

SECTION 3 – ZONING REGULATIONS

3.1 DISTRICT REGULATIONS

3.1.1 Zoning Map:

3.1.1.1 Zoning Map Adopted

The Board of County Commissioners hereby provides for the adoption of the “Zoning Map of Archuleta County, Colorado,” a true and correct copy of which shall be maintained on file in the office of the County Clerk and Recorder.

3.1.1.2 Transition to Zoning Districts

On and after the date of adoption by the Board of County Commissioners of the zoning map described at Section 3.1.1 and any amendment thereto, all real property within the unincorporated area of Archuleta County described in such map or amendment thereto shall be included within the Zoning Districts described at Section 3.1.2., and, in some cases, also within one or more of the Overlay Districts described at Section 3.1.5, all as shown on the Zoning Map of Archuleta County, Colorado.

3.1.1.3 Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of zoning districts to be shown on the official Zoning Map, the following shall apply:

- a. Centerlines of road boundaries shall follow the centerlines of roads, highways, and /or alleys.
- b. Platted lot line boundaries shall follow the platted lot line.
- c. County line boundaries shall follow the County limits.
- d. Railroad line boundaries shall be midway between the main track(s).
- e. Shore line boundaries shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of rivers, streams, canals, ditches, or other bodies of water shall be construed to follow the center lines.

3.1.2 Zoning Districts Established:

The County is divided into the following Zoning Districts to implement the Community Plan and related official plans and the official Zoning District Map, and to serve other purposes of these Regulations:

3.1.2.1 Agricultural/Forestry (AF)

The AF Zoning District is intended to provide for permitted regulation of land uses on federal, state, BIA, lands. The AF district includes the majority of public lands within the county. Land use in the AF district is encouraged to conserve forest resources, protect the natural environment, and preserve uninhabited areas.

3.1.2.2 Agricultural/Ranching (AR)¹

The AR Zoning District is intended to be generally consistent with the Very Low Density Residential land use district in the Community Plan and provide areas where continued agriculture or grazing use is practiced on a large scale. The AR district includes the majority of the rural agricultural land within the county that is in private ownership, with residential density a maximum of 2 dwellings per lot, parcel or tract. More than 2 dwellings on 35 acres or more may be permitted for active agricultural businesses such as farms and ranching operations, where the associated Land Use Permit has been approved.² Land use in the AR district is encouraged to provide for the maintenance of agricultural production and preservation of associated life styles, with new residential development encouraged to proceed through the Rural Land Use Preservation subdivision process. Commercial uses are generally limited to those associated with agricultural uses.

3.1.2.3 Agricultural Estate (AE)³

The AE Zoning District is intended to be generally consistent with the Low Density Residential land use district in the Community Plan, and provide areas where continued agriculture or grazing use is practiced on a smaller scale. Residential densities in this district range from two (2) dwellings per five (5) acre lot up to two (2) dwellings per thirty five (35) acre lot. Residential development in the AE district is encouraged to be designed in a way that provides for the preservation and protection of irrigated croplands, range lands, watershed and wildlife habitats. Commercial uses are generally limited to home occupations and those associated with non-intensive agricultural operations.

3.1.2.4 Rural Residential (RR)⁴

The RR Zoning District is intended to be generally consistent with the Medium Density Residential land use district in the Community Plan, and provide for orderly residential development where water and/or sanitary sewer services may not be available. Residential densities in this district range from two (2) dwellings per three (3) acre lot to two (2) dwellings per five (5) acre lot. Three (3) acre development is permitted where either water or sanitary sewer is available; a minimum of five (5) acres is required where both well and septic systems are necessary. Commercial uses are generally limited to home occupations.

3.1.2.5 Residential (R)

The R Zoning District is intended to be generally consistent with the High Density Residential land use district in the Community Plan, where adequate services and facilities are available and such densities do not negatively impact the essential character of the district or adjacent districts. Residential densities in this district range from one (1) dwelling unit per eight thousand (8,000) square foot lot to one (1) dwelling unit per three (3) acre lot. Residential development may be permitted in building configurations of single-family, two-family and multi-family dwellings, and home

¹ Amended Sept 2006 (Res. 2006-25)

² Amended Dec 2010 (Res. 2010-56)

³ Amended Sept 2006 (Res. 2006-25)

⁴ Amended Sept 2006 (Res. 2006-25)

occupations are allowed. Commercial development other than home occupations is generally not permitted unless it is approved in conjunction with a Planned Unit Development or Rural Community Overlay district.

3.1.2.6 Mobile Home Park (MH)

The MH Zoning District is intended to provide residential areas specifically for mobile home parks and mobile homes on individually owned lots. The integration of mobile homes is encouraged in areas where adequate services and facilities are available and such development does not impact the essential character of the district or adjacent districts. Commercial development other than home occupations is generally not permitted unless it is approved in conjunction with a Planned Unit Development.

3.1.2.7 Commercial (C)

The C Zoning District is intended to be generally consistent with the Commercial land use district in the Community Plan, and provide for all types of commercial activities which have functional and economic relationships to the County, including retail, office and personal services. Quality commercial development using design standards is required, while poor site planning that would negatively impact the County's scenic environment and tourism economy is discouraged.

3.1.2.8 Industrial (I)

The I Zoning District is intended to be generally consistent with Industrial Parks land use district in the Community Plan "to set aside possible locations for industrial parks to encourage the development of a more diversified economy". The I Zoning District also allows flexibility for other types of industrial development which are not likely to become a nuisance to surrounding areas. Any impact generating uses are operated primarily within an enclosed building, and outdoor storage areas are concealed from abutting roads and highways and from adjacent residential properties. Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations are confined primarily to the premises of the lot on which an industrial use is located. Non-industrial development is generally not permitted in the Industrial district.

3.1.3 Zoning District Uses:

Table 3 identifies Uses-By-Right and Conditional Uses that may be permitted in each of the zoning districts listed in Section 3.1.2. Any use not listed shall be considered a prohibited use.

TABLE 3: USES BY ZONING DISTRICT

R – Use by Right
 C – Conditional Use

Note: Any unlisted use is prohibited. The Director of County Development is authorized to interpret the meaning and scope of the uses listed herein. The Director of County Development’s interpretation may be appealed to the Board of County Commissioners.

USE	AF	AR	AE	RR	R	MH	C	I
AGRICULTURAL								
Agricultural Uses	R	R	C					
Commercial Stables or Horse Boarding		R	C					
Farm/Ranch Stand		R	C					
Plant Nursery and Greenhouse ⁵		R	C				C	R
Log and Soil Storage	R	R						
Forestry Operation	R	R	R					
Tree Farms	R	R	R					
RESIDENTIAL								
Dwelling, Multi-family					C		C	C ⁶
Dwelling, Single-family Attached				C	R		C	C ⁷
Dwelling, Single-family Detached		R	R	R	R		C	C ⁸
Family Child Care Home		R	R	R	R	R		
Group Home		R	R	R	R			
Home Occupations (*See Section 5.5.5)		R*	R*	R*	R*	R*		
Manufactured Home ⁹		R	R	R	R	R	C	C
Mobile Home Park (*See Section 5.5.7)						R*		
Mobile Home Subdivision		C				R		
Recreational Vehicle Park* (*See Section 5.5.8)		C ¹⁰	C			R	C	
RV Subdivision						R		
COMMERCIAL								
Adult-Oriented Use							C	
Bar or Tavern					C		C	

⁵ Amended October 2016 (Res 2016-62)
⁶ Amended May 2013 (Res. 2013-21)
⁷ Amended May 2013 (Res. 2013-21)
⁸ Amended May 2013 (Res. 2013-21)
⁹ Amended May 2013 (Res. 2013-21) “Mobile Home” deleted
¹⁰ Amended May 2013 (Res. 2013-21)

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USE	AF	AR	AE	RR	R	MH	C	I
Bed and Breakfast		C	C	C	C		C	
Car Wash							R	
Child Care Center					C		R	
Clubs and Lodges							R	
Drive-in Use							C	
Entertainment Facilities and Theaters							R	
Equipment Rental and Sales							C	R
Financial Institution							R	
Firewood Related Wood Product Sales	R	R					R	
Gasoline Station					C		C ¹¹	
Grocery Store, Large							C	
Grocery Store, Small					C		R	
Health and Athletic Club							R	
Kennel ¹²	C	C	C				C	C
Lodging Establishment		C	C ¹³				R	
Lodging Units, 3 or fewer ¹⁴	R	R	C				C	
Lodging Units, 4 or more ¹⁵	R	C	C				C	
Medical and Dental Offices and Clinics							R	
Mortuary and Funeral Home							R	
Neighborhood Commercial Center					C			
Office, General							C	R
Office, Professional							R	C
Personal and Business Service Shops					C		R	
Printing and Publishing							C	R
Restaurant					C		R	
Retail, Convenience Store					C		R	
Retail Establishment, Large							C	
Retail Use (5,000 S.F. to 25,000 S.F.)							R	
Shopping Center							C	
Vehicle Minor Repair, Servicing and Maintenance							R	
Veterinary Facilities, Small Animal Clinic		R	C				R	
Veterinary Hospital		C	C				R	

¹¹ Amended Oct 2006; (Res. 2006-29)

¹² Amended May 2014; (Res. 2014-22)

¹³ Amended July 2013; (Res. 2013-42)

¹⁴ Amended July 2013; (Res. 2013-42)

¹⁵ Amended July 2013; (Res. 2013-42)

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USE	AF	AR	AE	RR	R	MH	C	I
INDUSTRIAL								
Asphalt Batch Plants								C
Building Contractors and Equipment		C					C	R
Concrete or Cement Plants								C
Industrial, Heavy								C
Industrial, Light								R
Junk Yard (*See Section 5.5.6)								C*
Logging Operation	C	C						
Marijuana Establishment, Medical ¹⁶							R	R
Marijuana Establishment, Retail							R	R
Oil and Gas Operation	C	C						C
Recycling Facility							C	R
Resource Extraction, Processes and Sales	C	C						C
Sawmill	C	R						R
Truck Stop								C
Vehicle Major Repair, Servicing and Maintenance							C	R
Warehouse, Mini-storage							C	R
Warehouse and Distribution								R
Workshop and Custom Small Industry		R	C				C	R
RECREATIONAL								
Campground ¹⁷		R	C				C	
Dude Ranch or Wilderness Lodging* (*See Section 5.5.4)	C	C						
Golf Courses and Driving Ranges		C	C	C				
Limited Indoor Recreation Facility							R	
Limited Outdoor Recreation Facility		C					C	
Outdoor Shooting Range		C						
Parks, Greenbelts and Passive Recreation Areas	R	R	R	R	R	R	R	R
Race track		C						

¹⁶ Amended March 2015; October 2016 (Res 2016-62)

¹⁷ Amended August 2011 (Res. 2011-39)

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USE	AF	AR	AE	RR	R	MH	C	I
OTHER								
Accessory Uses and Structures (*See Sections 3.2.5, 3.2.6)	R*	R*	R *	R*	R*	R*	R *	R*
Airport, Airstrip, Helipad* (*See Section 3.1.5.1)	C	C	C	C				C
Animal Shelter	C	C	C				C	C
Cemetery	R	R	C	C				
Churches and Religious Institutions	C	R	R	R	C	C	R	R
Building- or structure- mounted CMRS Facilities (*See Section 5.5.3)	R*	R*	R*	R*	R*	R*	R*	R*
CMRS Facilities roof-mounted and freestanding (*See Section 5.5.3)	C*	C*	C*	C*	C*	C*	C*	C*
Electric Power Generation Facilities	C	C	C	C	C	C	C	C
Electric Power Transmission Lines	C	C	C	C	C	C	C	C
Major Extensions of Existing Sewage Systems	C	C	C	C	C	C	C	C
Major Extensions of Existing Water Systems	C	C	C	C	C	C	C	C
Major New Sewage Systems	C	C	C	C	C	C	C	C
Major New Water Systems	C	C	C	C	C	C	C	C
Meeting Place and Place for Public Assembly	C	R	R	R	C	C	R	R
Mixed-Use Development					C		C	C
Natural Gas Transmission Pipelines	C	C	C	C	C	C	C	C
Outdoor Storage* (*See Section 5.4.2.6)		C					C	R
Parking Lot							C	R
Private School		C	C	C	C	C	C	C
Public School	C	C	C	C	C	C	C	C
Public Use	C	C	C	C	C	C	C	C
Public Utility	C	C	C	C	C	C	C	C
Sanitary Landfills and Solid Waste Transfer Stations	C	C	C	C	C	C	C	C
Temporary Uses (*See Section 3.2.4)	R*	R*	R *	R*	R*	R*	R *	R*
Transportation Services and Facilities	C	C	C	C	C	C	C	C
Utility Substations	C	C	C	C	C	C	C	C
Water Impoundments	R	R	C	C	C	C	C	C
Water Storage Facilities	C	C	C	C	C	C	C	C

3.1.4 Zoning District Standards

Table 4 lists the height, setback and other zone district standards for each of the zone districts listed in Section 3.1.2.

TABLE 4: ZONE DISTRICT STANDARDS

DIMENSION	AF	AR	AE	RR	R	MH	C	I
Minimum Lot Size	160 acres	35 acres	5 acres	3 acres (w/H2O or Sewer)	8,000 ft ²	2,500ft ²	10,000 ft ²	10,000 ft ²
Minimum Lot Width	500 feet	200 feet	100 feet	80 feet	60 feet	40 feet	100 feet	100 feet
Minimum Front Setback	100 feet	75 feet	25 feet	20 feet	15 feet	10 feet	25 feet	50 feet
Minimum Side Setback	100 feet	25 feet	25 feet	20 feet	15 feet	10 feet	10 feet	25 feet
Minimum Corner Setback ¹⁸ (street side)	100 feet	50 feet	25 feet	20 feet	15 feet	10 feet	25 feet	50 feet
Minimum Rear Setback	100 feet	25 feet	25 feet	20 feet	15 feet	10 feet	10 feet	25 feet
Maximum Height	40 feet	40 feet	35 feet	35 feet	35 feet	16 feet	40 feet	40 feet
Accessory Height	40 feet	40 feet	30 feet	30 feet	30 feet	16 feet	40 feet	40 feet
Maximum Density	n/a	2 DU/35 Ac.	2 DU/5 Ac.	2DU/3 Ac.	5 DU/ Ac.	12 DU/Ac.	n/a	n/a
Minimum District Size	500 acres	100 acres	20 acres	12 acres	1 acre	5 acres	1 acre	1 acre

DU = Dwelling Unit

Ac. = Acre

3.1.5 Overlay Districts:

An Overlay District is a supplemental district that may be superimposed over any Zoning District established in Section 3.1.2. The boundaries of each Overlay District shall be established by Resolution of the Board of County Commissioners and shall be shown on the Official Zoning Map, Section 3.3.1. On and after the date of adoption by the Board of such Resolution, all real property within the boundaries of each Overlay District, as described in said Resolution, shall become subject to the requirements of that Overlay District. Any use by right or conditional use permitted in the underlying Zoning District shall also be permitted in an Overlay District if the proposed use conforms with the purpose and any applicable standards for both the Zoning District and the Overlay District. The following Overlay Districts are established:

¹⁸ Amended October 2016 (Res 2016-62)

3.1.5.1 Airport Overlay District (AO)

The requirements of the AO District shall be applied in the vicinity of all general aviation airports and public heliports which would be significantly affected by air traffic, noise or any hazard related to the establishment, operation or maintenance of an airport or heliport facility. The degree of protection provided by the AO District is considered reasonable and prudent for land use regulatory purposes and is based on established parameters on control. Establishment of an AO District, however, does not imply that areas outside of an AO District will be totally free from airport and aircraft related hazards nor that all hazards within an AO District will be completely mitigated. Establishment of an AO District shall not create a liability on the part of or cause any action against Archuleta County or any officer, employee or contractor thereof for any damages that may result directly or indirectly from reliance on the provisions contained herein.

The purpose of the AO District is to:

- Minimize exposure of residential and other sensitive land uses to aircraft noise areas.
 - Avoid danger from aircraft accidents and reduce the possibility for such accidents.
 - Discourage traffic congestion within the area of the AO District.
 - Restrict incompatible land uses in proximity to and within airport influence areas.
- (1) No use may be made of land within the AO District in such a manner as to create electrical interference with radio communication between an airport or heliport and aircraft or make it difficult for pilots to distinguish between airport or heliport lights and other lights, cause glare in the eyes of pilots using the airport or heliport, impair visibility in the vicinity of the airport or heliport or otherwise endanger the taking off or the maneuvering of aircraft in the vicinity of the airport or heliport. Noise attenuation in building design shall be encouraged and may be required for structures to be erected within the district.
 - (2) A notice and approval from the FAA shall be required for the construction or alteration of any structure two hundred (200) feet or higher located within twenty thousand (20,000) feet of the end of any runway.
 - (3) Surface limitations within an AO District include all land and air space within the AO District that would be hazardous to air navigation if infringed upon. Surface limitations include areas above imaginary surfaces and in the clear zone and are established to regulate the height of structures and natural objects in the vicinity of an airport or heliport. These surface limitations are set forth by the FAA in the Federal Aviation Regulations, Part 77, which are hereby adopted by reference.
 - (4) In addition, before any structure or natural object is permitted to be erected, altered, maintained or allowed to grow above the imaginary surfaces established herein, a Notice of Construction or Alteration shall be filed with the FAA for a determination of hazardous or non-hazardous conditions and of effect on the airport rules and regulations. The Board of County Commissioners shall not approve

any such development until after receiving and considering the FAA recommendation.

- (5)** Within AO districts in the vicinity of airports and heliports, land use patterns will be encouraged that separate uncontrolled noise sources from residential and other noise-sensitive areas and that avoid danger to public health and safety or to property due to aircraft operations.
- (6)** In areas subject to flight hazards, uses such as schools, churches, hospitals and libraries are not encouraged. Open space recreational and agricultural uses shall be encouraged. Any other use proposed shall be accompanied by written evidence that the proposed development poses no significant threat to public health and safety or to property. Approval may be contingent on the applicant granting an aviation easement.
- (7)** In addition to the submission requirements otherwise contained within these Regulations, the Planning Commission may, at its discretion, require additional materials regarding any proposed land use change or development project in an AO District. These additional materials may include, but not be limited to, any or all of the following items:
 - a.** A map showing the height of all existing and proposed structures within the contemplated development and the relationship of these structures to adjacent land uses.
 - b.** Evidence of the elevation and pattern of aircraft flights over the proposed site.
 - c.** Information relating to noise levels on the proposed site and written statements regarding sound mitigation measures, if any that will be used to attenuate existing or projected noise levels.
- (8)** Compliance with the provisions of an AO District is not required for private noncommercial landing strips and heliports provided that they meet the following provisions and requirements:
 - a.** The applicant shall apply for and be granted a special use permit for the proposed use.
 - b.** The applicant shall own a minimum of thirty-five (35) contiguous acres of land on which the landing strip would be located or five (5) contiguous acres of land on which the heliport site would be located.
 - c.** No residential dwelling units, other than one (1) dwelling unit owned by the applicant or an immediate member of the applicant's family, shall be located, within one half mile of either end of any runway.
 - d.** Runways will be so oriented that aircraft takeoffs and landings will not pass within one thousand (1,000) feet of any school, dwelling unit or place of public assembly.
 - e.** The applicant shall provide evidence that the FAA has been sent an application for approval of airspace.
 - f.** The applicant shall, at the discretion of the Board of County Commissioners, grant an aviation easement to Archuleta County or other appropriate public body.

3.1.5.2 Floodplain Overlay District (FO)

The requirements of the FO District shall be applied to lands within a one hundred (100) year floodplain as mapped on FEMA Flood Insurance Rate Maps (FIRM). The purpose of the FO District is to implement the requirements of Section 10, Floodplain Regulations.

DEPARTMENT NOTE: *Overlay districts in 25% font are not yet defined in Archuleta County.*

3.1.5.3 Scenic Overlay District (SO)

The purpose of the SO District is to serve as a method whereby the visual image of Archuleta County along designated sections of certain roads and highways can be preserved and enhanced. Due to the fact that the mountain setting of Archuleta County is one of the primary factors motivating tourist travel to the area it is important that development along designated sections of certain roads and highways be of a nature that does not detract from or block the scenic values associated with Archuleta County.

- (1) Properties within the SO District shall be used and developed for any purpose permitted by the underlying zone district. To the extent the property owner chooses to develop the property to preserve its scenic values, that use shall be limited to 1) an eligible sending site associated with the TDR Program described in Section 2.6 of these Regulations, 2) a Conservation PUD per Section 3.1.6.4 of these Regulations, or an RLUP per Section 4.5 of these Regulations...
- (2) All buildings and other structures located in a sending site associated with the TDR Program, a Conservation PUD or a RLUP within an SO District shall be sited, constructed and finished in a manner consistent with the standards set forth in Section 5.2.1.7 of these Regulations.

3.1.5.3 Watershed Overlay District (WO)

- (1) The purpose of the WO District is to:
 - a. Protect the watersheds and drinking water supplies from activities which could degrade drinking water quality in streams, rivers, lakes and reservoirs; including but not limited to toxins, poisons, and nutrient runoff.
 - b. Protect water supply reservoirs from sedimentation which would reduce their storage capacity, shorten their useful life, and reduce capacity to withstand drought.
 - c. Ensure that development is planned and designed to be harmonious with wildlife habitat.
 - d. Preserve the natural environment, historical and cultural resources, and aesthetics of the watershed to the greatest extent possible.
 - e. Ensure compatibility between a proposed land use activity and natural constraints by requiring well-engineered solutions to those constraints.
- (2) **Development Standards.** A site plan conforming to the following requirements shall be submitted to the Planning Department for approval before any land disturbance (other than the exempt activities provided in the next section) or building permit may be undertaken in a WO District.

- a. A scale drawing showing location and dimensions off all existing and planned structures, roads, water courses, wastewater and storm water systems, utility installations, as well as the locations, area and dimensions of any existing or proposed impervious surfaces;
- b. Topographical map of the site and all adjacent land within two hundred (200) feet of any boundary of the property, with contour lines of five (5) feet or less;
- c. A storm water management plan, regardless of parcel size or zoning.
- d. A detailed re-vegetation plan with a timeline for implementation, including a detailed management plan for control of nutrient runoff.
- e. Location and detailed drawing and specifications of any spill and leak collection systems for containing accidentally released hazardous or toxic waste.

(3) Additional Standards. Disturbance of the following types of land is prohibited in the WO District, except for perpendicular crossings of roadways, drainage ways, trails and paths and approved utility easements:

- a. Riparian buffers fifty (50) feet.
- b. Wetlands, as determined from field delineation, unless a permit has been obtained pursuant to Section 404 of the Clean Water Act.
- c. Soils with severe limitations according to the applicable NRCS soil maps.

(4) Hazardous Materials Mitigation. Certain land uses in the WO district will require a hazardous materials mitigation plan. The hazard mitigation plan shall detail specifically how hazardous materials will be handled and stored, and how spills will be contained on site. Those land uses include:

- a. Distribution or storage of hazardous materials;
- b. Sale of fuel for motor vehicles;
- c. Confined animal feeding operations such as feedlots;
- d. Landfills or waste water disposal facilities of any kind (except for septic tanks approved by San Juan Basin Health Department);
- e. Underground or above ground fuel or chemical storage tanks;
- f. Disposal of hazardous or toxic waste;
- g. Industries or businesses classified as large quantity waste generators;
- h. The manufacture of chemicals, dairy products, fats and oils, leather tanning; meat, fish and poultry packing; the manufacture of paper and allied products; petroleum industries; the manufacture of primary metal, rubber, plastic or concrete products;
- i. Junkyard or auto wrecking facilities;
- j. Truck terminals;
- k. Auto and truck rental and repair shops;
- l. Commercial auto and truck washes;

Within the WO District, the land uses described above shall be prohibited within two hundred and fifty (250) feet of any lake or water course described on the USGS 7.5 minute topographic map.

(5) Exemptions. The following uses shall be exempt from the stream corridor buffer and setback requirements in the WO District provided they meet the following conditions.

- a. Utilities, so long as they are located as far as practicable from the stream bank, so not impair the quality of the stream water and are installed and maintained so as to protect the integrity of the buffer and setback areas in which they are located.
- b. Agricultural activities involved in the planting and harvesting of crops, cattle or livestock raising, or non-commercial forestry or timbering operations, if best management practices developed by either the Colorado Department of Agriculture or the Colorado State Forest Service are followed.
- c. County or NRCS approved stream channel, drainage or water quality improvement projects.

3.1.5.4 Wildlife Habitat Overlay District (WHO)

- (1) The purpose of the WHO District is to:
 - a. Be generally consistent with the Wildlife Habitat Overlay land use district in the Community Plan. However, the Critical Wildlife Habitat and Wildlife Migration Corridor shown on the Future Land Use Map in the Community Plan is not considered accurate for the purposes of this Section. Instead, the Wildlife Habitat Overlay District shall be defined as those areas designated as “HIGH” on the Wildlife Habitat Assessment Map on file at the Planning Department.
 - b. Maintain and enhance the diversity of wildlife species and habitat in Archuleta County.
 - c. Protect the environment from land use activities that would cause immediate or foreseeable danger to significant wildlife habitat and/or endanger a wildlife species.
 - d. Plan for and design land use development to be harmonious with wildlife habitat and the species that depend on their wildlife habitat.
- (2) Unless otherwise requested by a property owner, the use of the WHO District shall be limited to 1) an eligible sending site associated with the TDR Program described in Section 2.6 of these Regulations, 2) a Conservation PUD per Section 3.1.6.4 of these Regulations, or an RLUP per Section 4.5 of these Regulations.
- (3) Any development within a WHO District shall address the mitigation techniques set forth in Section 5.2.1.6 of these Regulations.

3.1.5.5 Rural Community Overlay District (RCO)

The purpose of the RCO District is to:

- (1) Be generally consistent with the Village Center land use district in the Community Plan, allowing for specific locations of small-scale commercial and service activities.
- (2) Recognize the unique character and settlement patterns of rural communities within the County.

3.1.5.6 Urban Services Overlay District (USO)

The purpose of the USO District is to:

- Be generally consistent with the Preferred Growth Scenario in the Community Plan.
- Support the Town of Pagosa Springs Comprehensive Plan within the USO District.
- Implement intergovernmental agreements regarding growth management.
- Designate areas in the county adjacent to the Town of Pagosa Springs corporate limits where urban level development and annexation are appropriate.
- Coordinate infrastructure and facilitate development compatible with Town of Pagosa Springs development standards.
- Provide a receiving area for the transfer of development rights associated with the TDR Program described in Section 2.6 of these Regulations.

3.1.6 Planned Unit Development (PUD)

3.1.6.1 Purpose and Intent:

The PUD district is intended to be generally consistent with High Density Residential land use district in the Community Plan. The purpose of a PUD is to permit and encourage greater flexibility and innovation so that the development is compatible with the site's physical and environmental characteristics. All uses that are permitted in the underlying zone district where the PUD is located and any other uses that are consistent with the Community Plan may be permitted in a PUD.

3.1.6.2 Review Procedure:

- (1) The PUD is a type of customized zoning district. An application for a PUD shall comply with the Rezoning procedures in Section 3.1.7.
- (2) The PUD is also a type of customized subdivision. An application for a PUD shall comply with the Major Subdivision Review process in Section 4 of these Regulations, and be reviewed with the sketch plan, preliminary plan, and final plat for the subdivision.

3.1.6.3 Approval Criteria:

In addition to the Standards in Section 5, the following standards shall apply to PUD requests.

- (1) The location, character and intent of the PUD shall be consistent with the Community Plan.
- (2) The PUD shall be compatible with the scale, intensity and type of uses located on adjacent property.
- (3) The PUD shall preserve at least fifty (50) percent of the area as open space.
- (4) The PUD shall provide for variety in housing types, price and ownership forms.
- (5) The PUD shall provide pedestrian ways throughout the PUD that allow residents to walk safely and conveniently among areas of the PUD.

- (6) The design and layout of the PUD shall protect unique natural features and will not cause significant degradation of the environment.
- (7) The PUD shall not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
- (8) The layout and design of the PUD shall preserve views and vistas, construction on ridgelines that are visible from major roadways or residential development shall be prohibited, and the design of the activity shall be compatible with the surrounding natural environment.
- (9) The PUD shall provide recreational opportunities and amenities to residents of the PUD.
- (10) Each phase within a PUD shall be planned so that failure to proceed to the next phase of the PUD will not have a significant adverse impact on the PUD or its surroundings.

The Board of County Commissioners may waive or modify specifications, standards and requirements such as density, set backs, height restrictions, land dedications, improvement standards and related requirements that would be otherwise applicable to a particular land use or zoning district, if such waiver or modification furthers the objectives of these Regulations.

3.1.6.4 Conservation PUD:

In the AR district, residential lot density may be increased from two (2) dwelling units¹⁹ per thirty five (35) acres up to one (1) dwelling unit per five (5) acres with a Conservation PUD subject to the following requirements:

- (1) A Conservation PUD shall contain a minimum of one hundred and forty (140) acres of land.
- (2) A Conservation PUD shall preserve at least seventy (75) percent of the area in a perpetual conservation easement held by a qualified land trust.
- (3) The increase in density will be calculated on the remaining 25% of developable land after the conservation easement is applied.²⁰
- (4) The area contained within the conservation easement shall qualify, in the County's judgment, and subject to State and federal requirements for conservation easements, as an agricultural, environmental, scenic or open space resource.
- (5) Subdivided lots created through the Conservation PUD process shall be screened, clustered or distributed in such a manner as to minimize any visual and/or

¹⁹ Amended August 2011 (Res. 2011-40)

²⁰ Amended August 2011 (Res. 2011-40)

environmental impacts, maximize access to and use of existing roads and utilities, and maintain the rural character of the area.

- (6) A Conservation PUD shall be processed per the review procedures established in Section 3.1.6.2.

3.1.7 Rezoning:

3.1.7.1 Applicability:

Applications to rezone or change the zoning classification of a parcel or parcels of land shall comply with the common procedures described in this Section 3.1.6. The requirements of this Section also apply to the creation and amendment of a Planned Unit Development (PUD). Rezoning applications may be initiated by either the owner of the subject property, or the Board of County Commissioners.

3.1.7.2 Submittal Requirements:

Applicants for rezoning shall supply the following information and such additional information and documentary material as the Planning Department shall require:

- (1) A legal description of the property to be rezoned.
- (2) A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding areas, and the current zoning and use thereof within a distance of two (2) miles from the boundaries of the proposed rezoning.
- (3) A graphic description of all natural and man-made water courses, retention areas, streams, lakes and known one-hundred (100) year flood plains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater.
- (4) A description of any unique features, such as historical sites, unique land forms or scenic vistas contained within the land proposed for rezoning.
- (5) Confirmed source of water and wastewater service proposed

3.1.7.3 Review Criteria:

All actions by the Planning Commission in reviewing and making recommendations on a rezoning application and by the Board of County Commissioners in approving or disapproving such application shall be based in general upon the provisions of these Regulations, and on the following additional criteria:

- (1) That the existing zoning is inconsistent with the goals, objectives or policies of the Community Plan.
- (2) That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of these Regulations to encourage different densities or uses within the land in question

- (3) That the proposed rezoning is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives and policies contained within the Archuleta County Land Use Plan.
- (4) That the existing zone classification currently recorded on the official zoning maps of Archuleta County is in error.
- (5) That the change of zone is in conformance, or will bring the property into conformance, with the Community Plan goals, objectives and policies, and other related policies or plans for the area.
- (6) That the proposed change of zone is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived.
- (7) That there will be social, recreational, physical and/or economic benefits to the community derived by the change of zone.
- (8) That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of zone, or that the applicant will upgrade and provide such where they do not exist or are under capacity.
- (9) That the proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems, or seriously reducing light and air to adjacent properties.
- (10) That the rezoning will not create an isolated or spot zone district unrelated to adjacent or nearby areas.

The applicant shall carry the burden of demonstrating that the land in question should be rezoned and that the advantages resulting from rezoning would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of the Board of County Commissioners to rezone any land within unincorporated Archuleta County or otherwise amend the Zoning Map for any reason consistent with health, welfare or safety of the residents of the County. The final decision on a change of zone expressly rests in the exercise of the discretion of the Board of County Commissioners. All applicants are advised there is no right to a change of zone.

3.1.7.4 Amendment of Official Zoning Map:

Upon approval by the Board of County Commissioners of a rezoning application, a true and correct copy of the resolution of the Board approving such rezoning shall be filed with the County Clerk and Recorder and the official Zoning Map maintained as provided by Section 3.1.1 shall be amended to reflect the change of zone.

3.2 USE REGULATIONS

3.2.1 Limited Impact Use

3.2.1.1 Conversion to Use-By-Right or Conditional Use Permit²¹

All legal, conforming Limited Impact Uses previously permitted and approved as such by specific action of the County and in existence on May 23, 2006, the date of adoption of this Section, are hereby converted to either a use by right or a conditional use permit, as detailed in Table 3 at Section 3.1.3. In order to determine whether a previously permitted Limited Impact Use is now a use by right or a conditional use permit, locate the description of the use in the Table, then read to the right to determine into which category the use in question falls.

3.2.2 Use-by-Right Site Plan Review²²

3.2.2.1 Purpose and Intent:

A Use by Right is a land use that is allowed within the specific zoning district per Table 3 of these regulations. While Uses by Right are not subject to review with respect to their impact on surrounding properties, uses other than those exempted in section 2.1.2 of these regulations are subject to site plan review. The site plan review is conducted to ensure that the development is in conformance with environmental, infrastructure, and site development standards outlined in sections 5.2, 5.3, and 5.4 of these regulations.

3.2.2.2 Submittal Requirements:

All requests for a Use by Right shall be submitted utilizing the Archuleta County Land Use Permit application form and the applicable application fees. The application fee shall be as established by the Board of County Commissioners. Application fees shall be non-refundable. The applicant shall submit six (6) complete copies of the application and associated materials. Certain submittal requirements may be waived or modified by the Planning Staff, if it is demonstrated that the material to be waived or modified is not applicable to the proposed use. The following information and materials shall be submitted with the application:

- (1) A completed application form and the required filing fee.
- (2) A vicinity map, locating the subject parcel within Archuleta County (8-½" by 11").
- (3) A written description of the proposed use, in sufficient detail to describe the nature of the proposal, including but not limited to:
 - a. How the use will be operated.
 - b. How ongoing maintenance of the use and site will be provided.
- (4) A detailed site development plan, drawn to a scale appropriate to the size of the project. All sheet sizes shall be twenty-four by thirty-six inches (24"x36"). The site development plan may need to indicate existing and proposed topography; but shall

²¹ Amended Oct 2006 (Res. 2006-29)

²² Amended February 2007; Use By Right Review section added (Res. 2007-08)

indicate all existing natural and man-made features and the proposed development for the property (including but not limited to building locations, parking areas, traffic circulation, usable open space, landscaped areas, exterior lighting locations and utilities and drainage features).

- (5) If required, topography shall be indicated as follows:
 - a. Contour intervals of two (2) feet on land sloping less than ten (10) percent.
 - b. Contour intervals of five (5) feet on land sloping ten (10) percent to twenty (20) percent.
 - c. Contour intervals of ten (10) feet on land sloping greater than twenty (20) percent.
- (6) If applicable, a final determination as to the required drawing scale and appropriate contour interval shall be as determined by the Planning Staff.
- (7) Elevation drawings (drawn to scale) of any proposed structures.
- (8) A proposed development schedule, if applicable, indicating the details of a phasing plan.
- (9) Any existing or proposed agreements, provisions or covenants which might govern the use.
- (10) An Owners and Encumbrances report, which shows easements and mineral owners or lessees of record, shall be required for multi-family developments where ownership would be transferred.
- (11) Proof of ownership shall be submitted, unless a full title report is being submitted.
- (12) Any additional materials, as may be required by the Planning Staff, which are deemed necessary to fully evaluate the compliance of the proposed use with these regulations.

3.2.2.3 Application Completeness:

An application will only be considered complete if it is submitted in the required form and number, including all required information and the applicable fee. If an application is determined to be incomplete, the Planning Staff shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the applicant does not correct the deficiencies within 30 days from receipt of the notice, the application shall be considered withdrawn, and the application shall be returned to the applicant.

3.2.2.4 Administrative Review:

Applications for Land Use Permit requests shall comply with the following procedures:

- (1) The Planning Staff and the County Engineer shall review the application. The express purpose of the review is to ensure that the proposal complies with all applicable development standards and requirements.
- (2) The staff shall review each land use permit pursuant to the applicable development standards in section 5. Based upon this review, the Planning Staff shall either approve, approve with conditions, or deny the application for a Land Use Permit.
- (3) The staff review, and the subsequent action on the application, shall occur within 30 calendar days of the Planning Staff's acceptance of a complete submittal.

3.2.2.5 Review Criteria:

All Uses by Right shall meet environmental, infrastructure, and site development standards, as detailed in Section 5.2, 5.3, and 5.4 of these regulations.

3.2.2.6 Approval and Effect

- (1) Issuance of a Use by Right Land Use Permit shall authorize only the particular use for which it is issued.
- (2) Developments and uses granted by the approval of a Land Use Permit shall be developed or established in accordance with an approved phasing plan, or within one year of the date of approval if no phasing plan is established. The submittal of a complete application for a Building Permit shall constitute a good faith effort to establish the development or use. Failure to develop or establish such development or uses in accordance with the time period approved on the Land Use Permit shall cause the Land Use Permit to expire.
- (3) A Land Use Permit shall be valid for as long as the applicant maintains the conditions of approval, unless a specific time limit for the use is set forth as a part of the approval.
- (4) A Use by Right that is discontinued for a period of twelve (12) months, regardless of any intent to resume operation of use, shall not be resumed thereafter. Any future use of the site or structures thereon shall conform to all the provisions and procedures of this section.
- (5) If the conditions of approval are not maintained, it shall be considered a violation of these regulations and subject to the provisions of Section 1.4 (Enforcement).

3.2.2.7 Minor Amendments:

- (1) Planning Staff may approve Minor Amendments to an approved Land Use Permit. Authorized Minor Amendments include those that do not alter the basic intent and character of the approved Land Use Permit; are consistent with the Site Development Standards (Section 5.4); are deemed necessary in light of technical or engineering considerations first discovered during actual construction; or could not have been reasonably anticipated during the initial review process.
- (2) Minor Amendments must comply with all relevant Archuleta County regulations. Minor Amendments may include, but are not limited to, variations to the location of an approved building footprint of not more than five (5) feet; minor deviations in the location of infrastructure (roads and utilities); modifications to approved site or landscape plans that do not adversely impact pedestrian or vehicular circulation throughout or adjacent to the project; or changes to the gross floor area of not more than ten (10) percent of the approved square footage.
- (3) Minor Amendments shall not include changes in use or changes in the percentage of required open space. Any change not qualifying as a Minor Amendment shall be considered a Major Amendment and shall comply with Section 3.2.2.8.

3.2.2.8 Major Amendments:

Unless the application qualifies as a Minor Amendment pursuant to Section 3.2.2.7, a Land Use Permit may be amended, extended, varied or altered only as a new application for approval of a Land Use Permit.

3.2.3 Conditional Use Permit:**3.2.3.1 Purpose and Intent:**

Conditional Uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. Because of their unusual or special characteristics, Conditional Uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Archuleta County at large. Conditional Uses may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the Conditional Use is in accordance with the development objectives of the County (per the Community Plan) and will not be detrimental to other uses or properties. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for Conditional Use Permits shall not be approved. All Conditional Uses shall meet the environmental, infrastructure, and site development standards as detailed in Section 5 of these regulations.

3.2.3.2 Submittal Requirements

The applicant shall submit a minimum of fifteen (15) complete copies of the application, the non-refundable application fee and any supplemental data for the proposed Conditional Use Permit to the Planning Department. The Conditional Use Permit application shall include:

- (1)** A vicinity map, locating the subject parcel within Archuleta County (8-½" by 11").
- (2)** A written description of the proposed use, in sufficient detail to describe the nature of the proposal, including but not limited to:
 - a.** How the use will be operated
 - b.** How ongoing maintenance of the use and site will be provided;
 - c.** How its impacts on surrounding properties will be minimized and mitigated.
- (3)** A detailed site development plan, drawn to a scale appropriate to the size of the project. All sheet sizes shall be twenty-four by thirty-six inches (24"x36"). The site development plan shall indicate existing and proposed topography, all existing natural and man-made features, and the proposed development for the property (including but not limited to building locations, parking areas, traffic circulation, usable open space, landscaped areas, exterior lighting locations and utilities and drainage features). Topography shall be indicated as follows:
 - a.** Contour intervals of two (2) feet on land sloping less than ten (10) percent.
 - b.** Contour intervals of five (5) feet on land sloping ten (10) percent to twenty (20) percent.
 - c.** Contour intervals of ten (10) feet on land sloping greater than twenty (20) percent.

A final determination as to the required drawing scale and appropriate contour interval shall be as determined by the Planning Department during the pre-application meeting.

- (4)** Elevation drawings (drawn to scale) and/or perspective drawings of any proposed structures.
- (5)** Restoration or reclamation plans shall be required for all uses proposing extensive grading or for extractive-type uses.
- (6)** A proposed development schedule, if applicable, indicating the details of a phasing plan. Any existing or proposed agreements, provisions or covenants which might govern the use.
- (7)** An Owners and Encumbrances report, which shows easements and mineral owners or lessees of record, shall be required for multi-family developments where ownership would be transferred.
- (8)** Proof of ownership shall be submitted, unless a full title report is being submitted.
- (9)** Any additional materials, as may be required by the Planning Department or the Planning Commission, which are deemed necessary to fully evaluate the compliance of the proposed use with these Regulations.

3.2.3.3 Review Procedure:

Following the meeting with the Planning Department, the application shall be scheduled for public hearing before the Planning Commission. The Planning Commission shall recommend that Board of County Commissioners approve, approve with conditions, or deny the application, basing its recommendation upon the facts presented in the public hearing in consideration of the criteria for review below. The Planning Commission may recommend conditions or stipulations, which may include physical design as well as operational and/or maintenance considerations in addition to standard development and use regulations which apply within a particular zone district or for a similar “permitted use.”

- (1) The Planning Commission shall specifically recommend, and the Board of County Commissioners shall specifically consider, whether the particular conditional use is dependent upon design, management or operational aspects such that it should be a personal grant of use to the owner of the conditional use and not a grant which transfers with the affected property, and, in that connection, the Planning Commission and Board of County Commissioners shall recommend and decide, respectively, whether the conditional use:
 - a. Runs with the land in perpetuity;
 - b. Is personal to the applicant and may or may not be inherited; and/or
 - c. Shall be granted only for a defined period, after which time the conditional use shall expire unless renewed subject to all of the requirements of this Section.

- (2) The Board of County Commissioners shall conduct a public hearing on the application. In addition to consideration of the Planning Commission recommendation, the Board shall hear additional evidence and testimony presented, and either approve, approve with conditions or deny the application; the Board’s decision being based upon all evidence presented, with due consideration of the criteria for review.

3.2.3.4 Review Criteria:

Before acting on a Conditional Use Permit application, the Planning Commission and the Board of County Commissioners shall consider the following criteria and factors with respect to the proposed use:

- (1) The relationship and impact of the use on the development objectives of Archuleta County.

- (2) The effect of the use on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.

- (3) The effect of the use upon traffic, with particular reference to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, sidewalks and parking areas.

- (4) The effect of the use upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses.

- (5) The adequacy of the design features of the site to accommodate the proposed use, including but not limited to accessibility, service areas, parking, loading, landscaping and buffering, lighting, etc.
- (6) The effect of the use upon the natural resources and wildlife habitat areas.
- (7) Such other factors and criteria as the Planning Commission and the Board of County Commissioners deems applicable to the proposed use.

3.2.3.5 Necessary Findings:

Before acting on a Conditional Use Permit application, the Planning Commission and the Board of County Commissioners shall make the following findings:

- (1) That the proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- (2) That, if required by the proposed use, there are adequate and available utilities and public services to service the proposed use, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are not necessarily limited to, sewage and waste disposal, water, electricity, law enforcement, and fire protection.
- (3) That the proposed use will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety, etc.

3.2.3.6 Approval and Effect:

- (1) Issuance of a Conditional Use Permit shall authorize only the particular use for which it is issued.
- (2) Developments and uses granted by the approval of a Conditional Use Permit shall be developed or established in accordance with an approved phasing plan, or within one year of the date of approval if no phasing plan is established. The submittal of a complete application for a Building Permit shall constitute a good faith effort to establish the development or use. Failure to develop or establish such development or uses in accordance with the time period approved on the Conditional Use Permit shall cause the Conditional Use Permit to expire.
- (3) A Conditional Use Permit shall be valid for as long as the applicant maintains the conditions of approval, unless a specific time limit for the use is set forth as a part of the approval.

- (4) A Conditional Use that is discontinued for a period of twelve months, regardless of any intent to resume operation of use, shall not be resumed thereafter. Any future use of the site or structures thereon shall conform to all the provisions and procedures of this section.
- (5) If the conditions of approval are not maintained, it shall be considered a violation of these regulations and subject to the provisions of Section 1.4 (Enforcement).

3.2.3.7 Minor Amendments:

- (1) The Planning Commission may approve Minor Amendments to an approved Conditional Use Permit. Authorized Minor Amendments include those that do not alter the basic intent and character of the approved Conditional Use Permit; are consistent with the Site Development Standards (Section 5.4); are deemed necessary in light of technical or engineering considerations first discovered during actual construction; or could not have been reasonably anticipated during the initial review process.
- (2) Minor Amendments must comply with all relevant Archuleta County regulations. Minor Amendments may include, but are not limited to, variations to the location of an approved building footprint of not more than five (5) feet; minor deviations in the location of infrastructure (roads and utilities); modifications to approved site or landscape plans that do not adversely impact pedestrian or vehicular circulation throughout or adjacent to the project; or changes to the gross floor area of not more than ten (10) percent of the approved square footage.
- (3) Minor Amendments shall not include changes in use or changes in the percentage of required open space. Any change not qualifying as a Minor Amendment shall be considered a Major Amendment and shall comply with Section 3.2.3.8.

3.2.3.8 Major Amendments:

Unless the application qualifies as a Minor Amendment pursuant to Section 3.2.3.7, a Conditional Use Permit may be amended, extended, varied or altered only as a new application for approval of a Conditional Use Permit.

3.2.4 Temporary Use Permit:

The following uses of land are permitted in each zoning district (unless restricted to particular zoning districts) subject to the specific regulations and time limits which follow, and to the other applicable regulations of the district in which the use is permitted. All Temporary Uses require a permit from the Planning Department. Temporary Use Permit reviews are subject to review by all other agencies such as the fire district, health department, transportation department, and any other applicable agency at the local, State or Federal or other level. Applications for TUPs shall include: the application, the appropriate application fee, a written description of the proposed use, a site plan showing all existing and proposed uses in adequate detail so as to provide enough information for Staff to review; other items as reasonably necessary to make an informed decision.

- 3.2.4.1** Christmas tree sales shall be allowed in all zoning districts, except in residential districts on lots of one (1) acre or less, for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the setback requirements of these Regulations provided that no tree shall be displayed within thirty (30) feet of the intersection of the right of way line of any two (2) streets.
- 3.2.4.2** Contractors' office/living quarters and equipment sheds accessory to a construction project, and to continue only during the duration of such project.
- 3.2.4.3** Auctions, flea markets, carnivals, circuses, bazaars and other amusement activities, provided they do not continue more than ten (10) consecutive days and obtain any permits required by law.
- 3.2.4.4** Recreational vehicles are allowed to be occupied in residential zoning districts coinciding with the commencement of an active building permit for a principal structure and renewable with the building permit until such time a Certificate of Occupancy is received for the principal structure. At any time when San Juan Basin Health Department requires a septic system (currently, after 120 days), the approved system shall be installed. Typical building permits are active for 180 days.²³
- 3.2.4.5** Recreational vehicles are allowed to be occupied and used for camping purposes on residential property for up to 120 consecutive days in a 12-month period. At no time shall solid and liquid wastes be discharged or otherwise disposed of on the surface of the ground or into any well, cave, open ditch, stream, lake, or reservoir and shall be consistent with State and local regulations.

All recreational vehicles must meet the setbacks for the property as specified in Table 4.
²⁴

3.2.5 Accessory Uses: ²⁵

Accessory uses shall comply with all requirements for the principal use, including obtaining a building permit, except where specifically modified by this Section, and shall also comply with the following limitations:

- 3.2.5.1** Gardening and raising animals for personal use, within the requirements of Sec. 5.5.2, shall be considered a customary Accessory Use with no sales from the premises.²⁶

(1) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales from the premises.

²³ Amended Dec 2010 (Res. 2010-57)

²⁴ Amended Dec 2010 (Res. 2010-57)

²⁵ Amended Feb 2011 (Res. 2011-9); (Res. 2011-11) Guesthouse and renting sections removed

²⁶ Amended October 2016 (Res 2016-62)

3.2.5.2 A swimming pool may be permitted in any district as an accessory use subject to the following additional requirements:

- (1) No swimming pool may be located in any required front or side setback abutting a street.
- (2) Every swimming pool must be completely surrounded by a fence or wall not less than six (6) feet in height with no openings large enough to permit children to pass through, other than gates or doors that can be fastened to protect against entry. A building may be used as part of the required enclosure.
- (3) All gates or doors opening through such enclosures must be equipped with self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use.
- (4) All swimming pools shall comply with the state building code and the National Electrical Safety Code.

3.2.6 Accessory Structures:²⁷

Accessory structures shall comply with all building code requirements and require a building permit where applicable. The following conditions shall apply:

3.2.6.1 An accessory structure may be constructed or placed onto a property with or without a primary structure.

3.2.6.2 No part of any accessory structure shall be located closer than ten (10) feet to any principal structures unless it is attached to, or forms a part of the principal structure.

3.2.6.3 An accessory structure shall meet the same required setback distances as a principal structure or as provided in subdivision covenants recorded prior to the effective date of these Regulations (May 23, 2006), whichever is less.²⁸

- (1) A fence over 8' in height must meet all required setbacks.
- (2) A fence over 6' in height or a security fence as defined in Sec. 11.2.1 must meet the minimum front or corner setback, unless located in Commercial (C) or Industrial (I) zoning districts.
- (3) Fences must maintain the required Vision Clearance Area in Sec. 5.4.7.

3.2.6.4 Accessory structures shall encompass no more than 10% of land area.²⁹

²⁷ Amended Feb 2011 (Res. 2011-09)

²⁸ Amended October 2016 (Res 2016-62)

²⁹ Amended October 2016 (Res 2016-62)

3.2.6.5 Portable Accessory Structures: On property of less than or equal to one acre, one unit is allowed up to a total of 400 square feet; from 1 acre up to 5 acres two units are allowed of up to a total of 800 square feet; property greater than 5 and equal to or less than 10 three units are allowed up to a total of 1200 square feet; property over 10 acres and less than 35 acres are allowed 5 units of up to a total of 2000 square feet.

Property size:	<u><= 1 ac.</u>	<u>>1 and < =5 ac</u>	<u>>5 <=10 ac</u>	<u>>10 <35 ac.</u>
No. of units allowed:	1	2	3	5
Total square feet:	400	800	1200	2000

A portable accessory structure in Agricultural Use as exempted under Section 2.1.2 is also exempt from the limits of this Section 3.2.6.5.³⁰

3.2.6.6 Accessory structures including portable accessory structures, used for Commercial and/or Industrial purposes shall be by a minor amendment to a Conditional Use Permit (CUP) or Use By Right (UBR) permit only and shall comply with all applicable Regulations and Standards thereof. There shall be no additional fee charged to amend a UBR Site Plan to allow accessory structures³¹.

³⁰ Amended October 2016 (Res 2016-62)

³¹ Amended Feb 2011 (Res. 2011-09); October 2016 (Res 2016-62)