

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PHILLIPS COUNTY, COLORADO,
ESTABLISHED A "RIGHT TO FARM AND RANCH" POLICY

WHEREAS, the changing nature of land use and demography in particular parts of, and throughout, Phillips County have increased the incidence of conflicts between agricultural operators and visitors to and residents of rural Phillips County, and have begun to threaten the economic viability of agricultural operations; and

WHEREAS, examples of such conflicts include, but are not limited to: harassment of livestock and livestock losses due to free roaming dogs; trespass by livestock; livestock on highway and County roads; leaving gates open; fence construction and maintenance; chemical applications; maintenance of ditches across private property, storm water management; burning of ditches; complaints about noise, dust and odor; disposal of dead animals; weeds and pest control; smoke from burning ditches; the time of day of farm operations; and trespass

WHEREAS, it is desirable to protect agricultural operators from complaints about legal and non-negligent agricultural operations and activities; and

WHEREAS, it is desirable to educate the public and non-agricultural residents and visitors to Phillips County about the existence, validity, and importance of the County's agricultural operations and activities; and

WHEREAS, it is desirable that the Board of County Commissioners provide a forum for the informal and non-binding resolution of disputes between agricultural operators and non-agricultural residents and visitors to Phillips County; and

WHEREAS, pursuant to this resolution the Board shall attempt and aspire to:

- a. conserve, enhance, and encourage ranching, farming, and all manner of agricultural activities and operations within and throughout Phillips County where appropriate:
- b. minimize potential conflicts between agricultural and nonagricultural users of land in the County;
- c. educate new rural residents and long-time agricultural operators alike to their rights, responsibilities, and obligations relating to agricultural activities; and
- d. integrate planning efforts to provide for the retention of traditional and important agricultural lands in agricultural production as well as the opportunity for reasonable residential and other development; and

WHEREAS, the Board of County Commissioners ("the board"), pursuant to C.R.S. 30-11-107(1)(bb), has the power to provide for the preservation of cultural, historic, and architectural history within the County; and

WHEREAS, the Board, pursuant to C.R.S. 29-20-104(1)(c), (g) & (h), has the authority to plan for and regulate the use of land by preserving areas of historical importance, regulating the use of land on the basis of its impact on the community or surrounding areas, and otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

WHEREAS, pursuant to Article 3.5, Title 35, C.R.S., it is the declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products; and further that the general assembly recognizes that when nonagricultural land uses extend into agricultural areas, agricultural operations are forced to cease operations and many others are discouraged from making investments in farm improvements; and that it is the purpose of the Article to reduce the loss to the State of Colorado of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance; and is conforming with existing state regulations; and

WHEREAS, the Board has determined that it is desirable and beneficial to the citizens of Phillips County to establish and adopt by resolution a Right to Farm and Ranch Policy involving the elements of protection of agricultural operations, education of property owners and the public, and resolution of disputes; and

WHEREAS, the establishment and adoption of such a Right to Farm and Ranch Policy would serve and promote the public health, safety, and welfare of the citizens of Phillips County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Phillips County, Colorado, that:

1. Policy Statement. It is the policy of the Board of County Commissioners of Phillips County, as set forth herein that: Ranching, farming, and all manner of agricultural activities and operations within and throughout Phillips County are integral elements of and necessary for the continued vitality of the County's history, economy, landscape, open space, lifestyle, and culture. Given their importance to Phillips County, Northeastern Colorado, and the State, agricultural lands and operations are worthy of recognition and protection.
 - a. Colorado is a "Right-to-Farm" State pursuant to C.R.S 35-3.5-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds, and smells of Phillips County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector. Those with an urban sensitivity may perceive such activities, sights, sounds, and smells only as inconvenience, eyesore, noise, and odor. However, State law and County policy provide that ranching, farming, or other agricultural activities and operations within Phillips County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odors, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, and one or more of which may naturally occur as a part of legal and non-negligent agricultural operations.
 - b. In addition, all owners of land, whether Agricultural Business, Farm, Ranch or Residence, have obligations under State law and County regulation with regard to the maintenance of fences, livestock must be fenced out (open range). Landowners are responsible for controlling water application, controlling of weeds, keeping pets under control, using property in accordance with zoning, and maintenance of resources of the property

wisely (water, soil, animals, plants, air, and human resources). Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County.

- c. Conflicts include, but are not limited to: trespass; harassment of livestock and livestock losses due to free roaming dogs; trespass by livestock, livestock on highways, county and private roads; leaving gates open; fence maintenance; harvest and transportation of agricultural and silvicultural crops; agricultural and prescribed burning; complaints of noise, dust, aesthetics, and odor resulting from production and processing operations; disposal of dead animals; weed, pest and predator control.
 - d. The Board of County Commissioners shall establish a dispute resolution procedure with mediators to informally resolve conflicts that may arise between landowners or residents relating to agricultural operations or activities.
 - e. When rural residents cannot come to an agreement or understanding about fences, ditches, livestock, or other agricultural issues, this may be the forum used to resolve disputes.
2. Public Education and Information Campaign. The Board, with assistance from the Colorado State University Cooperative Extension-Phillips County Office and County Planning Staff as needed, shall support efforts to educate and inform the public of the Right to Farm and Ranch Policy.
3. People need to be aware that children and adults are exposed to different hazards in the country than in an urban or suburban setting. Farm equipment, ponds and irrigation ditches, electrical power for pumps / center pivot operations and electrical fences, traffic, use of agricultural chemicals, weeds such as: sand burs, puncture vines that cause mechanical injury, territorial farm dogs, and livestock present real threats to children and adults. Controlling children's activities is important, not only for their safety, but also for the protection of the farmer's livelihood. Open irrigation waters are essential to agriculture and have legal right of ways that must not be obstructed. Open ditch operations often result in seepage and spills of storm waters in unpredictable locations and times.
4. It must also be recognized that public services in a rural area are not at the same level as in an urban or suburban setting. Road maintenance may be at a lower level; county graveled roads, no matter how often they are bladed, will not provide the same kind of surface expected from a paved road; roads within subdivisions may be the private responsibility of the homeowners to maintain; mail delivery may be interrupted or not be as frequent; utility services may be nonexistent or subject to interruption; law enforcement, fire protection, and ambulance service will have considerably longer response time due to the distance that must be traveled; fire protection and ambulance services are provided by volunteers who must leave their jobs and families to respond to emergencies; snow may not be removed from county roads for several days after a major snow storm; snow removal from roads in subdivisions may be the private responsibility of the homeowners; and first priority for snow removal will be school bus and mail routes.

5. Property Owner Notification. The Board shall notify the owners of land within the County by the following means:
 - a. Whenever a building permit is issued for new construction in the unincorporated area of Phillips County, the Planning Department shall provide owner educational material.
 - b. The board shall provide a copy of this policy for subdivision applicants and related land use approval and a note to that effect shall appear on any Plat outside municipalities' growth areas so approved.
 - c. In addition, the Board shall encourage title companies and real estate brokers county-wide to voluntarily disclose the Policy to purchasers of real property in the County.
6. Phillips County should utilize existing and develop needed intergovernmental agreements with the cities, towns and other governmental agencies to ensure that this resolution is effective in those agricultural areas that are within the limits of Phillips County.

ADOPTED this ___ day of _____, 2015.

BY THE BOARD OF COUNTY COMMISSIONERS OF PHILLIPS COUNTY, COLORADO.

Harlan Stern, Chairman