

## SECTION 3 – ZONING REGULATIONS

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### 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:

- (1) Centerlines of road boundaries shall follow the centerlines of roads, highways, and /or alleys.
- (2) Platted lot line boundaries shall follow the platted lot line.
- (3) County line boundaries shall follow the County limits.
- (4) Railroad line boundaries shall be midway between the main track(s).
- (5) 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 an Agricultural zoning district 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.<sup>1</sup>

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<sup>1</sup> Amended June 2018 (Res. 2018-18)

**3.1.2.2 Agricultural/Ranching (AR)<sup>2</sup>**

The AR Zoning District is an Agricultural zoning district 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.

- (1) Residential density shall be a maximum of 2 dwellings per lot, parcel or tract, with typical accessory structures.
- (2) More than 2 dwellings on 35 acres or more may be permitted for active farm and ranching operations, with an approved Land Use Permit.
- (3) 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 subdivision process. Commercial uses are generally limited to those associated with Agricultural and Recreational uses.

**3.1.2.3 Agricultural Estate (AE)<sup>3</sup>**

The AE Zoning District is an Agricultural zoning district intended to be generally consistent with the Low Density Residential land use district in the Community Plan, with lots of five (5) to 35+ acres, and provide areas where continued agriculture or grazing use is practiced on a smaller scale.

- (1) Residential densities in this district shall be no more than two (2) dwellings per lot, with typical accessory structures.
- (2) 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.

*Note: There is also a Zone AE, an area of the Special Flood Hazard Area on the NFIP Flood Insurance Rate Maps (FIRM).*

**3.1.2.4 Rural Residential (RR)<sup>3</sup>**

The RR Zoning District is a Residential zoning district 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.

- (1) Residential densities in this district shall be no more than two (2) dwellings per lot, with typical accessory structures.

<sup>2</sup> Amended September 2006 (Res. 2006-25); December 2010 (Res. 2010-56); June 2018 (Res. 2018-18)

<sup>3</sup> Amended September 2006 (Res. 2006-25); June 2018 (Res. 2018-18)

- (2) Lots of three (3) acres or larger are 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.
- (3) Commercial uses are generally limited to home occupations.

#### **3.1.2.5 Residential (R)<sup>4</sup>**

The R Zoning District is a Residential zoning district 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.

- (1) Residential densities in this district shall be no more than one (1) dwelling unit per eight thousand (8,000) square feet of lot area, with typical accessory structures.
- (2) Residential development may be permitted in building configurations of single-family, two-family and multi-family dwellings, and home occupations are allowed, with approvals in Table 3, to standards in Table 4.
- (3) Commercial development other than home occupations is generally permitted as a walkable Neighborhood or Mixed Use center.

#### **3.1.2.6 Mobile Home Park (MH)<sup>4</sup>**

The MH Zoning District is a Residential zoning district intended to provide residential areas specifically for mobile home parks and manufactured (HUD) homes on individually owned lots. The integration of manufactured 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.

#### **3.1.2.7 Commercial (C)<sup>4</sup>**

The C Zoning District is a Non-residential zoning district intended to be generally consistent with the Commercial land use district in the Community Plan, and provide for all types of commercial and mixed use 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)<sup>4</sup>**

The I Zoning District is a Non-residential zoning district 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. Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations are

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<sup>4</sup> Amended June 2018 (Res. 2018-18)

confined primarily to the premises of the lot on which an industrial use is located. Non-industrial development is generally discouraged 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 specifically listed may be considered by the Board of County Commissioners as a Conditional Use. Additional permits may be required.<sup>5</sup>

**TABLE 3: USES BY ZONING DISTRICT**

	<i>Type of Permit</i>		
R	– Use by Right	Geo	– Geothermal
VRP	– Vacation Rental Permit <sup>6</sup>	O&G	– Oil & Gas
C/BC	– Conditional Use / Board Conditional Use Permit	S&G	– Sand & Gravel

Note: The Director of Development is authorized to interpret the meaning and scope of the uses listed herein. The Director of Development's interpretation may be appealed to the Board of Adjustment.<sup>7</sup>

USE	AF	AR	AE	RR	R	MH	C	I
<b>AGRICULTURAL</b>								
Farm and Ranch Use	R	R	R	R	C	C	C	C
Commercial Stables or Horse Boarding		R	R	C			C	
Farm/Ranch Stand		R	C	C				
Plant Nursery and Greenhouse <sup>8</sup>		R	R	C			R	R
Log and Soil Storage	R	R	R					
Forestry Operation	R	R	R					
Tree Farms	R	R	R					
<b>RESIDENTIAL</b>								
Dwelling, Multi-family					C		C	BC <sup>9</sup>
Dwelling, Single-family Attached				C	R		R	C <sup>10</sup>
Dwelling, Single-family Detached		R	R	R	R		R	C <sup>10</sup>
Family Child Care Home		R	R	R	R	R	R	
Group Home		R	R	R	R		R	
Home Occupations (*See Section 5.6.5)		R	R	R	R	R	R	C

<sup>5</sup> Amended June 2018 (Res. 2018-18);

<sup>6</sup> Amended May 2021 (Res. 2021-35);

<sup>7</sup> General Amendment to Table 3, added AC/BC permits, June 2018 (Res. 2018-18)

<sup>8</sup> Amended October 2016 (Res 2016-62)

<sup>9</sup> Amended May 2013 (Res. 2013-21); June 2018 (Res. 2018-18)

<sup>10</sup> Amended May 2013 (Res. 2013-21)

USE	AF	AR	AE	RR	R	MH	C	I
Manufactured Home <sup>11</sup>		R	R	R	R	R	R	C
Mobile Home Park (*See Section 5.6.7)						R		
Vacation Rentals of a Single-family Dwelling <sup>12</sup>		VRP	VRP	VRP	VRP	VRP	VRP	VRP
Vacation Rentals, Multi-family (*See Sections 3.2.7 & 5.5.6) <sup>17</sup>					VRP		VRP	VRP
<b>COMMERCIAL</b>								
Adult-Oriented Use							C	
Auto/Equipment Sales Lot							R	R
Bar or Tavern					C		C	C
Bed and Breakfast		C	C	C	C		R	
Car Wash							R	
Child Care Center					C		R	
Clubs and Lodges							R	
Drive-in/Drive-thru Use							C	
Entertainment Facilities and Theaters							R	
Firewood Related Wood Product Sales	R	R					R	R
Gasoline Station					C		C <sup>13</sup>	C
Group Care Facility		C	C				R	
Health and Athletic Club							R	
Kennel <sup>14</sup>	BC	BC	BC				C	C
Lodging Establishment <sup>15</sup>		C	C				R	
Lodging Units, 3 or fewer <sup>16</sup>	R	R	C				R	
Lodging Units, 4 or more <sup>16</sup>	R	C	C				R	
Medical and Dental Offices							R	
Medical Clinic							C	
Mortuary and Funeral Home							R	
Office, Professional					C		R	R
Restaurant					C		R	R
Retail/Service, Small (<5,000 S.F.)					C		R	R
Retail/Service (5,000 S.F. to 25,000 S.F.)							R	
Retail/Service, Large (>25,000 S.F.)							C	

<sup>11</sup> Amended May 2013 (Res. 2013-21) “Mobile Home” deleted

<sup>12</sup> Amended July 2018 (Res. 2018-14); May 2021 (Res. 2021-35)

<sup>13</sup> Amended October 2006; (Res. 2006-29)

<sup>14</sup> Amended May 2014; (Res. 2014-22)

<sup>15</sup> Amended July 2013; (Res. 2013-42)

<sup>16</sup> Amended July 2013; (Res. 2013-42); May 2019 (Res. 2019-39)

USE	AF	AR	AE	RR	R	MH	C	I
Shopping Center							C	
Shopping Center, Neighborhood					C		R	
Vehicle Minor Repair, Servicing and Maintenance							R	R
Veterinary Facility		R	R				R	R
<b>INDUSTRIAL</b>								
Asphalt Batch Plants							BC	BC
Building Contractors and Equipment		BC	BC				C	R
Concrete or Cement Plants							BC	BC
Industrial, Heavy								BC
Industrial, Light							C	R
Junk Yard (*See Section 5.6.6)								BC*
Logging Operation	C	R						
Marijuana Establishment, Medical <sup>17</sup>							R	R
Marijuana Establishment, Retail							R	R
Oil and Gas Operation (*See Section 9.2)	O&G	O&G	O&G				O&G	O&G
Outdoor Storage (*See Section 5.4.2.6)		BC	BC				R	R
Recycling Facility							C	R
Resource Extraction, Processes and Sales (*See Section 9.1)	S&G	S&G	S&G				S&G	S&G
Sawmill	C	R					C	R
Truck Stop							C	C
Vehicle Major Repair, Servicing and Maintenance							C	R
Warehouse, Mini-storage							C	R
Warehouse and Distribution							C	R
Workshop and Custom Small Industry		R	C	C			R	R
<b>RECREATIONAL</b>								
Campground <sup>18</sup>		R	C				C	
Dude Ranch or Wilderness Lodging (*See Section 5.5.4)	BC	BC						
Golf Courses and Driving Ranges		C	C	C			C	

<sup>17</sup> Amended March 2015; October 2016 (Res 2016-62)

<sup>18</sup> Amended August 2011 (Res. 2011-39)

## SECTION 3 – ZONING REGULATIONS

USE	AF	AR	AE	RR	R	MH	C	I
Limited Indoor Recreation Facility							R	
Limited Outdoor Recreation Facility		BC					C	
Outdoor Shooting Range		BC						
Parks, Greenbelts and Passive Recreation Areas	R	R	R	R	R	R	R	R
Race track		BC						BC
Recreational Vehicle Park <sup>19</sup> (*See Section 5.5.5)		BC	BC			R	C	BC
<b>OTHER</b>								
Airport, Airstrip, Helipad (*See Section 3.1.5.1)	BC	BC	BC	BC			BC	BC
Animal Shelter	BC	BC	BC				BC	BC
Cemetery	R	R	C	BC				
Churches and Religious Institutions	C	R	R	R	C	BC	R	R
Building- or structure-mounted CMRS Facilities (*See Section 5.6.3)	R	R	R	R	R	R	R	R
CMRS Facilities roof-mounted and freestanding (*See Section 5.6.3)	BC	BC	BC	BC	BC	BC	BC	BC
Electric Power Distributed Generation	BC	C	C	C	C	C	C	C
Electric Power Generation Facilities	BC	BC	BC	BC	BC	BC	BC	BC
Electric Power Transmission Lines	BC	BC	BC	BC	BC	BC	BC	BC
Geothermal Resources (*See Section 2.5.6)	Geo	Geo	Geo	Geo	Geo	Geo	Geo	Geo
Major Extensions of Existing Water or Sewage Systems	BC	BC	BC	BC	BC	BC	BC	BC
Major New Sewage Systems	BC	BC	BC	BC	BC	BC	BC	BC
Major New Water Systems	BC	BC	BC	BC	BC	BC	BC	BC
Meeting Place and Place for Public Assembly	C	R	R	R	C	BC	R	R
Mixed-Use Development					C		C	C
Natural Gas Transmission Pipelines	BC	BC	BC	BC	BC	BC	BC	BC
Parking Lot							C	R
Private School	BC	BC	BC	BC	BC	BC	BC	BC
Public School	BC	BC	BC	BC	BC	BC	BC	BC
Public Use	BC	BC	BC	BC	BC	BC	BC	BC
Public Utility	BC	BC	BC	BC	BC	BC	BC	BC

<sup>19</sup> Amended May 2013 (Res. 2013-21)

USE	AF	AR	AE	RR	R	MH	C	I
Sanitary Landfill or Solid Waste Transfer Station	BC	BC	BC	BC	BC	BC	BC	BC
Temporary Uses (*See Section 3.2.4)	R	R	R	R	R	R	R	R
Transportation Services and Facilities	BC	BC	BC	BC	BC	BC	BC	BC
Utility Substations	BC	BC	BC	BC	BC	BC	BC	BC
Water Impoundments	R	R	BC	BC	BC	BC	BC	BC
Water Storage Facilities	BC	BC	BC	BC	BC	BC	BC	BC

### 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 <sup>2</sup>	2,500ft <sup>2</sup>	10,000 ft <sup>2</sup>	10,000 ft <sup>2</sup>
Minimum Lot Width	500 feet	200 feet	100 feet	80 feet	60 feet	40 feet	100 feet	100 feet
Minimum Front Setback <sup>20</sup>	100 feet	50 feet	25 feet	20 feet	10 feet	10 feet	20 feet	25 feet
Minimum Garage Door Setback <sup>20</sup>	n/a	n/a	n/a	20 feet	20 feet	20 feet	20 feet	n/a
Minimum Side Setback	100 feet	25 feet	25 feet	20 feet	10 feet	10 feet	10 feet	25 feet
Minimum Corner Setback <sup>21</sup>	100 feet	50 feet	25 feet	20 feet	10 feet	10 feet	20 feet	25 feet
Minimum Rear Setback	100 feet	25 feet	25 feet	20 feet	10 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 <sup>22</sup>	n/a	2 DU/ Parcel*	2 DU/ Parcel*	2 DU/ Parcel*	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

\*See also section 2.1.2.5<sup>29</sup>

DU = Dwelling Unit

Ac. = Acre

<sup>20</sup> Amended May 2019 (Res. 2019-39)

<sup>21</sup> Amended October 2016 (Res 2016-62)

<sup>22</sup> Amended May 2021 (Res. 2021-35)



**3.1.4.1 Measuring Setbacks:** Setbacks are a minimum distance measured between a structure and property lines, road rights-of-way (ROW) and access easements (as defined in Section 11). Variance from setback standards may only be granted as provided in Section 2.4.<sup>23</sup>

(1) Setbacks shall be measured as the minimum horizontal distance between the edge of structures, including the closest projection of a deck or porch, to a setback line.

(2) Eaves may encroach into any required setback, extending no more than 2' from that structure.

**3.1.4.2 Garage Door Setback:** The vehicle door façade of any garage, attached or detached, shall maintain a minimum setback of at least 20' to fit at least one on-site parking space.<sup>23</sup>

**3.1.4.3 Other Setbacks:** See also Section 3.2.6 Accessory Structures, Section 5.2.1.2 Water Body Setbacks, Section 5.5.5 RV Parks and Campgrounds, and Section 5.6.7 Mobile Home Parks. Specific setbacks in Section 2.5.6.8 apply to Geothermal Resource uses, and in Section 9 apply for Mining uses (Sand & Gravel and Oil & Gas).<sup>23</sup>

### 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:

#### 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.

<sup>23</sup> Amended May 2019 (Res. 2019-39)

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 Conditional 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 the 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, setbacks, 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 units<sup>24</sup> 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.<sup>24</sup>
- (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 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.

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<sup>24</sup> Amended August 2011 (Res. 2011-40)



**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 3.1.7. 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 Change of Use<sup>25</sup>

#### 3.2.1.1 Conversion of Limited Impact Uses to Use-By-Right or Conditional Use

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, 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, locate the description of the use in the Table, then read to the right to determine into which category the use in question falls.

#### 3.2.1.2 Change of Use Review

As provided in Section 2.1, any development, re-development or change in land use shall be completed in conformance with these Regulations. As required by CRS 30-28-114 *et seq*, it is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure without obtaining a Building Permit. Prior to occupancy, a tenant, property owner, or their representative should apply for a Change of Use Land Use Permit to confirm land use conformance without Site Plan, Conditional Use, or other required review.

*See also definition of **Change of Use**:<sup>26</sup> A change from one principal use of a building or land to another principal use of the building or land when there is no increase in the size of the existing building or extent of the use of the land.*

### 3.2.2 Use-by-Right (UBR) Site Plan Review<sup>27</sup>

A Use-by-Right is a land use that is allowed within the specific zoning district per Table 3 of these regulations, confirmed by a Land Use Permit for Site Plan Review.

#### 3.2.2.1 Purpose and Intent:

Site plan review is conducted to ensure that the development is in conformance with environmental, infrastructure, and site development standards outlined in Section 5 of these regulations.

#### 3.2.2.2 Submittal Requirements:

All requests for a Use by Right Site Plan Review 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 in accordance with Section 2.2.4.4. Application fees shall be non-refundable. The applicant shall submit a complete application and sufficient printed or digital copies of associated materials as determined by the Planning Director. 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. Except

<sup>25</sup> Amended October 2006 (Res. 2006-29); June 2018 (Res. 2018-18)

<sup>26</sup> Amended June 2018 (Res. 2018-18)

<sup>27</sup> Amended February 2007 (Res. 2007-08); June 2018 (Res. 2018-18); May 2019 (Res. 2019-39)

where detailed in specific Development Standards, the following information and materials shall be submitted with the application:

- (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.
- (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 may need to indicate existing (and proposed) topography; but shall 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).
  - a.** Note the Zoning District, Water and Sewer supply, Landscape requirements, Minimum parking requirements and how calculated, and Vision Clearance Areas.
  - b.** If required, topography should be indicated as follows:
    1. Contour intervals of two (2) feet on land sloping less than ten (10) percent.
    2. Contour intervals of five (5) feet on land sloping ten (10) percent to twenty (20) percent.
    3. Contour intervals of ten (10) feet on land sloping greater than twenty (20) percent.
  - c.** If applicable, a final determination as to the required drawing scale and appropriate contour interval shall be as determined by the Planning Staff.
- (4)** Elevation drawings (drawn to scale) of any proposed structures.
- (5)** A proposed development schedule, if applicable, indicating the details of a phasing plan.
- (6)** 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 UBR 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.
- (4) The Planning Staff may also request a Review by Referral Agency(ies) per Section 2.2.5 of these Regulations, as needed.<sup>28</sup>

**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.

**4.2.2.6 Approval and Effect**

- (1) Issuance of a UBR Land Use Permit shall authorize only the particular use for which it is issued.
- (2) Developments and uses granted by the approval of a UBR 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 UBR Land Use Permit shall cause the UBR Land Use Permit to expire.

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<sup>28</sup> Amended October 2021 (Res. 2021-76)

- (3) A UBR 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 without the appropriate review/permit as required by these Regulations.<sup>29</sup>
- (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) The Planning Director may approve Minor Amendments to an approved UBR Land Use Permit. Authorized Minor Amendments include those that do not alter the basic intent and character of the approved UBR 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:
  - a. variations to the location of an approved building footprint of not more than five (5) feet;
  - b. minor deviations in the location of infrastructure (roads and utilities);
  - c. modifications to approved site or landscape plans that do not adversely impact pedestrian or vehicular circulation throughout or adjacent to the project; or
  - d. changes to the gross floor area of not more than ten (10) percent of the approved square footage on the site.
- (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 UBR Land Use Permit may be amended, extended, varied or altered only as a new application for approval of a UBR Land Use Permit.

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<sup>29</sup> Amended October 2021 (Res. 2021-76)

**3.2.3 Conditional Use Permit (CUP):**<sup>30</sup>

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.

**3.2.3.1 Purpose and Intent:**<sup>31</sup>

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.

**(1) The Planning Commission** shall be the primary decision-making body for Conditional Use Permits (CUP).

- a. Should an Applicant disagree with a determination or conditions of approval of the Planning Commission, the Applicant may appeal for a Public Hearing before the Board of County Commissioners, with payment for any difference for a Board Conditional Use Permit per Section 2.2.12<sup>32</sup>.

**(2) Board Conditional Use Permit:** For certain uses with potential for causing greater adverse impacts (as shown in Table 3), the Board of County Commissioners will make the final determination, with recommendation by the Planning Commission.

**3.2.3.2 Submittal Requirements**

The applicant shall submit a complete application and sufficient printed or digital copies of associated materials as determined by the Director and the non-refundable application fee for the proposed Conditional Use Permit to the Planning Department. Except where detailed in specific Development Standards, 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.

<sup>30</sup> Amended June 2018 (Res. 2018-18)

<sup>31</sup> Amended May 2021 (Res. 2021-35) Administrative Conditional Use Permit deleted

<sup>32</sup> Amended October 2021 (Res. 2021-76)

- (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).
- a.** Note the Zoning District, Water and Sewer supply, Landscape requirements, Minimum parking requirements and how calculated, and Vision Clearance Areas.
  - b.** Topography shall be indicated as follows:
    - 1.** Contour intervals of two (2) feet on land sloping less than ten (10) percent.
    - 2.** Contour intervals of five (5) feet on land sloping ten (10) percent to twenty (20) percent.
    - 3.** Contour intervals of ten (10) feet on land sloping greater than twenty (20) percent.
  - c.** 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:**

Upon determination of a complete Application,-the proposal shall be scheduled for Public Hearing before the Planning Commission. The Planning Commission shall approve, approve with conditions, or deny the application, basing its recommendation upon facts presented in the public hearing in consideration of the criteria for review.

- (1) For a Board CUP, the Planning Commission shall recommend that the Board of County Commissioners approve, approve with conditions, or deny the application based on the same criteria.
- (2) **Conditions.** The Planning Commission may require or 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.”
  - a. Unless otherwise specified, a Conditional Use Permit shall run with the land in perpetuity.
    1. The Planning Commission may specifically require or recommend-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, or
    2. The Planning Commission may specifically require or recommend the permit 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.
- (3) The Board of County Commissioners shall **also** conduct a public hearing on a Board Conditional Use Permit 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 Director may approve Minor Amendments to an approved Conditional Use Permit, or may refer Minor Amendments to the Planning Commission. 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:
  - a. variations to the location of an approved building footprint of not more than five (5) feet;
  - b. minor deviations in the location of infrastructure (roads and utilities);
  - c. modifications to approved site or landscape plans that do not adversely impact pedestrian or vehicular circulation throughout or adjacent to the project; or
  - d. changes to the gross floor area of not more than ten (10) percent of the approved square footage on the site.
- (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 (TUP):**<sup>33</sup>

Some uses of land may be appropriate as Temporary Uses when not detrimental to the public health, welfare and safety. Certain Uses by Right occur infrequently, while others do not require permanent facilities. Certain special events and other accessory uses of property may also be properly permitted as Temporary Uses.

**3.2.4.1 Application Requirements.** 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, Road & Bridge department, and any other applicable agency at the local, State or Federal level. Applications for TUPs shall include: the application, the appropriate application fee, a written description of the proposed use, a sketch 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.

- (1) Temporary events and structures do not require a separate permit if the property has an approved Land Use Permit specifically including those uses.
- (2) Private events, where no admission is charged nor goods or services bought or sold, do not require a Temporary Use Permit when hosted by the property owner or long-term (>30 days) lessee.

**3.2.4.2 Commercial Special Events.** Where property is made available for a fee, admission is charged, or where the goods or services are bought or sold, may be permitted with sufficient potable water and wastewater facilities, public access and on-site parking.

- (1) Any Use-by-Right that does not require permanent facilities may be allowed as a Temporary Use for up to ninety (90) days in a calendar year.
- (2) Auctions, flea markets, carnivals, circuses, bazaars, concerts and other amusement activities, may be allowed provided they do not continue more than ten (10) consecutive days, no more than three times per year, and obtain any permits required by law.
  - a. Garage sales or yard sales of typical size and scope accessory to a Dwelling Unit do not require a Temporary Use Permit, unless held more than three times per year.
- (3) 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 any required Site Triangle.
- (4) Any Special Events in conjunction with a Vacation Rental shall require a Temporary Use Permit.

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<sup>33</sup> Amended June 2018 (Res. 2018-18)

**3.2.4.3 Temporary Structures and Recreational Vehicles/Tents<sup>34</sup>** may be permitted when meeting setbacks specified in Table 4, PUD Development Plan, and requirements listed here, with an approved TUP.

- (1) Contractors' office/living quarters and equipment sheds accessory to a construction project shall be allowed in any zoning district, with an active land use or building permit, and to continue only during the duration of such project.
  - a. A temporary Building Contractors and Equipment yard, temporary Asphalt Batch Plants, temporary Concrete or Cement Plants, or temporary Aggregate Crushing facilities necessary for an active construction project may be permitted in any zoning district on adjacent property for the duration of such project, with all required State of Colorado permits.
  
- (2) A Recreational Vehicle (RV) is allowed to be occupied in residential zoning districts with an approved TUP<sup>34</sup>, coinciding with the commencement of an active building permit for a principal building, and renewable with the building permit until such time a Certificate of Occupancy is received for the principal building. At any time when the local health department requires a septic system, the approved system shall be installed or RV removed.<sup>35</sup>
  
- (3) Recreational Vehicles and tents are allowed to be occupied and used for non-commercial camping purposes on residential property for up to fourteen (14) consecutive days in a quarter after approval of a no-cost permit, or for up to 120 consecutive days in a calendar year by TUP.
  - a. At no time shall solid and liquid wastes be discharged or otherwise disposed of on the surface of the ground, buried in the ground in any way, or dumped into any well, cave, open ditch, stream, lake, or reservoir.
  - b. Health Department permits are required for all on-site wastewater treatment systems (OWTS), including pit and vault privies (outhouses), composting toilets, and septic systems. These permits must be included with a camping permit or TUP application, as appropriate. No permit is required to operate a self-contained system, such as an RV gray/black-water system that is properly disposed of at a wastewater treatment plant, or for a self-contained backcountry toilet ("groover" or "wag bag") that is properly disposed of in the solid waste (garbage) collection stream.<sup>34</sup>

*See also definition of **Recreational Vehicle**: An automobile, travel trailer, camp-car, camper, bus, motor home, or other vehicular or portable unit, with or without motor power, designed and constructed for travel and intended for human occupancy as temporary living quarters for recreational, vacation, or travel purposes.*

<sup>34</sup> Amended Oct 2021 (Res. 2021-76)

<sup>35</sup> Amended Dec 2010 (Res. 2010-57)

**3.2.5 Accessory Uses:**<sup>36</sup>

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. 5.6.2, shall be considered a customary Accessory Use with no sales from the premises.<sup>37</sup>

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

**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:**<sup>38</sup>

Accessory structures shall comply with all building code requirements and require a building permit where applicable.

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

**3.2.6.2** No part of any accessory structure shall be located closer than five (5) feet to any other structures unless it is attached to, or forms a part of that structure.<sup>39</sup>

**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 May 23, 2006, whichever is less.<sup>33</sup>

<sup>36</sup> Amended February 2011 (Res. 2011-9); (Res. 2011-11) Guesthouse and renting sections removed

<sup>37</sup> Amended October 2016 (Res 2016-62)

<sup>38</sup> Amended February 2011 (Res. 2011-09); June 2018 (Res. 2018-18)

<sup>39</sup> Amended May 2019 (Res 2019-39)

- (1) A fence over 8’ in height must meet all required setbacks.
  - a. 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.
  - b. Fences must maintain the required Vision Clearance Area in Sec. 5.4.7.
- (2) Propane tanks shall be exempt from setbacks for accessory structures, provided the tank location conforms to requirements of the National Fire Protection Association (NFPA) and Colorado Department of Labor and Employment, Division of Oil and Public Safety.

**3.2.6.4** Flag poles and personal antenna structures (including ham radio antennas but not Commercial Mobile Radio Systems structures) shall be exempt from the Accessory Height requirements in Table 4.

**3.2.6.5** Accessory structures shall encompass no more than 10% of land area.

**3.2.6.6 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 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>&lt;= 1 ac.</u>	<u>&gt;1 and &lt; =5 ac</u>	<u>&gt;5 &lt;=10 ac</u>	<u>&gt;10 &lt;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 3.2.6.6.<sup>40</sup>

**3.2.6.7** 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 structures<sup>41</sup>.

<sup>40</sup> Amended October 2016 (Res 2016-62)

<sup>41</sup> Amended February 2011 (Res. 2011-09); October 2016 (Res 2016-62)

**3.2.7 Vacation Rental Permit (VRP):<sup>42</sup>**

Vacation Rental is a Residential Use of a dwelling unit—either an entire dwelling or individual rooms—on a short-term rental basis, less than thirty (30) days at a time. Meals are not provided, although guests may have full access to kitchen facilities. *It is unlawful to rent or offer to rent any Dwelling Unit as a Vacation Rental unless and until a Vacation Rental Permit has been approved.* Vacation Rentals are land uses that have potential for causing adverse impacts on others because of such factors as proximity to other homes, method of operation, scale or intensity of activity, or parking and traffic generated. Because of these characteristics, Vacation Rental Permits require review and evaluation so that Vacation Rentals may be located and operated with proper respect for their effects on surrounding neighbors, properties, and Archuleta County at large.

**3.2.7.1 Purpose and Intent**

Vacation Rentals 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 Vacation Rental is in accordance with the development objectives of the County (per the Community Plan) and will not be detrimental to other uses or properties. Vacation Rentals must meet all building, zoning, environmental, infrastructure, and site development standards as detailed in Section 5 of these regulations. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for Vacation Rental Permits shall not be approved.

**(1) Planning Department.**

- a. The Development Director may approve VRPs administratively (as shown in Table 3).
- b. The Director may refer any VRP Application to the Planning Commission for final determination.
- c. Should an Applicant disagree with a determination or conditions of Administrative approval; the Applicant may appeal for a Public Hearing before the Planning Commission.

**(2) The Planning Commission.**

- a. For Vacation Rentals with the potential for causing greater adverse impacts, the Planning Commission will make the final determination, with recommendation by the Development Director.
- b. Should an Applicant disagree with a determination or conditions of approval of the Planning Commission, the Applicant may appeal for a Public Hearing before the Board of County Commissioners.

**3.2.7.2 Submittal Requirements**

The Applicant shall complete the online application process in the approved system including sufficient details, digital copies of required materials, and payment of the non-refundable application fee, as provided for in the current County Fee Schedule. The application shall include:

- (1) Property Details and Contact information for Property owner, Caretaker (or Property Manager), and Applicant (if other than owner);

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<sup>42</sup> Amended May 2021 (Res. 2021-35) Vacation Rental Permit Added



- (2) Recorded Property Ownership Deed;
- (3) Proof of Ownership – If “Grantee” on the Deed is a Trust or Corporate Entity, the Applicant must submit documents that identify all individuals who have authority to make decisions regarding the property;
- (4) Agent Authorization Documents – If there is a formal Property Management Contract, it must be submitted;
- (5) Proof of Neighbor and Owner’s Association Notification – Proof that the completed Vacation Rental Notification Form (provided by the Planning Department or found online) has been sent. This shall be documented by submitting Certificates- of- Mailing (not Certified Mail) proving the notification was sent *at least two weeks before the date of application*. Notice must be sent to:
  - a. All adjacent property owners of any parcel touching your parcel or units in a shared building for condos (contact the Planning Department for assistance with this list);
  - b. Any Owner’s Association for the dwelling (Associations with a defined notification process supersede this process);
- (6) Parking Plan Site Map – An *aerial map* of the dwelling to be used for the rental including markings for all available on-site guest parking spaces. An improvement location certificate or other survey will also suffice, but not a hand- drawn sketch;
- (7) Water Treatment/Sewer Documents – A public sewer bill or On-Site Water Treatment System (OWTS) Permit documenting how wastewater will be managed at the property and limits to capacity, if applicable;
- (8) Proposed Advertisements – Advertisements (or proposed draft advertisements and pictures) must be reviewed for compliance as part of the application process;
- (9) Proposed Rules for Renters – Proposed rules that will be provided to rental guests will be reviewed for the following:
  - a. County ordinances, including parking, noise, and applicable fire ban ordinances;
  - b. Neighborhood rules, restrictions, and covenants for the home, if applicable;
  - c. Non-Emergency Phone numbers for sheriff, medical, fire protection district, etc.;
- (10) Sales/Lodging Tax Payment Method – Documents that show how Colorado Sales and Lodging Taxes will be paid must be submitted;
- (11) Proof of Property Taxes Paid – Proof that all personal and real property tax accounts with Archuleta County Treasurer are not in arrears must be submitted;

- (12) Vacation Rental Disclosure Form – The completed Vacation Rental Disclosure Form (provided by the Planning Department or found online) must be reviewed, initialed, signed, and submitted to document property owner understanding and compliance with performance standards found in Section 5.5.6;
- (13) Payment of Appropriate Fees – The Development Director will assign the appropriate fee, in accordance with the current County Fee Schedule, after the application documents are fully reviewed.

### 3.2.7.3 Review Procedure

Upon determination of a Complete Application, the Development Director shall approve, approve with conditions, or deny the application, basing this decision upon the facts presented in the application and in due consideration of the criteria for review.

- (1) The Development Director shall make the final determination without a public hearing, unless appealed or referred to the Planning Commission.
- (2) **Conditions.** The Development Director, Planning Commission, or Board of County Commissioners may require or recommend conditions or stipulations, which may include property and room configurations, 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.”
- (3) The Development Director, Planning Commission, or Board of County Commissioners may specifically require or recommend the permit be granted only for a defined period, after which time the approved use shall expire unless renewed subject to all of the requirements of this Section.

### 3.2.7.4 Review Criteria

Before acting on a Vacation Rental Permit application, the Development Director, Planning Commission, or Board of County Commissioners shall consider the following criteria and factors with respect to the proposed use:

- (1) The relationship and impact of the Vacation Rental on the development objectives of Archuleta County.
- (2) The effect of the Vacation Rental on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.
- (3) The effect of the Vacation Rental upon traffic, with particular attention to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, side-walks, and parking areas.
- (4) The effect of the Vacation Rental upon the character of the area in which the dwelling is located, including the scale of the proposed Vacation Rental in relation to surrounding uses.

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

#### **3.2.7.5 Necessary Findings:**

Before acting on a Vacation Rental Permit application, the Development Director, Planning Commission, or Board of County Commissioners shall make the following findings:

- (1) That the location of the proposed Vacation Rental, the proposed access to the site, and the conditions under which the Rental 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 there are adequate and available utilities and public services to service the proposed Vacation Rental, 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 Vacation Rental 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, community character, etc.

#### **3.2.7.6 Approval and Effect:**

- (1) Unlike other Use Permits, a Vacation Rental Permit shall NOT run with the land in perpetuity. New property owners must apply for their own Vacation Rental Permit after transfer of property ownership is completed. It is unlawful to rent or offer to rent a Vacation Rental until and unless the VRP is *approved*.
- (2) The Planning Department will conduct a Validation Inspection to verify the accuracy of the information submitted during the application process, as well as the compliance or continued compliance with conditions of approval, applicable building codes, land use codes, zoning restrictions, and other standards for Vacation Rental operations.
- (3) The dwelling will be inspected within forty-five (45) calendar days after the approval of a new VRP.

- (4)** The dwelling will be re-inspected within forty-five (45) calendar days after the approval of a renewal VRP.
- (5)** The dwelling may be re-inspected within fourteen (14) calendar days after a complaint is received regarding violations of these Land Use Regulations to determine complaint validity.
- (6)** New conditions may be applied after any Validation Inspection. If any conditions or standards are not met or maintained, it shall be considered a violation of these Land Use Regulations and the VRP shall be subject to the provisions of Section 1.4 (Enforcement).
- (7)** An approved Vacation Rental Permit shall be effective from the date of approval for one (1) year, unless otherwise determined by the Development Director, Planning Commission, or Board of County Commissioners at the time of issuance. Renewal applications (including all required documents and payment) must be submitted before the VRP expiration date or the permit will be considered Closed.
- (8)** A Closed permit requires the completion of a New Vacation Rental Application and will be subject to all standards and criteria in place on the date of application submittal.