a group of business establishments. There shall be only one free-standing sign for each building, regardless of the number of businesses conducted in said building.

D. Pole Signs. Pole signs of symbolic design shall be permitted for business establishments, provided no part of such sign shall project into the right-of-way of any street or highway. The maximum area of any face of such sign shall not exceed thirty (30) square feet, and the pole support of the sign shall be at least fifty (50) feet from any lot in any residential district.

E. Wall Signs Pertaining to Nonconforming Uses. Wall signs pertaining to a nonconforming use shall be permitted on the same premises of such use provided the area of such sign does not exceed twelve (12) square feet.

F. Political Signs. No political sign shall be posted in any place or in any manner that is destructive to public property upon posting or removal. All candidates for public office, their campaign committees, or other persons responsible for the posting on public property of campaign material shall remove such material within two weeks following Election Day.

G. Wall Signs. A business shall be permitted one (1) flat, or wall sign that does not exceed ten percent (10%) of the area of the wall to which it is attached

(measures as a two-dimensional projection), up to a maximum of one hundred fifty (150) square feet. Wall signs shall not project more than two (2) feet measured from the face of the main building.

SECTION 8-105 SIGN SETBACK REQUIREMENTS

Signs and outdoor advertising structures shall be set back twenty (20) feet from the established right-of-way line of any street or highway.

A. Increased Setbacks. For every square foot by which such sign or outdoor advertising structure exceeds fifty (50) square feet, the setback shall be increased by one-half (1/2) foot but need not exceed one hundred (100) feet.

B. Setbacks at the Intersection of Highways. At the intersection of any State or Federal highway with an arterial or collector street, the setback of any sign or outdoor advertising structure shall be at least fifty (50) feet from the established right-of-way of each street or highway.

C. Setbacks for Public and Quasi-public Signs. Real estate signs and bulletin boards for a church, school, or any other public, religious, or educational institution may be erected at least ten (10) feet from the established right-of-way line of any street or highway provided such sign or bulletin board is no greater than four (4) square feet.

SECTION 8-106 FEES

Installation of signs and billboards shall require the payment of a fee as set by the Board. All temporary signs or those four (4) square feet or less are exempt from fee payment.

ARTICLE 9 VARIANCES AND APPEALS OF ADMINISTRATIVE INTERPRETATIONS

SECTION 9-101 BOARD OF ADJUSTMENT

- A. Establishment.** There is hereby established a Board of Adjustment.
- B. Powers and Duties.** The Board of Adjustment shall have the following powers and duties under the provisions of this Code.
- 1. Variance.** To hear, review and approve, approve with conditions, or deny applications for variances from setbacks, height restrictions, or lot sizes set forth in this Code.
 - 2. Appeal Interpretation of Administrator.** To hear, review, consider and affirm, modify, or reverse appeals of interpretations of these regulations made by Administrator.
- C. Board of Adjustment Membership.** The Board of Adjustment may be composed of three (3) to five (5) members, to be appointed by a majority vote of the Board of County Commissioners by Resolution. No more than half of the members at any time may be members of the Planning Commission.
- D. Terms of Office.** All members serving on the Board of Adjustment on the effective date of these Regulations shall complete their terms according to their prior appointments. The term of at least one (1) member shall expire each year. The term of office of each member appointed under these Regulations shall be for five (5) years. There shall be no limit on the number of terms a person may serve on the Board of Adjustment. When a person is appointed to fill out the term of a departing member that person's term shall end at the time the departing member's term would have ended.
- E. Removal from Office.** Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners upon written charges and after public hearing.
- F. Vacancy.** Whenever a vacancy occurs on the Board of Adjustment, the member's position shall remain vacant until a new member can be appointed by the Board of County Commissioners.
- G. Compensation.** The members of the Board of Adjustment shall serve without compensation, but may be reimbursed for such travel, mileage and continuing education expenses as may be authorized by the Board of County Commissioners.
- H. Officers; Quorum; Rules of Procedure.**

- 1. Chairman and Vice Chairman.** At the first meeting of each calendar year, the members of the Board of Adjustment shall elect a Chairman and Vice-Chairman from among its members. The Chairman's and Vice-Chairman's term shall be for one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths and shall be in charge of all proceedings before the Board of Adjustment.
 - 2. Secretary.** The Secretary shall keep full and complete minutes of all proceedings, which minutes shall be a summary of all proceedings before the Board of Adjustment, which shall include the vote of all members upon every question, its examination and other official actions, and be attested to by the Secretary. The minutes shall be approved by a majority of the Board of Adjustment members voting. In addition, the Secretary shall maintain all other records of the Board of Adjustment meetings, hearings, proceedings, and the correspondence of the Board of Adjustment, which shall be immediately filed and kept in the offices of the Board of Adjustment as public records.
 - 3. Staff.** The Administrator shall designate the professional staff of the Board of Adjustment.
 - 4. Quorum and Voting.** The presence of two or more members shall constitute a quorum of the Board of Adjustment necessary to take action and transact business. All actions shall require a vote of two concurring members of the Board of Adjustment.
 - 5. Rules of Procedure.** The Board of Adjustment shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business, and shall keep a record of resolutions, findings and determinations, and a record of meetings.
- I. MEETINGS OPEN TO PUBLIC.** All meetings and public hearings of the Board of Adjustment shall be open to the public in a place accessible to the public, except that meetings held in executive session pursuant to Colorado law shall not be open to the public.
 - J. NOTICE.** Public hearings shall be properly noticed in compliance with Section 3-104.E.

SECTION 9-102 VARIANCES

Variations are deviations from setbacks, height restrictions, or lot sizes in the Code

that would not be contrary to the public interest when, owing to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness, or the shape of a specific piece of property, the literal enforcement of the provisions of this Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

A. Initiation. Applications for a variance may be submitted by the owner or the owner's authorized agent.

B. Application Submittal and Review Procedures Applicable to Application for Variance.

1. Pre-application Conference. A pre-application conference shall be held in accordance with Section 3-101.A.

2. Application. The Applicant for a variance shall submit to the Administrator an application that includes the following materials. Additional materials may be required by the Administrator.

a. Site Plan. A site plan for the property at which the variance is being requested.

b. Written Narrative. A written narrative explaining the standards from which a variance is being sought, and the reasons why a variance is necessary.

3. Review of Application Materials by Administrator.

a. Review. The Administrator shall review the application for completeness, in accordance with the provisions of Section 3-104.C.1. Upon a determination of completeness, the Administrator shall schedule the application for review and approval by the Board of Adjustment.

b. Staff Report. The Administrator shall prepare and submit a report to the Board of Adjustments regarding the proposed variance.

4. Schedule and Notice of Board of Adjustment Public Hearing.

a. Schedule of Board of Adjustment Public Hearing. Public hearing by the Board of Adjustment shall be scheduled within forty-five (45) calendar days of the date of completeness determination.

b. Publication of Notice of Board of Adjustment Public Hearing. The County shall arrange for notice of the Board of Adjustment public hearing on the application for variance to be published at least thirty (30) days prior to the date of the public hearing in a newspaper of general circulation and on the County's web site setting forth the time, date, and place of the Board of Adjustment public hearing.

c. Notice to Adjacent Property Owners. Not less than thirty (30) days prior to the date of the public hearing, the County shall notify property owners within 500 feet of the boundaries of the property for which the variance is being requested by sending written notice describing the variance request and setting forth the time, date, and place of the Board of Adjustment public hearing.

d. Posting on the Site. Posting on the property site will be at the discretion of the Board of County Commissioners following recommendation from the Land Use Administrator or Planning Commission.

5. Review and Action by Board of Adjustment. The application for variance shall be considered by the Board of Adjustment at a public hearing, after proper notice, in accordance with the provisions of Section 3-104.E. The Board of Adjustment shall approve, approve with conditions, or deny the application for variance based on the approval standards set forth in Section 9-102.C.

C. Standards for Approval of a Request for Variance. The Board of Adjustment must find that all of the following standards are met before a variance can be granted.

1. Special Circumstances Exist. One of the following circumstances or conditions exists with respect to the property:

a. Exceptional narrowness, shallowness, or shape of the property at the time of the enactment of the regulation in question.

b. Exceptional topographic conditions of the property.

c. Other extraordinary and exceptional situation or condition of the property.

2. Not a Result of the Actions of Applicant. The special circumstances and conditions have not resulted from any act of the Applicant.

3. **Strict Application Consequence.** Because of the special circumstances and conditions found pursuant to Section 9-102.C.1., the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on, the owner of the property.
4. **Variance is Necessary for Relief.** The granting of the variance from the strict application of the provisions set forth in this Code is necessary to relieve the owner of the peculiar and exceptional practical difficulties or exceptional and undue hardship.
5. **Not Detrimental to the Public Good.** Granting the variance will not cause substantial detriment to the public good.
6. **County Codes.** Granting the variance will not substantially impair the intent and purpose of this Code.

SECTION 9-103 APPEAL PROCESS FOR ADMINISTRATIVE INTERPRETATION OF THESE REGULATIONS

- A. Any person aggrieved by a final interpretation by the Administrator of terms or requirements of this Land Use Code may appeal to the Board of Adjustment.
- B. **Initiation.** The appeal shall be filed with the Administrator within thirty (30) calendar days of the date of the interpretation made by the Administrator.
- C. **Statement of Appeal and Review Procedures.**
 1. **Statement of Appeal.** The appellant shall submit a written statement of the Administrator's interpretation to be appealed, the date of that interpretation and the reasons why the appellant believes that the interpretation of the Administrator is incorrect, including any materials or evidence to support the appeal.
 2. **Public Hearing.** Public hearing by the Board of Adjustment shall be scheduled within forty-five (45) calendar days of the date the appeal was filed with the Administrator. The County shall arrange for notice of the Board of Adjustment public hearing to be published at least thirty (30) days prior to the date of the public hearing in a newspaper of general circulation and on the County web site setting forth the time, date and place of the Board of Adjustment public hearing. It is not necessary to post a notice of the hearing on the property or to mail notice of the hearing to adjacent property owners, and public notice shall be the responsibility of the County.
 3. **Review and Action by the Board of Adjustment.** The Board of

Adjustment shall review the Statement of Appeal and testimony by the Administrator at the Public Hearing. The Board of Adjustment shall determine the proper interpretation of the provision of the Code being appealed.

4. Review Criteria for Appeal of Administrative Interpretation. The Board of Adjustment shall consider the following criteria in hearing an appeal of an administrative interpretation.

- a.** The technical meaning of the provision being appealed.
- b.** Evidence as to the past interpretation of the provision.
- c.** The effect of the interpretation on the intent of this Code and the implementation of the Comprehensive Plan.

ARTICLE 10 DIVISIONS OF LAND

This Article contains the requirements for Subdivisions, Subdivision Exemptions, Cluster Subdivisions, and Boundary Line Adjustments.

SECTION 10-101 FEES FOR DIVISIONS OF LAND

A. Fee Schedule Established. Any application for Subdivisions, Subdivision Exemptions, Cluster Subdivisions, and Boundary Line Adjustments shall be accompanied by an application fee in accordance with the Fee Schedule adopted by a Resolution of the Board.) The application fee schedule shall reflect the minimum cost of reviewing and processing the application package, including costs of copying, mailings, publications, and labor.

1. The Administrator shall add to the application fee the estimated costs of any outside consultants, experts, and attorneys as the County deems necessary to advise it on the review and consideration of the application package.

B. Accounting of Fee. The County will deposit that portion of the application fee that is not necessary to cover immediate costs and expenses in an account. The County will obligate, encumber, or use such funds, from time to time, at its discretion, when necessary to cover the cost of review and consideration of the application. If costs associated with review and consideration of the application package exceed the funds available in the account, the Administrator shall notify the Applicant of the additional fee required to proceed with review and consideration of the application package.

SECTION 10-102 SUBDIVISION GENERAL REQUIREMENTS

A. Definition of Subdivision.

"Subdivision" means "any parcel of land...which is divided into two or more parcels, separate interests or interests in common, unless exempt. . .," as set forth in C.R.S. § 30-28-101(10)(a).

B. Statutory Exclusions from Definition of Subdivision.

1. The term "subdivision" and "subdivided land" shall not apply to any division of land that creates parcels of land each of which comprises thirty-five (35) or more acres of land and none of which is intended for multiple ownership.

a. These divisions do not require the County to approve a subdivision plat.

b. Land Use Changes that occur on parcels of land larger than thirty-five acres may require a Land Use Change Permit in compliance with this Code.

2. C.R.S. § 30-28-101(10) lists other divisions of interests in land to which the term “subdivision” and “subdivided land” do not apply.

C. Sale of Unplatted Lot Prohibited. No lots within a subdivision shall be sold until a subdivision plat has been approved by the Board and recorded in compliance with this Code.

1. Any subdivider who transfers legal or equitable title or sells any subdivided land before approval of a plat has been approved and recorded is guilty of a misdemeanor and may be fined between \$500 and \$1,000 for each parcel of, or interest in, subdivided land which is sold.

2. The Board has the power to bring an action to enjoin any subdivider from selling subdivided land before a plat is approved by the Board and properly recorded.

SECTION 10-103 SUBDIVISION APPLICATION SUBMITTAL REQUIREMENTS AND REVIEW PROCEDURES

Subdivision approval requires approval of a Preliminary Plan and Final Plat in accordance with this section. The Administrator may waive one or more of these materials if the Administrator determines that the information is not necessary to determine whether the information satisfies the applicable standards in this Article.

A. Preliminary Plan Application Submittal Requirements and Review Procedures.

1. Preliminary Plan Application Materials. The Applicant for a Preliminary Plan shall submit an application that contains the following information:

a. The name and address of the property owner(s) and of the Applicant(s) if other than the owner or owners, and the person or persons preparing the Preliminary Plan submittal materials.

(1) In the case of a corporate property owner or corporate Applicant, evidence of registration or incorporation in the State of Colorado.

(2) A list from the County Assessor’s office of current property owners of record and their complete mailing address

for property within five hundred (500) feet of the boundaries of the proposed subdivision.

(3) A list of the mineral estate owners and their complete mailing address, both onsite and located within five hundred (500) feet of the exterior boundary of the site. The list shall comprise mineral estate owners pursuant to C.R.S. § 24-65.5-103(1)(a)(I), as amended.

b. Site data in chart form presenting the total number of proposed residential lots, the net size of the average (mean) lot, minimum lot size, maximum lot size, types of land use proposed and area of land proposed for each such land use.

c. The total number of projected square feet of non-residential floor space to be included within the proposed subdivision.

d. A Preliminary Plat prepared by a professional land surveyor licensed in the state of Colorado and/or a professional engineer licensed in the state of Colorado including the following:

(1) The name or identifying title of the proposed subdivision.

(2) The date of preparation of the Plat, a north arrow, and a graphic scale in both numeric and bar graph form.

(3) The lengths of all arcs, radii, and central angles, chord lengths, and chord bearings for all curves.

(4) All requirements for land survey plats required by C.R.S. § 38-51-106, including all recorded and apparent rights-of-way and easements.

(5) Boundary lines with bearings and distances, and a legal description of the lot to be subdivided, certified by a professional land surveyor licensed in the state of Colorado.

(6) The location and principal dimensions of all existing and proposed streets, alleys, roads, rights-of-way and other easements and protective covenants, off-street parking areas, watercourses, streams, ponds, and other significant features of the natural and manmade landscape within and adjacent to the proposed subdivision.

- (a)** Such features should be labeled by their proper names, when such names exist or are known, and the use of all should be clearly shown.
- (b)** Easement widths must be shown. Right-of-way widths are to be shown at each leg of an intersection.
- (7)** The lot and street layout with lots and blocks numbered consecutively; the dimensions of all lots, open spaces, and public facility areas including the acreage shown to two decimal places; and all street and road names and the total acreage and number of lots being platted.
- (8)** The proposed sites, if any, for multi-family residential use, business use, commercial and industrial areas, and other public and non-public uses exclusive of single-family residential areas within the proposed subdivision.
- (9)** The location of and preliminary engineering for any existing or proposed sewers, water mains, culverts, storm drains, sidewalks, gutters, fire hydrants, and bridges, and the sizes and types thereof, along with the width and depth of pavement or sub-grading to be provided, the depth of burial of all underground lines, pipes and tubing and typical cross sections of the proposed grading of roadways and sidewalks.
- (10)** Design and layout of all water and sewer service lines, treatment facilities and other elements of the sanitary sewer system, including the location of soil percolation tests as applicable.
- (11)** The topography of the proposed subdivision at five (5) foot contours. At the discretion of the Administrator, alternate contour intervals can be used for all or part of a site where special slope or other conditions prevail. Elevations shall be based on current survey standard.
- (12)** The delineation of any known, identified, or designated one hundred (100) year flood plains and localized areas subject to periodic flooding. Mitigation measures, if any, proposed to overcome the consequences of periodic inundation shall also be included in the submission. The distance between the mean identifiable high-water mark of any creeks, streams, or rivers and the nearest proposed development within the site shall

also be shown.

(13) The delineation of the geological characteristics of the area with evidence regarding the extent and intensity of any geological, radiological, seismic, or other related hazards within or in close proximity to the proposed site. Mitigation measures, if any, proposed to overcome such geological, radiological, seismic, or other hazards shall also be included in the submission.

(14) All areas to be reserved for community or public uses and all areas to be dedicated to Phillips County along with any other areas to be used for open space and a statement describing how such reserved, dedicated, and open space lands shall be maintained.

e. Soil Suitability and Interpretation Information. Information developed from National Cooperative Soil Survey data, accompanied by a table of interpretation for the soil types shown on the soils map or equivalent qualified private research sources, along with a narrative description of the mitigating measures, if any, proposed to overcome soils limitations present on the site of the proposed subdivision.

f. Drainage and Erosion Control Plan. A plan showing existing and proposed grading for the site and description of practices that will be utilized to prevent wind erosion, water erosion, sedimentation, flooding, and run-off during both construction and operation of the proposed subdivision.

g. Noxious Weed Control Plan. A description of the measures for controlling noxious weeds existing on lots or that may become established as a result of the development.

h. Wastewater System. A description of the proposed wastewater treatment system, including location and size of leach field, sewer service lines, and treatment facilities. The Applicant shall provide proof that the system is in compliance with state standards and adequate to serve the subdivision including:

(1) Certification of compliance with state standards, prepared by a professional engineer.

(2) Letter of approval from Northeast Colorado Health

Department documenting that the wastewater system is adequate to serve the proposed use.

i. Water Supply System. A description of the source and capacity of the water supply, including location and size of well(s) and/or water lines to serve the proposed use. The Applicant shall provide proof of adequate physical and legal supply to serve the proposed subdivision for 300 years, including a letter from the State Engineer documenting that the proposed water supply is adequate to serve the proposed use.

j. Cost Estimates. Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required by the county.

k. Road Maintenance and Improvement Plan. A long-term Road Maintenance and Improvements Plan that includes provisions to address the applicable standards and a mitigation plan to address impacts to public roads caused by construction and operation of the proposed use.

l. Subdivision Improvement Agreement. Draft Subdivision Improvement Agreement on a form approved by the County.

m. Additional Materials. The Administrator also may request additional information that may be necessary to evaluate whether the Preliminary Plan meets all standards in Section 10-104.

2. Preliminary Plan Application Review Procedures.

a. Completeness Determination. The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required in this section. A determination that the application is complete is not a determination that the standards have been satisfied.

(1) Notification of Incompleteness. If the application is not complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

(2) Completeness Date. Once the application is complete,

the Administrator shall stamp the application with the date that it was determined to be complete and all-time frames within this Code pertaining to review of the application shall be based on the completeness date.

- b. Evaluation of Application by Administrator.** The Administrator shall review the application for compliance with the relevant standards and criteria set forth in this Article.
- c. Review by Referral Agencies.** The Administrator shall send copies of the application to any referral agencies and consultants deemed necessary by the County, including but not limited to the Colorado Geological Survey. The Applicant is responsible for paying the direct costs of review by referral agencies and outside consultants.
- d. Administrator Recommendation.** Within thirty (30) days of the date that the application was determined to be complete, the Administrator shall prepare a report that recommends approval, approval with conditions, or denial of the application for a Preliminary Plan. The timeframe for review of a Preliminary Plan may be extended by the Administrator to a total of sixty (60) days if review by outside consultants or legal counsel is required.
- e. Public Hearing by Planning Commission.** The Planning Commission shall review the Preliminary Plan application in a public hearing as follows.

 - (1) Schedule and Notice of Planning Commission Public Hearing.** The Administrator shall schedule the Preliminary Plan application for review by the Planning Commission at the first meeting for which the agenda can accommodate such a public hearing after determination of application completeness.
 - (2) Notice to Adjacent Property Owners.** Not less than ten (10) days prior to the date of the public hearing on the Preliminary Plan application, the County shall notify property owners within five hundred (500) feet of the exterior boundary of the site by sending a written notice describing the proposed division of land and setting forth the time, date, and place of the hearing. The Administrator may extend the distance of the notice up to two thousand five hundred (2,500) feet if the division of land is likely to have impacts within such a radius.

(3) Notice to Mineral Estate Owners. Not less than 30 days prior to the date of the Board hearing, the Applicant shall notify mineral estate owners on-site and within five hundred (500) feet of the boundaries of the site where the division of land will occur by sending a written notice by certified mail, return receipt requested, describing the proposed division of land; site location and legal description by section, township and range; name of Applicant; and setting forth the time, date and place of the hearing on the Preliminary Plan.

(4) Publication of Notice of Planning Commission Public Hearing. The Administrator shall arrange for notice of the public hearing on the Preliminary Plan application to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date, and place of the hearing.

(5) Planning Commission Public Hearing. The Planning Commission shall hold a public hearing to consider the Preliminary Plan application, and hear testimony and accept evidence regarding compliance with the relevant standards and criteria.

(a) Recommend Approval. The Planning Commission may recommend approval of the Preliminary Plan if the Planning Commission determines that the Applicant has proven that the Preliminary Plan satisfies all of the relevant standards and criteria contained in this Article.

(b) Recommend Denial. The Planning Commission shall recommend that the Preliminary Plan be denied if the Planning Commission determines that the Applicant has not proven that the Preliminary Plan satisfies all relevant standards and criteria contained in this Article.

(c) Recommend Conditional Approval. Instead of denial, the Planning Commission may approve the Preliminary Plan with conditions if the Planning Commission determines that the conditions would be necessary to ensure compliance with the relevant standards and criteria in in this Article.

f. Public Hearing and Action by Board of County

Commissioners.

(1) Schedule and Notice of Board of County

Commissioners Public Hearing. After the Planning Commission recommendation, the Administrator shall schedule the Preliminary Plan for review by the Board at the first meeting for which the agenda can accommodate such a public hearing.

(2) Notice to Adjacent Property Owners. Not less than ten (10) days prior to the date of the Board public hearing on the Preliminary Plan application, the County shall notify property owners within five hundred (500) feet of the exterior boundary of the site by sending a written notice describing the proposed division of land and setting forth the time, date, and place of the Board hearing. The Administrator may extend the distance of the notice up to two thousand five hundred (2,500) feet if the division of land is likely to have impacts within such a radius.

(3) Publication of Notice of Board of County

Commissioner Public Hearing. The Administrator shall arrange for notice of the Board of County Commissioners public hearing on the Preliminary Plan application to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date, and place of the hearing.

(4) Posting on the Site. Posting on the site will be at the discretion of the Board of County Commissioners following recommendation from the Administrator and Planning Commission.

(5) Board of County Commissioners Public Hearing. The Board of County Commissioners shall hold a public hearing to consider the Preliminary Plan application, and hear testimony and accept evidence regarding compliance with the relevant standards and criteria.

(a) Approval. The Board may approve the Preliminary Plan if the Board determines that the Applicant has proven that the Preliminary Plan satisfies all of the relevant standards and criteria contained in this Article.

(b) Denial. The Board shall deny the Preliminary Plan if the Board determines that the Applicant has not proven that the Preliminary Plan satisfies all relevant standards and criteria contained in this Article.

(c) Conditional Approval. Instead of denial, the Board may approve the Preliminary Plan with conditions if the Board determines that the conditions are necessary to ensure compliance with the relevant standards and criteria in in this Article.

B. Final Plat Submittal Requirements and Review Procedures.

1. Final Plat Submittal Materials. For those subdivisions applications where the Board has approved or conditionally approved a Preliminary Plan, an application containing the following information must be submitted to the Administrator:

a. The name and address of the owner(s) of record of the land being platted and the same information for the Applicant(s), if other than the owners, along with the name, address and seal of the certifying professional land surveyor licensed in the state of Colorado and the other individuals preparing the Final Plat.

b. Final Plat. A Final Plat that is consistent with the approved Preliminary Plan, is prepared by a professional land surveyor licensed in the state of Colorado and/or a professional engineer licensed in the state of Colorado, and contains the following information:

(1) Information in Preliminary Plat. The Final Plat will include all of information included on the Preliminary Plat except items listed in 10-103 A.1.d (9), (10), (11), (12), and (13).

(2) Drafting Requirements.

(a) The preferred method of drafting the Final Plat is at a scale of 1" = 20', 1" =50', or 1"= 100' by the use of permanent black ink in a stable reproducible drafting medium with outer dimensions of 24" by 36". In special instances other scales may be permitted with Administrator approval.

(b) If more than one sheet is used, label as 1 of 2 progressively as needed.

(3) Dedication Block. A legally acceptable land description and dedication block placed on the plat by the Applicant dedicating streets, rights-of-way, public sites, and other such features, consistent with the Subdivision Improvement Agreement.

(4) Surveyor's Statement. All requirements for land survey plats required by C.R.S. § 38-51-106, including all recorded and apparent rights-of-way and easements.

(5) Board of County Commissioner Approval. Signature block conforming to the County requirements.

(6) Stamp and signature by Notary and Owner's Certification.

(7) Additional Plat Notes. Other plat notes and submittal items as the Board of County Commissioners deem necessary to include on the Final Plat.

c. Subdivision Improvement Agreement and Protective Covenants. The final, recordable form of the Subdivision Improvement Agreement and any protective covenants presented in draft form and reviewed as part of the Preliminary Plan. The transfer to the County of dedicated land shall take place by a legally-acceptable instrument prior to or concurrent with Final Plat acceptance, but before recording of the Final Plat. If covenants are adopted a notarized copy must be filed with the County Office of the Clerk and Recorder.

d. Statement of Title to Property. A copy of a current certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado attesting to the accuracy and validity of the title to the property, and stating that the Applicant is the land owner or is duly authorized by the land owner(s) to plat such land.

(1) The certificate or certification shall also list all mortgages, lien judgments, easements, contracts, and agreements of record regarding the land to be platted. The Board of County Commissioners may require, at its discretion, that the holders of such mortgages, liens, judgments, easements, contracts, or agreements join in and approve the application for Final Plat before such Final Plat is accepted for review.

e. Payment of Property Taxes. Copy of certification from the County Treasurer's Office that all real property taxes applicable to the proposed subdivision have been paid up to the year in which approval is under consideration.

f. Final Compliance with Standards. A brief written description of how the proposed subdivision satisfies the applicable standards in this Article, including final evidence of compliance with the Preliminary Plan.

2. Final Plat Review Procedure.

a. Review of Final Plat. Following the approval or conditional approval of a Preliminary Plan, the following process will apply to review of a Final Plat for subdivisions.

(1) Compliance with Code. The Administrator shall determine whether the Final Plat is consistent with the Preliminary Plan and the subdivision Final Plat requirements.

(2) Evaluation of Application by Administrator. The Administrator shall not schedule the Final Plat for approval by the Board of County Commissioners unless the Administrator deems that the Final Plat is consistent with the Preliminary Plan and the subdivision Final Plat requirements.

(3) Board of County Commissioners Determination. The Board of County Commissioners will review the Final Plat and accompanying materials at a regular meeting.

(a) Approval. The Board shall approve the Final Plat if the Board determines that the Plat is consistent with the Preliminary Plan and the subdivision Final Plat requirements.

(b) Denial. The Board shall not approve a Final Plat if it is not consistent with the Preliminary Plan and the subdivision Final Plat requirements.

C. Recording of Plat. Within 60 days of the date of approval of the Final Plat by the Board, the Administrator shall file or oversee the filing of the plat in the Office of the County Clerk and Recorder. Approved protective covenants or declarations shall be recorded together with the applicable plat. The expense of the filing shall be borne by the Applicant.

SECTION 10-104 SUBDIVISION STANDARDS

A. Preliminary Plan Design Standards.

1. General Standards.

- a. The subdivision shall be designed to avoid placing an undue burden on the street system, storm drainage system, or other public facilities, utilities, and services on or adjacent to the proposed subdivision.
- b. The subdivision shall be designed to be coordinated with adjoining subdivisions with respect to alignment of streets, utility, and drainage easement rights-of-way, and reservation of open spaces.
- c. Any restrictions or covenants shall be indicated on the subdivision plat. Restrictive covenants shall be recorded in the office of the County Clerk and Recorder, and the form of such restrictive covenants be approved by the Administrator, County Attorney, and Board of County Commissioners. This applies also to any amendments or restrictive covenants proposed in the future.
- d. The proposed name of the subdivision shall not duplicate or too closely approximate phonetically the name of any other subdivision in Phillips County.
- e. The subdivision shall be designed to integrate building codes and other applicable regulations of the County.

2. Special Site Considerations.

- a. **Drainage / Stormwater Run-off.** Run-off shall be managed in accordance with all applicable County, state, and federal regulations. At a minimum, run-off shall be kept on the site in a stormwater detention system approved by the County in such a manner that would reasonably preserve the natural character of the area and prevent property damage, and waters in excess of historic run-off shall be prevented from leaving the site during construction and after site development.
- b. **Protection of Agricultural Lands.** The subdivision will not have a significant adverse impact on agricultural lands and agricultural operations.
- c. **Geology and Soils.** The subdivision shall be planned and

constructed recognizing the constraints imposed by surface drainage, subsurface water, bedrock, and erosive, unstable, or swelling soil conditions and other geologic conditions. Proposed cut-and-fill slopes for roads, building excavation, and other earth work must be based upon evaluations made by qualified soils engineer, civil engineer, or engineering geologist.

d. Erosion. The subdivision shall include erosion and sedimentation control measures that ensure that disturbed areas and soil stockpiles are stabilized during construction.

e. Revegetation. Disturbed areas shall be controlled within one growing season, pursuant to an approved revegetation plan.

3. Blocks.

a. The design of all blocks, including lengths, widths, and shapes, shall be based on:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;

(2) Needs for convenient and emergency access, circulation, and traffic safety; and

(3) Limitations and opportunities of topography for siting of structures and drainage.

b. Block lengths shall not exceed sixteen hundred (1600) feet, nor be less than four hundred (400) feet.

c. Pedestrian access shall be required to provide access links to neighborhood schools, playgrounds, shopping centers, and other community facilities where such facilities exist within reasonable walking distance of the subdivision.

4. Lots.

a. The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and use contemplated, and for future re-subdividing where appropriate.

b. Depth and width of lots shall be adequate to provide for the necessary private service and parking facilities required by the type of use contemplated.

- c. Lots shall not be smaller than 2.5 acres in size unless the lot will be served by a public wastewater treatment system or the Applicant demonstrates to the satisfaction of the County and Northeast Colorado Department of Health that a smaller lot size will not cause wastewater treatment and/or environmental health concerns, taking into consideration the proposed technology, soil conditions and topography, the proximity of drinking water wells, and related factors.
- d. Corner lots for all uses shall have extra width to permit appropriate building setback from, and orientation to, both roads.
- e. All lots and parcels shall have access to a public right-of-way or approved access agreement.
- f. Side lot lines shall be substantially at right angles or radial to road center lines.

5. Buildings.

a. Height Restrictions.

- (1) Maximum height of any residential structures shall be thirty-five (35) feet or two and one-half (2-1/2) stories.
- (2) Heights of structures shall comply with State and Federal Regulations, FAA and FCC Regulations. Maximum height of commercial or industrial structures within 100 feet of a residential/agricultural property shall not exceed 35 feet in height.
- (3) Heights of structures in overlay districts are subject to FAA and FCC Regulations and the requirements of any applicable overlay district.

b. Setbacks from Site Boundaries. Unless otherwise provided in these regulations, the following minimum setbacks from boundaries of the site shall be required for any structure located in a subdivision:

- (1) **Measurement.** Front setbacks shall be measured as the distance between the road right-of-way and the foundation of a structure, along a line at right angles to the right-of-way. Rear and side setbacks shall be measured as the distance between the nearest lot line and the

foundation of a structure, along a line at right angles to the lot line. Where no minimum front, side or rear yards are specified for large parcels, a setback line shall parallel the corresponding lot line.

(2) Residential Setbacks.

- (a)** Front yard setback: 35 feet.
 - i.** If there are dwellings on both abutting lots with front yards of less than the required setback, the front yard for the lot need not exceed the average front yard of the abutting lot and the required front yard depth.
- (b)** Side yard setback:
 - i.** Principal and accessory uses: 20 feet.
 - ii.** Mobile homes: 10 feet.
- (c)** Rear yard setback:
 - i.** Principal uses: 35 feet.
 - ii.** Accessory uses and mobile homes: 10 feet.

(3) Industrial/Commercial Setbacks.

- (a)** Front setback - 30 feet from road right-of-way.
- (b)** Side yard setback:
 - i.** 25 feet from adjacent residential/agricultural property.
 - ii.** 10 feet from adjacent commercial/industrial property.
- (c)** Rear yard setback:
 - i.** 25 feet from adjacent residential/agricultural property.

ii. 10 feet from adjacent commercial/industrial property.

(d) When a property fronts more than one road, the front setback is required from all roads.

6. Road and Parking Standards.

a. Road systems are to be laid out, designed, and constructed as specified by the County and any road construction standards it has adopted at the time of development to provide safe, convenient travel routes to, from, and within the subdivision.

b. Access shall be in conformance with access standards set forth in the most recent version of the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction.

c. Any roads serving the proposed subdivision shall have the capacity to accept the additional traffic generated by the use safely and efficiently and the use shall not cause traffic congestion or unsafe traffic conditions.

d. The construction and operation of the subdivision shall not cause damage to County roads or cause an increase in cost to the County to maintain the roads.

e. If any bridges are to be constructed within the Subdivision on public or private ways (roads, streets, paths, etc.), these are to be built at the developer's expense to Federal standards and in full compliance with the dredge and fill laws of state and federal jurisdictions.

f. Road naming shall conform to Phillips County standards. No road names shall be used which will duplicate or may be confused with the names of existing city streets in the immediate vicinity or other County roads other than to connect directly to existing city or county streets and roads. Road names shall be subject to the approval of the County Commissioners.

g. Parking shall be provided for and located in proportion and in relation to the activity generated, and shall generally conform to the *Phillips County Administrative Off-Street Parking and Loading Guidelines*.

7. Utilities.

a. In general, utility systems shall be arranged and located in such manner as to avoid cross-connections, minimize trenching, and adequately separate incompatible systems.

b. Telephone, electric, gas, and other similar utility lines and services shall be placed underground except where undue hardship or non-conformance with the overriding intent of these Regulations can be demonstrated.

(1) Transformers, switching boxes, terminal boxes, metering, roadway lighting, signal devices, gas regulators, compressor stations, or other similar facilities necessarily appurtenant to underground facilities may be placed above ground.

(2) Utility lines may be placed either within public road rights-of-way within the subdivision in accordance with County requirements or within easements or rights-of-way provided for the facilities.

c. The subdivider shall be responsible for all construction or installation charges.

d. Utilities are subject to all other applicable County, State and Federal regulations.

8. Community Facilities, Services, and Public Dedications.

a. Water. The subdivision shall be served by adequate water supply. The water supply shall be adequate in terms of quantity, quality, and dependability at buildout and shall apply the requirements of C.R.S 30-28-133(3)(d).

(1) If wells are proposed, the Applicant must submit the State Engineer determination of water availability and adequacy.

b. Wastewater. The subdivision shall be served by adequate wastewater service. If onsite wastewater treatment systems are proposed, those systems shall comply with state laws and regulations and shall receive a permit from Northeast Colorado Health Department in accordance with its requirements.

c. Transportation and Circulation. The subdivision shall provide for an adequate internal traffic circulation for the development.

d. Recreation and Open Space. The subdivision shall include the adequate dedication of public sites and open space to the character, extent, and location necessary for public use for roadways, schools, parks, flood channels, historic sites, scenic areas, and other public purposes necessitated by the subdivision.

(1) All open spaces and linear parks are to be linked, where practical, to similar facilities external to the subdivision.

(2) All dedicated open spaces shall be a minimum of ten (10) feet wide.

(3) Park sizes shall be adequate to serve, at a minimum, subdivision populations. Neighborhood or pocket parks may be designed to serve smaller populations.

e. Emergency Services. The preliminary engineering plans provide evidence to show that the proposed methods for fire protection and emergency services are sufficient.

(1) Fire hydrants shall be required in all subdivisions with central water systems and spaced not more than five hundred (500) feet apart and provided with adequate water pressure for fire-fighting purposes.

f. Solid Waste Disposal. The subdivision shall be served by adequate solid waste disposal service. If a location for the placement and storage of trash on the site is required, all trash storage areas are to be completely screened from public view and readily accessible for pick-up.

9. Easements and Monuments.

a. New Easements shall be planned so as to be free from conflicting legal encumbrances, to avoid unnecessary removal of trees or excessive excavations, and to be reasonably free from physical obstructions.

b. Easements which coincide with common rear lot lines shall be at least sixteen feet (16') wide, eight feet (8') of which shall be on each side of the common rear lot lines. Where an easement abuts a rear lot

which is not the rear lot line of another lot, or which is on the perimeter of the subdivision, the easement width shall be ten feet (10') or more. Side lot easements, where necessary, shall be at least five feet (5') in width. The use or uses for each easement shall be designated on the plat to avoid undesirable use conflicts.

(1) The developer is encouraged, in lieu of mechanically providing easements on each lot line, to propose a layout based upon a plan for providing the necessary utilities that will reduce the number and complexity of easements. Such a proposal is subject to approval by the by the County.

c. All survey work shall, at a minimum, comply with the standards contained in C.R.S. § 38-51-101 and 102 and this Code. All horizontal and vertical monuments shall be established by a professional Land Surveyor licensed in the State of Colorado.

d. At least one permanent benchmark cap shall be established in a new or replatted subdivision. The cap is not to be set in sidewalks, curbs, driveways, streets, utility poles or trees.

(1) The benchmark shall be located with at least 3 horizontal ties shown on the plat.

(2) The elevation and the datum used to establish the benchmark shall be recorded on the plat and submitted to the County Engineer.

10. Financial Assurance. Financial assurance in an amount necessary to guarantee completion of all completion of all public improvements, compliance with permit conditions, or other requirements shall be provided in the subdivision improvements agreement.

B. Final Plat Standards and Criteria.

1. Consistent with Preliminary Plan. The proposed Final Plat is consistent with the approved Preliminary Plan and the Applicant has complied with all conditions of Preliminary Plan approval, including engineering plans or approvals that were preliminary at the time of Preliminary Plan approval.

SECTION 10-105 SUBDIVISION EXEMPTIONS

A. Subdivision Exemptions Defined. The following divisions of land are subdivision exemptions and require a Subdivision Exemption Plat:

1. **Four (4) or Fewer Lots Served by Wells.** Divisions of land into four (4) or fewer lots.
2. **Correction Plat.** A plat of which the sole purpose is to correct one or more technical errors in an approved plat when the correction plat is consistent with the approved final plat.
3. **Consolidation Plat.** A plat which is designed to allow a merger of contiguous, previously-platted lots into one or more lots.
4. **Vacation of Subdivision Plat.**

B. Subdivision Exemption Standards. Applications for a Subdivision Exemption Plat must meet the following standards:

1. The proposed parcels shall each contain 35 acres or less and no less than 2.5 acres, unless served by a municipal water supply and/or septic system.
2. The proposed parcels shall have legal access, including for emergency and non-emergency purposes.
3. The proposed parcel must either be adjoining public access or an easement as shown on the plat.
4. Any newly-created parcels or uses shall be subject to the same restrictions or covenants as those imposed on the original lot at the time of the division that created the original lot.
5. The proposed division of land can and will be served by a water supply that is adequate for the use of the land in terms of quantity, quality, and dependability in conformance with the requirements of C.R.S 30-28-133(3)(d).

C. Subdivision Exemption Application Submittal Materials. For Applicants for division of land applying for an exemption from the definition of "subdivision," an application containing the following information must be submitted to the Administrator:

1. **Subdivision Exemption Plat.** A Plat prepared by a professional land surveyor licensed in the state of Colorado on mylar sheets measuring at least 18 x 24 inches and at most 24 x 36 inches that contains, at a minimum, the following information:
 - a. All of the requirements for land survey plats required by C.R.S.

§ 38-51-106, including all recorded and apparent rights-of-way and easements.

- b. Location, identification, and dimensions of parcels.
- c. Signature block conforming to the County requirements.

2. Compliance with Standards. A general statement of how the proposed Subdivision Exemption Plat satisfies the applicable standards in this Article.

D. Subdivision Exemption Review Procedure.

1. Review of Subdivision Exemption Application Materials. The following process will apply to review of Subdivision Exemption Plat Application.

a. Completeness Determination. The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required based on the submittal requirements. A determination that the application is complete is not a determination that the standards have been satisfied.

(1) Notification of Incompleteness. If the application is not complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

(2) Completeness Date. Once the application is complete, the Administrator shall stamp the application with the date that it was determined to be complete. All time frames within this Code pertaining to review of the application shall be based on the completeness date.

b. Evaluation of Application by Administrator. The Administrator shall review the application for compliance with the relevant standards and criteria set forth in this Article.

c. Review by Referral Agencies. The Administrator may send copies of the application to any referral agencies and consultants deemed necessary by the County. The Applicant is responsible for paying the direct costs of review by referral agencies and outside consultants.

d. Administrator Recommendation. Within thirty (30) days of the date that the application was determined to be complete, the Administrator shall prepare a report that recommends approval or denial of the Subdivision Exemption Plat application. The timeframe for review may be extended by the Administrator to a total of sixty (60) days if review by outside consultants or legal counsel is required.

e. Optional Planning Commission Work Session and Recommendation. Prior to the Board public hearing, the Administrator may schedule a Planning Commission work session if it deems a work session necessary because of the nature, scale, or intensity of the proposed Subdivision Exemption Plat.

f. Public Hearing and Action by Board of County Commissioners.

(1) Schedule and Notice of Board of County

Commissioners Public Hearing. Following the Administrator Recommendation and Planning Commission Work Session, if occurring, the Administrator shall schedule the Subdivision Exemption Plat application for review by the Board at the first meeting for which the agenda can accommodate such a public hearing.

(2) Notice to Adjacent Property Owners. Not less than ten (10) days prior to the date of the Board public hearing on the Subdivision Exemption Plat application, the County shall notify property owners within five hundred (500) feet of the exterior boundary of the site by sending a written notice to the last known address on file with the County Assessor describing the proposed division of land and setting forth the time, date, and place of the Board hearing. The Administrator may extend the distance of the notice up to two thousand five hundred (2,500) feet if the division of land is likely to have impacts within such a radius.

(3) Publication of Notice of Board of County

Commissioner Public Hearing. The Administrator shall arrange for notice of the Board of County Commissioners public hearing on the Subdivision Exemption Plat application to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date, and place of the hearing.

(4) Board of County Commissioners Public Hearing. The Board of County Commissioners shall hold a public hearing to consider the Subdivision Exemption Plat application, and hear testimony and accept evidence regarding compliance with the standards and criteria before taking an action on the application.

(a) Approval. The Board may approve the Subdivision Exemption Plat application if the Board determines that the Applicant has proven that the application satisfies all of the relevant standards and criteria contained in this Article.

(b) Denial. The Board shall deny the application if the Board determines that the Applicant has not proven that the application satisfies all relevant standards and criteria contained in this Article.

SECTION 10-106 CLUSTER SUBDIVISIONS

A. Plat Required. Cluster Subdivision pursuant to C.R.S. §§ 30-28-401-404 requires a Cluster Subdivision Plat.

B. Definition. A Cluster Subdivision is a statutorily established division of land that creates contiguous lots of less than thirty-five (35) acres each, for single-family residential purposes only, where at least two-thirds of the total area of the lot or lots is reserved for the preservation of open space.

C. Cluster Subdivision Application Submittal Materials. For Applicants for division of land applying for a Cluster Subdivision Plat, the following information must be submitted to the Administrator:

1. Cluster Subdivision Plat. A Plat prepared by a professional land surveyor licensed in the state of Colorado on mylar sheets measuring at least 18 x 24 inches and at most 24 x 36 inches that contains, at a minimum, the following information:

- a.** All of the requirements for land survey plats required by C.R.S. § 38-51-106, including all recorded and apparent rights-of-way and easements.
- b.** Purpose, width, and location of all easements.
- c.** Location, identification and dimensions of lots and blocks.

d. Location, dimensions and identification of driveways, roads, and trails. For roadways, curve radii shall be included.

e. Location and dimensions of any open space parcels and preserved areas, together with documentation as to how the area will be preserved, maintained, and protected.

2. **Compliance with Standards.** A brief written description of how the proposed cluster subdivision satisfies the applicable standards in this Article.

D. Cluster Subdivision Review Procedures. The following process will apply to review of Cluster Subdivision Application.

1. **Completeness Determination.** The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required based on the submittal requirements. A determination that the application is complete is not a determination that the standards have been satisfied.

a. **Notification of Incompleteness.** If the application is not complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

b. **Completeness Date.** Once the application is complete, the Administrator shall stamp the application with the date that it was determined to be complete. All time frames within this Code pertaining to review of the application shall be based on the completeness date.

2. **Evaluation of Application by Administrator.** The Administrator shall review the application for compliance with the relevant standards and criteria set forth in this Article.

3. **Review by Referral Agencies.** The Administrator may send copies of the application to any referral agencies and consultants deemed necessary by the County. The Applicant is responsible for paying the direct costs of review by referral agencies and outside consultants.

4. **Administrator Recommendation.** Within thirty (30) days of the date that the application was determined to be complete, the Administrator shall prepare a report that recommends approval or denial of the Cluster Subdivision Plat application. The timeframe for review may be extended by the Administrator to a total of sixty (60) days if review by outside consultants or legal counsel is required.

5. Optional Planning Commission Work Session and Recommendation. Prior to the Board public hearing, the Administrator may schedule a Planning Commission work session if it deems a work session necessary because of the nature, scale, or intensity of the proposed Cluster Subdivision.

6. Public Hearing and Action by Board of County Commissioners.

a. Schedule and Notice of Board of County Commissioners

Public Hearing. The Administrator shall schedule the Cluster Subdivision Plat application for review by the Board at the first meeting for which the agenda can accommodate such a public hearing.

b. Notice to Adjacent Property Owners.

Not less than ten (10) days prior to the date of the Board public hearing on the Cluster Subdivision Plat application, the County shall notify property owners within five hundred (500) feet of the exterior boundary of the site by sending a written notice describing the proposed division of land and setting forth the time, date, and place of the Board hearing. The Administrator may extend the distance of the notice up to two thousand five hundred (2500) feet if the division of land is likely to have impacts within such a radius.

c. Notice to Mineral Estate Owners.

Not less than 30 days prior to the date of the Board hearing, the Applicant shall notify mineral estate owners on-site and within five hundred (500) feet of the boundaries of the site where the development will occur by sending a written notice by certified mail, return receipt requested, describing the proposed division of land; site location and legal description by section, township and range; name of Applicant; and setting forth the time, date and place of the Board hearing on the Cluster Subdivision Plat application.

d. Publication of Notice of Board of County Commissioner

Public Hearing. The Administrator shall arrange for notice of the Board of County Commissioners public hearing on the Cluster Subdivision application to be published at least fourteen (14) days prior to the date of the public hearing in a newspaper of general circulation setting forth the time, date, and place of the hearing.

e. Posting on the Site. Posting on the site will be at the discretion of the Board of County Commissioners following recommendation from the Administrator and, optionally, the Planning

Commission.

f. Board of County Commissioners Public Hearing. The Board of County Commissioners shall hold a public hearing to consider the Cluster Subdivision Plat application, and hear testimony and accept evidence regarding compliance with the standards and criteria before taking an action on the application.

(a) Approval. The Board may approve the Cluster Subdivision Plat application if the Board determines that the Applicant has proven that the application satisfies all of the relevant standards and criteria contained in this Article.

(b) Denial. The Board shall deny the application if the Board determines that the Applicant has not proven that the application satisfies all relevant standards and criteria contained in this Article.

E. Cluster Subdivision Standards and Criteria. Applications for a Cluster Subdivision must meet the following standards:

1. Lots shall not be greater than seventeen and one-half (17.5) acres.
2. Buildable lots shall be clustered.
3. The Cluster Subdivision shall preserve contiguous open space for at least two thirds (2/3) of the Cluster Subdivision. The Applicant shall enter into a Restrictive Covenant Agreement that protects the open space from development or dedicate the open space to the public, consistent with C.R.S. §§ 30-28-401-404.
4. The open space shall be restricted to passive recreational uses or grazing.
5. The dedication of any lands for public use, roads, streets, or other purposes shall be indicated on the final plat. The dedication of any of these lands for public use shall be accepted by the Board by resolution following approval of the final plat.
6. The Cluster Subdivision Plat shall not adversely impact areas of value for wildlife habitat, scenic features of a rural landscape, historical agricultural uses, and significant environmental features.
7. The Cluster Subdivision shall not be located in geologic hazard areas.

8. The Cluster Subdivision shall preserve natural features of the site including unusual rock formations, lakes, trees, or other natural features that should be preserved for the common good of the parcel owners.
9. The proposed lots shall have legal access, including for emergency and non-emergency purposes.
10. Proposed divisions of land requiring new roads or excavations of roads shall require the written approval of adjacent property owner(s).
11. Water and wastewater supply will be adequate.
 - a. Where well water is used, the annual withdrawal rate shall not exceed the rate of one (1) acre-foot for each thirty-five (35) acres within the cluster development unless a water augmentation plan is approved. One well shall be allowed per residential lot in accordance with C.R.S. § 30-28-404.
 - b. The Applicant must provide a letter of approval from the Northeast Colorado Health Department documenting that the wastewater system is adequate to serve the proposed use.
12. Financial assurance in an amount necessary to guarantee completion of all completion of all public improvements, compliance with permit conditions, or other mitigation requirements in accordance with Section 3-106.

SECTION 10-107 BOUNDARY LINE ADJUSTMENT

Boundary Line Adjustment shall mean the adjustment of boundary lines between parcels without the creation of any additional parcels, and the deletion of existing boundary lines. Boundary Line Adjustments require administrative review and approval.

- A. Application Materials.** Applicants for a Boundary Line Adjustment must submit the following information to the Administrator:
 1. A written confirmation of the intent to effectuate the Boundary Line Adjustment, signed by owners of all affected parcels.
 2. A land survey plat that meets all of the requirements of C.R.S. § 38-51-106, including all recorded and apparent rights-of-way and easements.

3. Signature of the Chair of the Board of County Commissioners.

B. Administrative Review of Boundary Line Adjustment. The following process will apply to review an Administrative Boundary Line Adjustment.

1. Completeness Determination. The Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required based on the required materials in Section 10-111.A. A determination that the application is complete is not a determination that the standards have been satisfied.

a. Notification of Incompleteness. If the application is not complete, the Administrator shall notify the Applicant in writing of any materials that must be submitted before the application can be deemed complete. The time to review the application shall not begin to run until the completeness determination has been made.

b. Completeness Date. Once the Application is complete, the Administrator shall stamp the application with the date that it was determined to be complete and all time frames within this Code pertaining to review of the application shall be based on the completeness date.

2. Evaluation of Application by Administrator. Upon determination of completeness, the Administrator shall review the application for compliance with the applicable criteria in Section 10-113.

3. Optional Notice to Adjacent Property Owners. Notice to adjacent property owners may be required if the Administrator determines that the proposed use is likely to affect adjacent property owners. If notification is required, the notice shall be made by the County by sending a written notice describing the proposed Boundary Line Adjustment to property owners within five hundred (500) feet of the boundaries of site to be developed.

4. Decision by Administrator. Following the completeness determination, the Administrator may approve, approve with conditions, or deny the Boundary Line Adjustment based on whether it complies with the criteria in Section 10-113. The Administrator shall inform the Applicant of the decision in writing within five (5) working days of the decision.

C. Boundary Line Adjustment Criteria.

1. No new parcels shall be created.

2. No access to roads or utilities shall be lost.
3. Parcel mergers shall occur by recorded deed, which shall be provided to the County Administrator.
4. The Boundary Line Adjustment does not significantly change the existing character of the development or conflict with applicable sections of the Comprehensive Plan.

ARTICLE 11 ENFORCEMENT

SECTION 11-101 ENFORCEMENT AND INSPECTION.

- A. Authorization to Enforce.** The County Administrator is authorized to enforce the requirements of this Code in accordance with the requirements of Colorado law and as provided in this Article. Each enforcement remedy can be invoked by the County independently or in conjunction with any or all of the other enforcement remedies.
- B. Authorization to Inspect.** The Administrator is empowered to inspect and examine any building, other structure, or parcel or other area of land where there is reasonable cause to believe that a use exists or construction or alteration work is being performed, or has been performed, in violation of this Code.
- C. No Action for Persons Subject to Enforcement Orders.** No application shall be processed or approved pursuant to this Code, and no other permit shall be issued by the County, for property or permittee that is the subject of an existing enforcement action.
- D. Burden of Proof.** The burden of proof that a project or use is in compliance with this Code lies with the owner of the land on which the project is occurring.
- E. Enforcement Costs are Owner/ Permittee Responsibility.** The costs of any County investigation of the violation and the costs of the hearing and Board action, including incidental expenses of abating the violation, shall be the responsibility of the landowner and permittee, jointly and severally.
1. The term "incidental expenses" shall include personnel costs, both direct and indirect; costs incurred in documenting the violation; the actual expenses and costs to the County in the preparation of notices, specifications, and contracts, and in inspecting the work; and the costs of printing and mailing, and attorney's fees required.
 2. The County shall provide written notice of those costs to the permittee and landowner by first class mail at the last known address.
 3. If the landowner or permittee fails to pay those costs within 30 days of the County mailing, the costs shall become a lien against the subject land or any improvement on the subject land.

SECTION 11-102 NOTIFICATION, CORRECTION OF VIOLATION, AND FAILURE TO CORRECT

- A. Notification of Violation.** If a violation exists, the Administrator shall send

a notification to the occupant, developer, and owner (if not the same) by first class mail to each person's last known address and/or by hand delivery and by posting on the site in a clearly visible location near the entrance road to the property.

1. The notification shall state which requirements of this Resolution or of a permit are being violated, shall state the conditions that are to be satisfied for compliance, and shall state that the violator shall immediately initiate correction of the violation to be substantially complete within 30 days of receipt of the notification.

2. Such written notification is cumulative to, and not a prerequisite to, any other enforcement remedies available to Phillips County. The Administrator shall issue a written compliance letter only if the project or condition that is the basis of the notice has been remedied.

B. Response. Any person who receives notice of a violation of the Code, shall within thirty (30) days:

1. Restore the site to compliance and request an inspection of the property by the County to demonstrate that compliance has been attained, or

2. File a written request with the County for an extension of time to attain compliance, showing good cause for each extension. The extension(s) of time shall not exceed a total of ninety (90) days for any notice of violation.

C. Abatement. If the violation is not abated within thirty (30) days or longer if the County grants an extension of time, the County Attorney may cause the violation to be abated by County employees or by private contract, or by any other means provided by Colorado law. The costs of abating the violation shall be the responsibility of the violating party. If the violating party fails to pay, the costs shall become a lien against the land.

D. Cease and Desist. After notice of a violation and an opportunity to correct the violation, the County may halt work on any land where there is an uncorrected violation. All work shall immediately halt upon issuance of such order. If work continues, the development shall be in violation of this Code.

1. The stop order shall remain in effect until the Administrator determines that the activity or condition that is the basis for the stop order has been remedied, and the Administrator issues a written compliance order that is served by the County.

2. The Board may review and amend the stop order if the permittee or landowner demonstrates that such amendment is warranted and will not

result in an amendment to the subject permit. Any proposed amendment to the subject permit shall comply with all other applicable requirements of this Code.

E. Fines and Penalties. Fines may be assessed in an amount equivalent to the permit fee for the original unfiled application. The landowner is also responsible for any costs accrued by the County in attempts to contact the land owner. Every day (after the official notice is received) is considered a new offense until the Administrator receives a response.

F. Public Endangerment. The enforcement procedure may be accelerated where the County finds the public health, safety, welfare, or the environment could be endangered by a continuing violation. In such cases, the County Attorney shall take immediate action to end the danger to the public health, safety, welfare and the environment through, but not limited to *ex-parte* restraining orders as authorized under the Colorado Rules of Civil Procedure and/or action by local law enforcement or public safety agencies as deemed appropriate and necessary.

G. Cumulative Remedies. The immediate remedies in this section are cumulative to, and not a prerequisite to, any other enforcement remedies available to the County.

SECTION 11-103 REVOCATION OR SUSPENSION OF PERMIT

A. Basis for Suspension or Revocation of Permit. A Land Use Change Permit may be revoked or suspended if the Board finds that:

1. Misleading Information or Misrepresentation. The Land Use Change Permit was issued on the basis of erroneous or misleading information or misrepresentation; or

2. Violation of Conditions of Land Use Change Permit. The development or conduct of the activity violates terms or conditions of the Land Use Change Permit.

B. Procedure. If the Administrator determines there are reasonable grounds for the revocation or suspension of a Land Use Change Permit based on the findings set forth in Section 11-103.A, the Administrator shall set a hearing before the Board.

1. Notice of Hearing. Not less than twenty (20) calendar days prior to the hearing, the Administrator shall give the permittee written notice of the hearing. The notice shall state the grounds for revocation or suspension of the Permit and include the date, time, and location of the hearing.

2. Hearing and Decision of Board. The Board shall consider revocation

or suspension of a Land Use Change Permit at a public hearing. The decision of the Board to revoke or suspend a Land Use Change Permit shall be based on the findings set forth in Section 11-103.A, above.

a. Notice of Decision. The Administrator shall provide the permittee with written notice of the Board's decision by certified mail, return receipt requested, not later than thirty (30) working days following the Board's decision.

b. Record.

(1) Recording of Public Hearing. The Board shall record the public hearing by any appropriate means, including transcription, audiotape, or videotape.

(2) Record. The written or taped record of oral proceedings, the minutes of the Clerk, all applications, exhibits, and papers submitted in the Land Use Change Permit application and approval process and the decision of the Board shall constitute the hearing record. A copy of the hearing record may be acquired through the Administrator upon reasonable notice and payment of a fee to cover the costs of duplication of the record.

C. Cumulative Remedy. The Board's right to revoke or suspend a Land Use Change Permit shall be cumulative to any other remedy provided by law.

SECTION 11-104 JUDICIAL RELIEF

In addition to administrative remedies and enforcement the County may pursue judicial relief.

A. Injunction. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used in violation of the provisions of this Code, the Board, the district attorney or any owner of real property within Phillips County, in addition to other remedies provided by law, may commence legal action for an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

B. Specific Performance. The County may seek specific performance of the terms or conditions of any agreement or permit issued under this Code.

C. Civil Remedies. Any person violating any provision of this Resolution shall be

subject to all civil sanctions and penalties authorized by law, including C.R.S. § 30-28-124 and § 124.5 as they may be amended. For purposes of civil sanctions the County may seek, this Code shall be considered to be a zoning resolution. A civil sanction and penalty may be assessed for each day the violation exists.

D. Criminal Remedies. Any person violating any provision of this Resolution shall be subject to all criminal sanctions and penalties authorized by law, including but not limited to C.R.S. §§ 30-28-124, 124.5, and 16-13-301, *et seq.* as they may be amended. For purposes of criminal sanctions the County may seek, this Resolution shall be considered to be a zoning resolution. A sanction and penalty may be assessed for each day the violation exists.

E. Cumulative Remedy. The Board's right to seek civil and/or criminal remedies shall be cumulative to, and not a prerequisite to, any other enforcement remedies provided by this Code.

SECTION 11-105. RELATIONSHIP TO OTHER ORDINANCES.

The Administrator shall withhold issuance of Building Permits if the use of the property does not conform to the terms set forth in this Code and any other specified County ordinance where made applicable by the terms set forth in the specified ordinance.

ARTICLE 12 DEFINITIONS

SECTION 12-101 DEFINITION OF WORDS AND PHRASES

For the purposes of this Land Use Code, the following words and phrases are defined as follows:

1. **Accessory Use/Structure.** A use or structure that is:
 - a. Clearly incidental to and customarily found in connection with the principal use.
 - b. Subordinate in area, extent and purpose to the principal building or use.
2. **Adjacent.** Same as “abutting.”
3. **Adjacent Property Owner.** An owner of record, as recorded in the most current records on file in the County Assessor’s Office, of any estate, right, or interest in real property that immediately abuts, or is located immediately across a road or highway, waterway or other body of water from the site of a proposed Land Use Change.
4. **Administrator.** Phillips County Administrator, or their designee.
5. **Agriculture, agricultural activity.** The use of land for farming, dairying, pasturage, agritourism, horticulture, floriculture, viticulture, and animal and poultry husbandry. Agriculture may include the production of Agricultural Products, Agricultural Products Stores, or Agricultural-Related Operations only when such activities occur on the same site as the principal agricultural activity.
6. **Agricultural Products.** Products grown or raised on a property, intended for direct human or animal consumption or use, such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, bedding plants and wool. These products include but are not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, domestic elk, bison, mules, ducks, emus, horses, goats, llama, sheep, swine, ponies, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds and vegetables.
7. **Agricultural Products Store:** A location for the sale of Agricultural Products to an end consumer who directly receives

products on site; up to 10% of store sales may be non-Agricultural Products. Use does not include trucking operations, slaughterhouses, or processing facilities.

8. Agricultural-Related Operations. Operations including but not limited to field preparation, planting, fertilizing, cultivating, harvesting, tilling, herbicide/pesticide spraying, haymaking, bush hogging, crop storage, hauling, fencing, barn construction, ditching, snowplowing, tarping stacks, and equipment storage. Use does not include trucking operations, slaughterhouses, or off-site processing facilities.

9. Agricultural Structure. A structure located on a farm or ranch and used in an agricultural operation for the storage, repair and maintenance of farm or ranch equipment and supplies, or for the raising and/or storage of crops and livestock. These include, but are not limited to, barns, corrals, silos, workshops, equipment sheds, greenhouses smaller than 2500 square feet, storage and shelter structures. An agricultural structure does not include greenhouses that are 2500 square feet or larger, enclosed arenas or other enclosed areas when the activities that occur there provide services and/or goods to the general public on site, trucking operations, slaughterhouses, or off-site processing facilities.

10. Airport Influence Zone. Imaginary surfaces in an airport vicinity as established by the Federal Aviation Administration Regulation, part 77, 'Objects Affecting Navigable Airspace,' U.S. Department of Transportation, FAA, January 1975, as amended, for the purpose of controlling heights of objects in an airport vicinity, as codified under Subchapter E, 'Airspace,' of Title 14 of the Code of Federal Regulations, incorporated herein by this reference, or by other means accepted by the Board and as shown on the Airport Protection Surface maps adopted and incorporated into this Code for purposes of regulating the height of structures.

11. Animal Feeding Operation. As defined in Colorado Animal Feeding Operations Control Regulation, 5 CCR 1002-81, a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

- 12. Applicant.** The owner or duly designated representative of land for which a Land Use Permit has been requested.
- 13. Board of Adjustment.** The Board of Adjustment of Phillips County.
- 14. Board or Board of County Commissioners.** The Board of County Commissioners of Phillips County.
- 15. Building.** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property, excluding fences.
- 16. Cluster Subdivision.** Pursuant to C.R.S. §§ 30-28-401-404, a division of land that creates contiguous lots of less than thirty-five (35) acres each, for single-family residential purposes only, where at least two-thirds of the total area of the lot or lots is reserved for the preservation of open space. A cluster subdivision shall not create lots that would exceed one residential unit per seventeen and one-half (17.5) acre increment.
- 17. Commercial Use or Activity.** Any use or activity primarily devoted to business purposes such as the purchase, sale, lease or exchange of goods and/or the provision of services.
- 18. Commission.** The Phillips County Planning Commission.
- 19. Comprehensive Plan.** A plan, or any portion thereof, adopted by the Phillips County Board of County Commissioners establishing the goals, objectives and policies of the County.
- 20. Concentrated Animal Feeding Operations (CAFO).** Animal Feeding Operations that meet the definition of Large or Medium Concentrated Animal Feeding Operation in Colorado Animal Feeding Operations Control Regulation, 5 CCR 1002-81.
 - a.** 5 CCR 1002-81 defines a "Large CAFO" as an AFO that stables or confines more than 1,000 cattle or 700 mature dairy cows, for example.
 - b.** 5 CCR 1002-81 defines a "Medium CAFO" as an AFO that stables or confines 300-999 cattle or 200-699 mature dairy cows, for example.
- 21. County.** The County of Phillips, State of Colorado.

- 22. Development.** Any activity or construction, excluding normal agricultural activities, that changes the basic character or use of the land.
- 23. Domestic Animal Feeding Operation.** An Animal Feeding Operation that stables or confines more than 10 animals (other than aquatic animals) and less than the threshold of a Medium CAFO in 5 CCR 1002-81 which includes 299 cattle or 199 mature dairy cows.
- 24. Dwelling Unit.** One or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary and sleeping facilities.
- 25. FAA (Federal Aviation Administration).** The federal agency responsible for aircraft safety.
- 26. Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of watercourses, or the unusual and rapid accumulation or runoff of surface waters from any source.
- 27. Floodplain.** An area adjacent to the stream, which is subject to flooding as the result of the occurrence of an intermediate regional flood and which is so averse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:
- a. Mainstream floodplains;
 - b. Debris-fan floodplains; and
 - c. Dry wash channels and dry wash floodplains.
- 28. Geologic Hazard.** A geologic phenomenon which is so averse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:
- a. Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;
 - b. Seismic effects;
 - c. Radioactivity; and

d. Ground subsidence.

29. Grading of more than 500 Cubic Yards. Movement of more than 500 cubic yards of material, except that the following are not considered to be grading of more than 500 Cubic Yards for purposes of this Land Use Code.

a. Normal grading activity associated with agriculture, allowed mining activity, or foundation construction.

b. Normal grading activity associated with trail or road construction by a governmental entity on publicly acquired open space land in accordance with an open space management plan approved by the Board of County Commissioners.

30. Hazard. A significant source of risk, danger or peril resulting from natural phenomena or conditions including those precipitated or caused by human activities.

31. Height (Building). The vertical distance from the “grade” to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average heights of the highest gable of a pitch or hip roof.

32. Home Occupation. An occupation carried on within a dwelling or accessory building by members of the family occupying the dwelling with no servant, employee or other person being engaged, provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

33. Hub Height. The distance measured from ground level to the center of the turbine hub.

34. Impact. The direct and indirect effect or consequence of the proposed project.

35. Industrial. Any manufacturing operation or industrial use.

36. Industrial Use or Activity. Manufacturing, fabrication storage, processing and shipping facilities; mineral extraction and production or processing; auto body repair and maintenance shops; truck stops; facilities of public utilities; solid and hazardous waste disposal sites; airports and similar activities or uses commonly known as industrial in nature.

- 37. ISDS System.** An individual sewage disposal system as defined by the State of Colorado and the County ISDS regulations.
- 38. Land Use.** The purpose for which any building, land or structure is designed, maintained, renovated, occupied, or used.
- 39. Land Use Change.** Any development, grading, construction, activity, or operation that changes the basic character or use of the land.
- 40. Land Use Change Permit.** A permit, issued by the County, required for any land use activity subject to this Code.
- 41. Lot.** See Parcel.
- 42. Major Electrical or Natural Gas Facilities.** Major electrical or natural gas facilities as defined by C.R.S. § 29-20-108(3) that are subject to Public Utilities Commission jurisdiction.
- 43. Manufactured Home/ Mobile Home.** A structure, transportable in 1 or more sections, which, when erected on site, is 320 square feet or more, and which is built on a permanent chassis. Such homes are designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and contain the necessary plumbing, heating, air-conditioning and electrical systems.
- a.** A home which does not meet the minimum size requirements is a manufactured home if it either 1) is certified as such by HUD pursuant to the federal Manufactured Home Construction and Safety Standards Act, 41 U.S.C. 778 5401, et. seq., as amended, or (2) complies with the NFPA 501B/ANSI A119.1 (1973, 1974 and 1975 editions) if constructed prior to 1976.
 - b.** For the purpose of this Code a Mobile Home and Tiny Home shall be considered a Manufactured Home.
 - c.** Travel trailers, camper trailers, campers or self-contained motor homes or camper buses shall not be considered a Manufactured Home.
- 44. Mining Operation.** According to C.R.S. § 34-32-103(80), the development or extraction of a mineral from its natural occurrences on affected land. The term “mining operation”

includes, but is not limited to, open mining, in situ mining, in situ leach mining, surface operations, and the disposal of refuse from underground mining, in situ mining, and in situ leach mining. The term "mining operation" also includes the following operations on affected lands: Transportation; concentrating; milling; evaporation; and other processing. The term "mining operation" does not include: The exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe; the development or extraction of coal; the extraction of geothermal resources; smelting, refining, cleaning, preparation, transportation, and other off-site operations not conducted on affected land; or the extraction of construction material where there is no development or extraction of any mineral.

45. Mineral Estate Owner. The owner or lessee of a mineral estate underneath a surface estate that is subject to an application for development.

46. Minor Expansion of Concentrated Animal Feeding Operations. Expansion of facilities that does not increase the capacity of the facility by more than 33% or 100 animals over the existing capacity, whichever is less, as of the date of approval of this document.

47. Mobile Home. See definition of "Manufactured Home/ Mobile Home."

48. Natural Hazards. Mudslides, subsidence areas, floodplains, seismic faults, rockslides, erosion and other naturally occurring phenomena that can pose hazards to life or property.

49. Nonconforming (Use/Structure). A land division or lot, building or structure, or use of land legally existing at the time of enactment of these Regulations and which does not conform to these Regulations. Such land divisions, buildings or structures, or use of the land are "grandfathered" and subject to the terms and provisions of Article 7 of these Regulations.

50. Outside Storage. The outside placement of items, including but not limited to vehicles that are inoperable, and mobile homes not connected to utilities not on a permanent foundation, for a period of more than twenty-four hours.

51. Parcel. A plot or tract of land which is the subject of a Land Use

Permit application, land use activity proposal, or which is occupied by a structure, together with the yards and other open spaces required by these regulations.

52. Preliminary Plat (Subdivision). A map of a proposed land subdivision, prepared in conformance with Section 10-103.A.1.d. of these Regulations, that shows the character and proposed layout in sufficient detail to clearly illustrate the proposal for development.

53. Principal Use. The primary use of the land.

54. Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off street parking area, lot improvement, or other facility which benefits the public.

55. Public Utility. Every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, water corporation, person, or municipality operating for the purpose of supplying the public for domestic, mechanical, or public uses and every corporation, as further defined in C.R.S. § 40-1-103.

56. Road. See Street.

57. Significant. Deserving to be considered; important; notable and not trifling.

58. Single Family Dwelling. A detached building which is occupied or which is arranged, designed, and intended to be occupied, by one family and containing only one kitchen plus living, sanitary and sleeping facilities, but not including hotels, motels, tents, seasonal vacation cabins, camper trailers, or other structures designed or used primarily for temporary occupancy. A single-family dwelling shall also include a mobile home that is installed and has received permits in accordance with the provisions of these regulations. A single-family dwelling must have indoor plumbing and be serviced by adequate water, sewer and public utility systems.

59. Solar Energy System, Residential. A single residential or small business-scale solar energy conversion system consisting of roof panels, ground-mounted solar arrays, or other solar energy fixtures, and associated control or conversion electronics with a rated capacity of less than 500 kW, occupying no more than 2.5 acres of land, and that will be used to produce utility power to on-site uses.

60. Solar Energy System, Utility-Scale. A utility-scale solar

energy conversion system consisting of many ground-mounted solar arrays in rows, and associated control or conversion electronics, occupying more than 30 acres and that will be used to produce utility power to off-site customers.

61. Solid Waste Disposal Site and Facility. The location and facility at which the collection, storage, treatment, utilization, processing, or final disposal of solid wastes occur.

62. Street. A county road, state highway, public road, street or alley, or private thoroughfare which affords primary access to abutting property.

63. Structure. Anything constructed or erected which requires location on the ground or attachment of something having a location on the ground. "Structure" shall include immobilized mobile homes and swimming pools.

64. Subdivision. Subdivision shall have the meaning given in C.R.S. § 30-28-101(10)(a).

65. System Height. The combined height of the tower, the wind turbine and any blade extended at its highest point, measured from ground level.

66. Telecommunications Facilities. Includes but is not limited to facilities associated with the following types of telecommunications: cellular telecommunications, low power mobile radio service telecommunications facility.

67. Unsafe Structure. A structure, building or wind turbine which, in the determination of the Administrator is:

a. In a condition presenting a substantial danger or hazard to public health, safety, or welfare.

b. Is a dilapidated building which is unused by the owner or uninhabited because of deterioration or decay, and constitutes a fire hazard or subjects adjoining properties to a danger of damage by storm, soil erosion, or rodent infestation, or is a place frequented by trespassers and transients seeking a temporary shelter or hideout.

68. Use. The purpose for which any land, structure or building is designed, maintained, or occupied.

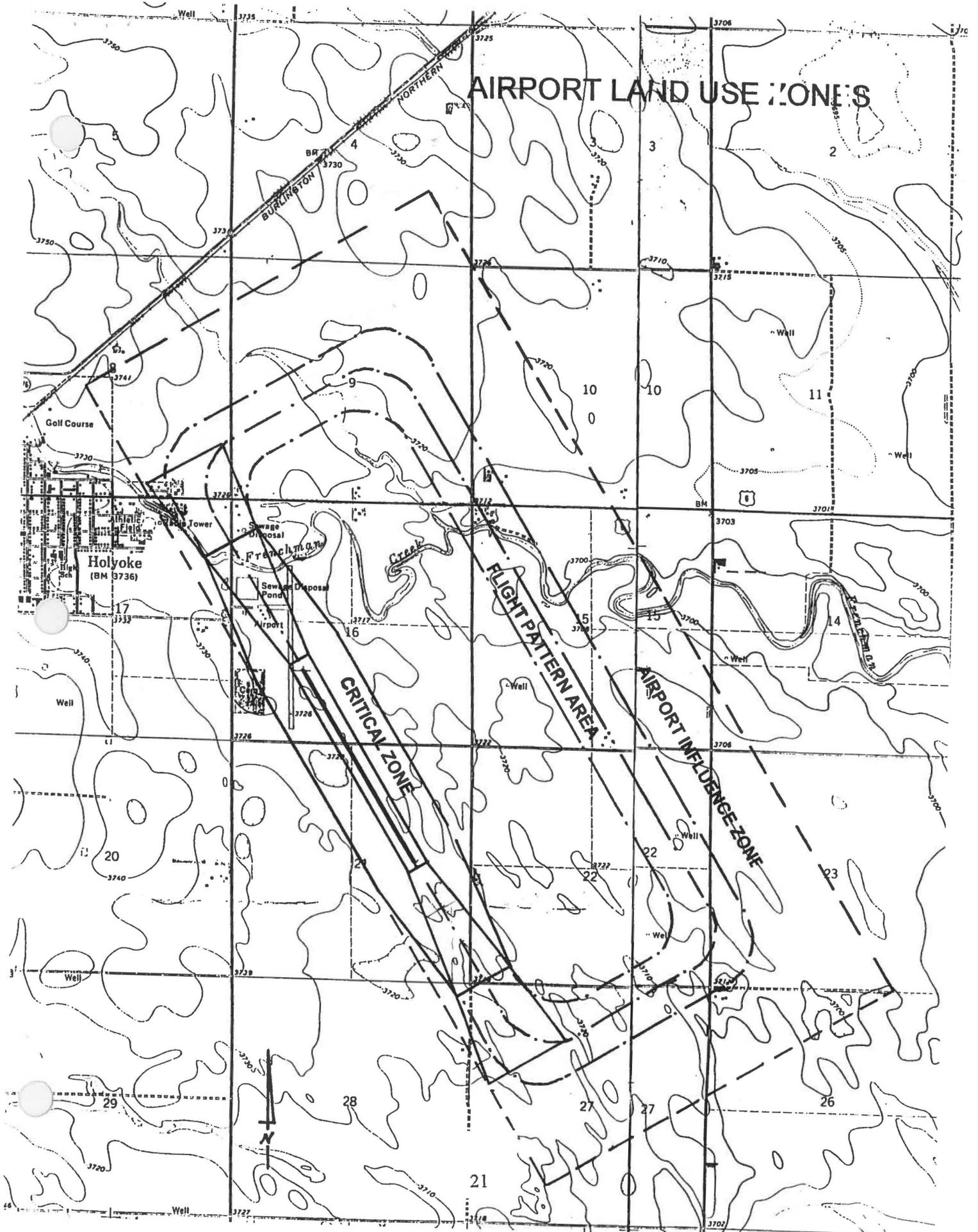
69. Vested Property Right. The right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan.

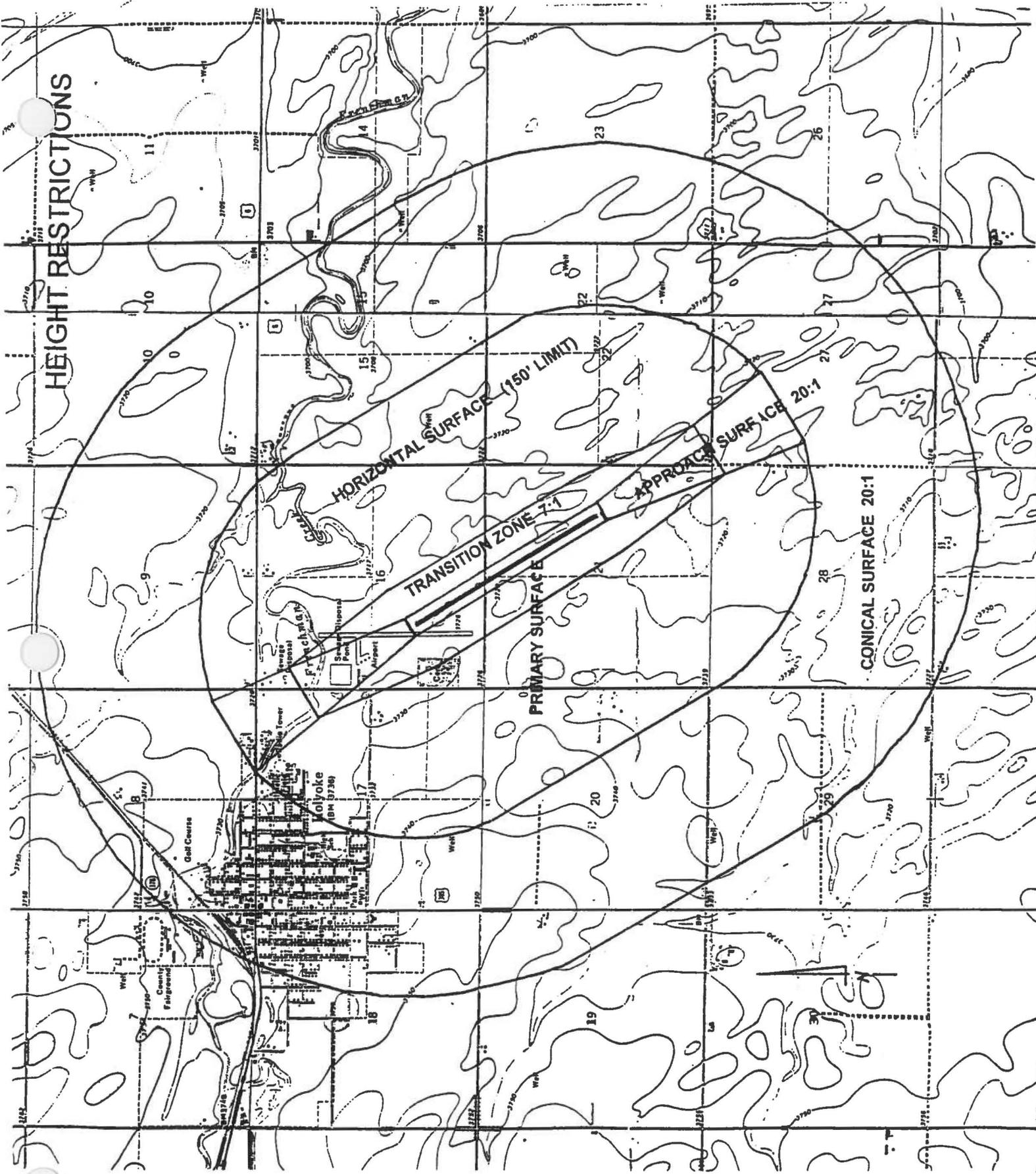
70. Wind Energy Facility. An electricity generating facility consisting of one or more Wind Turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires and other Wind Energy Accessory Buildings, whose main purpose is to supply electricity to off-site customer(s). Non-permanent MET Towers installed to evaluate wind resources will not alone constitute a Wind Energy Facility until such time as siting for permanent MET Towers, Wind Turbines or Wind Energy Accessory Buildings is proposed.

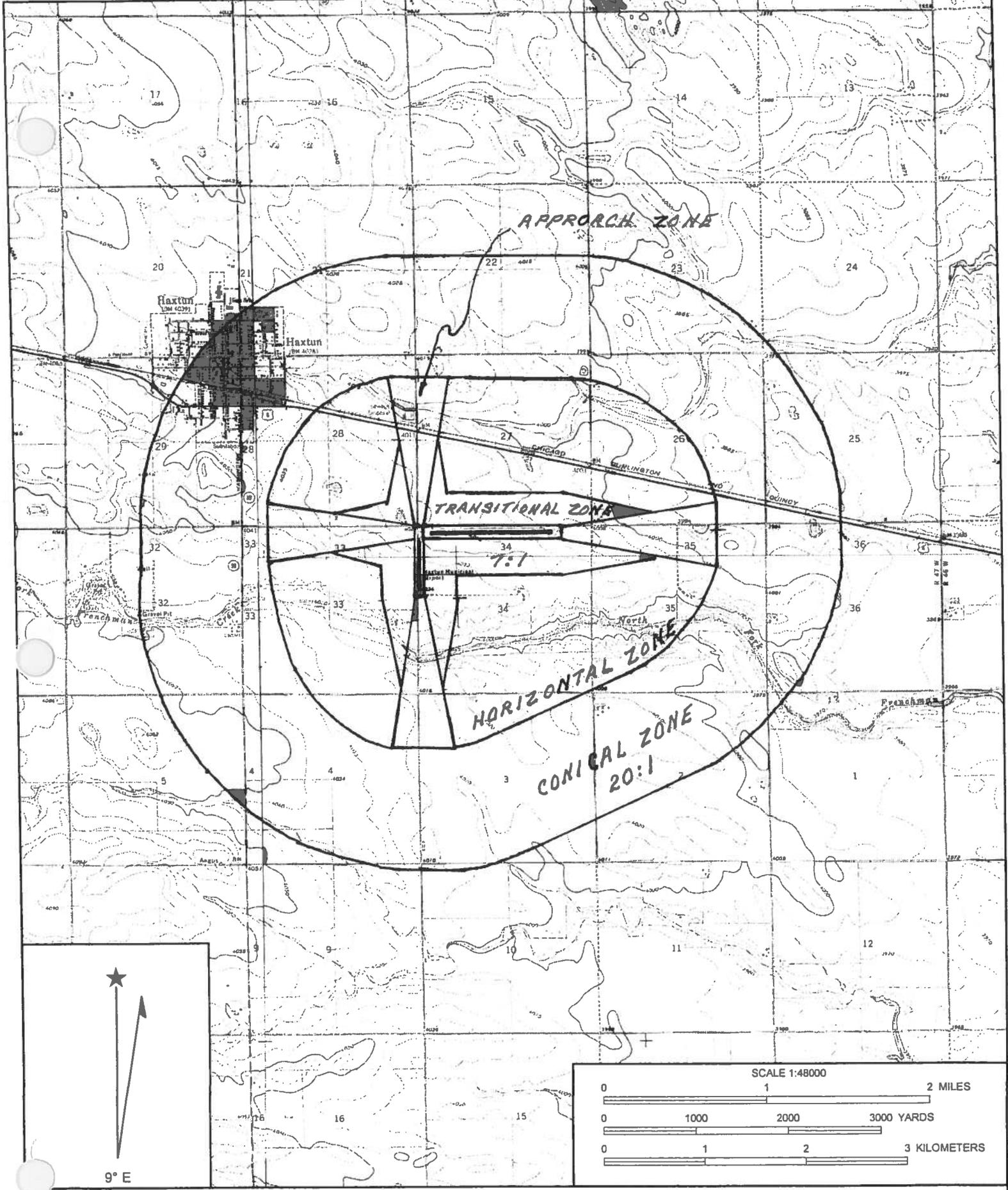
71. Wind Energy Facility, Residential. Wind electric power generation systems up to 500kW, used on-site by the system owner to reduce or eliminate dependence on grid electricity.

72. Yard. The space on the same lot as a building or structure that is unoccupied and open to the sky.

Holyoke Airport Overlay District and Influence Zones



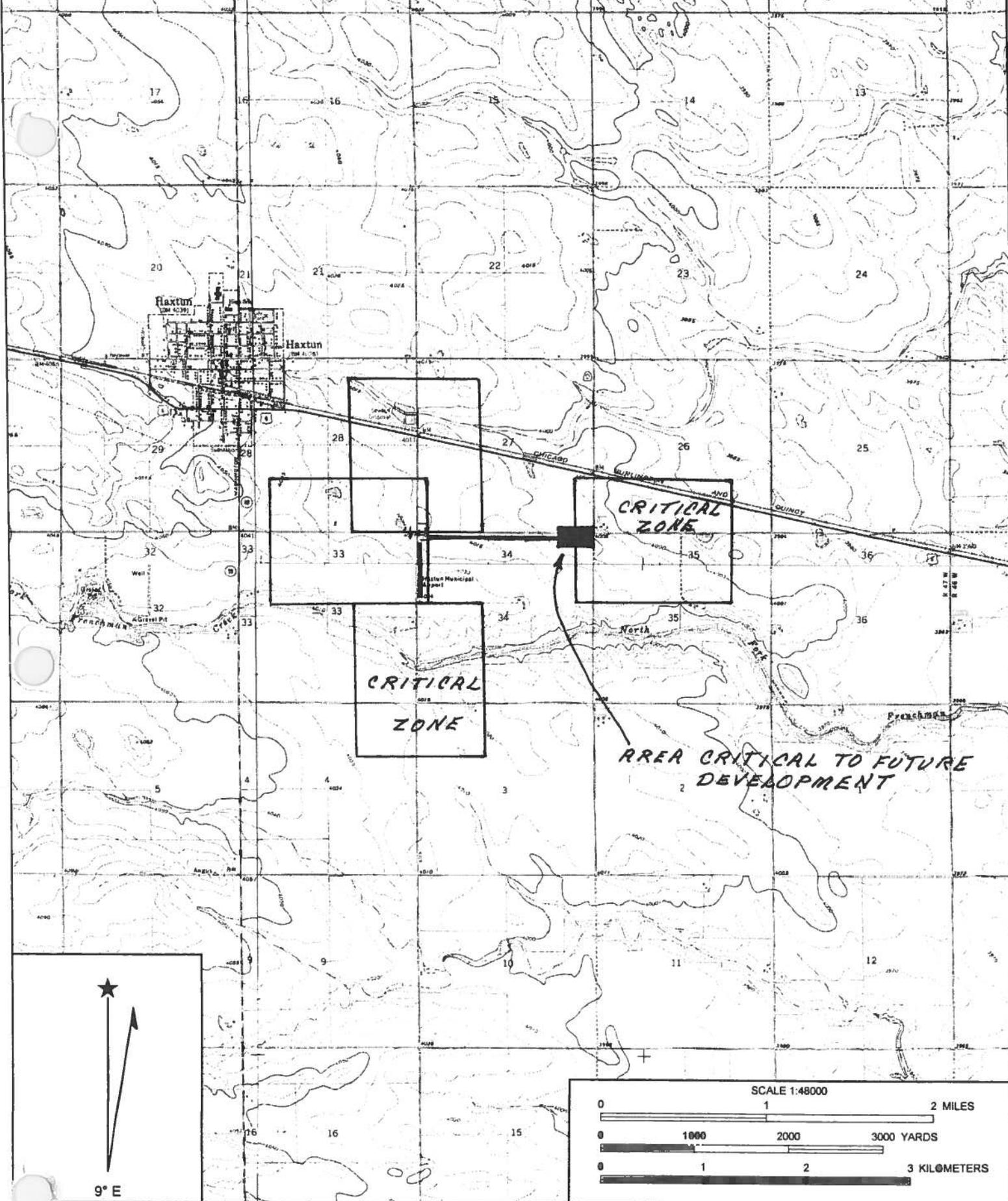




Name: HAXTUN SE
 Date: 7/28/2006
 Scale: 1 inch equals 4000 feet

Location: 040.6217762° N 102.5981842° W
 Caption: Haxton Airport Height Limitations

Haxton Airport Overlay, Height Restrictions



Name: HAXTUN SE
 Date: 7/28/2006
 Scale: 1 inch equals 4000 feet

Location: 040.6217762° N 102.5981842° W
 Caption: Haxtun Airport Critical Zones

Haxtun Airport Overlay, Critical Zones (aka Influence Zones)